Vol. 782
No. 130

Monday
27 March 2017

PARLIAMENTARY DEBATES
(HANSARD)

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Monday 27 March 2017

2.30 pm

Prayers—read by the Lord Bishop of Winchester.

Shipping: Safety
Question

2.37 pm

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what assessment they have made of the effectiveness of the international safety regulations and procedures laid down in the International Convention for the Safety of Life at Sea to ensure the safe evacuation of ships carrying more than 5,000 passengers and crew.

The Parliamentary Under-Secretary of State, Department for Transport (Lord Ahmad of Wimbledon) (Con): My Lords, assessments of the safety regime for shipping are undertaken by the International Maritime Organization's Maritime Safety Committee. The particular issue of large passenger ship evacuation was the subject of significant additional work following the loss of the "Costa Concordia", and regulations relating to passenger safety drills were subsequently adopted internationally.

Lord Berkeley (Lab): I am grateful to the Minister for that reply, but if something happens to a cruise ship of, say, 10,000 people—passengers and crew—in the middle of the Atlantic, Antarctic or the Arctic, where ships go more these days, and there is a need for an evacuation even if the ship remains upright, and people are able to get into life rafts without panicking, what happens then? He did not answer the Question about whether there had been any full-scale trials of such a scenario. Will he urge the IMO to get on and do a trial such as this to see what happens? My fear is that there will be wholesale panic.

Lord Ahmad of Wimbledon: I am sure I speak for everyone in your Lordships' House when I say that we hope that such an occasion does not occur. Importantly, to get to the crux of what the noble Lord is asking, the UK has been not just working very closely with the IMO—the organisation that leads activities in this field—but showing leadership to improve the importance of safety. SOLAS chapter 3 in particular makes provision for passenger vessels to undertake drills on a weekly basis—and, following the "Costa Concordia" accident, passengers must undertake safety drills to familiarise themselves directly with evacuation procedures to address the sort of scenario the noble Lord illustrates.

Lord Bradshaw (LD): Does the Minister know whether consideration has been given to language issues? There will be people of all nationalities on these ships. Communications between the crew and passengers are vital. Do these form a part of any tests that take place?

Lord Ahmad of Wimbledon: In light of representations that we ourselves have made, the noble Lord is right to raise the issue of languages, because many who travel may not be familiar with some languages. In that regard the IMO is looking to introduce specific measures to ensure that evacuation drills and emergency procedures reflect the languages of the people who are travelling.

Lord Greenway (CB): My Lords, is the Minister aware that 19 ships capable of carrying more than 4,000 passengers are on order at the moment for delivery by 2020? The noble Lord on the Liberal Democrat Benches asked about crew. Is it not vital that crew training is given absolute priority in view of the problems that he mentioned with languages? In the "Costa Concordia" accident, I gather that the crew could not understand emergency instructions in the official language of the ship.

Lord Ahmad of Wimbledon: The noble Lord raises an important point. I partly addressed it in my previous answer, but he is of course right. When we look across modes of travel, we see that in aviation, for example, all evacuation and emergency procedures on a flight heading for a particular destination in a particular country are explained in a particular language. I suggest that there is a bigger challenge for cruise ships, which often stop at different destinations—but language and crew training related to it are nevertheless important.

Lord Cormack (Con): What is the attraction of taking a cruise with 4,999 of your closest friends?

Lord Ahmad of Wimbledon: Unlike the noble Lord, I cannot claim to have 4,999 close friends. There are many noble friends in your Lordships' House, but, even if we went on a cruise together, I am not sure that we would quite reach that standard.

Lord Rosser (Lab): My Lords, can I clarify the Government's position on this question? Bearing in mind the increasing number of British citizens who go on cruises, can the Minister—I do not think that he has done it so far—give an assurance that the Government are satisfied that the existing safety of life at sea regulations on evacuation in an emergency and the associated crew training and practice drill procedures reflect the reality of today of much larger cruise liners than before carrying many thousands of passengers and crew?

Lord Ahmad of Wimbledon: I can give that assurance. We are working on several streams; first, looking at adapting existing fleets in accordance with the challenges and the way in which the industry operates; secondly, looking at crew training; and, thirdly, ensuring that emergency and evacuation procedures reflect the language of those travelling on those ships. So, yes, we are satisfied, but one can never be overly prepared for such emergencies. When such incidents happen, the real test will be of the stability of the ship, the operation of the safety regulations and how well crew members are versed in them, and how well educated and informed are the travelling public. Work is going on to improve that. I suggest to the noble Lord that it should be an

[Lord Ahmad of Wimbledon]
ever-evolving exercise, so we look to embrace the latest technologies and address the concerns which noble Lords are right to raise.

Lord Boyce (CB): My Lords, I declare an interest as a past chairman of the RNLI. The International Maritime Rescue Federation has been looking at the vexed subject of how one retrieves hundreds if not thousands of people from a ship which has been evacuated on to the sea. Has it made any sensible progress and is it still working well with the IMO?

Lord Ahmad of Wimbledon: The noble and gallant Lord is right to raise this issue. My understanding is that work has been done to ensure the survivability of ships for a longer time and that, if an evacuation is necessary, it can be conducted. In the case of the "Costa Concordia", the ship was stable for up to an hour. Had the crew and captain been equipped in an appropriate manner, perhaps more lives could have been saved. Another area that we are looking at is the stability of ships, to allow them to return to port safely without the need for evacuation. The noble and gallant Lord asked how the two organisations were working together. I shall write to him on that.

Lord Geddes (Con): My Lords, has consideration been given to a minimum thickness of hull for these vast cruise ships, particularly those going to Antarctica?

Lord Ahmad of Wimbledon: Again, given the technical nature of that question, I will write to my noble friend. I assure him that on all types of ships, including the roll-on, roll-off ferries widely used by the travelling public, the issue of safety is extremely important. It is important to consider the nature, building and construction of ships—but, as we have said, we must also inform the travelling public on safety procedures and ensure that the crew, too, is well informed.

Lord West of Spithead (Lab): My Lords, the training of officers and men is crucially important and British seamen are probably the best in the world. However, we have a huge shortage. In the Falklands, 73 merchant ships were called up, all using British crew. Have the Government ascertained the minimum number of merchant seamen this nation requires for crisis and emergency?

Lord Ahmad of Wimbledon: On a maritime Question, I knew I was missing something—and now I know what that was. I will write to the noble Lord in that respect.

GovCoin

Question

2.45 pm

Asked by ***Lord Holmes of Richmond***

To ask Her Majesty's Government what assessment they have made of the GovCoin trial, and what plans the Department for Work and Pensions has in place for its large-scale rollout later this year.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Henley) (Con): My Lords, the initial independent assessment of the small-scale trial has been positive. The Department for Work and Pensions continues to work with industry to explore new and innovative products such as this that have the potential to support people with their personal budgeting and reduce the overall costs of welfare administration.

Lord Holmes of Richmond (Con): My Lords, would my noble friend agree that initial findings offer real potential in this area, not least in greatly empowering the relationship between benefit recipient and the Government while at the same time realising significant savings for the taxpayer? To this end, will he urge colleagues in the department to push ahead with a full-scale trial to see whether we can deploy this technology—not only in the DWP but potentially across government?

Lord Henley: My Lords, I would not want to speak for the rest of government, although obviously I answer on behalf of Her Majesty's Government on this occasion. Certainly, we want to look carefully at this particular trial. It was a very small trial, involving only some 20 to 30 people. It was more what I think is termed a proof of concept rather than a trial, but it produced encouraging results and we want to look at those in due course.

Baroness Lister of Burtersett (Lab): My Lords, concerns have been raised, including as I understand it by members of the Government Digital Service, that this technology could be used in future to monitor or even control how social security claimants spend their benefits. Could the Minister give a categorical assurance that this will not happen, in the interests of claimants' privacy and freedom of choice?

Lord Henley: My Lords, I give the noble Baroness that categorical assurance. The Department for Work and Pensions has absolutely no access to any such claimant information and will have no access to it in any further trials we look at. We want to keep it like that. Obviously, information will be able to Disc—which is GovCoin, referred to in the Question—but that will be protected by data protection principles. I reiterate what I said to the noble Baroness: the department and the Government will have no access to that information.

Baroness Tyler of Enfield (LD): My Lords, does the Minister agree with me that this initiative, however welcome, is but one small step in tackling the much larger problem of financial exclusion? Could he give an assurance that the Government will carefully consider the recommendations of the Select Committee on Financial Exclusion, the report of which was published on Saturday? I had the privilege of chairing that committee. Particularly, there is the recommendation that fewer people are unbanked in the first place and so would not need this technology.

Lord Henley: My Lords, I wondered whether the noble Baroness would want to get in to highlight the fact that she produced the report that came out on

Saturday. I think the report was embargoed until midnight on Friday and I have not yet had the opportunity to read it. I glanced at it but assure the noble Baroness that the Government will give it due consideration.

Baroness Sherlock (Lab): My Lords, I am tempted to invite the Minister to explain how bitcoin and blockchain technology work, but I will take pity on him. For people like me, it is much simpler. I understand that volunteers were given an app through which, essentially, electronic, digital money was paid to them and they could spend it only in certain ways which were tracked and recovered. Obviously, that raises significant issues about privacy and data. My understanding is that the Government's own report on what is called distributed ledger technology said that it clearly needs a regulatory, ethical and data framework. In the absence of that, when the DWP started this, how did its Ministers assure themselves that benefit claimants were genuinely giving free, informed consent to be able to use this? If it is now to be a much larger-scale project, what kind of parliamentary oversight and scrutiny will there be?

Lord Henley: My Lords, as I said, we have not yet decided to move on to a fuller and larger trial, but if we did, no doubt that would have the appropriate checks and balances and be examined by the noble Baroness and others in due course. This is a simple, small-scale trial involving some 20 or 30 people. I am assured that they all gave full and proper consent to it, and that some of them found it very useful indeed. I am grateful to the noble Baroness for not asking me to explain the more technical matters, which are probably beyond her—and me. As she knows, it is a very simple app designed in the form of jam jars into which one can put one's money and then take it out for specific tasks. As I said earlier—and the assurance I gave on this would apply to any further trials—the department and the Government will have no access to that information; that is, what has come out of the jam jars and gone into housing or whatever.

Lord Campbell-Savours (Lab): Will traders who sign up to and agree to trade under this scheme be able to offer discounts to benefit recipients? By the way, I thought the next trial was for 1,000 people.

Lord Henley: My Lords, there is no next trial planned at this stage. We are considering that. It is not a question of discounts but of the fact that those who have to deal purely in cash can find life very much more expensive than those who are able to pay by other, more advanced means. That is the point behind it.

Viscount Ridley (Con): Does my noble friend agree that blockchain technology in general has applications far beyond this trial—indeed, all the way across government and society? Are the Government studying the phenomenon to check where it might be useful?

Lord Henley: My noble friend is absolutely right that very interesting ideas can come from blockchain and other things. I do not want to expand further on that in this Question. We are dealing with just a small-scale trial here, designed to make life easier for certain benefit claimants and to make it easier for them to manage their money.

Lord Harris of Haringey (Lab): My Lords, my noble friend talked about the need for an ethical framework underpinning the use of this sort of technology. Obviously, the Government have decided to go ahead with this trial in the absence of such a framework, but does the Minister agree that one is needed, not only for further developments in this area but for developments in the sorts of areas that have just been referred to by his noble friend?

Lord Henley: My Lords, that might or might not be the case, but what we are talking about here is this particular trial. The important thing is that we achieved the proper consent of those taking part and we gave the proper assurances, as I have repeated, that there would be no release of information about how those individuals spent their money to the department or the Government more widely.

Digital Technology: Skilled Workforce

Question

2.52 pm

Asked by ***Lord Cromwell***

To ask Her Majesty's Government what action they are taking to boost and sustain the pool of skilled workers from the United Kingdom in the digital technology sector.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, as set out in the *UK Digital Strategy 2017*, we are taking steps to develop the digital skills needed for our world-leading digital economy. We have revised the computing science curriculum and are undertaking work to increase advanced digital skills in areas such as cybersecurity and data. We have introduced digital degree apprenticeships and are reforming technical education, including creating a specialist digital route with a clear pathway to employment.

Lord Cromwell (CB): I thank the Minister for his reply and celebrate the £6.7 billion invested in tech businesses in this country last year, making us the leading European country in this sector, with a tech sector growing at twice the speed of any other in the economy. Nevertheless, I refer him to the government agency Tech City's own report, which states that the tech sector employs proportionally more non-UK nationals than any other industry, and the report by the Coalition for the Digital Economy, which predicts an 800,000-person shortfall in skilled employees over the next three years in this area, an issue which is made far worse by the delay and difficulty in obtaining visas. I ask the Minister to meet me and others from the sector to discuss how best to plug this current gap in skills and enable the UK to sustain its present advantage in what the Prime Minister has called a key sector in our post-Brexit economy.

Lord Ashton of Hyde: The noble Lord is right to focus on the success of the digital sector. We are listening very carefully to the views and concerns of the tech sector. We already frequently meet representatives at senior civil servant level and ministerial level and have had a number of round tables to consider that. In the 12 months to December 2016, more than 30,000 people were sponsored as skilled workers in the information and communications sector.

Lord Razzall (LD): Is the Minister aware of a very specific problem that will arise in this area caused by the so-called hard Brexit? Although British universities now teach only digital electronic engineering, many manufacturing companies still need analogue electrical engineers. Is the Minister aware that most of those people now come from the Czech Republic, Slovakia, Romania and Bulgaria? Will he confirm that they will continue to be allowed to come and work here?

Lord Ashton of Hyde: As many Ministers have said before in this House, we are very concerned that people who have the requisite skills continue to be able to come to work in this country during the negotiation process and after it. We are doing our best to make sure that those skills are analysed and that we come to a satisfactory negotiated settlement with the EU.

Lord Broers (CB): My Lords, I am sure the Minister is aware that there is a very simple way to solve this problem, which is to correct the gender balance. Only 1% or 2% of people in this sector are women. What special programmes do the Government have to correct this problem?

Lord Ashton of Hyde: The noble Lord is right. Actually 17% of people who work in the tech sector and 9.5% of students taking computer science A-levels are female, yet women make up almost half the workforce. We are taking forward plans. There are a number of programmes already in place to do that: CyberFirst Girls Competition, the TechFuture Girls programme, Code First: Girls, techmums, Mums in Technology, Microsoft's DigiGirlz events and a number of others. It is absolutely on the radar screen.

Lord Flight (Con): My Lords, is the Minister aware of the importance of the enterprise investment scheme in stimulating equity investment in a lot of these new digital companies? It is one of the reasons why so many have got off the ground.

Lord Ashton of Hyde: I am aware of the enterprise investment scheme. It is one of the ways that we can promote start-up companies. It is more risky, but there are advantages to it, so I take my noble friend's point.

Baroness Jowell (Lab): My Lords, will the Minister pay particular attention to the unrealised potential and contribution to our digital economy of thousands of young people from disadvantaged backgrounds? The highest barrier to entry and to the realisation of their ambitions to set up their own business is having somewhere from where they can operate—business premises. Will the Minister undertake to convene a meeting of Ministers in other departments—the Department of Health, DCLG and so forth—that are overseeing an increasing number of empty buildings that could provide office space for these young people to realise their ambitions and potential?

Lord Ashton of Hyde: The noble Baroness is right to address those issues. One of the things we are doing as part of the digital strategy is to convene the digital skills partnership, and my department will be leading. That will bring other parts of government together in addition to businesses, national and local charities and local authorities to make sure that we address digital skills in a more collaborative way and that digital skills are better co-ordinated and targeted more effectively.

Lord Aberdare (CB): My Lords, since digital skills are becoming as important for our future competitiveness as literacy and numeracy skills, can the Minister give us an assurance that all new standards for apprenticeships and the new T-levels will be required to include a digital skills element?

Lord Ashton of Hyde: One of the things we are introducing is the Institute for Apprenticeships, which will be operating from next month, to make sure that employers and young people taking apprenticeships are able to input to make sure that the courses that are provided are up to the requisite standard and provide things that employers want.

Lord Stevenson of Balmacara (Lab): My Lords, the Government have said they recognise the need to work with the creative industries, which have a global reputation for training, on how to increase apprenticeship levels but without destroying the four voluntary levies currently run by Creative Skillset. What progress have the Government made on this issue and, in particular, will they be able to protect the skills investment fund?

Lord Ashton of Hyde: I will have to write to the noble Lord on this. We are working, as I mentioned, with the Institute for Apprenticeships and are reforming apprenticeships. We have also established the National College for Digital Skills, which opened in 2016 and will train 5,000 students. In addition to our work with schools, technical education, higher education and, very importantly, lifelong learning, there is a lot going on in this sector.

Gene Editing: Agriculture and Medicine

Question

3 pm

Asked by ***Viscount Ridley***

To ask Her Majesty's Government whether they have plans to encourage gene editing in agriculture and medicine.

The Parliamentary Under-Secretary of State, Department of Health (Lord O'Shaughnessy) (Con): My Lords, the UK is a world leader in the understanding of genetics, which is already leading to significant advances in medicine and agriculture. Gene editing has the potential to accelerate progress in both areas, saving lives and

improving quality of life. The Government continue to support the assessment, refinement and use of genetic editing techniques.

Viscount Ridley (Con): I thank my noble friend for that reply. Is he aware of widespread concern that, although we are pioneering and leading this essential work using CRISPR and TALEN to edit genes so as to help in both agriculture and medicine, we are falling behind in the race to apply this technology because the use of gene editing in cell therapy for cancer and in producing better crop plants requires and could be encouraged by better regulation? I declare my interests as listed in the register.

Lord O'Shaughnessy: My noble friend is a leading advocate of this technology and is correct that getting the regulation right is absolutely important. It is currently regulated at the EU level, and there is debate on and an inquiry by the European Court of Justice into current exemptions for gene editing. We support the current exemptions, although others have challenged them. But it is also important to recognise that any discussion about gene editing, whether in agriculture or especially in a human health setting, involves big ethical questions and it is only right that we tread carefully as we move ahead.

Baroness Walmsley (LD): My Lords, given the potential of gene editing of non-reproductive cells for treating HIV, sickle cell, haemophilia and, as the noble Viscount said, cancer, what plans do the Government have to ensure continued research in this important and valuable area after Brexit?

Lord O'Shaughnessy: The noble Baroness is quite right to talk about the important therapeutic benefits that can come. I do not think this has anything to do with Brexit, other than the fact that the UK has been and continues to be a leader in the world of genomic sequencing, which of course enables us to identify the genetic issues that lead to some of the diseases and illnesses she has described. Within our regulatory framework, it is possible to use gene editing for therapeutic reasons but in ways that do not impact on inheritability, which is of course ethically an incredibly difficult question.

Lord Winston (Lab): My Lords, can the Minister confirm that the Government have no plans to extend gene editing to germ cells, as was suggested in the *Times* only three weeks ago, with the idea that we could wipe out genetic disease using gene editing? This seems an extremely dangerous idea, given that there are epigenetic and other issues with gene editing, which may not be quite as precise and effective as is sometimes claimed.

Lord O'Shaughnessy: The noble Lord is quite right to make that point. So-called germline gene editing, which creates the opportunity to pass on changes to later generations, is highly controversial. It is illegal in this country and there are no plans to change that position.

Lord Patel (CB): My Lords, I would like to take the discussion about regulation further. The question that the noble Lord, Lord Winston, just asked emphasises that we need a regulation in place now that is balanced, so that we can allow the researchers to progress further, including if necessary to demonstrate why germline gene editing may be necessary but should not be allowed. We lead the world in immune gene editing, as shown in the example of Layla, a one year-old girl who was treated for acute megaloblastic leukaemia, which was the first such case in the world. Does the Minister think it right to ask the appropriate departments in those agencies to produce something now on the regulation of gene editing that would be appropriate for Parliament to discuss?

Lord O'Shaughnessy: My noble friend is right to highlight the potential of gene editing by referring to that life-saving treatment of a girl with leukaemia. We have a world-leading regulatory climate and there are strict rules governing research in this area: for example, research involving the use of embryos is allowed up until 14 days but not beyond. We should certainly carry on with that research—indeed, we have a more permissive regulatory environment than in much of the world. As my noble friend rightly points out, we need to do that with the purpose of respecting life and of course reducing harm, driven by the desire to do so.

Baroness Wheeler (Lab): My Lords, HIV has been mentioned. The Minister will know that the results from the gene-editing clinical trial for people who are HIV positive have shown promise, particularly regarding the use of zinc fingers, which can find specific sites in DNA that can then be edited. Research is in its very early stages but has shown the potential to increase resistance to the virus, with the ultimate goal of weaning some people off antiretroviral drugs. What are the Government doing to support and take forward this important research?

Lord O'Shaughnessy: As we have discussed, there is huge potential regarding illnesses such as HIV. Clinical trials of gene therapies involving gene editing are still at an early stage, and are receiving support from the National Institute for Health Research. Any applications that go beyond the experimental and research stage would inevitably have to go through the Medicines and Healthcare products Regulatory Agency regarding safety and clinical potential. So the right system exists, investment is taking place at the early stage of research and before anything is done to any scale, it must be subject to the proper discussion and scrutiny.

Baroness Hayman (CB): My Lords, as the Minister said, we have an enormously strong agriculture and genetic technology science base in this country. While this is not a magic bullet for food production, it could be a very important weapon in our armoury for meeting the world population's future food needs. Given that, will he undertake that centres like the John Innes Centre in Norwich will continue to receive government support to develop genetic technology in agriculture, within a strong and ethical regulatory framework?

Lord O'Shaughnessy: The noble Baroness will forgive me if I do not stray too far outside my brief and into agriculture, except to say that the research councils are putting a huge amount of investment into the kind of research she is describing, both for agriculture and for human health, and that will continue.

Hereditary Peers By-Election

Announcement

3.07 pm

The Clerk of the Parliaments announced the result of the by-election to elect a Conservative hereditary Peer in accordance with Standing Order 10.

Three hundred and forty-six Lords completed valid ballot papers. A paper setting out the complete results is available in the Printed Paper Office and online. That paper gives the number of votes cast for each candidate. The successful candidate was Lord Colgrain.

Criminal Finances Bill

Order of Consideration Motion

3.08 pm

Moved by ***Baroness Williams of Trafford***

That it be an instruction to the Committee of the Whole House to which the Criminal Finances Bill has been committed that they consider the bill in the following order:

Clauses 1 to 16, Schedule 1, Clauses 17 to 33, Schedule 2, Clauses 34 to 37, Schedule 3, Clause 38, Schedule 4, Clauses 39 to 50, Schedule 5, Clauses 51 to 56, Title.

Motion agreed.

Technical and Further Education Bill

Report

3.08 pm

Amendment 1

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

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

"Financial support for students undertaking apprenticeships

(1) The Secretary of State must by regulations made by statutory instrument make provision for—

(a) making a person undertaking a statutory apprenticeship, as defined under section A11 of the Apprenticeships, Skills, Children and Learning Act 2009, a qualifying young person for the purposes of child benefit; and

(b) extending the Higher Education Bursary provided for by section 23C(5A) of the Children Act 1989 to a person who is a former relevant child undertaking a statutory apprenticeship, as defined under section A11 of the Apprenticeships, Skills, Children and Learning Act 2009.

(2) Statutory instruments under subsection (1) are subject to the affirmative resolution procedure."

Lord Watson of Invergowrie (Lab): My Lords, in the absence of noble Lords who have business other than the Technical and Further Education Bill to consider this afternoon, I shall move Amendment 1 and speak to other amendments in the group.

The proposed new clause was devised after debate in Committee and would enable families eligible for child benefit to receive it for children aged under 20 who are undertaking apprenticeships. It is slightly disappointing that it is necessary to debate the matter again on Report. The noble Baroness, Lady Buscombe, offered to set up a meeting with Ministers from both the Department for Education and the Department for Work and Pensions, but I regret that no such meeting has materialised, so here we are. We have altered our approach in the amendment to call for the Secretary of State to use regulations to make provision to ensure that apprentices are regarded as being involved in approved education or training.

We are now just five days away from the creation of the Institute for Apprenticeships, the introduction of the apprenticeship levy and a changed landscape of technical education as the Government attempt to address the skills gap inherent in the economy. To achieve success in that, they have set the ambitious target of 3 million apprenticeship starts by 2020. I am certainly not critical of that target—it is better to aim high—but if it is to be reached, it cannot be in anyone's interest for doors to be closed to young people keen to embark on an apprenticeship, but that is what is happening, at least for those from families reliant on some form of social security. In some circumstances, parents may prevent young people taking up apprenticeships because the economic consequences for the family of loss of benefit payments in various forms could be considerable.

This concerns a relatively small number of young people—primarily those from the most disadvantaged backgrounds—but it touches on a broader issue: that of apprentices being treated like second-class citizens in comparison with their peers who choose to pursue courses at further education colleges or universities. Apprentices are denied thousands of pounds in financial support available to college or university students, and are excluded from other means of support available to their counterparts in further education institutions. This is on the basis that they are employed and thus in receipt of wages.

It might be instructive for noble Lords who are unaware of it to learn that next week, the national minimum wage for apprentices aged under 19 increases to £3.50 an hour—considerably less than for other workers of the same age. Even then, as reported by the Low Pay Commission in January this year, 18% of apprentices said that they were being paid less than their legal entitlement. Even that legal entitlement, based on a 37-hour week, equates to about £6,900 a year—interestingly, precisely the maximum amount of the maintenance loan available to students living at home. The student year lasts only 30 weeks, leaving them able to work full-time, should they choose, for the remaining 22 weeks—apart, that is, from the paid employment that many students are already forced to find during term time. Those earnings do not disqualify a student's family from benefits, and the amendment is intended to achieve parity of esteem of all post-school young people who are setting out on a route of learning designed to equip them with the skills for a productive working life.

However, in addition to being ineligible for Care to Learn childcare grants, unlike further education students, some apprentices also missed out on travel discounts, council tax exemptions and student bank account packages. The reason is that apprenticeships are not classed as approved education or training by the Department for Work and Pensions, but apprentices must spend at least 20% of their contracted work hours off the job—or at least, they will after 1 April—which means at a college or with a training provider. What is an apprentice supposedly doing in such situations if he or she is not receiving approved education or training?

In the case of apprentices who live with their parents, the families could lose out by more than £1,000 a year in child benefit. Families receiving universal credit could lose more than £3,000. Why should families suffer as we seek to train young people desperately needed to fill the skills gaps that I mentioned earlier? University students receive assistance from a range of sources. Apprentices currently do not receive many of these benefits and are continually excluded from definitions of approved learners. How can an apprenticeship not be regarded as an approved form of learning? The Bill is aimed at unifying apprenticeships with technical education, yet obstacles have been placed in a way that will prevent the aim being fully achieved. The system must be changed so that apprentices and students are treated equally, and there is genuine parity of esteem between all educational and apprenticeship routes.

3.15 pm

We support the noble Lord, Lord Storey, on his Amendment 14, on the need for a contingency fund to be established in the event of an insolvency. It may seem inconsistent that we also support Amendment 16. A contingency fund would be one way to deal with the issue of looking after students but, on further reflection, we reached the conclusion that the net needs to be cast wider, to include any provider of technical education becoming insolvent, and not just a college.

On Amendment 16, noble Lords involved in the Bill received a letter last week from Paul Williams, the deputy director for student funding policy at the Department for Education, on the subject of advanced learner loans. It provided little comfort for a student left high and dry with what Mr Williams called "recent provider failure", saying merely that she or he will have the repayment deferred. There was not even a mention of how long the deferment might last or what would eventually trigger the repayment. That was widely regarded as a quite unsatisfactory response and, of course, did not deal at all with the issue in our amendment.

