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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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The abbreviation [V] after a Member's name indicates that they contributed by video call.

The following abbreviations are used to show a Member's party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
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 or for the Lords spiritual.

House of Lords

Thursday 21 October 2021

11 am

Prayers—read by the Lord Bishop of Durham.

Introduction: Lord Sedwill

11.07 am

Sir Mark Philip Sedwill, KCMG, having been created Baron Sedwill, of Sherborne in the County of Dorset, was introduced and took the oath, supported by Lord Butler of Brockwell and Lord Boyce, and signed an undertaking to abide by the Code of Conduct.

Cotton Imports

Question

11.12 am

Asked by ***Lord Rooker***

To ask Her Majesty's Government what assessment they have made of employing elemental analysis to determine where cotton used in goods imported into the United Kingdom was cultivated.

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, the Government recognise the role that technology can play in improving the traceability of goods in global supply chains and are working with businesses to build understanding and raise awareness of its potential use. We encourage business and industry to collaborate and share expertise on innovative solutions that will improve supply chain transparency.

Lord Rooker (Lab): I thank the Minister for his Answer, but the United States has banned cotton from China's Xinjiang due to the treatment of the Uighurs. Why cannot the UK follow? The techniques perfected by Oritain mean that a forensic fingerprint on garments containing cotton can show where it was grown. Cotton picked in Xinjiang ends up in garments made across Asia, from Bangladesh to Vietnam, but not in India. Does the Minister agree that fashion houses must do more in due diligence than they do now, as they are forced to do in the United States? Will the Government take a lead on this issue, or has the Chinese Communist Party reached too far inside the UK?

Lord Grimstone of Boscobel (Con): My Lords, the Government are fully committed to tackling the issue of Uighur forced labour in global supply chains. The measures we have taken do not currently include import bans, but we have announced a range of other measures, including a comprehensive review of export controls as they apply to Xinjiang. I assure noble Lords that we continue to keep our policy response under close review.

The Lord Bishop of St Albans: My Lords, can the Government update the House on any ongoing conversations that they are having with discount fashion retailers about sourcing of goods in relation to forced labour, modern slavery and child labour, which is causing such anxiety in our country?

Lord Grimstone of Boscobel (Con): My Lords, we continue deliberations with a whole range of businesses, including, of course, the fashion business. Ensuring a tough response to modern slavery remains a priority for this Government. We are committed to strengthening the landmark transparency provisions in the Modern Slavery Act 2015, and these measures include the introduction of financial penalties on organisations which fail to publish modern slavery statements, and these will be enforced by our new single enforcement body once it comes into operation.

Lord Flight (Con): What are the Government doing about modern slavery in China, particularly Xinjiang, which can be identified—as the noble Lord, Lord Rooker, pointed out—by elemental analysis of cotton? What is their policy on British investment in relation to China?

Lord Grimstone of Boscobel (Con): For the first part of my noble friend's question, I refer to the answer I gave previously. On investment generally, we continue to pursue a positive economic relationship with China and we think that it is in our interests to increase trade with China. As an open economy, we welcome trade and investment; however, as I have said on many occasions, we are not so stupid as to welcome harmful investment from China.

Lord Grantchester (Lab): During the pandemic, the Government purchased PPE from companies facing modern slavery allegations. As Covid cases sadly begin to climb again, can the Minister say how Her Majesty's Government will ensure that NHS contracts are not awarded to companies implicated in forced labour in the Chinese region of Xinjiang?

Lord Grimstone of Boscobel (Con): My Lords, the same rules and advice apply to PPE as to other goods that we import into the UK. As noble Lords know, we take a market-first approach to critical supply chain resilience and are committed to championing free trade in a rules-based system. However, we have learned many lessons from the pandemic about the importance of resilience in supply chains; we continue to apply those lessons in practice.