Requiring providers to provide a guarantee to students from a financial institution may, on the face of it, seem quite a surprising development. The solution is complex, but its complexity falls on the provider and the private, for-profit financial institution, such as a bank or insurance company. It is not complex for the Government or the student. Specifically, the annual cost is low because any credit-worthy provider could meet the potentially large costs of default by pledging its other assets to the financial institution, as has happened in other cases in other countries. That solution is frequently adopted by the commercial world for long-term contracts, such as construction contracts, and we believe it appropriate in these circumstances to provide the protection that students deserve.

Finally, on Amendment 20, to some extent it may seem surprising that we seek to ensure all the apprenticeship levy money is spent in the year in which it is gathered. There will be some costs—inevitably, there are some administrative charges—but that is not particularly our concern. There was a suggestion that all the funds available for training apprentices may not be disbursed in a particular year. In light of recent events, that is now less likely; there does not seem a great likelihood that the levy will be underspent, given the furore that has arisen over the last few days over the register of apprenticeship training providers, and the announcement that many colleges have been left off that register despite having, in several cases, outstanding Ofsted ratings for the apprenticeship courses that they provide.

I do not want to go into that detail at the moment, but it demonstrates the extent of the concern about how and how well employers will have access to sufficient providers. At the moment, the colleges that have not been given access to the register have been told that they can reapply, with a deadline of the end of next week. For some, that will be all well and good, because they will admitted, albeit late—but too late to access the tranche of funding for the coming year, in many cases. It is also not clear how access will be made available to non-levied funding for those colleges that did not make it on the first occasion.

The amendment is important in itself to ensure that all the money raised is spent on the purpose for which it is intended and that employers do not simply regard themselves as having been levied—and then want to draw the money down as quickly as possible to make sure that, in effect, they get what they regard as their own money back. It is much more important than that. Those colleges that are willing and able and have a track record of having provided that training in most cases should be allowed to do so.

There was a fairly broad sweep within that, but the main thrust of what I wanted to say was in respect of apprentices being denied the rights of their peers—that is, students of further education at universities. On that basis, I beg to move.

Baroness Cohen of Pimlico (Lab): My Lords, I support the amendment. The Bill has cross-party support; it is potentially the greatest engine of social change that can be imagined and rights the injustice of the many years when technical education has been regarded as much less important than formal academic education. The effect of cancelling benefit for 16 to 18 year-olds embarked on apprenticeships will be to deter a small but important group of these young people from taking them up. Since the apprenticeship is not just education but a route into a job, this would be entirely wrong. In families with very low incomes, budgets are extremely delicate. Allowing one child to do an apprenticeship when they are not fully funded could damage the rest of the family and is therefore not likely to happen. I therefore hope that the Government will think again on this.

[Baroness Cohen of Pimlico]

I will also speak to Amendments 14 and 16, which provide slightly different versions of guarantees if trainers go bust. I remind the House that I am chancellor of BPP University, with 2,000 degree-level apprenticeships, and my sister company has 2,000 16 to 19 year-old apprenticeships. It is not very difficult for long, well-established training operations to contribute to a contingency fund, if that is what is wanted, or to get a bank guarantee. I am thinking of new people who may want to come into this field, whom I believe the Government want to encourage. I suspect that having to contribute to a contingency fund, which is difficult and requires special provision, is possibly a barrier to entry, whereas producing a bank guarantee is—as my noble friend Lord Watson said—a well-understood route and I believe a lot of banks know how to do this. I would, therefore, much prefer any measure to require providers to produce a bank guarantee rather than a contribution to a contingency fund, or their own private contingency fund.

Baroness Wolf of Dulwich (CB): My Lords, I also support the amendment and share its concern for the small but important group of young people who may be denied an apprenticeship. I will also speak to Amendment 16 tabled in my name and lend strong support to the general argument that we must provide financial guarantees and security to young people in the training field. I declare an interest that, as a member of the Sainsbury review, I was part of the panel which lies behind other parts of the Bill. I also strongly welcome the provisions to ensure that, should an FE college fail, special arrangements will be in place to make sure that students are looked after; that clearly set out procedures will swing into place; and that they will not just go to the bottom of the list after creditors, in the hands of administrators whose responsibilities and skills are essentially commercial. It is absolutely right that the Government have recognised this as their duty. It is their duty because, by funding young people and adults, encouraging them to enter training—and, in very many cases, to take out loans—the Government have implicitly promised that an institution to which they are lending money will give a good-quality education and will endure to see students through. The introduction of loans is a mammoth change and lies under much of the Government's conviction that they need to change the HE regime. We must recognise that the Government's ambition for huge increases in adult learner loans changes the environment in which young people and adults are studying and training.

Many noble Lords will know that failures are not unheard of—one wishes that they were. In the United States, huge companies have gone under, leaving many thousands of people with loans. These are not all at degree level; they are often at associate-degree level, which comprises two-year courses. On the one hand, therefore, it is very welcome that we have these provisions for FE colleges, but, on the other, I find myself completely unable to understand why equivalent protections should not be introduced for people training and studying in institutions which are not FE colleges and which also offer—and are being funded to offer—technical education. Many of these people have loans, and many of them are not mobile. The loans represent large sums of money for them, and they have made big changes in their lives to undertake this form of training. Again, it is tremendously welcome that the Government are putting so much effort and money into technical education. However, we have to ensure that the promise, encouragement and—sometimes—pressure to enter technical education is matched by a guarantee that the Government will deliver on their implicit promise.

Against this background, the repeated failures—that is what it has felt like—in recent weeks of a number of private training providers should make us aware that this is not a hypothetical situation. Like the noble Lord, Lord Watson, I was not very convinced by the letters from the department and the SFA. My noble friend Lady Watkins will speak in a moment. She and I had a very productive meeting with the Bill team. We appreciated their willingness to listen to our arguments. However, the letters that we received seemed to amount to a combination of the statements, "We are muddling through" and "There aren't very many of them anyway". That is not adequate at a time when we are embarking on a major rethink—and, I hope, a major expansion—of technical education.

In Committee, the Minister noted that you cannot treat private businesses as though they were public organisations. That is indeed true. Although many private training providers are small charities, many others are commercial organisations, as the noble Baroness, Lady Cohen, said. Many of them survive entirely on government contracts and are very small. That is why I have proposed a mechanism which I think would be entirely appropriate for this situation. We have heard about it already, and I thank the noble Baroness, Lady O'Neill, for first bringing it to my attention. It is well established, costs the Government nothing and would not cost providers anything that would begin to wipe out their margins. It is well and frequently adopted in other sectors and I cannot see why it should not apply here.

That brings me to my final point—the idea that we do not need to worry about this matter because only a few people are involved and the risks of failure are quite small. Even if the figure is less than 1%, that is hundreds of people a year on current levels of loans. If we have the expansion that we hope for, thousands of people a year will be affected. To give a medical analogy, if 1% of life-changing operations were cancelled and eventually lost because people got older and were never able to have their operations and had to go back to the bottom of the waiting list, I do not think that anybody would find that acceptable. Therefore, I strongly hope that the Minister will assure us that at Third Reading he will be able to bring concrete proposals to this Chamber and that we will see the same acceptance of the importance of looking after students in the entire technical education sector that we so happily see in further education colleges.

Lord Storey (LD): My Lords, I will speak to Amendment 14 and to Amendment 16, which is linked to that, and will say a few words in support of Amendment 1.

It is interesting that a large part of the Bill is about insolvency—what happens if a college becomes insolvent. Yet it does not say very much about what happens if a poor student, through no fault of their own, becomes insolvent because of debt problems arising from the fact that their college no longer exists. We also encourage private providers—I say right at the outset that there are many good private providers, who have an exemplary record and are very worth while. Sadly, however, some providers have caused immeasurable harm to young people, and we need to ensure that there is a proper safety net for those young people.

3.30 pm

It is interesting that just in the last few months, three private providers have gone into liquidation. Millions of pounds have been lost, and of course thousands of students have been put into a very difficult situation. I will highlight just one of those examples. John Frank Training was a London-based provider with a satellite office in Preston. This private provider went into liquidation on 30 November, leaving no assets, despite recording a profit of £1.3 million in the first half of last year. The Skills Funding Agency is currently refusing to write off the students' debts, even though they will not get training from John Frank Training. Some £6.4 million was paid to 2,200 learners to complete their training with the provider. As one unlucky student said:

"I've emailed the SFA three times and got no response and the loan company haven't been helpful … They finally emailed me on December 22 to say transfer your loan to a new provider. I've tried to do this but you can't transfer if you have already started a programme".

Therefore a number of issues need examining. I pay tribute to the Minister and his staff, because they have been anxious to help and have been supportive on this. I hope that between now and Third Reading we can come to some satisfactory outcome on this issue. We are talking about young people whom we have encouraged to do further courses and training.

My amendment seeks to put in place a contingency fund to ensure that where a further education body closes down, there is financial support available for students to ensure that they are reimbursed the fee they have paid for the remainder of the course, which they will be missing out on. The cost of embarking on a further education course when over the age of 18 is not insubstantial. For example, Leeds City College charges fees up to £1,100, plus exam fees and any course extras. The introduction of such a contingency scheme would, I hope, help to address issues such as the one highlighted by James Kewin, the deputy chief executive of the Sixth Form Colleges Association. He said:

"We are concerned about the potential knock on effect of an insolvency regime on bank support. Existing loans and overdrafts may have to be renegotiated with potentially serious increases in costs and new support harder to obtain. In both cases this will act as a further drain on college finances".

Presumably, if banks are more confident that students have a financial safety net should the provider have to shut down, they are less likely to refuse loans or apply stricter terms to their loans.

Finally, on Amendment 1, which I highlighted at Second Reading, we are talking about many students from some of our most deprived communities—and we talk a great deal about social mobility. If their parents are entitled to tax credits—which just takes them up to a living wage—when they are encouraged to take up an apprenticeship and do so, their financial support goes. Therefore, that is a disincentive to carry on an apprenticeship. There is evidence to show that because of this disincentive, quite a number of students have not taken that opportunity. This amendment will help to ensure that we protect the very people we want to encourage to take up apprenticeships.

Baroness Watkins of Tavistock (CB): My Lords, I support Amendment 16, to which I have added my name. It is very clear that many young people who take out government-backed loans believe that they give a quality indication to the provider, to which they then enrol to study. It seems extremely unfair that, in the event of such a provider becoming unable to continue, they would go to the back of the queue for the repayment of their loan.

When meeting the Bill team, who have been extremely helpful, we heard evidence that everybody tries to find an alternative provider so that the student can complete their programme, and that is clearly the most desirable outcome. The most undesirable outcome is if a student is unable to complete the programme and is left with debt, even if that debt does not have to be repaid immediately. Our amendment is intended to protect students in such circumstances so that their loan is repaid by a provider if they cannot find an alternative provider with which to complete their course.

We want to encourage people to undertake this kind of technical education, and I commend the Government on their Bill because it will encourage young people to do far more local-based technical education and should get both young and more mature people into work, which, after all, is the overall aim of the Bill. Therefore, I hope that the Minister will be in a position to take this matter away and to come back with something at Third Reading that will protect students in the future.

Lord Aberdare (CB): My Lords, I too will speak mainly on Amendment 16, spoken to by my noble friend Lady Wolf, although I regret that I am not able to support it, so I hope that that is not the end of a beautiful noble friendship.

I am concerned that Amendment 16 would make it harder for independent training providers, which provide a significant proportion of the technical education we so desperately need, to compete on fair terms with FE colleges. I should perhaps declare an interest as having been an independent training provider in the distant past.

The effect of the amendment as worded would be to increase the price of such courses offered by commercial and charitable contract-funded providers in order to cover the cost of underwriting the loans made to students with an external financial institution. This would mean that the cost incurred by the vast majority of loan recipients, who will not suffer curtailment of their studies due to insolvency, would increase, even if only by a relatively small percentage. It might also discourage high-quality independent providers from offering loan-funded courses, not just because of the

[Lord Aberdare]
extra cost but because of the extra administration and bureaucracy involved, thereby limiting the range of options available to learners and, as the noble Baroness, Lady Cohen, said, providing a barrier to entry for potential new providers.

The amendment would not apply to FE colleges and other bodies covered by the insolvency regime being created by the Bill, so learners at FE colleges, which might be at least as likely to fail, would be protected by a special insolvency regime without any extra cost.

FE college loan-funded courses already have the additional benefit of being exempt from VAT, so most independent providers are already likely to face a 20% cost disadvantage. Apart from that, the cost and complexity of setting up the sorts of schemes proposed in Amendments 14 and 16 seem likely to considerably outweigh their effectiveness or value. If some special provision for independent training providers were needed, it would surely be better to take a similar approach to that proposed for colleges based on government underwriting, as I believe has happened in practice in the past. Of course, in some cases, independent training providers may even be partly owned by further education colleges, as was the case with the provider First4Skills, which was 60% owned by the City of Liverpool College and had to call in the administrators. I am not clear how the amendment would address a situation such as that.

Finally, I know that many independent training providers would be happy to help put a clear mechanism in place so that learners could easily transfer to another provider if their existing provider failed. For all those reasons, I believe that the amendment is not the right way forward.

Baroness Pidding (Con): My Lords, noble Lords may remember that I spoke some weeks ago on this Bill at Second Reading and described the challenges that the UK labour market will face in the coming years and decades. Such times need flexible legislation, so as not to tie the hands of government, the UK labour market and private providers. I believe that it would be a mistake to complicate and overlegislate, and then expect any improvement on the current system.

I agree with the sentiment of Amendments 14 to 16. It ought to be our duty to make sure that students are not left stranded after provider failure, through no fault of their own. However, it is my fear that these amendments may do the very opposite of their well-meant intention. I am particularly concerned by Amendment 14, explicitly subsection (3). I want to stress that however well intentioned it is to demand that private providers set contingency funds that can be used only for the purposes outlined in subsection (2), it risks placing additional financial commitments and burdens on providers unnecessarily. It would also, inevitably, deter excellent private providers from offering loan-funded courses, given these extra commitments.

Given that the Government have made a commitment to helping students affected by provider failure by providing them with alternative providers, it is my belief that this well-intentioned legislative burden is not necessary. It will simply overcomplicate the system and deter private providers from offering excellent qualifications and training.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, I am very pleased to be able today to speak about this legislation, which will help lay the foundations for transforming technical and further education, ensuring that all our young people have the same opportunities to travel as far as their talents may take them, move to a lifetime of sustained employment and provide the skills that British business needs. I am grateful for the remarks made by the noble Baroness, Lady Cohen. I share her sentiment: this Bill is the greatest engine of social change that can be imagined, or at least we hope that it will be. I also express my thanks to noble Lords for their continuous engagement in the Bill, which, as the noble Baroness said, has all-party support.

In Committee, we had some very interesting discussions on some of the broader aspects of the Bill, and on the operation and delivery that will turn this legislation into reality. My ministerial colleague Robert Halfon and I have found this scrutiny extremely helpful in refining our thinking for this next stage of the legislation—the transition. Minister Halfon was looking forward to being able to join today's discussion, as he has done previously, but unfortunately has been called away as he needs to participate in the public sector apprenticeships debate.

I turn now to the first group of amendments, tabled by the noble Lords, Lord Watson and Lord Hunt. I welcome the sentiment behind this amendment: that young people who choose to take up an apprenticeship should not be financially disadvantaged and that, in particular, young people who leave care should be encouraged to enter apprenticeships. I believe, however, that we have already established sufficient safeguards and support to deliver these aims. Following a 3% increase in October last year, the national minimum wage for apprentices is now set to rise again to £3.50 an hour from April this year. Most employers pay more than this minimum. The most recent Apprenticeship Pay Survey, in 2016, estimated that the average gross hourly pay received by level 2 and 3 apprentices in England is £6.70 an hour. Moreover, apprentices receive training which, together with their paid employment, sets them up for increased earnings in the future.

Lord Watson of Invergowrie: I wonder whether the Minister is going to respond to the point I made about apprenticeship pay. At the beginning of the year, the Low Pay Commission reported that 18% of apprentices were not getting even the national minimum wage.

3.45 pm

Lord Nash: The noble Lord has raised that before. As we discussed at that time, it is illegal to pay below the minimum wage. We and HMRC are focused on ensuring that it does not happen. We all share the noble Lord's concern about this. I assure him that we will do everything we can to stamp out such practices.

One of the core principles of our reforms is that an apprenticeship is a genuine job. As such, apprentices are treated accordingly in the benefits system. Child benefit

is intended to provide financial support to parents to help with the extra costs of raising a dependent child. It is payable to parents until the end of the academic year in which their child turns 16. After that, payment can be claimed for children up to the age of 20 if they are in approved education or training. From April this year, undertaking an apprenticeship at minimum wage will pay more than five times the maximum child benefit rate. Therefore, an apprentice's parents are not eligible for child benefit for supporting that employed young person. These rules have been a long-standing feature of the welfare system.

Moving to paragraph (b), on extending the higher education bursary to statutory apprentices, while I understand the intentions behind the proposal, it is not correct to equate being on an apprenticeship to being in higher education, where a student is making a substantial investment in their education and has appropriate access to student finance. Apprenticeships, by contrast, are real jobs and those undertaking them are employees who earn a wage, unlike participants in HE who are students and treated as such by the benefits system. Although apprentices generally spend a fifth of their time in training, it is part of the minimum wage regulations that they are paid while undertaking that training, so I cannot share the suggestion of the noble Lord, Lord Watson, that the training equates to being in HE. They are still being paid.

Consequently, our focus continues to be on ensuring that there are incentives for employers to recruit care leavers as apprentices. An additional £1,000 is paid to employers who take on a care leaver as an apprentice, as well as their training providers. Furthermore, the funding system ensures that, for all care leavers aged under 25, the full training costs related to undertaking an apprenticeship are met by the Government in recognition of their particular vulnerabilities.

I hope that I have provided sufficient reassurance that reflects that apprenticeships are real jobs, pay a wage that is more than sufficient to offset any household income reductions through the loss of child benefit, and are funded to ensure accessibility for care leavers.

Amendments 14, 15A to 15C and 16 concern the protection of students at independent training providers in the event of their closure. I am sympathetic to the intention behind these amendments that the interests of learners must be at the heart of the system.

Turning to the detail of Amendment 14, I think that it will be helpful also to consider Amendment 15, which would amend it. As currently drafted, Amendment 14 would apply only to further education bodies, which the Bill defines as further education corporations and specialist designated institutions in England and Wales, and sixth form colleges in England. Private providers would not fall under the scope of this amendment, although we need to consider that Amendments 15A to 15C would make this change so that private providers are within scope of the amendment.

As noble Lords will be aware, the main purpose of this part of the Bill is the introduction of a special administration regime which will prioritise the needs of learners. It places an overriding obligation on the education administrator to take the action that best avoids or minimises disruption to the studies of existing learners. This will apply to all students—fee paying as well as non-fee paying. The special objective focuses, rightly, on giving learners the opportunity to continue and complete their studies having set out on their journey to gain new skills or qualifications. That is what individuals will be most concerned to achieve rather than the repayment of any money for which they have not received provision.

Of course, fee-paying students typically pay for their courses in stages, as they do via advanced learner loans, and quite often in arrears, so it is likely that the student will not be significantly—if at all—out of pocket. But, through the special objective, the education administrator will be working to identify opportunities for learners to complete their studies, whether by rescuing the college or transferring the individual to another provider, meaning that the learner can continue on their study path.

We know that noble Lords are interested in the idea of a fund or guarantee to support students in the event of private provider failure, especially where they have paid money in advance. Following recent cases highlighted in the press. I will now say a little about what we are doing to provide support for those affected. Our priority is to support learners whose providers have ceased trading. I want to make it clear that we will take every step we can to ensure that learners are given the opportunity to complete their studies, be that with their current provider if possible or with another provider. In the rare cases where providers fail, the Skills Funding Agency and the Student Loans Company work together to identify solutions for any individuals affected. They make direct contact with learners to inform them of the help they will get. I am happy to say that this is already current practice and is an integral part of the contractual arrangements between the funding agency and the provider. There are many cases where those learners who are affected are successfully transferred to alternative providers.

Students' new providers may receive funding to deal with necessary administrative costs relating to transferred learners to ensure that they are not out of pocket. We have taken further action to protect learners due to recent cases of private providers going into liquidation. For those who have not completed their course, and while we work to make transfers happen, they will not be required to start repaying their loans during the 2017-18 tax year.

I shall now look at the detail of Amendment 16. I believe, as a number of noble Lords have said, that we should approach the regulation of independent private training providers with caution. These are mostly private profit companies and, unlike the further education bodies which are the subject of this part of the Bill, they are not part of the statutory FE sector and are created by their promoters and owners with no hand from government. They are not subject to the same intervention arrangements as the statutory sector. Furthermore, while they may receive state funding, that funding does not have the same breadth of purpose as the funding for the statutory sector and is paid on a different basis. In particular, the funding is contractual and normally paid in instalments linked to attendance, which limits the financial risk which this amendment is seeking to address.

[LORD NASH]

There are around 400 private providers, of which the vast majority are financially sustainable. I am delighted to join with the noble Lord, Lord Storey, in his comment that many of them provide very good quality education.

Providers must be listed on the SFA's register of training organisations to receive advanced learner loans funding, while successful approval includes due diligence to assess providers' capacity to deliver contracts to the required standard and to determine whether they are financially robust. Providers delivering only loan-funded provision must have a financial health assessment rated as good or outstanding. Once on the register, the SFA closely monitors providers' financial health and achievement rates, with providers having to comply with robust funding and performance rules.

However, I accept that there could be rare cases where a private provider fails and students suffer as a result. Although learners choose their private provider as consumers, "buyer beware" may be thought an unduly harsh response to that predicament. That is the concern which noble Lords are seeking to address through this amendment. I understand the concern, but at the moment I am not convinced that the imposition of significant new regulation on a fully private part of the sector is either a necessary or proportionate response to it.

As far as I am aware, a banking or insurance market for the guarantees referred to in the amendment does not exist and would have to be developed. We do not know whether and how fast this might happen, or at what cost. However, much more significantly, the nature of this sort of financial protection is that it puts a burden on the vast majority of healthy providers, where it is not needed, as well as on those few where it is. In aggregate terms, it would mean substantial sums of money, much of it originally public money, moving from the education sector to the insurance and financial sector, which is not necessarily what the taxpayer would want for the sake of a safety net in very rare cases of failure. Moreover, as the noble Lord, Lord Aberdare, said, it would lead inevitably to an increase in the cost of these courses.

Private providers and their representatives will also have views on this of course, and there has not been the opportunity to seek them or reflect on these matters since the amendment was laid, so we are by no means ready to accept that legislation is an appropriate response to the risk that noble Lords have helpfully highlighted. However, I would be delighted to discuss this matter further with the noble Lord, Lord Storey. We are looking into this carefully, but we need to take proper time to consider our policy response, which may not require legislation.

I will now discuss Amendment 20. I am grateful to the noble Lords, Lord Watson and Lord Hunt, for this amendment. I understand their concerns, but I hope that I can reassure them that this amendment is not necessary. The Government are doubling investment in apprenticeships because we know that they provide employers with the skills they need to grow their businesses and benefit the economy. Through the funds raised by the apprenticeship levy, we will be able to invest twice what was spent in 2010-11 in apprenticeships by 2019-20.

The institute's responsibilities include ensuring that the quality of apprenticeships available to employers reflects employer needs and the Government's priority for apprenticeships to be a high-quality programme. It will need to work closely with the Department for Education, employers and other stakeholders to make that happen. Its responsibilities also include advising on the pricing of apprenticeship standards to ensure that government funding supports the delivery of high-quality training. The institute will work with employers and providers to understand the cost and value of apprenticeships to inform their advice. The institute does not have responsibility for the apprenticeship budget or how much of it is spent. This resides with the Secretary of State for Education and her department's agencies.

The Government are fully committed to comprehensive investment in apprenticeships. The apprenticeships budget is set at the spending review. That provides certainty on the forward spending profile for the duration of the Parliament, as well as ensuring affordability of the programme and that the taxpayer receives value for money.

Tying a commitment on spending explicitly to the levy receipts could mean adverse funding consequences for the programme as a whole. The 2016 Autumn Statement revised down the projections for income from the apprenticeship levy over the next five years, but this does not impact on the agreed budget that the department already has as part of the spending review settlement. For example, the provisional budget for spending on apprenticeships in 2019-20 for England and the devolved Administrations totals in excess of £2.9 billion, versus the projected levy income of £2.8 billion. Having certainty over the funding for apprenticeship training is preferable to directly linking the funding on a year-by-year basis to the wider performance of the economy. As described earlier, levels of spending will be determined by the choices that employers make.

I hope that noble Lords feel reassured enough by my responses to these amendments not to press them.

Lord Watson of Invergowrie: My Lords, I thank the Minister for his response and all noble Lords who have participated in this debate. On the three amendments that carry my name—our amendments to Amendment 14, in the name of the noble Lord, Lord Storey—the Minister said that we will have an opportunity to consider that further. That is to be welcomed.

On Amendment 20, I feel the Minister rather overegged the pudding. I said that I do not think the levy will be undersubscribed or short of applications. He seemed to be saying that this would depend on monetary fluctuations. The fluctuation that would concern me would be, if not enough applications for the fund came forward, what would then happen to any so-called surplus that would remain? I am not unhappy with his response. I am optimistic that the levy will be fully taken up.

I am not so optimistic about the Minister's comments on Amendment 1 and apprentices being described as approved learners, as I think they should be. He mentioned apprentices as being employed and receiving—or at least being entitled to receive—the national minimum

wage of £3.50, but that is the figure that will apply next month. For any other worker aged up to 18 the rate will be £4.05; for those aged between 18 and 20 it will be £5.60. Despite that very low level, apprentices are paid less than their peers who, for whatever reason, are not in apprenticeships but are working. I do not think that argument carries a great deal of weight.

The Minister also said that he is not willing to support extending the higher education bursary of £2,000 for apprentices to those leaving care. Surely any barriers to young people taking up apprenticeships should be removed or at the very least mitigated. On those two issues, the Minister did not show any willingness to do so. He said there were sufficient safeguards to ensure that apprentices and their families do not lose out by dint of the young person taking up an apprenticeship. That is palpably not the case. Further education colleges have already drawn to the attention of the Association of Colleges a number of cases of would-be apprentices being dissuaded from applying for—or, having applied for, then taking up—an apprenticeship when the financial consequences become clear. That is through pressures within their families. Whatever the rates in place, there are not sufficient safeguards. That deters some young people from taking up apprenticeships. That they are not regarded as approved learners is surely a glaring loophole which the Government must at some stage move to close.

I regret that the Minister has demonstrated no willingness even to acknowledge that there is an issue, far less a willingness to find a means of resolving it. We regard that as unsatisfactory. For that reason, I wish to the test the opinion of the House on Amendment 1.

4 pm

Division on Amendment 1

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Division No. 1

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4.14 pm

Amendment 2

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

2: 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 persons who have completed an apprenticeship;

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

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

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

(e) satisfaction rates of employers which hire persons who have completed 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: My Lords, again, this is an issue that we considered in Committee. Indeed, it was also discussed in another place. But the fact that we continue to seek a greater level of reporting surely makes it clear to the Minister that we do not accept the responses given by him and his honourable friend the Skills Minister, Mr Halfon. We do not resubmit amendments without believing that they would enhance the Bill. I stress that there is no political point-scoring involved in amendments such as this. The Minister will know that when his arguments convince us—as, indeed, from time to time they do—we do not return to matters that have been taken as far as they usefully can be. But we do not believe that to be the case here.

The amendment is largely self-explanatory so I shall not rehearse the arguments that I used previously, but quality of outcomes will be absolutely key to the extent to which the skills gaps in the economy are able to be filled by UK workers trained for these jobs—initially in the decade ahead but also far beyond that point. The duties that would be placed on the institute by Amendment 2 are hardly onerous. The Minister stated in Committee that they are unnecessary as the Enterprise Act 2016 will require the institute to report on its activities annually. Of course that is the case—but not to the level of detail that we seek here.

The institute is about to come into being and will need some time to find its feet. But the Department for Education's own website states that, according to the Bill, the institute will ensure, inter alia,

"high quality standards and assessment plans, which will lead to high quality apprenticeships".

The extent to which the institute is successful will depend on assessing the job outcomes of those completing apprenticeships and the earnings that will result from those or from moving on to higher education. The rationale for the amendment is to go further than the basic reporting required by the Enterprise Act and to make public the extent to which both apprentices and employers believe that training and levels of employability are being strengthened and deepened as a result of the new landscape.

Surely the Secretary of State would expect nothing less than an annual report from the institute on the quality of outcomes from completed apprenticeships. So we ask, why not have that in the Bill? It follows, particularly when the Government are in pursuit of their target of 3 million starts by 2020, that Parliament should have the opportunity to receive and debate the report. If the Government want quality rather than quantity to be the driver, as they say they do, they should welcome the maximum amount of transparency in that regard. The fact that the amendment will require the institute to collect information from the department should be a positive and should be welcomed by the Government as a sign that it is meeting expectations. That is what Amendment 2 is designed to achieve.

Amendment 3 also requires reporting by the institute. I hope that the Minister will not again tell noble Lords that it is not necessary. Noble Lords will note that we are not asking the institute to do anything more than request from the department information which the department already holds. The purpose of doing so is to ensure that the institute is achieving success in turning round the situation identified by the Government's Social Mobility and Child Poverty Commission, as it was then known, a year ago. It warned that the Government's drive on apprenticeships was failing to deliver for young people and pointed out that almost all the recent increase in apprenticeship starts related to people over the age of 24, with the number of young people starting apprenticeships showing little change since 2010.

It also noted that, unlike academic courses, youth apprenticeships typically do not represent a step up. Most A-level-age apprentices do GCSE-level apprenticeships and almost all—97%—university-age apprentices do apprenticeships at A-level equivalent or lower. The commission also highlighted that most youth apprenticeships are in sectors such as health and social care, business administration, and hospitality and catering, which are characterised by low pay and, often, poor progression.

The Commission on Social Mobility also welcomed the Government's efforts to improve the quality as well as the number of apprenticeships but said that there needed to be a real focus on improving the quality of apprenticeships for young people. It called on the Government to increase the number of young people doing higher apprenticeships to 30,000 by 2020 compared to the present 4,200 19 to 24 year-olds. It also called for a UCAS-style apprenticeship gateway that would give young people much better information on what apprenticeships are available—and, crucially, where they might lead.

Some advantages will be identified as a result of the establishment of the institute, but throughout the passage of the Bill here and in another place we have heard many fears expressed that the drive to 3 million apprenticeship starts risks double or even triple-counting some apprentices. There is a need for improved data transparency so that it is clear how many apprenticeships the starts data relate to. That is what the amendment seeks to achieve and why it makes the connection with those in receipt of the pupil premium, so as to be able to monitor the effect that completed apprenticeships have on young people's lives in comparison with their more advantaged counterparts.

The Government consistently say that they are committed to social mobility. On that basis, I would say to them that they should embrace this opportunity to demonstrate the success of that aim. I beg to move.

Baroness Garden of Frognal (LD): My Lords, I will speak to Amendment 21 in this group, which is in my name and those of my noble friend Lord Storey and the noble Lord, Lord Lucas, and add my support to Amendments 2 and 3 to which the noble Lord, Lord Watson, has just spoken. Our amendment came out of discussions with the CBI, which has a great deal of interest and expertise in the future of apprenticeships—indeed, its engagement is vital to the success of this scheme. It expressed the concerns of its members that the new institute will need monitoring and overview, particularly in its early days.

The amendment aims to ensure that there is regular reporting back to the Secretary of State on the quality of apprenticeships and technical education, calling for,

"a response … containing any actions to be taken as a result".

[Baroness Garden of Frognal]
Those "any actions" are particularly important because having action plans in response will surely make the difference. There needs to be ongoing communication. There is a weight of responsibility on the institute and high expectations that it will be a real engine for change and will counter generations of undervaluing practical, work-based skills. We need to ensure that there is transparency and accountability from the Government over the quality of technical and further education, and this amendment would help to ensure that the very welcome focus on the technical and further education sector is not lost after the Bill passes into law. I look forward to a positive response from the Minister.

Baroness Morris of Yardley (Lab): My Lords, I support these amendments. They are very reasonable and it is difficult to find too many reasons for opposing them other than bureaucracy. When you weigh it up, the argument comes down very much on the side of the amendments on this occasion and not on the side of bureaucracy.

This is primarily about delivering good-quality apprenticeships for young people and adults. We all know that one of the challenges is to change the public discourse about apprenticeships and vocational training, and we are going to have to work really hard if that is to happen. When I look back at the reforms in schools over the past two decades, one of the changes that enabled us to have a more effective public discourse and empower people to ask the right questions, both for members of their own family and in general, was the availability of data. I hear good-quality conversations now from parents, teachers and young people about education, and that is because they have the information to ask the questions and have the debate.

However, I do not think it is there with apprenticeships and technical education. We do not have it yet, and we have a responsibility, if this system is to work, to build up the data and language so that the public can have a proper conversation and monitor what is going on with apprenticeships. Certainly in the medium term, this amendment would help deliver that. It would put information in the public domain every year, and in time, if not immediately, that would lead to discussion and debate. That has to be good for raising the profile of this area of education as well as holding the institute to account for what it is delivering.

I accept that entirely, but also want to emphasise a different point. Has the Minister wondered whether this does not in some way reflect the annual HMCI report, which is laid before Parliament and on which there is always a public debate? It gets on the "Today" programme, bits of information get into the newspapers and the media, and it becomes part of the national conversation that we have about schools. So having this information in the public domain is the right thing to do for accountability. But it would also help with the cultural change that we have to bring about to have a public debate about this area of education. This is not unreasonable. I can see that in years to come—say, in five years' time—we might want to review the minutiae and the details. I do not think we ought to be committed to this for ever and a day, but I cannot see that the value of starting the practice of having an annual report, monitoring progress and building up confidence and awareness, would be outweighed by any bureaucratic burden that it might place on organisations.

Lord Lucas (Con): My Lords, I entirely agree with what the noble Baroness, Lady Morris of Yardley, has just said. As the House knows, I run the *Good Schools Guide*. We do what we can to spread information about apprenticeships, but that is extremely difficult because the amount of information available is not good. For universities, by comparison, there is one single source of information. Now, I do not wish the Government to hire UCAS to do apprenticeships, because UCAS is an extremely difficult organisation to deal with and does not let data out to anyone, but something like it which was a single point of information would really help schoolkids and schools because ordinary teachers, let alone career teachers, do not have time to learn their way around 150 different university apprenticeships, let alone all the others. They need a coherent source of information. There is a habit among employers of letting information out only in the two weeks when they want to hire apprentices, rather than all around the year when potential apprentices want to be looking. They are not adjusted to that kind of marketing yet; they are recruiting in penny numbers rather than the tens of thousands, as universities are. There are all sorts of reasons why we need more information and support.

If you want to know where children have gone on to from school, schools will give you—at least English schools will; Scottish schools are more tiresome—a long list of university courses that their students have got on to. Nowhere can you find those data for apprenticeships. You can get data from the Higher Education Statistics Agency so you can publish information from there if you want, but there is no equivalent available for apprenticeships. That makes the whole business of upping the status of apprenticeships, and of technical education generally, much harder than it needs to be. So while I hold no brief for the exact drafting of the two Labour amendments, I am very much with the spirit of them.

On the amendment that followed from the noble Baroness, Lady Garden, there is scope for upping the prestige of the Institute for Apprenticeships in this way. It gives it that much more visibility in public, that much more right to comment and that much more right to be heard. At a time when there is going to be a lot of change, a lot of difficult decisions taken and a lot of need for what is going on to be in the public eye so that things that are not quite right get caught early and commented on early rather than being relegated to the pages of a few specialist magazines, an increase in prestige, as suggested in this amendment, is an excellent idea.

Lord Baker of Dorking (Con): My Lords, we have not had very much information about what the annual statement from the Institute for Apprenticeships will be. As the institute is a quango, it will certainly produce an annual report—there is no question about that—and it is the usual practice of such reports to be debated in one way or another in the House. So we should accept that as a given, as it were.

As to the content of the report, I am encouraged by the fact that the quality of the directors will mean that it is not going to be a soft quango at all; it will be a very tough and well-informed one because they will be very aware of the fact that it is a great new departure in the education system to concentrate on apprentices, and they will want to ensure that the apprentice system that the country develops will be effective for both employers and students. So I expect the Institute for Apprenticeships to take an interest in nearly all the points mentioned in paragraph 1.

Whether that is needed in the Bill, I very much doubt. The best way to do it would probably be for the Secretary of State to formally write a letter to the chief executive of the institute when one is appointed, which I hope will be soon, indicating the range of information that the report should contain. That might be the best way out of it because the nature of the information will change over the years and you do not necessarily want to keep amending this part of the Bill. There are all sorts of other interesting things that the report should contain. I think the time has come for the Minister to make clearer what he thinks will be in the report. If he cannot do so today, perhaps he might be able to before Third Reading.

4.30 pm

Lord Nash: My Lords, I am grateful to the noble Lords and the noble Baroness for the amendments on reporting issues for the institute. I start by discussing Amendment 2, tabled by the noble Lords, Lord Watson and Lord Hunt. Being able to assess how well the apprenticeship reform programme is achieving outcomes is of course essential. We need to know whether those undertaking apprenticeships or technical education qualifications are receiving the benefits that we would expect them to receive. To be able to do that, we obviously need the right information to help us make such an assessment. How the institute reports on its work is a topic that we discussed in Committee, but I remain convinced that the provisions already in the Bill are the right ones and that they are sufficient. I am sorry to disappoint the noble Lord, Lord Watson, but I therefore still do not believe that an amendment to the Bill is necessary to achieve that objective.

As I have said, the amendment was discussed in Committee and on Report in the other place, and in Committee in this place, and both the Minister of State for Apprenticeships and Skills and I have given sound justification for why it is not necessary. 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. In addition, the Enterprise Act includes provisions enabling the Secretary of State to request information from the institute on any topic.

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. In order 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 next year, college-based technical education. Much of the information that the amendment proposes that the institute provide goes well beyond what is in scope of its remit. It would therefore be inappropriate for the institute to be asked to provide this type of information, and an unnecessary duplication of effort, given that this information is already collected and published by the Secretary of State. It is right that the Government collect and monitor that information, but where it falls outside the remit of the institute, it cannot reasonably be expected to provide it.

I turn to Amendment 3. Improving social mobility is integral to our apprenticeship reforms. The Institute for Apprenticeships is supporting this by helping to create a ladder of opportunity based on quality apprenticeships for people across the country. This ladder will ensure that, no matter where you are born or who your parents are, if you work hard and apply yourself, you can get ahead, succeed and shape your own destiny.

To support this aim it is of course critical that reporting measures are in place to enable us to assess how well the programme is achieving positive outcomes for a range of groups, including young people. I agree therefore with the spirit of the amendment, which proposes that such information is monitored, measured and reviewed regularly. However, I believe this amendment is unnecessary to achieve that.

We want an education system that works for everyone and drives social mobility by breaking the link between a person's background and where they get to in life. Our defining challenge is to level up opportunity.

On 18 January, the Secretary of State for Education set out her three priorities: tackling geographic disadvantage; investing in long-term capacity in the system; and making sure that our education system as a whole really prepares young people and adults for career success. That is why the Government are delivering more good school places, making school funding fairer, strengthening the teaching profession, investing in improving careers education, transforming technical education and apprenticeships and opening up access to our world-class higher education system.

The Department for Education already publishes a range of data on apprenticeships through a number of reports broken down by starts, achievements, sector subject area, framework and standard, geography, gender, age, ethnicity and other diversity and disadvantage markers. These data are published as national statistics by the department and intended to provide transparency.

It would be more appropriate for the head of profession in the department to consider how and where breakdowns of disadvantage for apprenticeships data are published, in accordance with the code of practice for statistics set by the National Statistician. Additionally, the department is considering publishing new data and measures required to support the Secretary of State's three priorities. The department is committed to publishing disadvantage measures such as the pupil premium, but

[LORD NASH]
needs to be free to find the most appropriate for each age group, programme and purpose.

Data are already helping our work to improve social mobility. For example, we know that 10.5% of those starting an apprenticeship in 2015-16 were from a black and minority background, and we have set an ambitious target to increase the apprenticeships started by people from BAME backgrounds by 20% by 2010. In addition, the department publishes 16-to-18 performance tables that cover classroom-based provision within schools and colleges. The 2016 performance tables were reformed to report five headline measures for students taking A-levels and vocational qualifications at a similar level. Further reforms are planned for 2017 performance tables. This includes extending the performance tables to include outcomes for students still studying at GCSE level and reporting outcomes for disadvantaged students, the definition of which is those who were in receipt of pupil premium funding in year 11. This will have the effect of linking key stage 4 pupil premium information with 16-to-19 outcomes. In 2018-19, we will include only GCSE-level equivalent qualifications that are on the technical certificates list.

The institute has been given a clearly defined role, in which it will be responsible for setting quality criteria for the development of apprenticeship standards and assessment plans—reviewing, approving or rejecting them; advising on the maximum level of government funding available for standards; and quality assuring some end-point assessments. While we expect data to be at the heart of the institute's operations, the collection and publication of the data in this amendment goes beyond that remit and would create an undue burden on the institute, preventing it from carrying out the range of its other duties effectively.

I am grateful to the noble Baroness, Lady Garden, and the noble Lords, Lord Storey and Lord Lucas, for tabling Amendment 21. I completely agree with the spirit of the amendment, but there are already measures within the Bill that require the institute to monitor, measure, review and report on performance on a regular basis. I hope that after I have explained this further, the noble Lords and the noble Baroness will feel able not to press the amendment.

The institute will be a sustainable and long-term governance body that will support employers, individuals and others and will, among other things, uphold the quality of standards. I am grateful to my noble friend Lord Baker for his comments on the strength of the board and its governance. Although the institute will have wide-ranging autonomy across its operational brief, and will be able to carry out its functions in relation to apprenticeships independently, the Secretary of State will retain strategic oversight of the reformed technical education system and will be able to give directions and statutory guidance where appropriate. Of particular relevance to this amendment, the Secretary of State may direct the institute to prepare and send to the Secretary of State, as soon as reasonably practicable, a report on any matter relating to its functions. It may be in that context that the idea to which my noble friend Lord Baker referred, of a letter, would be most appropriate.

The institute will be required to report on its activities annually under amendments made under the Enterprise Act 2016, and that report must be placed before Parliament. This will include information on how the institute has responded to the strategic guidance provided to it by the Secretary of State. While the institute will collect and report on relevant data and information, the Secretary of State will also continue to collect and publish a range of data on the performance of the FE sector, including apprenticeships. We would expect that, to inform its activities, the institute would make good use of those data when it assesses its performance and impact each year, and compiles its annual report. The Enterprise Act has made amendments that also include provisions enabling the Secretary of State to request information from the institute on any other topic that she deems appropriate in relation to their functions in relation to apprenticeships. Through this Bill, those provisions extend to technical education.

Therefore, although ultimately the Secretary of State will retain sufficient powers to ensure that government retains overall control in relation to technical education and will provide strategic guidance in respect of both apprenticeships and technical education, we would expect that, in the exercise of its functions, the institute would assess its performance and take action to address any issues identified. I am confident that, with the governance that it has managed to line up, that should happen.

I hope that noble Lords and the noble Baroness will feel reassured enough on the basis that I have explained not to press their amendments.

Lord Watson of Invergowrie: I thank the Minister for his comprehensive reply—almost half the debate on this group of amendments was from his lips—which in some ways was not unencouraging. I welcome the contributions of two former Secretaries of State for Education, which are always informative. Although my noble friend Lady Morris was very supportive, the noble Lord, Lord Baker, was supportive only up to a point. He said that he did not believe this needed to be on the face of the Bill, but welcomed what Amendment 2 seeks to achieve. I noted that the Minister said it was likely that the request by the noble Lord, Lord Baker, for a letter from the Secretary of State would be taken up, and that is to be welcomed.

I also welcome the supportive contributions of the noble Baroness, Lady Garden, and the noble Lord, Lord Lucas. We are trying to make the point—expressed strongly by my noble friend Lady Morris—that the institute is just being established and needs to build its reputation. One way it will do that is by being as open and transparent as possible. The Minister said that collecting the information mentioned in Amendments 2 and 3 would be an undue burden. However, Amendment 3 provides only for the institute to ask the department for information which it already holds, which is not particularly burdensome.

The transparency mentioned in Amendment 2 is important because it will build confidence, as my noble friend Lady Morris said. Many employers and training providers—all further education colleges—as well as putative apprentices, are looking to the institute to raise the quality of apprenticeships. Why not demonstrate

that as effectively as possible by both assembling and publishing the information mentioned in Amendment 2? The Minister said that the activities of the institute will be monitored, measured and reviewed but not reported on in the detail we have asked for. The Department for Education will have the information but apparently it does not want to give it to the institute to publish in its reports, which seems slightly odd.

Nevertheless, the Minister said quite a lot. I need to read his words in *Hansard* but he seemed to be mentioning quite a lot of benefit which will be seized on by those in the sector who have a genuine desire to make the Institute for Apprenticeships successful—to get it off to a good start and then build from there. There was certainly some positive input from the Minister, which I welcome. On that basis, I beg leave to withdraw the amendment.

Amendment 2 withdrawn.

Amendment 3 not moved.

Amendment 4

Moved by ***Lord Young of Norwood Green***

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

"Establishment of an apprenticeship helpline

(1) Within six months of the coming into force of this Act, the Secretary of State must bring forward proposals for the establishment of a dedicated apprenticeship helpline to be overseen by the Institute.

(2) The apprenticeship helpline in subsection (1) is to provide advice to persons who are undertaking, and persons who are interested in undertaking, an apprenticeship, on—

(a) the technical routes operated by the Institute;

(b) the courses available within these technical routes;

(c) how to apply for the courses accredited by the Institute;

(d) how to apply for any relevant financial support; and

(e) how to complain about the quality of teaching or training."

Lord Young of Norwood Green (Lab): My Lords, in moving Amendment 4, I shall also speak to Amendments 7 and 19 in my name. Amendments 4 and 19 have the same intention and objectives. I support what the Government are trying to do and thank the Minister and his team for the meetings we have had and the information they have conveyed to us. I come at this from the point of view of constructive criticism and suggestions. Getting towards the target of 3 million apprenticeships in the lifetime of this Parliament is a formidable challenge and I welcome the Government setting it. We have said on many occasions, and the Minister has agreed, that although the target is there, the first priority has to be the quality of the apprenticeships. We must ensure that, in the minds of the public at large, potential apprentices, their parents and employers, this is a quality product and a worthwhile career path which would, in many cases, be an alternative to university. That emphasises the importance of maintaining the status and standing of apprenticeships.

4.45 pm

I asked the Minister and the Bill team what would happen if a young apprentice felt that their apprenticeship was inadequate in terms of the way they were being treated or the training provided. The answer was understandable in some ways—namely, that in the first instance the young person concerned could raise his or her concerns with their employer, and if that did not work, they could go back to the training provider. I cannot remember what the third option was. However, a young person in their first job may feel somewhat diffident about making a complaint to their employer. In some ways, I would want them to raise their concerns with their employer—I will return to that issue when I discuss my Amendment 19—as I would want both the employer and the employee to understand their rights and responsibilities under the apprenticeship. In ideal circumstances, they should be able to do that. However, we have been told that the quality of apprenticeships will be assessed in the main by Ofsted, and that a risk-based approach will be adopted. I understand that. There is no problem with well-established apprenticeships—I use the term "Rolls-Royce" in both a literal and metaphorical sense—as they have very competent and well-appointed HR departments. A young person joining such an established company is unlikely to have any problems. If he or she encountered problems, I am pretty sure that they would feel confident about raising them with their employer. But what about much smaller enterprises? If we are to increase the number of apprentices significantly, we have to focus on SMEs. Small enterprises, single-person enterprises or microbusinesses do not necessarily have well-established HR departments. In fact, it is highly unlikely that they do. Therefore, there is potential for things to go wrong in these enterprises. I remind the House that not many years ago a young lad on an apprenticeship went out to work and never came home when a fatal accident occurred. That is a rarity but it has happened. I do not seek to build on that, but we should understand the importance of ensuring that the work environment is safe and that the employer is carrying out the responsibilities he has agreed to carry out.

I would not have thought the Minister would have much of a problem with a single source of information that enables apprentices to find out about the technical routes I have outlined, the available courses, how to apply for them and other issues. The Government probably address these issues in any event through the National Apprenticeship Service. However, I consider that proposed new paragraph (e) in my Amendment 4, which addresses the ability to,

"complain about the quality of teaching or training",

is a vital part of apprenticeship provision. The Government have already established an employee rights helpline for employees who are not apprentices. I seek to build on that principle. To maintain the status and working effectiveness of apprenticeships, it is even more important that young apprentices should feel confident that if their employer is not responding to a genuine complaint they can take it somewhere else and it will be acted on. Therefore I see this as a vital part of the Government's intention to substantially increase not only the sheer number of apprenticeships but the

[Lord Young of Norwood Green]
number of participating employers. I remind the House that at the moment only something like one in five employers takes on apprentices, so we have a long way to go.

Amendment 19 states:

"For the purposes of ensuring the quality and status of apprenticeships, the Institute must ensure that apprenticeship agreements … include the rights and responsibilities of the person or employer providing the apprenticeship; … include the rights and responsibilities of the apprentice; and … are signed by the person or employer providing the apprenticeship and the apprentice; and … where appropriate"—

if they are under 18—"by the parents". Apprentices get or used to get a certificate on becoming an apprentice—I think it came from the Department for Education or BIS—but that is not good enough in the current situation. If we are serious about enhancing the status of apprenticeships, there should be a formal occasion when both sides recognise that this is a big step in the life of a young person, and they both recognise their rights and responsibilities. I do not see this as one side of the equation. An employer has the right to expect a young person taking part in an apprenticeship to do the basic things: to turn up on time every day of the week—as I have said to some young people, not looking like you have just fallen out of the laundry basket—and to display enthusiasm when you get to the place of employment. This may seem like stating the obvious, but employers will tell you that some young people seem to be deficient in some of what are wrongly described as "soft skills" but which are really essential skills: the ability to recognise that they are part of a team, and how to interact with customers. There is a real practical purpose in what I am seeking to achieve, and it is not a one-sided thing—I am asking exactly the same thing of apprentices. A formal signing ceremony would enhance the status of apprenticeships. Where the apprentice was under 18, the parents would see the significance of this situation. If the Government are genuinely seeking—as I am sure they are—to enhance the status of apprenticeships, I hope that they will take a positive approach to Amendment 19.

On Amendment 7, I remind the Government—not that I necessarily think they need reminding—about what I have already mentioned. If we are to succeed, it is important that we encourage small and medium-sized businesses to employ apprentices. I want the institute to look at the performance of local enterprise partnerships, local authorities and training providers with regard to both the quality and quantity of apprenticeships they provide. If you look at the evidence available around the country, the performance is what I could only describe as rich and varied, and in some cases not rich enough. However, there are some very good examples of what is happening out there. Surely, if we are seized of the importance of involving a greater number of employers than the one in five we have at the moment, there is value in identifying the best practice in making that information readily available. I suggested an annual report because Parliament needs to see on an annual basis the progress we have made, and if we do not make progress in this area, the Government will fail to achieve the objectives that they have set out.

That is the basis for the amendments. I argue that in a way they are complementary and I think that they build on the debate that we had in Committee. I trust that the Minister will receive them sympathetically and I look forward to his response.

Lord Watson of Invergowrie: My Lords, I thank my noble friend Lord Young of Norwood Green for submitting these amendments. I have added my name to Amendment 4. I do not think there is a great deal to add to what he has said, but some of this impacts on the arguments that I advanced on the previous group of amendments. It is about accessibility of information and careers advice on apprenticeships. It is also about the institute being seen as an open and accessible organisation. I think we all agree that we want it to meet its aims and to do so as successfully and quickly as possible. Asking it to provide information and to report to Parliament is not radical; it is about building the sort of confidence that I referred to on the previous group of amendments.

Monitoring how many small and medium-sized enterprises employ apprentices is also important because those employers will be key to the Government reaching their target of 3 million starts by 2020. Quite possibly this will be included in the list of categories mentioned by the Minister in his response to me on the last group of amendments, and perhaps he could say something about that in his reply. To some extent, SMEs have been the elephant in the room: they have not been referred to in our consideration of the Bill to anything like the extent they should have. They will play a very important part in apprenticeships—in small numbers, inevitably, and company by company—but overall they will make an important contribution.

I agree it is important that not just the number of apprenticeship starts but, as my noble friend Lord Young said, the number of employers taking on apprentices are listed. If those figures are not collected, how can the network being established by the institute be measured? The kind of information that I refer to will surely be collected, so I ask the Minister: why would the institute not make it publicly available and do so willingly?

I would like to add to what my noble friend Lord Young said by mentioning the apprentice contract and, to some extent, its status. He talked about complaints and the need for a helpline when apprentices need to pass on their concern about the quality of the apprenticeship being offered. There is no regulator in this sector and I ask the Minister whether the apprenticeship contract will be subject to the Consumer Rights Act 2015. The contract will be fully entered into by both parties, and that Act will play a part in the higher education sector as a result of the Bill before your Lordships' House. A preliminary investigation led to universities being required for the first time to produce information on the cost of courses and so on, and that would be helpful. If the Minister cannot reply immediately, I shall be quite happy to receive a letter on the status of the apprentice contract and whether it will be subject to the Consumer Rights Act 2015.

Lord Lucas: My Lords, I would certainly like an apprentice who is having a hard time getting what they

want or a proper education, particularly in an SME, to be able to communicate that, and unless there is an established route for them to do so, as described in the amendment of the noble Lord, Lord Young of Norwood Green, it will be very difficult to ask someone to invent one. There needs to be someone the apprentice can talk to first; otherwise, it will be just too difficult and we will never get to know the quality of the apprenticeship. Anything that became a regular reporting mechanism might well take up a lot of time but not produce any good. However, something should be in place so that, when things are really going wrong, the person at the wrong end of that can have a voice. It seems to me that that is worth including.

5 pm

Baroness Vere of Norbiton (Con): My Lords, I am grateful to the noble Lords, Lord Young and Lord Watson, for tabling this group of amendments. I thank the noble Lord, Lord Young, in particular for his kind words relating to the intent of the Bill.

I turn first to consider Amendment 4. Ensuring that apprentices get the support they need to make the most of their apprenticeship and to progress into an engaging and rewarding career is essential. This amendment provides that the Secretary of State should bring forward proposals for the establishment of an apprenticeship helpline, managed by the Institute for Apprenticeships. Such an amendment is unnecessary as such a helpline already exists.

The National Apprenticeship Service operates a helpline that does two things: it provides advice to employers who wish to offer apprenticeships on all aspects of the scheme, including information on training providers, funding and recruitment; it also provides support to individuals who would like to apply for an apprenticeship and signposts them to vacancies on the GOV.UK site "Find an apprenticeship". The helpline also provides help and support for apprentices and employers who have concerns or complaints. Teams within the National Apprenticeship Service investigate these where appropriate. If an apprentice raises concerns about employment law, the helpline refers them to ACAS if necessary. Advice on technical routes is currently offered by the National Careers Service. However, with the expansion of the remit of the Institute for Apprenticeships from April 2018, we will consider whether one service should be expanded to provide a one-stop shop for apprenticeships and technical routes.

I would now like to speak to Amendment 7. I welcome the sentiment behind the amendment: that small and medium-sized enterprises are encouraged and supported to employ apprentices and that these apprenticeships are of high quality. The noble Lord, Lord Young, is absolutely right that small and medium-sized employers are crucial to the success of our apprenticeship reform programme. After all, only 1.3% of employers will be paying the apprenticeship levy. To that end, the Department for Education is ensuring that smaller employers understand the benefits of apprenticeship training for their business, and that they take advantage of the support available, including the substantial contribution of 90% of the training and assessment costs for an apprenticeship.

To raise awareness and support smaller levy payers and non-levy payers, every local enterprise partnership has been given £5,000 to work on employer readiness for the levy and to support campaigns to raise the profile of apprenticeships. We are undertaking a wide range of communications and engagement activity to ensure that employers of all sizes are aware of how they can make the most of the opportunities presented by apprenticeships. The Get In Go Far campaign, for example, has focused specifically on helping small employers understand the benefits of apprenticeships.

However, on the noble Lord's request that the institute has a specific role to monitor this, I believe that we have already established a remit for the institute which will ensure that apprenticeship standards and assessment plans are of high quality for apprentices employed in organisations of all sizes. The institute has been given a clearly defined role in which it will be responsible for: setting quality criteria for the development of apprenticeship standards and assessment plans; reviewing, approving or rejecting them; advising on the maximum level of government funding available for standards; and quality assuring some end-point assessments. While we expect the institute to engage with organisations such as local enterprise partnerships and local authorities, formally to monitor their performance would create an undue burden on the institute, preventing it from carrying out the range of its other duties effectively.

I hope I have provided sufficient reassurance that the Government recognise the importance of small and medium-sized employers and that the institute is already assuring the quality of all apprenticeship standards and plans, regardless of the size of employer.

I turn finally to Amendment 19 in this group. There is evidence that, in the past, some apprentices have not been clear on what their apprenticeship entitles them to and employers do not always understand their responsibilities towards their apprentices. Ensuring that all parties involved in an apprenticeship have a clear understanding of their roles and responsibilities is essential for it to be a success.

However, an amendment is not necessary to ensure this outcome. Section A5 of the Apprenticeships, Skills, Children and Learning Act 2009, which was inserted by the Deregulation Act 2015, provides that an apprenticeship agreement is an employment contract. It follows that all the safeguards which apply to employment contracts also apply to apprenticeship agreements. In addition, since the introduction of apprenticeship standards, we have required that apprenticeship commitment statements be signed by the apprentice, the employer and the provider at the outset of the apprenticeship. If the apprentice is under 18, it should be signed by a parent or guardian. This is required through the Skills Funding Agency funding rules.

The apprenticeship commitment statement sets out details of the apprenticeship and covers three areas: the name of the standard the apprentice is following and the start and end dates; the training that will be undertaken by the apprentice and who will deliver it; and the roles and responsibilities of the parties involved. For example, for the apprentice this might include a clear articulation of when they should attend work and when they should attend training, as well as appropriate behaviours in the workplace—although I

[Baroness Vere of Norbiton]
am not sure that it will mention the laundry basket. For the employer, it might include how they will ensure successful delivery of the apprentice and preparation of the apprentice for their end-point assessment, and for the provider it might include clearly setting out the advice and support they can offer both the employer and the apprentice. The statement should also include details of how the parties will work together and how issues will be resolved. This is in addition to the employment law requirements on employers to set out the particulars of employment. Turning to the point—

Lord Young of Norwood Green: I welcome a lot of what the Minister has been saying, but is that formal signing process taking place now in all cases, or is the noble Baroness advising us that it will be a requirement from whenever? Can she clarify that?

Baroness Vere of Norbiton: Unfortunately, I am unable to clarify that at the moment, but I will write to the noble Lord. I will also unfortunately have to write to the noble Lord, Lord Watson, on his point about the Consumer Rights Act.

As a requirement of the Skills Funding Agency funding rules, the training provider must ensure that a commitment statement and the apprenticeship agreement are in place before funding is released, which implies that these things are happening—otherwise, funding would not be released—but I will confirm that. This is monitored by the SFA, and duplication by the institute is therefore not necessary. I hope that noble Lords will feel reassured enough on the basis of my explanation not to press these amendments.

Lord Lucas: Can my noble friend say whether the apprenticeship documents that an apprentice receives include the telephone number of the helpline?

Baroness Vere of Norbiton: Again, I am unable to confirm that, but I will write to my noble friend. If not, I think perhaps it should.

Lord Young of Norwood Green: My Lords, I thank the Minister for her comments. A number of them seem extremely helpful. I am appreciative of the fact that she will consider the one-stop-shop approach.

I may be wrong and only time will tell, and I do not accuse the Minister of complacency because I do not believe that that is the case, but I think that the Government are erring on the side of optimism in relation to small and medium-sized employers. The feedback I am getting—and I am sure I am not the only one—suggests that, while employers welcome the training costs being met, along with some other contributions, it may be that they have underestimated the position of employers who are saying, "I have a business to run and I am having enough trouble keeping it going. Now you are asking me to take on the responsibility of an apprentice". In many cases, small employers do not have any experience of dealing with the administrative side. They may exaggerate its complexity, but nevertheless they see it as a burden and a disincentive. They say, "I still have the wage costs, which are not insignificant, and for at least the first six months and up to a year I do not necessarily have a fully productive employee". In these dialogues I always say, "The point you are making is interesting, but when a business takes on an apprentice and the arrangement is working well, I am told that the young person is making a positive contribution". A fresh pair of young eyes is able to suggest to the business how to make a significant number of improvements, not least in areas like IT where the young person is often more knowledgeable than the employer.

I would urge the Minister to look at the situation again. There is still uncertainty about how the levy is going to operate and how it will filter through to small and medium-sized employers. On its own, I do not think that meeting 90% of the training costs is going to achieve what is needed. The Government should not take my word for it. They should talk to chambers of commerce and the Federation of Small Businesses. I think that they will be given the kind of feedback that I have set out today.

Obviously, I welcome what has been said about the contract of employment. While there are a couple of points on which the Minister will come back to us, overall it is good. I do not know whether the response has covered the point I was trying to convey—perhaps I did not set it out well enough. I referred to trying to ensure that the formal signing of the apprenticeship contract is marked as an occasion, because it should be. I look forward to the day when I can go into a secondary school and see on the wall not only the names of those who have gone on to Oxford, Cambridge and other institutions of higher learning, but also a board showing the young people who have achieved apprenticeships. Surely that is just as important and, in my view, as life changing a proposition for young people as going to university.

Overall, I welcome some of the information we have been given because it is positive and useful. I have indicated the areas that I think the Government should revisit and I thank my noble friends who have contributed to the debate. My noble friend Lord Watson made a point about consumer rights and I welcome the support of the noble Lord, Lord Lucas. Obviously, I anxiously await the replies to the issues we have raised, but at this point I beg leave to withdraw the amendment.

Amendment 4 withdrawn.

5.15 pm

Amendment 5

Moved by ***Lord Young of Norwood Green***

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

"Transition from existing qualifications to the new technical routes

Within six months of the day on which this Act comes into force, the Secretary of State must publish detailed proposals for the transition from existing technical and further education qualifications, to the awarding of new qualifications approved by the Institute."

Lord Young of Norwood Green: This is another area about which we have had a significant amount of dialogue with the Government during the interregnum between the Committee and Report stages, and we have had some correspondence from the Minister. At first sight the Bill seems to be a modest little measure,

until you look into its implications. If there is one area with significant implications, it is around the transition to a new system of technical qualifications. One of the documents that we have received from the noble Lord, Lord Nash, says:

> "The current system involves around 3,500 vocational qualifications, which can be hard to distinguish between—our intention is to streamline these options. The current landscape is confusing; for parents, students, careers advisers and employers. That is exactly why we are trying to reform and simplify it".

It goes on to say:

> "The Sainsbury Panel recommended that there should be a single exclusive licence for delivery of each new technical education qualification. The Institute will work with employers and other stakeholders to develop high-quality technical education qualifications, based on the knowledge, skills and behaviours that employers have identified as being a requirement for particular occupations".

Again, that is a very ambitious objective. I agree that there is a bewildering number of technical qualifications out there. I would also agree that some of them are not of the highest standard, but that is not true of all those qualifications by any means. Some of them are well established and have a very good reputation, whether City & Guilds, HNC or HND. These have taken a long time to establish. We know—when I say "we" I mean the royal we—that is, the previous Labour Government know from when we tried to introduce diplomas that it was not exactly a primrose path to a new qualification. Once again, the law of unintended consequences applied: the intention might have been good, but the delivery was difficult.

When we asked what exactly would be the transition from the 3,500 to a number, depending on the 15 routes, that could possibly be just a single qualification, the response we had from the Bill team was that this is a work in progress. That is not intended to be a derogatory comment on my part because the Government are trying to achieve a complicated process. We have said to the Government to be careful—I was going to say be careful not to throw out some of these babies with the bathwater, but they are not exactly babies; these are very mature, adult qualifications that have been around for a long time and have a high reputation—about getting rid of those qualifications and to understand the difficulty of establishing new ones.

While we have been considering this legislation, a new description for the qualification has appeared: T-levels. I quite like it. I do not know who thought it up, but I thought that since we have A-levels, T-levels potentially sounded good. I and many others who have been looking at this problem are worried for a number of reasons. I am sure that the noble Baroness, Lady Garden, and others will come in and expand on this. I do not know why this amendment has been taken as a separate group. The start of this, apart from all the other issues about intellectual property rights and other things that have been raised in the course of this debate, will be to get that transition process right. That will be a key part of establishing new technical qualifications. We do not want to be in a situation where suddenly we are introducing a huge level of doubt and uncertainty, where once again we are trying to create confidence in the apprenticeship brand and in technical education.

I understand that this is a work in progress, but I make a plea to the Minister and his team to recognise first the size of the task, which I think they do, and secondly the sensitivity of what they are dealing with and the need to get it right to ensure that there is adequate consultation, not only with employers but with all the other stakeholders, including the current awarding bodies and educational providers such as FE colleges. That is the basis of the amendment. Once again, I look forward to the ministerial response. I beg to move.

Baroness Garden of Frognal: The noble Lord, Lord Young, has tempted me, because I, too, bear the scars of the diploma, GNVQ and various other misguided projects of different Governments. He is quite right that my Amendment 28, which is in the next group, will be relevant here, too. I urge the Minister to consider just how sizeable this task is. We should not demolish existing vocational qualifications—as we were calling them—because many of them have great reputations and have served people well. If we are to build a new bright tomorrow for such qualifications, we need to use all the tools that we already have, which are serving the country well, and expand them into the next range of T-level qualifications.

Lord Watson of Invergowrie: My Lords, I thank my noble friend Lord Young for moving this amendment, which I am happy to support. In broad terms, we believe that the recommendations of the Sainsbury review should be fully implemented and funded. In the short term, there are three clear funding needs from the skills plan: fair funding for colleges; costs associated with finding and managing work placements, because they involve an individualised service to young people and employers rather than education to a group; and the cost of the transition year. A two-year full-time course would be the standard model under the plan, but with the expectation that some school leavers would need to take an additional transition year. This implies a full-time three-year programme. The current 16-to-18 funding system assumes a full two years and then administers a 17.5% cut in the third year. A sensible step, therefore, would be to maintain the full rate for three years for those students taking the transition year.

In his letter to noble Lords dated 22 February, the noble Lord, Lord Nash, stated that there are currently around 3,500 vocational qualifications. Most professionals in the sector have cited a figure of more than three times that amount, but more important is how the transition to the new regime is managed and funded. The Minister also said in his letter that the reforms would be phased in progressively, with the first routes available for delivery from September 2019. That apart, the transition was not set out and the amendment in the name of my noble friend Lord Young would enable that to happen. It would be a positive move and we believe that it is incumbent on the Minister to commit to it by accepting this modest amendment.

Lord Nash: My Lords, I am grateful to the noble Lords, Lord Watson and Lord Young, for tabling this amendment. I fully understand their concerns and

[Lord Nash]
hope that I might be able to provide an explanation that will put their minds at rest. I was grateful to the noble Lord, Lord Young of Norwood Green, for his kind comments about our branding as T-levels.

We know that colleges, students and awarding organisations will need to know in good time the arrangements for existing qualifications as the new qualifications are introduced. As the noble Lord, Lord Watson, has just said, we plan for the first new technical routes to be introduced in autumn 2019, with the full range of programmes coming on stream soon after. Additional hours will be available for the new programmes as they become available and we will announce further details in due course following further engagement with employers, colleges and other key stakeholders.

In implementing the reforms, the Government will consider in consultation with the institute how best to manage the transition from legacy qualifications to new technical qualifications approved by the institute and intend to involve stakeholders and set out plans for this in due course.

Given that the new technical education routes will be subject to phased introduction, it would not be sensible or appropriate to commit to a fixed timescale for publishing detailed proposals for transition. I reassure the noble Lords, however, that once the institute has approved a new qualification, the Department for Education will consider future funding for the current, similar qualifications on a case-by-case basis. We will not withdraw funding for a student who is part way through their course. I therefore hope that the noble Lords, Lord Watson and Lord Young, will be sufficiently reassured to consider not pressing their amendment.

Lord Young of Norwood Green: I listened carefully to what the Minister said but am not sure that it entirely dealt with the transition process. Maybe I did not quite grasp what he said. I understand his point: I fixed upon a period of time that I thought would be sufficient for him to be able to describe to the various stakeholders how this would happen. Telling them at the end, "We've identified this particular new qualification", seems a bit late in the day. It still does not seem to give the kind of reassurance that people would want: "This is the process we are to go through, how we will carry it out and how we will manage during the transition period". I am not particularly fussed about the timing—I had to put something in there—but I am concerned about the detail of the transition process and a more detailed response would be welcome. Perhaps we will have an opportunity before Third Reading to meet again and get a more detailed assurance. In the meantime, I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

Amendment 6

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

6: 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, personal services, or professional."

Baroness Garden of Frognal: My Lords, Amendment 6 is in my name and that of my noble friend Lord Storey. I will also speak to Amendment 28, which is in my name and supported by the noble Lords, Lord Lucas and Lord Watson of Invergowrie, and my noble friend Lord Storey.

I make no apology for bringing back Amendment 6. It is very simple. As we discussed in Committee, it would cost no money but would make a great difference. Craft and creative skills, personal services such as care or hairdressing, and professional skills such as business or accounting are not automatically seen as primarily technical. I accept that there has been a move away from the long-standing term "vocational" to cover non-academic qualifications and that the decision seems to have been taken that "technical" is the word of the moment, particularly now as we seem out of the blue to have T-levels—as the noble Lord, Lord Young explained. It would be interesting to know what consultation went on before the arrival on the scene of T-levels from the Chancellor of the Exchequer. In order not to narrow the Bill to purely mechanical technical subjects, an explanatory clause would be a helpful addition and ensure that this legislation is seen to be inclusive of all work-based qualifications and across the range of courses offered in further education.

Arts subjects should be held in the same esteem as other courses. It is of great concern to hear that creativity and the arts are being squeezed out in schools. Between 2003 and 2013, there was a 50% drop in GCSE entries for design and technology, 23% for drama and 25% for other craft-related subjects. It stands to reason that this will have a knock-on effect on the take-up of further education courses in creative subjects. We would like to ensure through this amendment that there is no doubt that the attempts to improve technical education, as outlined in the Bill, apply equally across all courses.

Amendment 28 is for clarification. As we discussed in Committee and as the noble Lord, Lord Young, set out, we would like to clarify the transition process between these schemes. There is already a comprehensive list of approved technical education qualifications in the Ofqual regulated qualifications framework. We seek to clarify the relationship between that framework and the list in the Bill. It would certainly introduce complexity and confusion to have multiple qualification lists. Can the Minister clarify that the institute's list will be a transfer from rather than in addition to the Ofqual list? If so, what systems will be set up to ensure that the transition and transfers are as straightforward as possible? Does the Minister envisage any major differences between these two lists? I look forward to his reply and beg to move.

Lord Lucas: My Lords, I add my support to the amendments in the name of the noble Baroness, Lady Garden. If I remember rightly, in Committee the noble Baroness, Lady Cohen of Pimlico, asked whether the word "professional" might be added to "technical" in the Bill to provide a broader and more prestigious view of what was covered. I think "professional" has a lot of attractions to it in bridging the divide between academic and vocational qualifications. "Technical" gets some of the way but not all the way. I thought it

was a good suggestion. The Minister said that he would take it away and think about it. I am sorry if I have missed the results of those deliberations in the letters that have been sent out. But if I have not missed them and we have not had them, could we have them now, please?

5.30 pm

Baroness Wolf of Dulwich: My Lords, I rarely disagree with the noble Baroness, Lady Garden, on technical education, where I highly respect her expertise and experience, but I confess to a certain unease about the idea that there should be only one list and that it should overtly include everything. One of the key things that we are trying to do here is to create a highly respected and distinctive technical education course which sits alongside the academic one, and therefore by definition it cannot include everything that has passed a basic set of requirements for being an acceptable qualification.

I remind noble Lords that I have an interest in this, having been on the Sainsbury panel, but also looking back to my experience when I was doing the 14 to 18 vocational education review. I completely agree that one could go round for ever on vocational to technical to professional. But there is a really important distinction here between a limited set of qualifications that have been identified as having a very clear purpose and the possibility—and, I would say, high desirability—of allowing a very large number of qualifications to arise and be offered and meet a minimum threshold in the vocational and technical area. It may be that the wording of the noble Baroness's amendment will not get in the way of that, but these distinctions are important.

When I made the 14 to 18 recommendations, I said explicitly that there should be a distinction between there being strong requirements before something could be offered in mainstream 14 to 16 education and a very different set of requirements which said that they could be out there and schools could offer them if they wished but they could not count in the league tables as being equivalent to GCSEs or A-levels. The same thing applies here with the task set for the new institute to identify qualifications which really meet the requirements of that distinctive high-status route. That is not the same as being on the Ofqual register.

This is not about whether it is craft or creative or technical, where I entirely agree with the noble Baroness, but about creating this "lost" route that we used to have without at the same time throwing overboard a large number of qualifications—some of them tiny, some of them big—which may serve quite different purposes. It is really important to recognise that one of the purposes of the institute is to create that alternative route and that part of that is about having a set of qualifications—probably not thousands long—that meet these criteria. Getting there is going to be difficult but if you do not have this end in view, it is hard to see how we will ever get out of what is at the moment a hugely confused and confusing mass of qualifications.

Again, to talk from personal experience, when I did the 14 to 18 review, I did not recommend anything like as much restriction at 16 to 18. What was recommended and adopted was this idea of a programme of study for each individual student between 16 and 18, which has worked quite well. I thought at the time that as a result of that we would move to a situation where a smaller number of good qualifications became clearly apparent as market leaders, and strongly established. I was convinced by Nick Boles, the Minister at the time the Sainsbury panel was set up, that this was just not happening; we needed to be more active and the programme of study was not enough.

It seems to me that a fundamental part of what the institute is about is creating a set of qualifications which meet the requirements for that alternative, high-status route from 16 on into adult life. Without talking to lawyers or drafting clerks, I do not know whether the amendment would have any negative impact on that but it is important to understand that one of the purposes of the institute, for which I think there is cross-party consensus, is to recreate that route. In my view, that means that you cannot just say that everything that is not an A-level can be on the institute's list, because we need a list that is clearly part of this route without wiping out all the other many qualifications which may serve other and different purposes. That is what I wanted to say and I hope the noble Baroness and I do not really disagree.

Baroness Vere of Norbiton: My Lords, I welcome the opportunity to debate the amendments in this group. I thank all noble Lords for their contributions.

I fully understand why the noble Baroness and the noble Lord have tabled Amendment 6, which seeks to define technical education qualifications as,

"the full range of work-based qualifications".

I reassure them that all relevant and appropriate occupations in the economy will be covered within the technical education routes. What is important is that there is good provision for everyone and that the reformed technical education system focuses on occupations for which skilled technical training is a requirement.

The Sainsbury panel report has already provided a clear definition:

"Technical education must require the acquisition of both a substantial body of technical knowledge and a set of practical skills valued by industry".

Trying to define these qualifications in this manner could restrict the scope of technical education qualifications, both now and in the future. In practice, technical education qualifications will be defined by the coverage of the 15 technical education routes. Each route will provide a framework for grouping together occupations where there are shared training requirements. An occupational map will identify all the occupations within the scope of each route.

When defining the coverage of the 15 technical education routes, it is important to highlight that not all occupations will be included. The Sainsbury panel was clear that unskilled and low-skilled occupations that do not have sufficient knowledge requirements would not warrant a technical education route. Rather, these occupations can be learned entirely on the job, often within a matter of weeks. For these occupations, it would not be appropriate to offer technical education qualifications.

[Baroness Vere of Norbiton]

I reassure 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—

Lord Young of Norwood Green: I would like some clarification. The Minister said that the Sainsbury panel identified low-skilled or unskilled occupations that could be learned in a matter of weeks. We are talking about apprenticeships. The Government have already said that the minimum period for an apprenticeship is one year. That covers a very wide range of occupations. I would not necessarily call them unskilled or even low-skilled. Whether it is retail or anything else that is sometimes referred to in this manner, I do not think that is fair, especially if we are talking about an apprenticeship. We have said, I believe, that 20% of an apprenticeship should be off-the-job training. Which are the groups that do not require any technical qualifications whatever?

Baroness Vere of Norbiton: I thank the noble Lord for his intervention. I think it is unhelpful to try to put things into the brackets of "low-skilled", "high-skilled" and "medium-skilled", particularly based on what we experienced when we were much younger, and to try to connect them with apprenticeships. We are talking about technical education qualifications specifically, which may not be related to an apprenticeship. Occupations at the higher skill level will have technical education qualifications. Other occupations, while equally valid, will not.

Within the technical education routes there will be comprehensive coverage of skilled occupations. However, it is important to be clear that as well as meeting the technical education requirements set out in the Sainsbury panel, there must be labour market evidence to demonstrate employer need and a genuine skills gap. We will review this regularly and will continue to listen to any evidence from employers.

I am grateful to the noble Baroness and noble Lords for tabling Amendment 28 and for providing an opportunity to debate this issue. I hope that my explanation will put their minds at rest. The Ofqual register of regulated qualifications is a public-facing database listing the many qualifications that Ofqual regulates, including A-levels, GCSEs and functional skills. It is used as an indexing tool and includes information that helps employers, students and others understand the relative size and challenge of qualifications.

As noble Lords will be aware, new Section A2HA proposes that the institute will maintain a list of approved high-quality technical education qualifications based on the knowledge, skills and behaviours that employers have identified as requirements for particular occupations. When approving qualifications, the institute will need to ensure that the qualifications are at a level appropriate for the associated occupation or group of occupations. Qualifications will need to contain stretch and challenge that is commensurate with their ascribed level. They will need to be of an agreed size that reflects the amount of time involved in teaching and assessing them. This information will be clearly indicated in the list of qualifications maintained and published by the institute.

Once the institute has approved a new qualification, we will consider future funding for current similar qualifications on a case-by-case basis. We will not withdraw funding for students who are part-way through their course. Ofqual's register of regulated qualifications and the institute's register are both important parts of the system, but they have different purposes. If the institute's register were to replace the Ofqual register, this would remove public information and a frame of reference for thousands of qualifications that would be outside the remit of the institute and which would have already been taken by students, including GCSEs and A-levels.

My noble friend Lord Lucas made a point about the suggestion from the noble Baroness, Lady Cohen, about "professional". We have given this some consideration, and at the moment there is no consensus on an alternative to "technical education". We have had a conversation today about technical education versus the entire gamut of qualifications or tests that you might take to work, which was mentioned by the noble Baroness, Lady Wolf. It is important that technical education retains a certain status within the minds of learner and employer.

There is a public need to maintain both registers. I hope that my explanation has reassured the noble Baroness to the extent that she is prepared to withdraw the amendment.

Baroness Garden of Frognal: I thank the Minister for her reply. I thank the noble Lord, Lord Lucas, for raising the matter of "professional". I thought it had gained a certain accord in Committee, but it has obviously not found favour. I am sorry that the noble Baroness, Lady Wolf, disagrees with me on things or that she has sought to clarify. The short answer to my amendment is that there will not be only one list; there will be several lists. As the Minister explained, the Ofqual list is much broader. Presumably the institute's list will be bits of what is on the Ofqual list. It will include some of the things on the Ofqual list which are relevant to higher technical qualifications, but if the Ofqual list is supposed to be a comprehensive list of all available qualifications, it will need to include those which the institute approves—perhaps I have misunderstood that.

I am also interested that it appears that we now have an A-list and a B-list, which I do not think was made particularly clear before. We have an A-list of qualifications which the institute approves, but in order to encompass all the other qualifications—the lower-level ones, for instance—there will be another list of qualifications which somehow will not come under the institute. This is confusing because the institute is now not only the Institute for Apprenticeships but the institute of further education, and further education, by definition, covers lower-level qualifications as well as higher-level qualifications.

5.45 pm

We would welcome a meeting between now and Third Reading because I am finding this debate quite confusing. It has introduced new ideas about two sets of old vocational qualifications, some of which are on the A-list because they are really good qualifications

and will lead to technical and apprenticeship qualifications. We cannot do away with all the other very valuable qualifications at lower levels which are essential for getting people on the first step of the ladder towards progression into higher levels and which perhaps refer to some of the essential services which are lower level but which employers need and which are skills for which people need to have recognition. I would welcome a meeting with the Minister before Third Reading to establish what these various lists of qualifications will cover. We seem to have a duplicate set of lists, which I do not think we were considering before, unless I have misunderstood.

Lord Baker of Dorking: I warmly support what the noble Baroness is saying. It is not only lower-level qualifications; there are existing upper-level qualifications, for example, at level 4, which are very well regarded by industry and which are progression courses from level 3 to level 5 and a degree. We do not want them to disappear. They are a very important part of the technical education system of our country.

Baroness Garden of Frognal: I thank the noble Lord, Lord Baker, for his comments. I am pleased that I am not the only one who is finding this amendment rather more confusing than I thought it was going to be. I thought it was going to be very straightforward, but it has brought in other aspects of the Bill. I hope it will be possible to have a meeting before Third Reading so that we can clarify what these two lists of qualifications will be and whether the B-list will be funded and recognised, or whether only the preferred A-list will lead on to apprenticeships and get the blessing of government. On the basis that further dialogue would be very welcome, I beg leave to withdraw the amendment.

Amendment 6 withdrawn.

Amendment 7 not moved.

Clause 2: Information about technical education: access to English schools

Amendment 8

Moved by ***Lord Lucas***

8: Clause 2, page 2, line 14, after "providers" insert ", or persons acting on behalf of a number of such providers,"

Lord Lucas: My Lords, I shall speak also to Amendment 9. These amendments are very simple. They pick up on my noble friend Lord Baker's excellent amendment, which was accepted in Committee, to point out that it is not just the local FE college or other major provider that wants to get into schools. There are a lot of excellent organisations which need to get into schools. Women in Construction is one. In needs to get the message through that there are a lot of very good jobs for women in construction. There are similar efforts going on about women in engineering and women in computing. They are not education providers. They have been funded by education providers and employers to produce a flow of students to education providers in general. Those organisations need to get into schools just as much as individual providers, if not more, because in many cases they have a level of prestige and glamour which the local FE college lacks. I beg to move.

Lord Storey: Amendment 17 is in my name and those of the noble Lord, Lord Watson, and my noble friend Lady Garden. I moved a similar amendment in Committee, when I talked about "good" or "outstanding" FE colleges being awarded either status only if their careers education was of a high standard. The noble Baroness, Lady Morris, spoke in a sort of roundabout way about the importance of careers education, but was concerned about straitjacketing through the use of "outstanding" and "good". Having reflected on what she said, I have come back with a slightly changed amendment, which highlights the importance of careers education in further education and says that when Ofsted carries out inspections, it is important that the careers guidance in those establishments be of a high calibre.

One of the most important things that we need to do for young people is to provide that guidance and knowledge about careers. Many of us do it with our own children: if careers advice is not available, we have networks of people who can talk to our children and perhaps provide opportunities for them to do work experience. But many children and young people, particularly those from disadvantaged backgrounds, do not get that network of support, and it must be down to the education system to provide that. Careers education should start in primary school. I remember that at my own school we had a careers session, where people from different jobs and workplaces would come into the school. There would be a carousel approach, and children could listen to them. That should go through to secondary schools, so I was delighted that the Government accepted the amendment from the noble Lord, Lord Baker, on university technical colleges being able to come into schools. They will be able to go into schools and tell young people about the different opportunities. We do not want a straitjacketing approach but one which lets young people see all the different possibilities. We have talked about this for a long time and have heard all sorts of promises about what will happen down the road. The situation is getting slightly better, but surely, if we are going to do one thing, the most important thing we can do for young people is to get careers education right.

I was interested in what the noble Lord, Lord Young, said on Amendment 4. Careers education is not just about careers advice and guidance, as important as those are, but about preparation for a career. If a young person has a career opportunity, I would have hoped that the educational establishment would prepare them for that, whether through techniques for interviews, filling out an application or preparing a CV—all those things come together in good careers advice. I hope the Government will listen to this, as I am sure they will, and that we can agree that careers advice should be part of the establishment of good FE providers.

Lord Aberdare: My Lords, I support Amendment 17 in the name of the noble Lord, Lord Storey. It is widely recognised, including in a number of reports published by some of your Lordships' committees,

[Lord Aberdare]
that the quality of careers education and advice in both schools and colleges has hitherto ranged on a spectrum from patchy to poor. Surely one reason for that is the lack of any real incentive for schools and colleges to up their game and improve their offer. It seems to me that one of the most effective incentives that could be put in place is for schools and colleges to know that the quality of their careers education will be a significant factor in determining what sort of rating they get when they are inspected by Ofsted.

As we have heard, some good things are happening: the National Careers Service is developing its offer and in particular I am very impressed by what I have seen of the Careers & Enterprise Company and its effort to put a network of schools co-ordinators in place. None the less, we still hear constantly that, although schools are good at reporting their academic progressions and the number of people who have gone on to university or further academic education, they are not nearly so good at talking about students who have gone on to apprenticeships or further levels of technical and professional education. I rather like that term "technical and professional", and thought the Minister in the other place was also rather keen on it, but that does not appear to be necessarily the case.

I very much support the amendment, particularly as it would go no further than requiring Ofsted to take account of the provision of careers advice in carrying out inspections, so it would not appear to be a huge burden on either Ofsted or the schools. It just sends a signal, as we always used to like doing. I support the amendment.

Lord Baker of Dorking: My noble friend Lord Lucas's amendments are an addition to the clause that I introduced in Committee, but quite a useful one. The purpose of the clause is to ensure that schools have a duty to accept—and cannot reject—various people going in and talking to students at the ages of 13, 16, and 18 about the various types of training and education they provide, which is the most effective way to improve careers advice. I have sat through several Governments who have tried to create careers advice by legislation, and it just does not work. You cannot expect many teachers to know a great deal about life outside because they leave school, go to a teacher training college and then go back to school. You have to have real, live people going into schools and talking about what life is like in a factory or a business complex and offering the opportunities—and we will now have this.

In September this year, for the first time, not only the heads of university technical colleges but those of studio schools, career colleges and FE colleges, as well as apprenticeship providers, will have a right to go and speak to 13, 16 and 18 year-olds and explain to them the opportunities that are available to them other than just getting three A-levels and going to university. That is a major change. I strongly support the amendments in the name of my noble friend Lord Lucas. Groups such as Women in Engineering spend a lot time trying to persuade more women to get into engineering. We have courses in the UTC movement to persuade more girls to go into engineering, and the numbers are going up all the time: we sometimes get over 20% or 30% girls. We like that because when a girl decides to be an engineer, she is usually very determined and confident, and in many cases the brightest member of the team. This will help in all of that, so I support it. Careers advice in FE colleges is largely an unknown area, frankly, and they should certainly improve their advice. But they have the advantage of being able to go in and talk to schools from September of this year.

Lord Watson of Invergowrie: My Lords, with Amendment 17, I am in the slightly alarming position of being the meat in a Liberal Democrat sandwich as far as the Marshalled List is concerned. This of course is a follow-on from the very valuable amendment to which the noble Lord, Lord Baker, just referred, which now forms Clause 2 of the Bill. We have just further benefited from his wisdom with his remarks on this amendment. I wholly concur with his view that there is a need not so much to improve as to establish careers advice in further education colleges. I very much agree also with the comments of the noble Lord, Lord Storey, in introducing this group of amendments about this being about preparation for careers rather than just giving information.

The quality of what colleges are able to provide is key to so many young people, but much will depend on the ability of Ofsted to carry out inspections of FE colleges to make this amendment effective. It rather surprised me in the debate that followed the announcement of which providers had been successful in gaining access to the register of apprentice training providers last week that before the register came into force, there were 793 apprenticeship providers. The register has nearly doubled that, with 1,473 organisations now in the frame for inspection when the register goes live in May. But that is not the extent of the burden being placed on Ofsted and its responsibility to inspect, because the process for applying to the register is due to take place four times every year, and it is expected that the number will soon rise perhaps to well over 2,000. It was quite instructive that when asked about the implications of this, Ofsted's new chief inspector, Amanda Spielman, responded:

"It is a huge challenge".

I think she was being politic because she must have real concerns. Unless the Government plan to increase Ofsted's resources to enable it to inspect the new environment effectively, there will be very real gaps, which will be a huge shame.

I hope the amendment will be taken seriously by Ministers. It is important that the very least they do is recognise that there has to be a proper system of careers advice being offered by colleges to ensure that young people get the start in life that they deserve.

6 pm

Baroness Morris of Yardley: My Lords, I would like to ask a question that has just come to mind, mainly because I tabled a similar amendment in Committee. Amendment 17 is far better because it allows a flexibility that we did not have before, and having it in the Bill would help to raise the profile of careers education during Ofsted inspections, so I am happy to support it. No doubt the Minister will let us know what the framework already says, but I think the intent is fine.

I support 100% the point that the noble Lord, Lord Baker, has been making about young people's access to careers education. I have no problem with the way in which Amendments 8 and 9 were described, and in fact I have supported such amendments on previous occasions. However, it has struck me that although it is the right of the student to have access to the information, it is not the right of the person to go into the school. I know that sounds like a fine difference, but I wonder whether the Minister might reflect on that and give some assurance that, although a head would not have the right to deny the information and access to the school from someone who was giving that information, they would retain their right as head of the school to choose who talked to their students.

The quality of a speaker is very important. If I were a head teacher, I would not want someone who I knew was a bad speaker and did not engage the children successfully or in a professional manner to have access to my school, even if they might be talking about something whose content was very important. Indeed, one of the reasons for not doing that would be because they would put the information over badly. My years of teaching experience might be from a long time ago, but I remember some horror stories of outside visitors coming into schools who just did not have the skills to engage and talk to children and young people. I am not opposed at all to the amendments, but I do not think we have discussed the right of the head to retain control over who is speaking to his or her students. I would like that to be considered, without taking away from the intent of the amendments we have discussed.

The Earl of Kinnoull (CB): My Lords, I had not intended to speak on Amendment 17, but I was on the Social Mobility Select Committee along with the noble Baroness, Lady Morris, and the issue of careers guidance came up very strongly throughout our year of investigations and featured strongly in recommendation 2. Our report came out in April last year and the government response was published in July. I would like to read part of that response and then refer to a piece of evidence that we received from Sir Michael Wilshaw. The response, and I am cutting away a lot of it, says that,

"we will make the Gatsby benchmarks the focus of the statutory guidance that supports schools and colleges to implement the careers duty. This is in direct response to calls from schools to make it clear what government is expecting from them in terms of careers education".

The tone of the response is pretty clear: the Government are saying, more or less, "Yes, we will do more". It makes no sense, then, not to measure it, and I agree wholly with what the noble Lord, Lord Aberdare, said. I distinctly remember that Sir Michael Wilshaw made it very clear in his excellent evidence that Ofsted is already carrying out the assessment work on careers guidance, so not to include it in the marking scheme seems not to be using the fullness of the evidence and the data that are being gathered. Accordingly, I completely agree with the noble Lord, Lord Storey, and the whole of Amendment 17.

Lord Young of Norwood Green: My Lords, if you want to change attitudes in schools and colleges, one of the most powerful influences you can have is to send in their peer groups to talk to them. I met a young woman today who had taken a degree in mechanical engineering. It was interesting talking to her about what her influences had been in taking that decision. More importantly for me, when I asked her whether she was going back into schools and colleges to talk to young people about what a successful career they could establish in engineering, the answer was a very clear affirmative.

When Ofsted is carrying out an inspection, I hope it will take into account the general approach of the school. It is not just about formal careers advice, as has already been stated, but about whether they have an open mind. I take my noble friend Lady Morris's point about the quality of speakers; obviously you want someone who can engage in a positive way. But I hope that when Ofsted looks at schools and colleges it is taking into account the links with business, business people and people who have successfully completed their apprenticeships coming into schools, and the role of women in subjects like engineering, STEM and construction in changing attitudes and making young people, and especially young women, aware that there is a wide variety of careers open to them with lots of well-rewarded career paths. That is an essential part of any careers advice.

Lord Nash: My Lords, I thank noble Lords for tabling the amendments, which relate to careers. I have to say I am still struggling with the concept of the noble Lord, Lord Watson, being the meat in anyone's sandwich. He is a pretty tough piece of meat, based on my experience of sitting opposite him at the Dispatch Box. That is meant as a compliment, actually.

On Amendment 8, tabled by my noble friend Lord Lucas, Clause 2 requires schools to ensure that there is an opportunity for a range of education and training providers to talk directly to pupils about the technical education qualifications and apprenticeships that they offer. The amendment is intended to ensure that such access is extended to people who represent groups of providers, such as women in construction or manufacturing. I remember attending an event held for women in manufacturing in your Lordships' House a few years ago. I agree that we need a degree of flexibility so that pupils hear from the person best placed to inform them about the opportunities on offer. I recognise that in some cases that may not be the provider itself but perhaps it could be an ambassador, an employer or a member of a trade association or representative body, speaking on behalf of a number of small providers.

We will publish statutory guidance that will set out more detail and make it clear that we do not wish to impose unnecessary constraints. We are placing the onus on the school to develop their own arrangements for provider access, including agreeing with providers who will attend to talk to pupils. Clause 2, both as drafted and as we intend to clarify in underpinning statutory guidance, already provides for persons acting on behalf of a number of providers to access pupils. To get really technical and legal for a moment, I queried this in terms of statutory interpretation. The legal authority for our decision to resist the amendments is found on page 1019 of *Bennion on Statutory Interpretation*:

[Lord Nash]

"Where an enactment refers to a person it is usually taken as intended to include that person's agent authorised either expressly or by implication".

The earliest legal authority on this is R v Symington (1895) 4BCR 323. It follows that the words "on behalf of" in the statute would not be needed to allow a person to act on behalf of providers.

Turning to the very good point made by the noble Baroness, Lady Morris, regarding the amendment from my noble friend Lord Baker, it is certainly clear to me, and my officials have confirmed this, that the obligation on the school is to ensure that there is an opportunity for a range of education and training providers to access pupils, that they must prepare a policy statement and that that statement must include, for example, grounds for granting and refusing requests for access. Obviously it must be at the discretion of the head; if he feels that the people coming along are, frankly, not of quality and are not going to give their pupils the right advice, then it must be within the head's remit to refuse access, provided that he is providing a range of education and training providers and has some other alternative that is better.

Amendment 9 is also in the name of my noble friend Lord Lucas. It is intended to ensure that the policy statement produced by every school will set out the circumstances in which both providers and persons acting on their behalf will be given access to pupils. The current provisions already allow for such persons to talk to pupils. As I said, we will publish statutory guidance which makes this degree of flexibility explicitly clear: the onus is on schools to liaise with providers to agree who is best placed to talk to them.

Turning to Amendment 17, which deals in more detail with Ofsted and careers advice, careers advice is a vital part of the role that every school and college must play in preparing students for the workplace. I agree entirely with the noble Lord, Lord Storey, that careers advice should start in primary school. Primary Futures does excellent work in this regard. I also agree with the noble Lord, Lord Aberdare, that the Careers & Enterprise Company, in which we are investing considerable money—£90 million—has made an excellent start.

However, the quality of the careers offer is considered carefully by Ofsted when conducting standard inspections of FE colleges. Therefore, the amendment is unnecessary. Matters relating to careers provision feature in all four graded judgements made by Ofsted inspectors. First, in judging leadership and management, inspectors take account of the extent to which learners receive thorough and impartial careers guidance to enable them to make informed choices about their current learning and future career plans. Secondly, in judging the quality of teaching, learning and assessment, inspectors consider how far learners are supported to develop their employability skills, including appropriate attitudes and behaviour for work. Thirdly, in judging students' personal development, behaviour and welfare, inspectors consider how learners benefit from purposeful work-related learning, including external work experience. Finally, in judging outcomes, inspectors consider information about students' destinations and the acquisition of the qualifications, skills and knowledge that will help them to progress.

Ofsted also evaluates the education and training provision offered by the college, including 16 to 19 study programmes, apprenticeships and traineeships. In making these judgments, inspectors consider the extent to which each type of provision offers tailored careers advice and work experience opportunities to students and develops their employability skills. Noble Lords made some good points about Ofsted's approach to that, and I will certainly discuss that further with Ofsted shortly. However, I hope that what I have said about its obligation framework reassures my noble friend that colleges are held to account properly for the quality of their careers provision and that he will be able to withdraw the amendment.

Lord Lucas: My Lords, I am very grateful to my noble friend for his short CPD session, which I hope I shall manage to remember and will rehearse later in *Hansard*. Given that, I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Amendment 9 not moved.

Clause 24: General functions of education administrator

Amendment 10

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

10: Clause 24, page 12, line 19, leave out "(if possible)"

Lord Stevenson of Balmacara (Lab): I can be very brief. I am delighted to be able to say that, because the procedures followed on the amendments have been so exemplary that I recommend them to the House and hope that they may be adopted by others in a similar situation. I raised an issue in Committee. It received a fair and interesting hearing from Ministers. I asked for and received a meeting with the Bill team at which the noble Baroness, Lady Vere, was present. We went through the issues together. There was a good dialogue and debate. We narrowed it down to two specific points, which are the subject of the amendments. On the first, Amendment 10, I think I am allowed to say that there may be some good news when the Minister comes to respond, so I shall be moving it in the hope that it will be accepted by the House.

I shall not be moving Amendments 11, 12 and 13, because in the letter that I received subsequently from the noble Baroness, Lady Vere, there is an exact response to what I was looking for—which is not, as part of the letter seems to suggest, about the impact that the current framing would have on the operation of the special education measures. The point I was trying to get at, which comes up at the end of the letter, was that in a normal insolvency arrangement, there are rules for how creditors are dealt with. I was concerned that the drafting as it stood might interfere with that. That is a narrow point and I will not rehearse it here but, at the end of the letter, the noble Baroness writes:

"I hope that I have been able to reassure you"—

she had not until then—

"that the drafting of Clause 24(4) and (5) is not intended".

I should be grateful if, when the noble Baroness or the noble Lord responds, they repeat that so that we have it on record that it is intended that the normal rules established for ordinary insolvency will be followed and that the drafting does not intervene on that. I beg to move.

6.15 pm

Lord Nash: My Lords, I am grateful for these amendments. I have made it clear that our priority in introducing the special administration regime is to ensure that the interests of students are safeguarded as far as possible. That is the purpose of the special objective, which places an overriding obligation on the education administrator to take the action that best avoids or minimises disruption to the studies of existing students. I am pleased that noble Lords recognise, and share, that objective.

I understand the noble Lord's concern about the drafting of subsection (2), that the inclusion of the words "if possible" may be considered to cast doubt on the special objective. As he indicated, I can assure noble Lords that is not our intention. I have reflected on the noble Lord's amendment. The regime that we are introducing is one which places students at the heart of further education, but does not demand that the education administrator achieves the impossible; nor does it disregard the interests of creditors. The words "if possible" in Clause 24(2) were intended to clarify this position, but I understand the noble Lord's concerns that they might have the opposite effect. Let me be clear that our position remains unchanged and I am satisfied, on the advice of my lawyers, that their deletion would have no substantive effect on the application of the regime. I am therefore delighted to accept the amendment.

As for the noble Lord's kind offer not to move Amendments 11, 12 and 13, I am delighted that he has been reassured by the letter from my noble friend Lady Vere. I assure him that the normal insolvency procedures would be followed and that there is no intention to disrupt those, apart from the overriding special objective.

Amendment 10 agreed.

Amendments 11 to 13 not moved.

Amendment 15, as an amendment to Amendment 14, had been withdrawn from the Marshalled List.

Amendments 15A to 15C, in substitution for Amendment 15, as amendments to Amendment 14, not moved.

Amendment 14 not moved.

Amendment 16

Tabled by ***Baroness Wolf of Dulwich***

16: After Clause 35, insert the following new Clause—

"Providers of technical education: guarantee to students

(1) Any providers of technical education who are not covered by the insolvency regime created by this Act must provide a guarantee from a reputable financial institution to each Government supported student that, if the provider is made insolvent, the financial institution will cover the cost of operating that student's course until a suitable end point.

(2) In subsection (1), a "suitable end point" means the completion of the course or the successful transfer of the student to an alternative institution.

(3) In subsection (1), a "Government supported student" means any student whose education is funded directly by the Government through grants to the providers or student loans.

(4) The cost of providing the guarantee under subsection (1) must be met by the relevant provider under subsection (1)."

Baroness Wolf of Dulwich: I note that the Minister did not reply to my amendment in his response, and I hope we can have further discussions before Third Reading.

Amendment 16 not moved.

Amendment 17

Moved by ***Lord Storey***

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

"Further education colleges: careers advice

(1) In carrying out inspections of further education colleges, and giving a rating to colleges, Ofsted has a duty to take into account the careers advice made available to students by colleges.

(2) For the purpose of subsection (1), "careers advice" means a combination of face-to-face careers advice and careers advice that is provided remotely."

Lord Storey: I listened carefully to the Minister's reply, for which I am grateful, but I do not think he went far enough and, given the importance of careers education, I wish to test to opinion of the House.

6.21 pm

Division on Amendment 17

Contents 223; Not-Contents 185.

Amendment 17 agreed.

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6.34 pm

Amendment 18

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

18: Before Clause 41, insert the following new Clause—

"Constitution of further education corporations

(1) Section 20 of the Further and Higher Education Act 1992 (constitution of corporation and conduct of the institution) is amended as follows.

(2) After subsection (4) insert—

"(5) An instrument must provide for the role of the Clerk to include providing advice to the corporation with regard to matters including—

(a) the operation of its powers,

(b) the conduct of its business,

(c) matters of governance practice, and

(d) general procedural matters.""

Lord Hunt of Kings Heath (Lab): My Lords, we had a very interesting debate in Committee about the role of clerks in FE institutions. It is clear from our debates on the Bill that these institutions face many challenges. We have agreed that it is important to have the highest quality of people appointed to their governing bodies and that clerks can be very helpful in giving advice to them. The Minister said he would give some consideration to this and I look forward to his response. I beg to move.

Lord Nash: My Lords, I welcome the opportunity to continue our discussion in Committee, about the importance of good governance in FE colleges, to which the noble Lord, Lord Hunt, has referred. As I said in our earlier discussion, I fully recognise the important role played by clerks as expert advisers to governing bodies of FE institutions. As the Minister responsible for governance in schools, I have made it a priority to improve this vital area, including the important role of clerks. However, we believe that it is essentially a matter of improving practice, not legislative change, for reasons that I will outline.

We are supporting the role of clerks through development programmes run by the Education and Training Foundation. The noble Lord will also have received a copy of a letter from the Association of Colleges setting out some of the steps it is taking to strengthen governance. Hard copies of that letter are available for noble Lords today, should they wish to see it. I note from the letter that the AoC is currently undertaking a review of the existing code of practice on governance, to which many colleges adhere. I will be meeting it shortly to hear what further action it intends to take. There is clearly a strong and shared aspiration across this House for strengthening governance. The sector is keen to engage and it is only right for others, including government, to take up that invitation, and to offer the right combination of challenge and support. While legislation might appear attractive, it should not be something that is reached for without good evidence as to the nature of any problems, and full consideration of the most appropriate solutions. In an area as complex as governance, simple legislative approaches are unlikely to be effective in delivering real improvement.

The effect of the noble Lord's amendment would be to reinstate one element of model articles for colleges that applied prior to the Education Act 2011. That would deliberately limit the freedom that colleges currently have in respect of the contents of their instrument and articles, by requiring them to retain provision in those articles regarding the role of the clerk. I have significant doubts about the efficacy of such an approach. A recent sample of the contents of the instrument and articles of 10 colleges, carried out by my officials, found that in every case the relevant documents already contained a provision similar or identical to that proposed in the amendment. If that sample is representative of the sector as a whole then it would suggest that the amendment will have no substantive effect—certainly not in terms of delivering the improvement to standards of governance which I believe is the noble Lord's intention—particularly as all 10 colleges in the sample had been subject to intervention by the Further Education Commissioner. In many cases, the commissioner found significant failures of governance. Although I will not read out the relevant sections from the commissioner's reports, which are published on GOV.UK, there is more than one instance of unsatisfactory clerking arrangements being a significant contributory factor. Those failures occurred despite the role of the clerk being set out in the instrument and articles.

This evidence strengthens the argument that setting out the role of the clerk in the instrument and articles, as would be required by the amendment, is by no means a guarantee of good governance in practice. Nor, unfortunately, is it an effective protection against poor governance. Our focus has to be on good practice in governance, and what more we can do to share good practice, not introducing additional box-ticking measures.

[Lord Nash]

In conclusion, I stress that strengthening governance clearly remains a priority for the sector and for the Government and we will continue to drive this. In the small number of cases where there are significant failures in governance, we will continue to intervene swiftly and effectively to ensure that governing bodies are held to account, and that lessons are learned. We must continue to drive up the performance of all governing bodies. This approach strikes the right balance in helping to ensure a robust and well-governed sector that is in the best position to deliver its important mission for learners, employers, and the community. For these reasons, I believe that greater statutory prescription, as set out in the amendment, is unfortunately unlikely to be effective in achieving those goals. I therefore urge the noble Lord to withdraw the amendment.

Lord Hunt of Kings Heath: My Lords, as the Minister mentioned the ETF, I remind the House of my declaration that my wife is a consultant to it. I am grateful to the Minister, particularly because he is going to meet the AoC to discuss the outcome of its review. I accept that good practice is probably the best way forward. However, I hope the Government will keep up the pressure on the AoC and colleges to ensure that they employ good people who can provide robust advice. Having said that, I beg leave to withdraw the amendment.

Amendment 18 withdrawn.

Schedule 1: The Institute for Apprenticeships and Technical Education

Amendments 19 to 21 not moved.

Amendment 22

Moved by ***Lord Lucas***

22: Schedule 1, page 26, line 4, at end insert—

"( ) The group of persons that prepared a standard must have considered, including within the standard, a qualification widely recognised by employers for that occupation or for an aspect of it."

Lord Lucas: There has been a problem with apprenticeships, at least historically, where people have wanted to include qualifications within them. I would be very grateful if my noble friend would make it clear that this has now passed and that the idea of including qualifications within apprenticeship qualifications, or indeed within qualifications at FE colleges, is now fully accepted. Generally, this is to the advantage of the learner. If I am doing a qualification within one of the 15 proposed Sainsbury routes, and that apprenticeship involves getting to know cybersecurity, I do not want to have a haberdasher's qualification in cybersecurity: I want to have something which will be recognised in every single industry which might require that skill. The same applies to accountancy, marketing and other skills which are common across the routes, where these are things that you might wish an apprentice to learn in the course of their apprenticeship, or have experience of. It also applies particularly to technical qualifications in IT, where you would expect an apprentice to follow one or more international qualifications produced by the likes of Microsoft because that is what the industry as a whole demands and that is what produces a young person who can move from job to job because they have the qualifications that are recognised in their next job and not just those which are appropriate for the particular patch where they did their apprenticeship.

It is also important in this context that the specifications for apprenticeship should recognise that there are alternative qualifications in some circumstances. You may want your young person to be familiar with computer networking but there are two, maybe three, top-quality international qualifications in computer networking. Which one do you want to use? It will be the one that works with your business. However, the people in charge of the apprenticeship will recognise that these are equivalent and that either one can count and fit in place. I think this has been accepted now. There seems to be some residual difficulty reported to me. However, I would be very grateful for my noble friend's assurance that the concept of embedding qualifications in apprenticeships or in further education courses is now fully accepted. I beg to move.

Lord Baker of Dorking: I support my noble friend's amendment. I suspect that individual apprentices will work on the basis that he mentioned as certain qualifications in certain industries are not in the regular run of FE colleges, or universities for that matter, but have been accepted by the industry as the accepted standard. My noble friend mentioned Microsoft. Cisco does this as well. It is particularly the case in the whole area of computing, where various companies have established qualifications which have become the standard. In fact, the Cisco qualification for schools is more demanding than GCSE computing, and many people work towards that. We have to make sure that these qualifications do not disappear when the Institute for Apprenticeships clears out a lot of valueless qualifications. These are not valueless, particularly the international ones. Given that the digital revolution is happening so suddenly, a huge variety of examinations and qualifications in artificial intelligence may come our way. Each area will want to protect its own interest. I would hope that the Institute for Apprenticeships would take this message on board. I do not know whether a statutory measure is required.

6.45 pm

Lord Nash: My Lords, I am grateful to my noble friend Lord Lucas for this amendment, the effect of which would be to require each group of persons who develop a standard to consider whether an existing qualification ought to be included within it. Occupational standards will form the basis of both apprenticeships and technical education qualifications, and need to be suitable for each of them. The standard should include the knowledge, skills and behaviours needed to form the basis of either an apprenticeship or a technical education qualification. Including existing qualifications in addition to the knowledge, skills and behaviours would cause complications when technical education qualifications are being developed using the standard.

One of the core principles of the apprenticeship reforms is to move away from qualifications. Under the framework model, apprentices collect a number of small, often low-quality, qualifications throughout their

apprenticeship which often do not give employers much reassurance about apprentices' ability to do the job. By moving to a single end-point assessment, the apprentice will be tested on the knowledge, skills and behaviours set out in the standard and their occupational competence to do the whole job, not just a small section of it.

This amendment does not require the inclusion of qualifications in standards but it is moving the approach back towards the system that we are moving away from. Although it is no doubt something that the awarding bodies would welcome, it could actively encourage employer groups to include qualifications where they may otherwise not have done so. That is likely to be contrary to the Government's strategic guidance for the institute. However, I can reassure my noble friend and the House that in occupations where there is a qualification that is needed for an apprenticeship—for example, to achieve a professional status—they will not need to be prompted by this Bill to consider its inclusion in the standard, which is permissible as long as they meet set criteria for an exception. This is in line with the employer-led nature of the reforms. We therefore believe that this kind of direction is not needed in such a system. I hope that my noble friend will feel reassured enough on the basis of my explanation to withdraw this amendment.

Lord Lucas: My Lords, I am mostly comforted by my noble friend's reference to employer-led matters. If that indicates that if employers want a qualification and fight hard enough they will get it, that seems to me satisfactory. Therefore, I beg leave to withdraw the amendment.

Amendment 22 withdrawn.

Amendment 23

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

23: Schedule 1, page 27, line 14, at end insert "using an appropriate form of continuous assessment."

Baroness Garden of Frognal: My Lords, I beg to move Amendment 23 in my name and that of my noble friend Lord Storey. The Government have introduced a raft of reforms to the apprenticeship system which they hope will contribute to the quality as well as the quantity of apprenticeships. One of the biggest departures, and among the most contentious, is the move to end-point assessment—EPA—as the sole formally recognised method of assessing an apprentice's competence to do the job they have trained for. I am grateful to SEMTA and to Professor Lorna Unwin and Professor Alison Fuller from the Institute of Education for their work in this area and pay tribute to their expertise.

If we take the example of engineering, employers have looked to continuous assessment over three or more years, with formal qualifications used as the mechanism through which they can both assess and ensure that the full range of skills and knowledge has been learned, and that apprentices' attainment has met national standards and earned national recognition. In overseas countries where EPA is used, it tends to be used in conjunction with other assessment and formal accreditation practices, with the assessment of skills taking place over the whole lifetime of the apprenticeship as well as in a summative form at the end of the programme and through formal qualifications. It is important that the assessment methodology is appropriate and is encouraging to the apprentice. Young people need to gain confidence as they learn that their skills are being recognised. The best way to do this is through continuous assessment. I hope that the Minister will be able to confirm that EPA will not be the only assessment used and that learners will be assessed continuously to ensure that they reach their potential and help to plug the yawning skills gap in the country. I beg to move.

Lord Nash: My Lords, I welcome the opportunity to discuss Amendment 23, tabled by the noble Baroness, Lady Garden, and the noble Lord, Lord Storey, which would require all apprenticeship assessment plans to include continuous assessment.

Reviewing the role of continuous assessment in apprenticeships has been a very important part of the apprenticeship reforms following the 2012 Richard review of apprenticeships. It concluded that continuous assessment throughout an apprenticeship tested only incremental progress, not whether the apprentice is fully competent at the time of completing their apprenticeship. This approach also undermines our principle of ensuring that assessment is delivered by an independent third party with nothing to gain from the outcome of the assessment. The continuous assessment model often means that the same individual trains and assesses an apprentice—a conflict of interest we have sought to avoid.

An important feature of approved English apprenticeship standards and plans is therefore the move away from this reliance on a series of small and pre-existing qualifications making up an apprenticeship, and the move instead towards a single, independent end-point assessment, which tests the apprentice in a holistic and robust way. This test at the end of the apprenticeship proves genuine employability by demonstrating that the apprentice has acquired the knowledge, skills and behaviours needed to be fully competent in their occupation. The requirements for the end-point assessment of each standard are developed by employer groups and approved by the institute to ensure that it meets the needs for that specific occupation. In view of this, I hope the noble Baroness feels reassured enough to withdraw her amendment.

Baroness Garden of Frognal: My Lords, I thank the Minister for his reply. He said that the same people will be testing and assessing but the likelihood is that that will be the employer, who will know the standards they wish the apprentice to reach. There is a place for end-point assessment, but it should not be the only way of assessing these skills. They are learned continuously and should be assessed continuously. However, I hear what the noble Lord says, and we need to keep this under review to make sure that we are not putting off a lot of people with practical skills, who find the end-point assessment a real barrier to learning and accreditation. Meanwhile, however, I beg leave to withdraw the amendment.

Amendment 23 withdrawn.

Amendment 24

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

24: Schedule 1, page 28, line 37, leave out "the qualification to which it considers section A2IA" and insert "relevant standards or common qualification criteria which"

Baroness Garden of Frognal: My Lords, I will also speak to Amendments 26 and 29 to 33, which are in my name and those of the noble Lords, Lord Lucas and Lord Watson, and my noble friend Lord Storey.

This series of amendments is intended to limit the institute's ability to acquire wholesale the intellectual property relating to materials developed by awarding bodies. We expressed serious concerns about this in Committee. This is a significant proposal, which was not canvassed in the skills plan. As drafted, it is unclear whether awarding organisations retain any copyright to potentially key documents relating to a qualification once ownership transfers to the IATE. It is further proposed in paragraph 23 of Schedule 1, proposed new Section A2IA—"Transfer of copyright relating to technical education qualifications"—that:

"The Institute may assign … or grant a licence to another person",

in the copyright transferred to the institute. These are draconian proposals.

The arguments we have been offered include that the Government—that is, the taxpayer—will have paid the awarding body to develop the materials and are therefore entitled to ownership. Publishers often give advances to authors, but they do not thereafter claim copyright. The payment is for the skills and expertise; the contents should remain the property of the author organisation. Another reason given was that it would provide continuity. If awarding body A loses a contract to awarding body B, there could be a seamless transfer. This begs a few questions. If awarding body B has won the contract, how could it do so without providing its own materials, and what self-respecting awarding body would opt to take over a competitor's materials? But what if awarding body A had gone bust? I find it sad and inexplicable that so much of the Bill presupposes that those involved with further and technical education are overly liable to go into insolvency. It is a pretty robust sector. Might it have gone into insolvency because the Government have taken over all its materials, one wonders? In any case, in the unlikely event that a key awarding body went into liquidation, I feel sure that measures could be taken to retrieve any materials which had not already been handed over lock, stock and barrel to the Government.

We have heard from City & Guilds and other awarding bodies that the provisions in the Bill on the ownership of intellectual property and qualifications are unclear. As many awarding organisations operate outside England and export their current qualifications overseas, this lack of clarity will have an impact on the development of qualifications. We note, as we did in Committee, that in both general academic studies and higher-level studies the Government do not attempt to own the copyright qualifications. We caution that this approach could have a disproportionate impact on the technical qualifications market in the UK.

We propose that institute-owned copyright is more appropriately applied at the level of national standards, allowing awarding organisations to retain their copyright in their own materials. The power of the institute is so uncertain that it makes it impossible to ascertain the value of investing in developing qualifications going forward. Further, it should be noted that there is no mention in the Sainsbury report, which was the progenitor of the skills plan, or in the skills plan, of the handing over of copyright to the institute in documents related to qualifications.

As to single awarding organisations, what evidence is there that the current awarding arrangement has led to distortions of the vocational market? As we pointed out in Committee, there is a certain inconsistency in government policy, which is going all out for more competition in universities—raising considerable concerns in this House—with a move to a monopolistic model for vocational awarding. The current mixed-market model may not be perfect but it supports and encourages investment and innovation, as well as giving choice and safeguarding learner interests in the event of any awarding organisation failure. A similar model was proposed for GCSE and English baccalaureate subjects, and was abandoned following robust evidence from the Education Select Committee and Ofqual. Why should these qualifications be treated differently? If a single-supplier franchising approach was deemed too high-risk for the general qualifications market, why should it be deemed suitable for technical qualifications? I wonder whether these restrictions might be connected with the fact that those in government—whether in Westminster or Whitehall—will predominantly have achieved their own success through academic routes. How many people in the DfE have followed an apprenticeship or a work-based route and understand first-hand just how relevant and rigorous those programmes are? The Civil Service used to have graduate and direct-entry routes, both of which could lead to the highest levels. These days, most will be graduates. It is therefore all the more important that those in government listen to the practitioners and heed their advice. I hope the Minister will be open to these important amendments, and I beg to move.

Lord Lucas: My Lords, I completely support the amendment in the name of the noble Baroness, Lady Garden. I do not think that any Peer who has been involved in the Bill wishes it anything other than complete success. We are all behind the objectives and the methodology which is set out in the Sainsbury report and what has been built upon that. We want to ensure in the passage of the Bill that what we are producing will work well.

In the process of putting the Bill together, certain ideas have been developed which will not weather exposure to practice. When it comes to sitting down with industries, awarding bodies and others, the ideas that are being touted as the way things will be under the Bill will not be the things that work out. I want to make sure that the Bill has sufficient flexibility built into it so that, if things need to take a different turn to make this project succeed, they will be able to, and we will not find ourselves hobbled by primary legislation.

I have one separate amendment in this group that is aimed at the question of multiple qualifications within one particular sub-route—I do not yet know what they will be called; in the picture supplied to us they look like the fingers of a hand, although I do not think they will be called fingers. To restrict yourself to one single awarding organisation creates a monopoly in the short term, and in the long term it reinforces it. If you take one particular skill set within the universe covered by the Bill, and you say, "Only this awarding organisation can create qualifications for this for the next seven years", what other awarding organisation will maintain the ability to compete? None of them will. Why should they? There is no business for seven years and they cannot afford to do it. It is all based on a collection of people, and anyway it is not something that stays still; it continuously evolves. There is no way that they will remain in a position to compete, so when you come up to the renewal of this single licence, there will be only one competitor.

7 pm

This is not like the situation with schools. For school qualifications, you can imagine gathering together some teachers and putting an English qualification together. That is feasible, but who would you get to do it for plumbing? There are no schools of plumbing outside the awarding organisations with the same coherence and singleness of curriculum. As the noble Baroness, Lady Garden, said, if you are going to compete for the renewal of a franchise, you will have to build up all that expertise, creating it from nothing. Why should anyone do that if all they can do at the end of it is to challenge an incumbent? It is an inherently unstable, unrewarding way of dealing with things, as anyone who, like me, uses Southern Rail, knows only too well. It is not really something that we want to replicate; it is not a successful model elsewhere in the public sector. When we had the chance to adopt it in education—noble Lords will remember how hard the debate was at the time—the DfE settled firmly for multiple awarding bodies, and for very good reasons: that model gives you constant competition, it means that the organisations in question are always trying to improve, it means that if one is failing you have two alternatives, and everything becomes much easier.

However, the Bill is all right in that area because I am told—I hope that my noble friend will repeat it—that in fact nothing in the Bill will prevent multiple awarding organisations being chosen if that is what employers want. If my noble friend can confirm that, that will be fine but, because it is so unstable and full of dangers, the fact that the Government have been going down this route has led them to think that they have to own the whole of the intellectual property of the awarding organisation that has won the franchise.

Some of these awarding organisations have been going for a decent length of time. Over 100 years or so, they have built up expertise in assessment and qualification, but they are being asked to hand it to the Government for free in return for a seven-year franchise. What kind of business proposition is that? I have spoken to the chief executives of all the major awarding organisations. Not one of them will contemplate that sort of deal, and I do not suppose that any noble Lord who is in business would contemplate that sort of deal for their own business either.

Where people have built something up, either you pay for it or you buy the awarding organisation and it is then nationalised—this being a Conservative Government, nationalisation is all the rage, but that is effectively what they are doing. They are not paying for it; they are demanding that the Government get it for free in return for a seven-year lease-back. If you go down that route, you will not have awarding organisations as we know them. You will not have City & Guilds; you will have Capita, because Capita's business is the sort of turn-the-handle government contract where, if it loses at the end of the day, it does not matter because it has no great investment in the intellectual property. In the Institute for Apprenticeships you will need not 110 people but 10 or 20 times that number to do all the work that awarding organisations do now in maintaining the intellectual property.

We have had a comforting exchange or two with the Government since Committee and they say that they want to maintain the awarding organisations. That is great, but it cannot be done with the way in which IP is written into the Bill at the moment—or at least the way that it appears to be written in on the surface. Either the Bill has some hidden flexibilities and the relationship proposed in the amendments could be achieved—how that could be eludes me, but I am always happy to be educated—or we need something to loosen the bonds a bit so that, when the Bill leaves this House, we can be confident that it allows for a real commercial, practical arrangement with awarding organisations that will leave them strong, long-term guardians of quality and builders of high-quality assessment and qualification systems. These have a great reputation around the world, as do other parts of our education system, and we should not chuck them in the bin just because we have generated a set of fears which are, to my mind, needless.

Lord Watson of Invergowrie: My Lords, I wish to say a few words about this group. My name appears on seven of the nine amendments before your Lordships, but I want to speak only on the question of copyright. The noble Baroness, Lady Garden, spoke to this group most effectively and I will not attempt to repeat any of her remarks because that is not necessary, but intellectual property is an important issue and we believe it must be protected.

I am aware that the Government have quoted the OECD as stating that the area of course development is not suitable for the market. It is perhaps counterintuitive for a socialist such as myself to criticise the Government for turning their back on the market in favour of introducing a monopoly. However, on this occasion I have to say—perhaps somewhat grudgingly—that I believe the Government are wrong, as there appears to be no convincing answer to the question raised by noble Lords in Committee as to what would happen if an awarding organisation failed and ultimately collapsed. The Government appear to have no plan B for such a situation, which is a very real matter for concern, not just for noble Lords but for awarding organisations.

[Lord Watson of Invergowrie]

Equally, the universally respected City & Guilds has highlighted significant concerns about its future. I think it is fair to say that at various stages in our deliberations on the Bill noble Lords have commented on the need to have qualifications and awarding organisations with some immediate recognition among the population in general. If you went out on to the street and did a vox pop asking people what City & Guilds were, you would get a pretty high proportion giving a reasonably accurate assessment of it. Therefore, I do not think that we should enter lightly into a situation where City & Guilds could be compromised. The organisation has written to noble Lords—as indeed the Minister may have seen—setting out a worst-case scenario, which could mean the end of City & Guilds as an awarding organisation in England and could signal the end of it as an awarding organisation in the devolved nations and internationally. It has also pointed out the potential negative impact on it as an apprenticeship awarding organisation due to a diminished role in the technical education route.

We believe that that should not be allowed to happen. The Bill could be amended but still achieve the aims of the Government's skills plan through the Institute for Apprenticeships retaining copyright of the occupational standards and common qualification design criteria but allowing licensed qualification providers to retain copyright of the individual qualifications, as mentioned by the noble Baroness, Lady Garden, and the associated assessment materials.

The amendments in this group would provide some safeguards. I hope that the Minister will appreciate the spirit in which they are presented by noble Lords from across the three main political parties and take them on board, undertaking at least to come back at Third Reading with some proposals to mitigate those concerns.

Baroness Vere of Norbiton: My Lords, I am grateful to the noble Baroness and the noble Lords for tabling these amendments. I understand their concerns and hope that I might be able to provide an explanation that will put their mind at rest.

All these amendments relate to the copyright measures in Schedule 1. I know that how we implement the copyright measures is a cause for concern for awarding organisations, but it is important to understand that we would not be proposing these measures were they not vital for the success of the technical education reforms. I reassure noble Lords, on the record, that the legislation as set out in the Bill ensures that there is already a substantial amount of flexibility in how to implement the new system.

I should also say that it is not our intention to introduce legislation that disadvantages awarding organisations. They make a huge contribution and play a vital role in our technical education system, and we will continue to work with them to implement the reforms in the most appropriate and sensible manner. That work is ongoing and we are working with stakeholders to develop a commercial strategy that sets out in more detail how we will ensure a competitive and well-managed market for technical education qualifications. The Bill as drafted already allows us to do this.

I will take each amendment in turn. Amendment 24 would mean that the Institute for Apprenticeships could approve a technical qualification only when it had identified documents relating to,

"standards and common qualification criteria",

and that these documents should be subject to the copyright transfer. As drafted, the legislation requires that copyright should apply to "relevant course documents", by which we mean documents relating to the teaching and assessment of the qualifications. The Bill allows the institute the flexibility to define what is meant by "relevant course documents". This will form part of the ongoing work to determine exactly how the measures will be implemented.

If the institute does not own the copyright for relevant course documents that are central to the delivery and assessment of a qualification, the reforms to technical education will be substantially undermined. There are a number of reasons for this. First, the new qualifications will be based on occupational standards and outline qualification content that have been developed by employers as convened by the institute. The institute will own the copyright for these. Documents relating to the teaching and assessment of qualifications that are developed by the awarding organisations will be extensions of these original documents.

Furthermore, the licensing model will succeed only if there is continuity in the system. Our intention is that, at the end of a licence period—and indeed if an organisation happens to fall into financial difficulties—there will be a new organisation, and the incoming organisation should not have to develop a completely new set of qualification documents, when the existing documents are likely to continue to be relevant or require only minor updating. In addition, it would simply not be a good use of taxpayers' money to be paying for the development of a full suite of new materials every few years. Indeed, this defeats one of the aims of these reforms. The institute will make sure that the terms of the licence reflect the costs of developing and delivering a qualification. We have a duty to make sure that our skills system works in the interests of students and employers, and we have a responsibility to do so in the most cost-effective manner.

Amendment 25 would require the institute to make appropriate inquiries into the persons entitled to a right or interest in any copyright that could transfer. While I appreciate the intention behind the proposed changes, I hope to persuade noble Lords that it is unnecessary. New Section A2DA allows the institute, if it considers it appropriate, to approve a technical education qualification. As the legislation is currently drafted, the copyright of relevant course documents would transfer to the institute.

We recognise that there might be multiple contributors to the development of a technical education qualification, and that they are likely to want a say in matters that relate to their particular part. It would clearly be impracticable for the institute to obtain the individual consent of multiple contributors—it may not know the identity of many and they may have been subcontractors. We therefore expect that the organisation granted a licence to deliver a qualification would ensure that the authors of documents have given their consent.

The provisions as drafted already allow for the intention behind the amendment to be achieved. It requires that the institute is satisfied that each person who it thinks is entitled to a right or interest in the copyright agrees to that right or interest being transferred to the institute. We expect this to be part of the licensing arrangements too. We do not think the institute could not be satisfied that persons have agreed to the transfer unless it has received the information, which may necessitate an inquiry. Therefore, the amendment does not add anything.

Amendment 26 would replace "transferred" with "assigned". Taken in isolation, we accept that this is unlikely to have any material effect on the proposed measures relating to copyright. However, the measure makes a similar provision to the transfer of copyright for relevant course documents as we have already done for the transfer of standards and apprenticeship assessment plans. The use of the term "transferred" in both measures is therefore designed to assure the reader that these provisions are consistent with each other.

We anticipate that the institute will hold an open competition inviting organisations to submit outline proposals to develop a qualification against pre-set criteria. Once the qualification is developed in line with the institute's requirements, full approval would be granted with certain terms and conditions attached, including in relation to copyright of the documents defined as "relevant course documents". The contract is likely to be a concession agreement, whereby the successful organisation enters into an agreement with the institute to have the exclusive right to offer the qualification for the duration of the contract period. At the end of the approval period, the institute would run another open competition, giving both the incumbent and other organisations the opportunity to put forward a bid.

7.15 pm

I am well aware that this is very different from the arrangements that currently exist. Officials from the Department for Education are engaged in a series of discussions with awarding organisations to make sure that their views help influence the detail. We recognise that they have a great deal of expertise that will be invaluable when shaping the reformed system.

I am grateful to my noble friend Lord Lucas for tabling Amendment 27. While I appreciate the intention behind the proposed change I hope that, after I have outlined my concerns, he will feel free not to press the amendment. As we have heard, there are already 21,000 registered qualifications offered by over 150 different awarding organisations—the system is very confusing. To address this, we envisage putting in place only one technical qualification for each occupation or cluster of occupations within a route. We also intend to grant exclusive licences for the development of these qualifications. Although as currently worded, the Bill does not specify that the institute should approve only one technical education qualification per occupation or cluster of occupations, in practice this is how we envisage the institute will operate. As the technical education reforms are introduced, and new qualifications are developed and delivered, we will make periodic assessments as to how well they are meeting our original policy aims. We therefore want to keep an open mind and allow flexibility for any changes that may be necessary in the future. The current wording in the Bill will enable changes to practice to be introduced without the need to amend legislation.

Amendment 29 seeks to change the documents for which copyright would transfer to the institute upon approval of a technical qualification. As I have already said, there are very good reasons why copyright for qualification documents should reside with the institute. It is also important to be clear that copyright is likely to apply to only a few key documents, and certainly not to awarding organisations' systems or processes. The institute will need to own the IP of documents that relate directly to the teaching and assessment of the qualification; for example, the qualification specification and assessment materials. We do not envisage that it will have any interest in other materials, such as those designed to support teachers or back-office systems.

In developing the licensing arrangements, the institute will need to ensure that the qualification fee paid by colleges to the awarding organisation reflects both the up-front costs of developing materials and the ongoing delivery costs. We want awarding organisations to be able to see a return on their investment.

In previous debates we have explained that the institute is expressly allowed in new Section A2IA to grant a licence or an assignment back to the awarding organisation or to other persons for use of the materials that are the subject of copyright. This would enable that organisation to use those materials for other purposes. For example, we know that some awarding organisations sell their qualifications overseas. We understand awarding organisations' interests in that area. Nothing in the Bill prevents awarding organisations continuing to sell their qualifications abroad, and we have no plans to stop them doing so.

I turn finally to Amendments 30, 31 and 32, which were tabled during Committee, and indeed in the House of Commons. The first amendment would see the institute given an express power to grant a licence for use of the copyright to more than one person. The second would see the institute able to assign a right or interest in the copyright to more than one person. I would make the same point we made in Committee: the legislation already allows for this. To be as clear as possible, if the institute decides that it is appropriate to transfer copyright to multiple awarding organisations or consortia, the Bill as drafted already enables them to do that. Amendment 33, on copyright, is very similar to others in that it seeks to change the scope of the documents that would be subject to copyright by the institute.

I hope that I have explained that the reforms to the skills system will succeed only if the institute retains copyright of relevant course documents. In making such significant changes to technical education, it is incumbent on us all to make sure that we prioritise the needs of employers and of students. There is, however, a great deal of flexibility within the Bill for the institute to make arrangements as it sees fit, and I firmly believe that we should trust it to make decisions that

[Baroness Vere of Norbiton]
are for the good of the skills system. I therefore hope that my noble friend Lord Lucas and the noble Baroness, Lady Garden, will be sufficiently reassured not to press their amendments.

Lord Lucas: I am grateful for what my noble friend said on my amendments, but to turn to the main group, where she has adumbrated some new ideas in very few words, might we have a meeting between Report and Third Reading so that we can better understand the details of what is proposed?

Baroness Garden of Frognal: My Lords, I, too, thank the Minister for her full reply on all this, but I am left as confused as at the start. There is this curious thing that the institute can grant a licence back to the awarding body that actually created the materials in the first place or can give them to multiple awarding organisations. I find that a curious concept given that awarding organisations have to have a commercial structure and to make ends meet, and the materials with which they trade are very often their assessment materials. The Minister has made great play of the fact that there is flexibility in the Bill. But the trouble is that, by the time the Bill goes through with these measures enshrined that copyright is transferred to the institute, there is not much flexibility there if copyright is once lost to the institute.

There were a number of other things that I will read in detail in the Minister's reply. I will not go through the different points that I have scribbled down because they merit a lot of thought. I also pick up the request made by the noble Lord, Lord Lucas, that we will need some serious conversations about this because it will come back at Third Reading for a vote unless we can get some clearer reassurance.

Lord Hunt of Kings Heath: Can we be clear that this can be brought back at Third Reading and that we can have a debate on principles? That would be very important in bringing this to a conclusion tonight. It is essential that we know that we can bring this back at Third Reading.

Baroness Garden of Frognal: Yes. It will definitely come back at Third Reading.

Lord Hunt of Kings Heath: There is no guarantee at all because the clerks are tight about what they will allow. The Government have to agree that they will allow us to bring it back. That is why I made the point.

Lord Nash: I should make it clear that if the noble Baroness and the noble Lord wish to test the temperature of the House, they should do so now.

Baroness Garden of Frognal: We were hoping that we could have a dialogue about this because these matters are key to the success of apprenticeships. But if that is the Minister's approach, I beg leave to test the opinion of the House.

7.23 pm

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Amendments 25 to 33 not moved.

7.35 pm

Consideration on Report adjourned until not before 8.35 pm.

Local Audit (Public Access to Documents) Bill

First Reading

7.36 pm

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

Merchant Shipping (Homosexual Conduct) Bill

First Reading

7.36 pm

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

Guardianship (Missing Persons) Bill

First Reading

7.36 pm

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

Farriers (Registration) Bill

First Reading

7.36 pm

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

Social Security (Personal Independence Payment) (Amendment) Regulations 2017

Motion to Annul

7.37 pm

Moved by ***Baroness Bakewell of Hardington Mandeville***

That a humble Address be presented to Her Majesty praying that the Social Security (Personal Independence Payment) (Amendment) Regulations 2017, laid before the House on 23 February, be annulled (SI 2017/194).

Relevant document: 27th Report from the Secondary Legislation Scrutiny Committee

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I begin by drawing the attention of noble Lords to my interest as the patron of South Somerset Mind. I am grateful to Mind, the Disability Benefits Consortium, Sense, Citizens Advice, Scope and Rethink Mental Illness for their briefings, which I am sure others will also have received.

Like most of your Lordships, I take my mobile phone into the Chamber set on silent to receive messages from the Whips' Office. On the afternoon of 23 February, during the Report stage of the Neighbourhood Planning Bill, my phone buzzed. Most unusually for me, I left the Chamber to answer the call. It was the Minister ringing from Copeland to tell me that, following the two High Court judgments, the Government were, that afternoon, going to alter the criteria for qualifying for PIPs. I and my colleagues searched around and eventually found the changed criteria relating to emotional and psychological conditions. What a perfect day to release bad news. While the Minister and his colleagues were knocking up voters in the fresh air of the Lake District, government officials were bringing forward regulations that would penalise people who, because of their very complex conditions, are not able to go out freely into the countryside or towns, and in many cases would now be confined within the four walls of their homes.

The essence of the changes proposed is to limit the higher mobility element of the previous disability living allowance for those people who find it difficult to leave the house because of anxiety, panic attacks and other mental health problems. These claimants are as restricted in their independence as many people with physical mobility problems. They face higher transport costs because they are unable to use public transport or drive, as well as the costs associated with hiring a support worker. The Government's changes to PIP will affect more than 160,000 people with mental health problems, both in and out of work, who face extra costs related to their disability. These changes mean that people who need help to make journeys because of psychological distress will not receive the same level of support as other disabled people. This is discrimination.

In 2012 the Government made a clear commitment that people who experience psychological distress would be eligible, but they are now changing the criteria. The Government further said that a person with a cognitive impairment alone would still be eligible for the highest mobility rate. Cognitive impairments are not the same as mental health problems. Specifically excluding psychological distress undermines the stated purpose of PIP as a benefit which treats disabled people as individuals rather than labelling them by their condition. The proposed changes create a legal distinction between mental health problems and other kinds of impairment when it comes to benefit assessments, again demonstrating discrimination.

This change is out of step with previous government statements. On 7 February 2012 the former Minister for Disabled People, Maria Miller, stated:

"The Government have made clear that they want personal independence payment … to take fairer account of the impact of mental, intellectual, cognitive and development impairments than DLA does currently… For example, when considering entitlement to both rates of the mobility component we will take into account ability to plan and follow a journey, in addition to physical ability to get around. Importantly, PIP is designed to assess barriers individuals face, not make a judgment based on their impairment type".

Esther McVey, also a former Minister for Disabled People, stated on 26 November 2012:

"The personal independence payment assessment will look at disabled people as individuals, rather than labelling them by their health condition or impairment".

As a result of the ruling by the Upper Tribunal, the Government have introduced legislation which would mean that psychological distress can be relevant only when considering two specific criteria for planning and following journeys. This would mean that people who experience psychological distress would be eligible for only the lower element. These changes undermine rather than restore the original intent of the legislation. The Government say they are committed to giving mental health the same priority they give physical health, but I am afraid that is not borne out by the changes to these criteria.

The PIP criteria are already too strict and have led to almost 50% of disabled people and those with long-term conditions losing access to some or all of their support when being reassessed for DLA. This is of particular concern in the context of the mobility component, where more than 750 people a week are returning their Motability vehicles because they are no longer eligible for support. The original descriptor does not go far enough in acknowledging the significant psychological impact that many people with long-term physical conditions also experience, for example, as a result of cognitive and associated mental health symptoms or their ability to follow a journey. This is substantially different from the impact of a person's physical ability to walk, which is assessed under the "moving around" descriptor.

The high successful appeal rate demonstrates in far too many cases that disabled people are relying on tribunals to assess their condition accurately and then to interpret and apply the descriptors appropriately to capture the impact of their symptoms. For many disabled people, such tribunal judgments have improved a system that is too often ineffective as a test of their needs. The original intention behind the PIP assessment was to take a holistic view of the impact of disability, fairly taking into account the full range of impairments. The Upper Tribunal judgments do not undermine this approach; rather they ensure that functional impact is assessed accurately regardless of the symptoms of the condition causing it. The Secondary Legislation Scrutiny Committee has looked at this change in criteria and

warns that the regulations could have unintended consequences. It has called on the Government to review the PIP assessment criteria prior to the changes being implemented.

I shall give two examples of what we are talking about in practice. Mrs D suffers from severe depression with psychotic features, including auditory hallucinations. She is under the care of a psychiatrist, has irrational fears for her safety when outside and has not been out of her house unaccompanied since 2011. She needs assistance from another person to plan the route of a journey to get to either a familiar or unfamiliar location. When she goes out of doors her husband has to accompany her. She was assessed as not being entitled to any mobility support. Mrs D appealed on the basis that she cannot navigate any journey on her own and, because of her poor memory and concentration, she would become confused very easily. The tribunal thought that her complex mental health had been underestimated and awarded the enhanced mobility rate. This is one of the two tribunal decisions that led to the Government amending these regulations.

7.45 pm

My second example is P, a man in his early 40s who suffers from severe anxiety, depression and borderline personality disorder. He lives independently with substantial support from his mother, who assists with his medication and personal hygiene. He is a self-employed handyman, which allows him to work when his mental health allows. Some days his anxiety is so high that he is unable to leave the house. His journeys are made with support from others. He is unable to travel by bus as this increases his anxiety. Last January, he made an unsuccessful claim for PIP, being awarded no points for either DLA or mobility. With the support of Rethink, this decision was successfully appealed in November. In the appeal, P was judged to have a severely limited ability to carry out activities of daily living. This entitled him to the DLA component of PIP at the enhanced rate. He was also judged to have a limited ability to carry out mobility activities. Both components were awarded to January 2019. Back pay of around £8,000 was awarded. P used PIP to buy a van, resulting in him being more reliably in work as his anxiety around travelling is reduced. He is able to attend and complete jobs, making journeys independently.

I do not believe the Government have fully considered the impact of these changes. People severely affected by mental illness will miss out on the vital financial support that they need. This is unacceptable. The Government should think again. I beg to move.

The Deputy Speaker (Lord Brougham and Vaux) (Con): I inform the House that if this Motion is agreed to, I cannot call the Motion in the name of the noble Baroness, Lady Sherlock, due to pre-emption.

Baroness Sherlock (Lab): My Lords, I rise to speak to the Motion in my name on the Order Paper. Widespread concern has been expressed about these regulations. I am grateful for briefings from a wide range of organisations pointing out their implications. The noble Baroness, Lady Bakewell, explained how we came to be here. In December the Upper Tribunal ruled on two cases that determined what could be taken into account when making assessments for PIP. Ministers' response was to declare that if those judgments were allowed to stand they would cost £3.7 billion over five years. Therefore, they had no option but to rush to legislate without consultation. They did not pause even to allow the Social Security Advisory Committee to scrutinise the regulations in advance of their being laid, as would be usual.

The cases were slightly different. The case of LB was about managing medication, affects far fewer people and would cost only about £10 million a year. As the Social Security Advisory Committee pointed out, the impacts of that case are by no means clear. So why did the Government not do what the SSAC recommended: consult widely and improve the estimate of the likely impact before the changes were introduced, given that the numbers and the cost were so much smaller?

The judgment in the MH case meant that, in applying for the mobility component of PIP, someone could rely on their inability to plan or manage a journey solely on grounds of psychological distress. These regulations are designed to reverse that completely. Yet when PIP was introduced in legislation, Ministers claimed it would be very different from disability living allowance, which preceded it, because it would not judge someone simply on the basis of their condition, but on what an individual could or could not do. Yet now the regulations seek to exclude a key dimension of that very judgment.

Ministers claim that they are restoring the original aim of PIP, but we were told that the higher rate of the mobility component of PIP would apply where mobility is,

"severely limited by the person's physical or mental condition".

Yet many people with mental health problems will be affected by these changes, including people with schizophrenia or bipolar or post-traumatic stress disorders. Will the Minister please tell the House how this fits at all with the Prime Minister's promise to tackle the stigma of mental health problems and the Government's commitment to parity of esteem between physical and mental health? It does not.

Ministers have been out there insisting that this is not a cut. However, 164,000 people with mental health conditions could miss out on mobility payments that they would have received under the Upper Tribunal judgment. As the Secondary Legislation Scrutiny Committee warned,

"while this change may not result in an immediate 'cut' for people currently receiving PIP, they may lose out in future (despite no change to their condition), if they are reassessed under the new criteria".

That committee called on the Government to make clear to the House the long-term impact of these changes. That is what I am trying to push them to do today. It also called on them to review all the descriptors for PIP, as did the Social Security Advisory Committee. Can the Minister assure the House that his department intends to act on the recommendations of both the SSAC and the scrutiny committee and report back to this House when it has done so?

Finally, the SSAC pointed out that it was not at all clear how tribunals or those making decisions would respond to changes in descriptors to exclude psychological

[Baroness Sherlock]
distress altogether, particularly where that is a symptom of a condition; for example, an intellectual or cognitive impairment which would generally result in a higher level of need. It said that,

"where multiple factors made it impossible for someone to follow a journey without help, it would be difficult in practice to strip out the element of psychological distress from the other factors when making a decision. As a result it may well be that it is not consistently treated in these circumstances".

The Disability Benefits Consortium highlights that by looking at the example of Parkinson's. It is a highly complex condition with more than 40 physical and non-physical symptoms. Depression and anxiety can be a symptom of Parkinson's as a result of chemical changes in the brain. At any point, up to 40% of people with Parkinson's will have depression and a similar proportion will experience anxiety. Likewise, many people with MS experience significant cognitive difficulties and are more likely to have co-morbid mental health conditions. The Upper Tribunal recognised that someone who needs to be accompanied on journeys to avoid overwhelming psychological distress has needs which meet a higher descriptor, but these regulations will prevent that being recognised and that claimant getting an appropriate level of help. How are decision-makers supposed to strip out the element of psychological distress from other factors when making a decision, when it is quite clear to anyone who has looked at it that it will not be an easy task?

Even before the regulations, there was growing concern about the way PIP is working. The Disability Benefits Consortium points out that almost half of people lose access to some of or all their support when assessed to move from DLA to PIP. Sixty per cent of those who appeal succeed. We know already that more than 750 people a week are returning their Motability cars because they no longer qualify for the money that they previously used to pay for them.

The tribunal decisions highlighted some important failures in the way that the PIP assessment process is working for people with mental health problems. Instead of stopping to reflect and consult, Ministers have rushed out new regulations to overturn the effect of the judgments and to assure us that everything will work smoothly in future. It will not. The ambiguities remain. The flaws in the way the PIP process assesses people with mental health needs will not disappear. Their needs will now simply be officially ignored. If only the Government had accepted the amendment put forward during the passage of the Bill by the noble Baroness, Lady Grey-Thompson, which we backed and which would have introduced a trial period for PIP, these issues might have surfaced, but sadly she could not get support from around the House.

As a result, some people who need additional support to overcome barriers to mobility will not get it. Others will lose it when they come up for reassessment. That means that thousands of people could be trapped and isolated in their own homes because they cannot travel alone without help. That could make their depression or anxiety worse.

The context for this change is that this Government and the previous Government have repeatedly cut benefits for sick and disabled people. They cut £30 a week from the ESA for the WRAG group. They introduced the bedroom tax—two-thirds of households affected by that contain a disabled person. Now we have another move which will hit vulnerable people.

The Government should withdraw the regulations to enable proper scrutiny and consultation. If they will not, the Minister should commit here and now to conducting a review of the impact of the regulations on those with mental health conditions, as my Motion demands.

Before I finish, I should say a word about the other Motion on the Order Paper. If the noble Baroness, Lady Bakewell, decides to push her fatal Motion to a vote, she will be well aware that we on these Benches cannot support her and neither will most of the House. There is a reason that the Lords has voted down secondary legislation only five times since 1945. It is because, unlike with primary legislation, if we vote against secondary legislation, it is dead, irrespective of the will of the elected House. The Cunningham convention sets out quite clearly the exceptional circumstances in which the House may do that and we are not in that territory. Even if the fatal Motion somehow passed, I presume that the Government would simply bring back something in a Finance Bill or in other financially privileged legislation on which we could have no impact. I regret that having on the table a Motion such as that must inevitably raise expectations that this House can do something that it could or would never have done.

However, we should not let the Government off tonight without making it clear to them that the House does not approve of what they are doing. We should make it clear that we are deeply concerned about the impact of the regulations on sick and disabled people and that we do not approve of a move that devalues mental health compared with physical health. I urge the Government to think again. If they will not, I urge the House to demand that they at least account for the impact of what they are doing.

Baroness Browning (Con): My Lords—

Lord Young of Cookham (Con): I think that the House would like to hear from the noble Baroness, Lady Campbell.

Baroness Campbell of Surbiton (CB): My Lords, I support the Motion in the name of the noble Baroness, Lady Bakewell, to annul the Social Security (Personal Independence Payment) (Amendment) Regulations 2017. I understand that such a Motion should be used only in exceptional circumstances. I will explain why I think that this is an exceptional circumstance.

People in my position, with a highly visible, severe impairment, tend to find it a lot easier to demonstrate and receive the support we need to get from A to B than those experiencing mental health challenges. To be honest, I probably find it a lot easier to get around than many in your Lordships' House today. I think that you will all have witnessed those on the mobile Bench whizzing around the Palace estate with ease and speed.

But let us be in no doubt: the impact of panic attacks and anxiety, not to mention schizophrenia, dementia and autism, on being able to,

"plan and follow a journey",

are equally fraught, if not more so, with profound obstacles than the effects of visual or physical impairments. As Jenna reminded me recently,

"Suddenly, for no reason at all, as I step out of my front door, the prickles in my chest get sharper and my head gets foggier. My heart pounds faster as it tries to defend itself from impending danger. My breathing becomes shallow as I desperately try to get air into my body and brain ... I try to grasp on to something, anything, to keep me tethered and whole".

"Anxiety" may sound manageable to many, but unexpectedly and unpredictably collapsing in agony in public places can overwhelmingly restrict people's mobility.

Speaking to a young woman with ADHD and Tourette's syndrome who lives down my street, I heard about her terrible journey on a train where she suffered a severe anxiety attack. The train had to be stopped and the emergency services called. This expensive scenario could have been avoided if her PIP had not been reduced from the high to standard rate award a couple of months ago, allowing her to continue paying for a travel companion or use taxis. Her life has now been severely restricted.

It is a fundamental tenet of the Equality Act that there shall be no hierarchy of disability: we define a disabled person as someone with a "mental or physical impairment". We in this House have welcomed the Prime Minister's commitment to parity of esteem between mental and physical health. The amended regulations, sadly, completely depart from these vital principles. They state, in effect, that disabled people may be equal but, just like in Orwell's *Animal Farm*, some disabled people have become more equal than others.

8 pm

Regulations that deny the highest level of PIP where the reason for difficulty is overwhelming psychological distress rather than, say, a visual impairment entrench the discriminatory view that mental health problems are not "real" disabilities and compound the very stigma that the Government say they are committed to eradicating, as demonstrated by a member of that Government in the other place recently. My question to the Minister is simple: do the Government stand by their commitment to parity of esteem between psychological and physical disabilities? In a letter to me today from Penny Mordaunt, the Minister in the other place, she asserts in one sentence that the Government have not departed from this parity of esteem but then goes on to say that those with overwhelming psychological distress will receive only the standard rate PIP. This is a blatant contradiction in terms and not equal treatment.

Given such ambiguity, it is perhaps not surprising that since April 2013, 80,380 people have been awarded the enhanced mobility component of PIP where their primary impairment is a psychiatric disorder. They scored points in their PIP assessment under the high-rate descriptor related to planning and following a journey unaided. Yet under the new regulations, that descriptor is now reserved for people who,

"for reasons other than psychological distress cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid".

Surely we need to step back, consult and get this right. We cannot wait for a review in two years' time, as suggested by the Motion of the noble Baroness, Lady Sherlock—although I support that because I have the feeling that we will not win if the noble Baroness, Lady Bakewell, divides on the first Motion.

The UK was rightly viewed as a world leader in the field of disability rights and equality. However, we know that in recent years the cumulative effect of cuts in social care support, independent living entitlements and welfare benefits has taken its toll on disabled people. It is becoming increasingly tougher for them to participate in society as active citizens, working, learning and taking responsibility for supporting others—for goodness' sake, living not surviving. These changed regulations represent another departure and fly in the face of the Prime Minister's ambition to create,

"a society that works for everyone".

This Motion could pause the regulatory change until the Government properly consult disabled people and their organisations: Scope, Mind, Disability Rights UK and the Disability Benefits Consortium—in fact the majority of disability charities in this country, which are absolutely appalled at this regulatory change. They support the prayer of annulment, thinking this change a step too far for people with mental health disabilities. Yes, such a Motion is an exceptional circumstance, and I do not care that they have been debated and voted on only five times within a hundred years or whatever. I will gladly support it now.

Baroness Browning: My Lords, it a great privilege to follow the noble Baroness, Lady Campbell of Surbiton. We heard from previous speakers why we are tonight discussing and debating the proposed changes to PIP. I refer to my interests in the register particularly relating to autism. It is about autism that I will speak in the context of PIP. I support particularly the regret Motion tabled by the noble Baroness, Lady Sherlock.

Of course, autism is not a mental illness; it is a lifelong communication disorder. People with autism are born with it and die with it. It is also a spectrum, ranging from people who need 24-hour care for most of their life right through to a group of people capable of university degree-standard education and holding down demanding jobs. It is worth saying that only 15% of people on the autistic spectrum obtain paid employment. Perhaps that gives a clue as to why I want to raise their needs in the context of this debate.

An interesting but sad figure is that of people on the autistic spectrum in their 20s, some 7% are identified as committing suicide. The reason is not that autism is of itself a mental illness. Rather, as people with autism, particularly at the higher-functioning end, struggle to make sense of life, communicate with people and take their part in society as the rest of us do, they try and try but there is that glass wall that without help and support they never get through. That is what causes the mental illness to develop on top of the autism.

I was in this Chamber when the House debated the Welfare Reform Act 2012. As with others, I remember the assurances given in both Houses at that time. I particularly remember the assurances given to the late Lord Newton of Braintree who, colleagues will remember, rose from his hospital bed night after night, sometimes

[Baroness Browning]

needing oxygen to support him. He made the case particularly for this group of people. When they walk into a room, it is not obvious that that have a serious disability, but they certainly have needs. That assurance that PIP would assess barriers that individuals face and not make judgments based on their impairment type was something we all clung to in the hope that that promise would be kept.

As far as the autistic community is concerned, another Act is very important to this Chamber: the Autism Act 2009. In both Chambers and across the House, Members agreed and put on to the statute book an Autism Act because it was recognised that people on the autistic spectrum fall through the gap. That gap is often about very simple, straightforward things that benefits such as PIP provide for them. It is about taking their place again in society. Anxiety and psychological distress are among the most common effects of being diagnosed with autism. People with autism experience levels of distress about things that the rest of us really never worry about. To them, they become huge problems.

I will share with the House a case study that came to my attention about somebody recently denied PIP. This is from a mum, Amanda, who has a 16 year-old son on the autistic spectrum. She says:

"My son recently failed his PIP assessment which we are now appealing. He has autism and dyspraxia which means he is highly anxious and has such poor spatial awareness that he can't judge speed and distance for road safety".

He can probably plan a journey but is actually quite at risk when he is out there on the journey. She continues:

"Currently he is unable to leave the house alone. He cannot attempt a journey as he is so anxious and scared of change and people that using public transport is out of the question. He is unable to speak to strangers and can't even order a drink when out or sit alone when his carer goes to the loo. At the moment he's very isolated because he can't go out alone and can't socialise with new people. Even for extracurricular activities at school he needs a parent to go and support him. For example on a field trip to Anglesey for three days he was not allowed to travel with the other pupils as he can be a danger to himself and others".

It turns out that his dad was DBS-checked so he could take time off work to accompany his son so he could go on that field trip.

Educationally, that young man is potentially a university graduate, yet he has been denied PIP. This is why the Autism Act was brought in, because a lot of these people have huge potential, but if that potential is denied, your Lordships do not need me to spell out the consequences. I am very disappointed that we are having to have this debate tonight. I am grateful to the noble Baroness for bringing this to the attention of the House.

Lord Low of Dalston (CB): My Lords—

The Lord Bishop of Winchester: My Lords—

Lord Young of Cookham: My Lords, I think the House would like to hear from the right reverend Prelate.

The Lord Bishop of Winchester: My Lords, I have been asked to speak on behalf of the right reverend Prelate the Bishop of Durham and a number of other Lords spiritual who are unable to be in their places today. Like them, I have serious concerns about the impact of the proposed changes to the personal independence payment on people with mental health problems. A number of the Lords spiritual wrote to the Secretary of State on 8 March seeking clarification on the rationale for the new legislation. I am not aware that they have received a reply. I wish to use this debate to reiterate these concerns and urge the Government to reconsider their position.

Our understanding is that the introduction of PIP was intended to create parity of treatment for people with mental and physical health problems by basing the assessment on a person's ability to carry out certain tasks, irrespective of the nature of their disability. This is a fundamental principle that we strongly support, which has helped counter a long-standing bias within the benefits system against people who suffer from severe mental health problems, such as schizophrenia, anxiety disorders and autism. Explicitly limiting access to the enhanced rate of the mobility component for those who experience psychological distress undermines this fundamental aim by reintroducing an unhelpful distinction between people with physical and mental health conditions.

Crucially for this debate, this change appears to be inconsistent with the primary legislation, which makes it clear, as the Explanatory Notes underline, that people should be entitled to the higher rate of mobility component if,

"a person's ability is severely limited by their physical or mental condition".

Furthermore, it appears to be inconsistent with Ministers' public statements at the time. People who find it difficult to leave the house because of anxiety, panic attacks and other mental health problems can be as restricted in their independence as people with physical mobility problems. They face the same additional barriers and costs as other disabled people, and should be scored accordingly against the same criteria. The amended regulations, however, would mean that people with these conditions would be assessed against only two of the six criteria for "planning and following journeys", even though they may be unable to make familiar or unfamiliar journeys without the support of another person.

I am aware of the issues through the work of local mental health charities in my own diocese of Winchester. I understand from Jane Harvey, the head of home support at Solent Mind, which supports people with mental health problems in Southampton and across Hampshire, that she is in no doubt about the social isolation of many of her clients. Getting out of the house can be an extremely stressful experience for someone who suffers from paranoia, lacks confidence in social situations or feels unsafe in noisy, crowded environments, such as public transport. But these daily interactions are also vital to their mental and physical well-being, preventing them becoming even more isolated and enabling them to eat properly, pay their bills and attend important appointments. That is why it is so important that we seek to remove as many barriers to their mobility as possible through financial and other forms of support, and that we do not differentiate in a

way that seems to be against people with mental health problems, whose condition can be just as debilitating as a physical disability.

I realise that, in practice, many people with mental health problems have until recently missed out on the mobility component of PIP. But we believe that the clarification provided by the Upper Tribunal ruling is more in keeping with the original intent of the legislation than the amendment tabled by the Government, opening up additional support to around 160,000 people with severe mental health problems.

From these Benches we would not want to be seen to be resisting the aims of the original legislation, but we need persuading that the amendments to PIP are not undermining the intended aims of the benefit. I shall be supporting the noble Baroness, Lady Sherlock.

8.15 pm

Baroness Thomas of Winchester (LD): My Lords, Winchester is well represented this evening. PIP's broad design flows from the Welfare Reform Act 2012. From the beginning it was intended not just to reset the DLA thresholds to determine who gets what but to decrease the overall expenditure on benefits by attempting to target them more effectively than DLA, and specifically to give more weight to mental health problems.

The department said that of those with mental health conditions receiving the mobility component of DLA, only 9% had been entitled to the higher rate, whereas 27% of PIP claimants receive the enhanced mobility rate—or 28%, according to the Minister's letter this morning. The Government's own consultee, the SSAC, asked the pertinent question: so what impairments do these 27% have? Are they a combination of physical and mental impairments? The department evaded the question, saying that perhaps 27% was "somewhat imprecise". We do not know what is going to happen to claimants who may be reassessed quite soon, but we do know that the new regulations undermine the welcome support PIP can give to those with mental health problems, and I urge the Government to withdraw them for further consideration.

That is not the only reason I think the regulations should not be proceeded with. I hope other Members of the House will be as uneasy as I am at the Government immediately reaching for the statute book in order to negate a very careful decision of the Upper Tribunal. Ministers say they are restoring the original intention of the relevant descriptor regarding planning and following a journey, and insist that the legislation is clear, but they gloss over the fact that the Secretary of State said in the case of HL in December 2015 that,

"overwhelming psychological distress could depending on its nature, frequency, duration and severity make a person unable to navigate and so to fulfil the terms of descriptors 1d and 1f".

Descriptor 1f gives the higher rate. We are now told that the Secretary of State made a mistake and had to explain to the court that a concession had erroneously been made. This is all very unsatisfactory and leaves a particularly bad taste in the mouth. Whose hand is round the Secretary of State's throat? What he said sounds to me to be exactly what the original policy intention was. Why do the Government not come clean and say that they are changing the policy for enhanced rate mobility by not allowing psychological distress to be taken into consideration?

Why the indecent haste in changing the law? As the Secretary of State is appealing the Upper Tribunal's decision, he could have used other powers he has to prevent the decision of the Upper Tribunal having immediate legal effect by giving directions to decision-makers and courts about how the descriptors should be interpreted. Why not wait for that outcome? The timescale is curious. If he was going to wait three months from the judgment, why not use that time to consult properly? The impact assessment estimates that 71,500 claimants in the current caseload will go from standard rate PIP to nil, the same number from enhanced rate to nil and 21,000 from enhanced rate to standard, so 143,000 claimants with an enduring health condition are estimated to lose the benefit altogether. The disorders likely to be affected, according to the DWP, range from schizophrenia and autism to bipolar affective disorder and cognitive disorder. So much for parity of esteem between physical and mental health.

There is another aspect which must be considered. The Secretary of State is keen to say that no one already getting an award under the old regulations will lose it, presumably meaning that no one will have the money clawed back, but some awards are only for a year before another assessment is demanded. Thousands of claimants are in this position. The new assessment will presumably be under the new rules, meaning that many existing beneficiaries of standard or enhanced rate mobility will lose all entitlement.

I accept that the reason the Secretary of State is making this change is not to make even more savings than have already been announced, but is it fair to tear up the carefully constructed mobility descriptors and the Upper Tribunal's carefully explained judgment with such haste and without proper consultation? Is it not yet another tightening of the screw around the whole independent living project, which is assailed on every side? These regulations should be set aside to await proper consultation.

I shall end with a word about voting on SIs. I am particularly addressing my friends and colleagues on the Labour Benches. I shall quote from the 2005 Cunningham report *Conventions of the UK Parliament*, which the noble Baroness, Lady Sherlock, dismissed:

"The Government appear to consider that any defeat of an SI by the Lords is a breach of convention. We disagree. It is not incompatible with the role of a revising chamber to reject an SI, since (a) the Lords (rightly or wrongly) cannot exercise its revising role by amending the SI or in any other way, (b) the Government can bring the SI forward again immediately, with or without substantive amendment".

We should have the courage of our convictions and vote to annul these regulations.

Lord Low of Dalston: My Lords, I declare my interest as a recipient of disability living allowance, the precursor to the personal independence payment. I therefore have an interest in this type of benefit. Two simple and basic points make the case against these regulations, open and shut.

[Lord Low of Dalston]

First, this is a clear breach of faith with the disability community. Back in 2012, when PIP was first introduced, Mind and other mental health charities raised concerns that people with mental health problems would be able to score points only under the criterion which used the words "psychological distress". The Government gave reassurances that that was not the case and that people with mental health problems could potentially score points under a range of criteria if their condition meant that they struggled to plan and follow a journey. On this basis, PIP was welcomed by the mental health and wider disabilities sector, because for the first time people with mental health problems felt they would be given access to disability support equal to that of people with physical disabilities.

The Government made clear commitments that people who experienced psychological distress would be eligible under the very criterion that is now being changed. These commitments were underlined in statements by Ministers in debates on the Welfare Reform Bill at the time—the noble Baroness, Lady Bakewell, has quoted the statements by Maria Miller and Esther McVey, so I do not need to repeat them. However, in practice, the DWP has not deemed people who experience psychological distress eligible for the full range of points, regardless of how severely that distress affects them. This has meant that 164,000 people have received a lower rate than they were entitled to.

This is the origin of the two cases which came before the Upper Tribunal at the end of 2016. The tribunal's rulings did not extend the scope of PIP, as the Government suggest, but clarified it. That is what tribunals do: they do not make the law; they clarify what the law is. It is the Government who are now seeking to restrict the scope of PIP from what it has always been understood to be by removing psychological distress from criterion 1f as a reason for not being able to follow a familiar route without assistance, so that a claimant can only be awarded four points under mobility descriptor 1b. The regulations are in clear breach, if not of a manifesto commitment on this occasion, then certainly of pledges given to those with mental health problems in 2012. This change to the eligibility criteria also flies in the face of the statement in the *Work, Health and Disability: Improving Lives* Green Paper that the Government will not seek to make any further cuts to disability benefits following the already controversial cuts for those receiving employment support allowance in the WRAG, for new claimants from 1 April this year.

My second point can be made even more briefly: the proposed changes would create a legal distinction between those with mental health problems and those with other kinds of impairment when it comes to benefit assessments, a distinction which flies in the face of the Government's commitment to parity of treatment for people with mental health conditions. The Government have said that a person with a cognitive impairment alone will still be eligible for the highest mobility rate, but the term "cognitive impairment" far from covers the full range of people with mental health problems.

I believe these regulations are trying to move the goalposts by excluding people who experience psychological distress from eligibility for the higher number of points necessary for the higher rate of mobility component. In doing so, they effectively discriminate against people with mental health problems. This is clearly against the original intention of PIP and runs counter to the commitment the Government made to people with mental health problems—that they would be assessed in the same way as other disabled people. I support the Motions before us this evening to oppose these regulations and if the noble Baroness, Lady Bakewell, moves for a vote, I will support hers.

Baroness Grey-Thompson (CB): My Lords, as ever, I have had a huge number of emails on this debate tonight. I had several hundred after the last debate tabled by the noble Baroness, Lady Thomas of Winchester, on the 20/50 rule, so I am expecting many more tonight.

I understand that many charities have written to the Prime Minister on this issue, and I am concerned about the way the question of who is eligible has been misunderstood. It has been suggested that this is not a big change, but like other noble Lords tonight, I have many concerns. To add to something that my noble friend Lady Campbell of Surbiton said about visible and invisible impairments, with something as simple as the use of a blue badge, there is huge misunderstanding about who can qualify for one—who should have one and who should not—and how people are treated if they are perceived as not disabled enough to need one. That is relatively simple compared to some of the intricacies of the PIP assessment forms.

I have issues with the name "personal independent payment", because it is not terribly accurate. It is a contribution towards independent living but does not cover all the costs of someone with a disability living independently. I declare an interest in that I am a recipient of PIP, and was a recipient of disability living allowance. I went through the transfer process last year, which was interesting and arduous. Just the forms to tell you that you have to transfer are complicated enough, but when I made the phone call to register, I was left on hold for over 25 minutes. With each passing minute, you are worried that the phone call is going to drop out. Then I was asked a number of questions which could be construed as confusing. I have some understanding in this area, and they were really difficult questions for me to answer. I was asked the same questions repeatedly, back and forth. I was asked the name of the medical personnel who could best describe my impairment, which is really difficult because I am disabled, not ill—I cannot even remember the last time I went to the doctor. It got to the point where I was even doubting my own answers, and I am not exactly lacking in confidence when it comes to being able to understand and explain the challenges that I face with being mobile.

I have said it before and I will keep saying it: it is essential that we have a better decision-making process. The cost of mandatory reconsiderations and tribunals is simply too high. Scope has said that 89% of applicants who have gone to a tribunal for a mandatory

reconsideration or appeal in the last quarter have received a new decision. Could the Minister say how much the mandatory reconsiderations and appeals are costing? If decision-making were better, how much money could be saved to plough back into the system?

8.30 pm

I have so many examples of people who have been through appalling treatment in this process. One person has been writing to me for the last 18 months, and I am very happy to pass on their details to the department. Pretty much everything that could have gone wrong in the process has, including lost files and cancelled dates. That has a huge effect on someone's mental health and well-being. Just how is this helping?

The system is not working as well as it could and it is time to re-evaluate it. I would like the Minister to reassure me that the chaos around the system will not be used as an excuse to potentially stop supporting disabled people through the personal independence payment. That is one worry that I really have: that it is seen as so confusing and such a disaster that some people might think it easier to stop it. That would be appalling. The personal independence payment is really important to help many disabled people to lead independent lives, and it is time it worked properly.

Lord Shinkwin (Con): My Lords, I declare an interest as a recipient of the higher-rate mobility component of disability living allowance, which, as noble Lords will know, is being replaced by PIP. As someone with a severe, permanent and constant disability, I depend on DLA for my mobility because it enables me to lease a car through Motability. Indeed, it gives me great pleasure to put on record my profound personal thanks to Motability, and particularly its founder, my noble friend Lord Sterling of Plaistow, for the phenomenal difference that that organisation has made to disabled people's lives in its first 40 years. Long may it continue.

And long may targeted support continue for those whose need is greatest for help with meeting the extra costs of living with a disability. The most help to those who need it most: that is surely a founding principle of our welfare state, and the enduring basis of public confidence in the system that underpins the public's willingness to fund the welfare state so generously through their taxes. As the then Deputy Prime Minister, Nick Clegg, rightly said in 2012:

"One of the things about governing is it forces you to confront the inconvenient truths oppositions choose to ignore".

One of those truths is that sustaining public trust in the welfare system is crucial to sustaining that system, which I and millions of disabled people rely on, so it is vital that the money gets spent where it is meant to and is seen to be so. I believe the taxpayer does not have a problem with someone needing assistance as a result of difficulties in navigating—for example, if they are blind. Taxpayers surely understand that conditions such as visual impairments and learning disabilities, where these are severe and enduring, are much less likely to fluctuate than, for example, psychological distress. Indeed, it makes sense that people who cannot navigate due to a visual or cognitive impairment are likely to have a higher level of need and therefore face higher costs.

Some noble Lords seem to believe that the world would be different if only their party was in power. Yet where their party is in power, running councils such as Lambeth, it is adding to the cost of living with a disability. One way in which it is doing this is by giving parking tickets to disabled people who come home late from work to find that there are no parking spaces available outside their home and therefore have to park on yellow lines. Will the council give them a designated disabled parking space outside their home, as would happen less than a mile away in Westminster? No, it is not council policy. So today, in 2017, Lambeth Council is penalising some disabled people and imposing extra costs on them for a need directly related to their being disabled. What a policy. How do I know it is doing this? Because I am the person who cannot find anywhere else to park after returning home late from your Lordships' House, yet my request for a designated disabled parking bay has been rejected out of hand.

This is just one example of why we urgently need to join the dots on disability if more disabled people are, as we all want, to live independently and work. Until we join those dots, I cannot in all honesty justify expecting taxpayers to be even more generous in helping to meet the extra costs of living with a disability, when the state itself imposes such indefensible extra costs on disabled people. Despite my sincere and profound respect for the noble Baronesses, Lady Campbell of Surbiton and Lady Thomas of Winchester, I therefore cannot support the Motions.

Baroness Stroud (Con): My Lords, I have been listening to the debate and am concerned that the nature of our discussion may not reflect the actions that the Government are taking. I understand that the Government are laying these regulations in response to a court case which has broadened the eligibility criteria of the PIP assessment beyond the original intent that this House voted for, at a potential increase in cost of £3.7 billion.

I want to be clear that I am pleased to be part of this House—a House that has done so much to ensure that the rights and needs of those with disabilities are upheld. That is why I have spoken on the importance of halving the disability employment gap, and why I have supported my noble friend Lord Shinkwin's Private Member's Bill.

Like all of us in this Chamber, I believe that a decent society should always recognise and support those who are most vulnerable. However, I have read carefully what the Minister said in the other Place, and I do not think that this is what is at stake here. Despite the wording of this fatal Motion and Motion to Regret, it is worth reflecting on the fact that we in this country rightly spend more on supporting people who are sick and disabled than the OECD average. We rightly spend around £50 billion a year to support people with disabilities and health conditions. However, if you listened to the speeches in the Chamber this evening, you would think that these regulations were about to reverse this level of support and the protections that are in place. Will my noble friend the Minster confirm that this is not the case and that the level of support that this House legislated for will be protected?

[Baroness Stroud]

The wording of the regret Motion tonight suggests that the regulations discriminate against people with mental health problems and could put vulnerable claimants at risk but, again, it is my understanding that the Government have laid these regulations to address the impact of the court case which broadened the eligibility of PIP beyond the original intent voted for by this House. Will the Minister confirm that this is indeed the case and that there are no further savings beyond those that were legislated for here in this House that are being sought?

Both Houses of Parliament voted for the changes from DLA to PIP, and one key reason for this was a recognition that PIP focuses support precisely on those experiencing the greatest barriers to living independently. At the core of PIP's design is the principle that awards of the benefit should be made according to a claimant's overall level of need, regardless of whether claimants suffer from physical or non-physical conditions, and it has been good to see that 28% of PIP recipients with a mental health condition get the enhanced-rate mobility component, compared to 10% receiving the higher-rate DLA component, and that 66% of PIP recipients with a mental health condition get the enhanced-rate daily living component, compared to 22% receiving highest-rate DLA care. It is precisely because PIP improves support to those with mental health problems, addressing a discrimination inherent in DLA, that this House supported the legislation in the first place. Will the Minster confirm that this remains not only the intent of PIP but the reality, and that the regulations restore the original intention of PIP, which was to make sure there is a sustainable benefit to provide continued support to those who face the greatest barrier, whether physical or mental, to living independent lives?

Lord McKenzie of Luton (Lab): My Lords, I shall forgo the right to speak as extensively as I otherwise would, but I shall do three things. First, I very much support the Motion of my noble friend Lady Sherlock, and the manner in which it was spoken to. Then I wanted to ask the Minister a question about the original policy intent, because we have heard it as a justification for these regulations on a number of occasions. Can we be very clear on this? The Government pray in aid the PIP assessment guide as evidence to the original policy intent, but can we understand precisely when that and the detail were discussed by Parliament—not by officials but by Parliament—to be able to justify the claim that was made?

Finally, on the finances, we should not forget in all this that PIP was introduced against a backdrop of the predecessor, DLA, having a 20% cut in its budget. We talk about the implications of government costs of £3.7 billion, but let us just remember that forgoing that cost to government means resources to disabled people are lost as well. While £3.7 billion is what the Government might save from this, the losers are the disabled community, to a massive extent.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Henley) (Con): My Lords, I get the impression that the House would like me to move this debate towards a close, so I shall deal with some of the points that have been made during what has been a wide-ranging and, at times, an obviously impassioned debate all across the House. I recognise the concerns that have been raised and welcome the opportunity to respond on behalf of the Government. I hope to make matters clear, and provide reassurances on a number of points.

8.45 pm

We are committed to ensuring that our welfare system provides a very strong safety net for those who need it. That is what all our reforms over the last few years have been about. That is why, as my noble friend Lady Stroud said, we spend over £50 billion a year just on benefits which support disabled people and those with health conditions. Spending on the main disability benefits went up by more than £3 billion over the course of the last Parliament—under a coalition Government, I remind the noble Baroness, Lady Bakewell—and is set to be at a record high of nearly £23 billion this year. Personal independence payment is part of that support and provides help towards the additional costs that disabled people face, providing them with greater opportunities to lead full, active and independent lives. We all agree that this is the point behind PIP.

At the core of PIP's design is the principle that awards should be made according to a claimant's level of need, and not to whether their condition is physical or non-physical in nature. I will say more about parity of treatment in due course. This approach, by design, ensures that the focus of support is on those who have a higher level of need, greater limitations on their ability to participate in society and higher costs associated with their condition. However, the recent legal judgments, to which noble Lords have referred, have interpreted the assessment criteria for PIP in ways that are different from what was originally intended by the coalition Government, which the party of the noble Baroness, Lady Bakewell, was part of. We have therefore, as the tribunal has asked, made amendments to clarify the criteria used to decide how much benefit claimants receive. That both restores the original aim of the policy previously agreed by Parliament—that followed extensive consultation—and adds essential clarity to it.

It is important at this stage that I emphasise what the changes are not. They are not a policy change. They are not, as the right reverend Prelate the Bishop of Winchester and the noble Lord, Lord Low, seemed to imply, inconsistent with the primary legislation. They are bringing clarity to that legislation and to the regulations which we put forward, as the tribunal asked. In answer to the question from the noble Baroness, Lady Sherlock, they will not result in any claimants seeing a reduction in the amount of PIP previously awarded by the Department for Work and Pensions. As said by my right honourable friend, the Secretary of State, in his Statement in the other place, which I repeated to this House, and to which the noble Baroness responded, there will be no further welfare savings in this Parliament beyond those already legislated for. It is inaccurate to describe this as a cut: it is merely the reassertion of the original policy intention.

It is entirely appropriate for the Government to act to restore clarity to the law, particularly as that need for clarity was sought by the tribunals. Governments, including ones supported by the noble Baroness, have

done so before and will no doubt continue to do so in the future. It is the duty of the Government to issue these orders and to make policy: it is for the courts to interpret it. Where there is a need to bring clarity it is for us to do that. It is appropriate that we try to restore a policy aim where that aim has been forgotten. Let us not forget that PIP, and the regulations under it, were developed and approved under a coalition Government—I have made this clear to the noble Baroness and do so again—which I believe she supported. I am also grateful to my noble friend Lord Shinkwin for reminding the House of the words of the Deputy Prime Minister at the time, Mr Clegg, about how decisions have to be made and how important it is to maintain the trust of those who have to pay for the benefit system as well as those who benefit from it.

I repeat that the Government are not making any changes whatever to the original policy intent. That intent was the subject of considerable debate on the part of noble Lords on all sides of the House when the original Bill passed through both Houses. Noble Lords and noble Baronesses will remember that. However, I am mindful that many of those who have spoken today wish to see a review. That is what the Motion of the noble Baroness, Lady Sherlock, seeks—a review of these policies. We want to ensure that our policies are working and are being delivered effectively. Within the department we will continue to regularly review our policies, including PIP. I also wish to remind the House that this Government have already introduced two formal statutory reviews of PIP, and that we remain committed to publishing Paul Gray's independent review by April 2017—that is, by the end of this month—as set out in legislation.

The Government are looking forward to considering the latest findings from this independent review. We will provide a full response to that independent review conducted by Paul Gray later this year. I will not speculate about what our response to that review will be before I have seen it. However, I can give an assurance that the House will consider the latest findings very carefully once the report is published, and that a full response to those recommendations will be provided some time later this year. Despite the report not yet having been published, we remain committed to continuous improvement. For example, we are making improvements to the PIP assessment and to our decision-making, and improving the advice we provide to claimants to guide them through the process.

Noble Lords expressed concerns about mental health and the assessments thereof. Supporting people with mental illness will continue to be a priority of this Government despite what the noble Baroness, Lady Bakewell, said. That is why we are spending more on mental health provision than ever before. Taking all things together, I think it is now estimated to be something of the order of £11.4 billion this year.

We are working with the health service to join up the health system, the welfare system and society more widely so that we focus on the strengths of people with disabilities or health conditions and what they can do. It is for that reason that in the summer of 2015 the Work and Health Unit was created with the Department of Health, and why, in October 2016, we published *Improving Lives*, the work and health Green Paper, to seek a wide range of views on how best to achieve that aim. In PIP we have ensured parity of treatment between mental and physical conditions. I offer that assurance to the noble Baroness, Lady Bakewell, the right reverend Prelate the Bishop of Winchester and all others who have asked for that parity of treatment. It achieves that by looking at the overall needs of an individual, not just what conditions they have. The whole point—if I can put it this way—of the PIP assessment is to distinguish between those differing levels of need. There is no discrimination in that. This approach means that there are more people with mental health conditions receiving the higher rates of both PIP components than the DLA equivalents. I again cite figures: 28% of PIP recipients with a mental health condition get the enhanced rate mobility component compared with 10% receiving the higher rate DLA mobility component.

Throughout each draft and in the final version of the assessment criteria, the department was clear that what is referred to as mobility activity 1 was designed to assess the impact of mental, intellectual, cognitive and sensory impairments on the ability to plan and follow a journey. The Government's intention when developing and consulting on the assessment criteria was that psychological distress should be relevant only to descriptors b or e. I am getting technical here but those noble Lords and noble Baronesses who understand these things will understand that. Those would score four or 10 points respectively. Psychological distress fluctuates and may be amenable to treatment. Where the impairment is severe and enduring, with conditions such as a learning disability, it is less likely to fluctuate. Someone with psychological distress may need reassurance and prompting, while conditions such as a severe learning disability can lead to the need for supervision, physical intervention and support above and beyond simply reassurance. However, I make it clear that someone with a mental health condition can score the highest points on mobility activity alone and receive the enhanced rate of PIP.

I do not know whether the House would like it, but if it would, I could give examples at this stage. However, perhaps at this stage I will confine myself to just one, which relates to the points raised by my noble friend Lady Browning, on the problems of those with autism. I can give an assurance that as regards someone with a development disorder such as autistic spectrum disorder, which affects their ability to work out where they go, follow directions or deal with unexpected changes in a journey, if their disorder results in them having difficulty assessing and responding to risks, or impulsivity, they could also score 12 points under descriptor f on the basis that they need to be accompanied for their own safety.

Let me be clear. Our approach in developing PIP and the amendments we have made is not about the Government attaching a higher value to one condition over another—again, I go back to that parity of treatment—nor is it, as the noble Baroness's Motion suggests and as some noble Lords have suggested today, discriminatory or in conflict with our support for people with mental health conditions over those with physical conditions. PIP will continue to ensure parity between mental and physical conditions by

[Lord Henley]
looking at the impact of all conditions on an individual and their level of overall need, and not at what conditions they have.

Briefly, on the points raised about SSAC and consultation, again, this was dealt with by my right honourable friend when he made a Statement in another place; I do not think it was raised particularly here when the Statement was repeated. However, I can give the assurance that in light of the significant and urgent consequences of the judgments, those amendments were presented to the Social Security Advisory Committee after the regulations were laid on 8 March. We welcomed the response we received from the committee, which was that it did not wish to have the regulations referred to it for public consultation. We have also responded in full to the recommendations made by the committee. In particular, we made it clear that we are committed to continuous improvements, and, as such, we recognise that it is important both in terms of quality and consistency to ensure that PIP policy is clearly articulated. We also made it clear that we will ensure that health professionals who carry out the PIP assessments fully understand what the amendments mean, and if necessary, we will clarify the policy intent in the next version of the PIP assessment guide, which is scheduled for publication later in the spring.

On the concerns expressed that there was not a sufficient engagement or consultation with others, I can give an assurance that my right honourable friend has spoken to a large number of organisations. He has certainly seen representatives from Mind, the Epilepsy Society and Scope, and my honourable friend the Minister for Disabled People has spoken to other stakeholders. My right honourable friend, as I think is now quite well known, rang the Opposition to tell them about the amendments being laid, but unfortunately he did not receive a response to his call for some four days, because they did not listen to their answering service. Similarly, I spoke to the noble Baroness, Lady Sherlock, and to the noble Baroness, Lady Bakewell, and I am grateful to her for reminding the House that I did so from the streets of Copeland—she will remember what happened there. However, we consulted and made it quite clear that we were putting out these new regulations. We have continued to engage with all concerned in this matter and we will continue to do so in the future.

I end by reiterating what the regulations do. They restore the original aim of the policy debated at considerable length in both Houses of Parliament. They ensure that we deliver PIP in line with its original intent—again, as discussed by this House and another place—and they add clarity to the rules for all users. We ensured that the changes were made as soon as possible so that claimants were not left in the unenviable position of not knowing what would happen to their claim. I stress again that the changes will not result in claimants seeing a reduction in the amount of PIP previously awarded by the Department for Work and Pensions. On that basis, I ask the noble Baroness, Lady Bakewell, to withdraw her Motion, and I trust that the noble Baroness, Lady Sherlock, will not feel it necessary to move hers in due course.

Baroness Bakewell of Hardington Mandeville: My Lords, I thank the Minister for his response and I thank all those who have taken part in this critical debate, as well as those who were not able to speak because of the time limitations. Time prevents me from commenting in detail on all the contributions, although I would have wished to do so.

Naturally, I am disappointed that the Government are reluctant to move their position so as to support people whose lives are blighted by psychological and anxiety disorders. That was not the original intention of the coalition Government's move from disability living allowance to the personal independence payment, and I do not believe that the changes bring either clarity or parity. The role of PIP as a successor to the DLA is to support disabled people to meet some of the additional costs of disability. Unlike other aspects of the welfare system, PIP is not an income replacer or booster; it is to help tackle the financial penalty of disability.

I regret that these regulations do not engender trust, and a great many people in the community and those charitable organisations that support people with mental health and psychological disorders will be bitterly disappointed by the Government's response.

I understand the position of the Labour Benches and commend the noble Baroness, Lady Sherlock, for her, as always, formidable approach to this matter. However, this is an extremely important matter that affects a whole range of people in society, including those suffering from post-traumatic stress disorder, panic attacks and psychotic disorders. The Minister may have spoken to charities but clearly he did not convince them, as Scope, the Disability Benefits Consortium, Sense, Citizens Advice, Rethink Mental Illness and Mind have all said the same—that this decision should be reversed. I therefore want to test the opinion of the House.

9.02 pm

Division on Baroness Bakewell of Hardington Mandeville's Motion

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Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Bates, L.
Berkeley of Knighton, L.
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Social Security (Personal Independence Payment) (Amendment) Regulations 2017

Motion to Regret

9.13 pm

Moved by ***Baroness Sherlock***

That this House regrets that Her Majesty's Government is implementing the Social Security (Personal Independence Payment) (Amendment) Regulations 2017 without formal referral to the Social Security Advisory Committee; and that the Regulations discriminate against people with mental health problems, and could put vulnerable claimants at risk; and calls on Her Majesty's Government to allow proper scrutiny of these proposals, including a review of the changes that the Regulations make and their specific impact on those with mental health conditions, within two years of their coming into force.

Relevant document: 27th Report from the Secondary Legislation Scrutiny Committee

Baroness Sherlock (Lab): I am grateful for the support from different Benches, particularly from the noble Baroness, Lady Browning, the right reverend Prelate the Bishop of Winchester and my noble friend Lord McKenzie. I thank the Minister for his answers. I only wish they had been answers to the questions that I asked, or indeed any of those asked by the Social Security Advisory Committee or the Secondary Legislation Scrutiny Committee.

We have had a long debate tonight. Concern has been expressed on every single Bench that these regulations will damage people with mental health problems and

[Baroness Sherlock]
they go right against parity of esteem. The Minister's response was not acceptable and I wish to test the opinion of the House.

9.14 pm

Division on Baroness Sherlock's Motion

Contents 162; Not-Contents 154.

Motion agreed.

Division No. 5

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Tope, L.
Touhig, L.
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Taylor of Warwick, L.
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Technical and Further Education Bill

Report (Continued)

9.25 pm

Amendment 34

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

34: Schedule 1, page 31, line 26, at end insert—

"( ) about permission for the use of the DfE logo and standard wording on technical education certificates;"

Baroness Garden of Frognal (LD): My Lords, I fear that this may be something of an anti-climax after the previous excitement. Nevertheless, I wish to move Amendment 34 and speak also to Amendment 35. They have the support of the noble Lords, Lord Lucas and Lord Watson, and of my noble friend Lord Storey.

As we set out in Committee, there are quite a few questions to be asked about the institute's power to issue technical education certificates. We understand that this will not be done by the institute but be delegated to the Skills Funding Agency. Either way, public time and money will be used to duplicate a function which is already well covered under existing systems.

This proposal was not set out in the skills plan. It potentially removes any continuing link between the awarding body and the qualification that it has produced. We are here attempting to clarify the relationship between the issuing of the proposed certificates and the qualification certificates issued by awarding organisations. Are the Government proposing to issue these "technical education certificates" alongside the awarding organisation's certificate?

We heard earlier from the Minister that employers would pay for the certificate. It would be helpful to hear more about who makes the application. Does it come from the employer, from the training provider or from the awarding body? Is it automatically triggered by attainment of a qualification?

I do not think that we have had an assessment of the resources required by the institute, or the SFA, to authenticate, print and send out the 3 million apprenticeship certificates to meet the government target. Will the institute require the addresses of all the candidates or will they be sent to the employer or training provider to distribute?

There is a very simple solution. Government issuing of certificates is not common procedure at qualification level in any other area of the education and training system and would appear to bestow unnecessary cost, duplication and complexity on to whichever body is tasked with carrying it out. Would it not be simpler if the certificate issued by the awarding organisation also carried the logo of the institute or of the Department for Education? This has been common practice in the past, including with national vocational qualifications, and would have the benefit of adding government backing and status to a certificate already being validated, processed and issued.

I assure your Lordships that awarding bodies can produce some immensely impressive certificates to meet immensely impressive achievements. I hope that the amendment will be seen as positive and helpful. I beg to move.

The Parliamentary Under-Secretary of State, Department for Education (Lord Nash) (Con): My Lords, I am grateful to the noble Baroness, Lady Garden, and the noble Lord, Lord Lucas, for tabling these amendments. A fundamental reason for introducing the technical education reforms is to tackle the weakness in the current 16 to 19 education system caused by fragmentation and variation in the quality and value of the qualification certificates currently provided by many individual awarding organisations.

To address this, it is important that the technical education certificates are issued consistently by one entity under consistent branding so that they are recognised and understood by employers regardless of the qualification or where it was undertaken. The Bill makes provision for the Secretary of State to issue a technical education certificate to any person who has completed a technical education qualification and any other steps determined under new Section A2DB.

Those completing either an apprenticeship or a technical education course will receive a nationally awarded certificate from the Secretary of State. This will confirm that they obtained as many of the key skills and behaviours as the institute deems appropriate for a particular occupation. The technical education certificate will also recognise the other essential elements such as attainment in English and maths, completion of work placements and other route-specific qualifications. The certificate will demonstrate to employers that individuals obtained the knowledge, skills and behaviours necessary to undertake their chosen occupation. It will provide clarity for employers and support the portability and progression value of the qualifications.

As currently drafted, these amendments will allow the Secretary of State to use the DfE logo and standard wording on technical education certificates—which of

[Lord Nash]
course she may already do. It is also right that only the certificate should bear the department's logo and standard wording. This will also ensure that certificates for technical education align as closely as possible with certificates for apprenticeships. However, this will not affect any arrangements that the institute entered into with an organisational consortium that is approved to deliver a technical education qualification. These arrangements are likely to include the use of their own logo or branding on any certificate that they issue in respect of that qualification.

We expect costs to be incurred in issuing the certificates. It is therefore right that the Secretary of State should be able to determine whether to charge for the first technical education certificate and a copy of it, and if so how much. This is consistent with the procedure already followed for charging for the issuing of apprenticeship certificates or supplying copies of them. Our reforms will ensure we operate a system for the future, providing a national offer that is recognised and understood by employers regardless of the qualification or where it is undertaken.

I hope that clarifies the situation for the noble Baroness. She made a point about how the institute will be aware of the addresses of recipients. That information will come via the awarding organisation to the institute. Students must apply to the Secretary of State for their certificate. If I have not answered all the points that the noble Baroness is concerned about, I am happy to discuss this with her further and to provide more information. In that spirit, I hope she will feel reassured to withdraw her amendment.

Baroness Garden of Frognal: I thank the Minister for his reply. I am slightly bemused because employers seem to understand very well the previous certificates that went out, with NVQ and awarding-body logos. There was not a particular confusion about the standards there. As I say, given that the awarding organisations already issue certificates, it would seem a much neater operation if it was combined into one certificate instead of having the confusion of two. I thank the noble Lord for his offer to have further discussion on this and meanwhile beg leave to withdraw the amendment.

Amendment 34 withdrawn.

Amendment 35 not moved.

Schedule 2: Education administration: transfer schemes

Amendment 36 not moved.

House adjourned at 9.32 pm.