Lord Purvis of Tweed (LD): Will the Minister order a review of the modern slavery supply chain with regards to cotton and fibre imports from that particular region of China? He referenced PPE. He will have seen that, overnight, the United States has banned the import of rubber gloves from Supermax and all its subsidiaries because there is "ample evidence" of forced labour and modern slavery. Through NHS procurement, the UK Government have a contract with Supermax worth £316 million. Will the Minister instruct an

[Lord Purvis of Tweed]
urgent inquiry to ensure that we are not using these products, which are a result of modern slavery in Malaysia?

Lord Grimstone of Boscobel (Con): I thank the noble Lord for bringing that matter to my attention. He always has the most up-to-date news on these matters at his fingertips. I will ensure that that particular company is looked at by my officials.

Lord Alton of Liverpool (CB): My Lords, I declare an interest as the vice-chairman of the All-Party Parliamentary Group on Uyghurs. Has the Minister noted the all-party amendment passed in your Lordships' House on Tuesday night, urging more concerted action in dealing with companies and countries banned in the jurisdictions of our closest allies and tainted by everything from genocide to slave labour? As the noble Lord, Lord Rooker, said, should we not stand in unity with our Five Eyes allies? Will we not stand with companies such as H&M, which has now been boycotted in China for refusing to use cotton from Xinjiang that is farmed by slaves, and make it clear whose side we are on—on the side of the slaves or on the side of the slave-drivers?

Lord Grimstone of Boscobel (Con): My Lords, we always bow to the noble Lord's deep expertise in these matters, and we all very much appreciate the close attention that he pays to them. I like to think that the United Kingdom is one of the global leaders in bringing this issue to people's attention. We have sponsored resolutions at the UN and elsewhere in relation to this, and will continue to do so.

Baroness Smith of Newnham (LD): My Lords, I noticed with some dismay this morning that the dress which I am wearing was made in China. The label does not elucidate which part of China, but there is a very serious question about labelling of products. Often it is very difficult to know where things are made. What work are the Government doing to ensure that imports are better labelled, and how does the Minister define harm? He said that the Government do not believe in investment that creates harm. Does he have a definition of that?

Lord Grimstone of Boscobel (Con): My Lords, probably the easiest place to find a definition is in the schedules to the National Security and Investment Act, which became law at the end of last year. It contains details of 17 subsectors with very strict mandatory controls for matters which clearly would otherwise cause harm. On the first part of the question, I will write to the noble Baroness.

Baroness Bennett of Manor Castle (GP): My Lords, in responding to the noble Lord, Lord Rooker, the Minister talked about working with businesses regarding the supply chain. Later, he talked about rules associated with the Modern Slavery Act. Is he confident that there are adequate resources to enforce these rules and future rules, given that the businesses following them may be put at a competitive disadvantage compared with cowboys who fail to do so?

Lord Grimstone of Boscobel (Con): The noble Baroness makes a good point. Last year we debated the very important question of ensuring that our modern slavery laws and guidance are as effective as possible. We continue to work on that and will be introducing financial penalties. We are absolutely embarked on a road which will make possible the eradication of this egregious crime of modern slavery.

The Lord Speaker (Lord McFall of Alcluith): My Lords, all supplementary questions have been asked. We now move to the next Question.

COVID-19: Type 2 Diabetes

Question

11.22 am

Asked by ***Baroness Merron***

To ask Her Majesty's Government what steps they are taking to support people at high risk of developing type 2 diabetes who have gained weight during the COVID-19 pandemic.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): My Lords, helping people to achieve and maintain a healthy weight is one of the most important things we can do to improve our nation's health, as I am sure many noble Lords agree. Our world-leading strategy to meet this challenge was published in July 2020 and reflects the significant work undertaken over recent years to halve childhood obesity and create a healthier environment to help people maintain a healthy weight.

Baroness Merron (Lab): My Lords, new NHS research reveals that people seeking help to lose weight are significantly heavier now compared with those who sought help pre-pandemic. With type 2 diabetes closely linked to obesity and local public health services shown to be highly cost-effective in helping people to lose weight, what assessment has the Minister made of the link between the cuts in funding and the increasing levels of obesity and diabetes, and will the NHS evidence now drive the Government to commit to reversing public health grants and properly funding services that are essential to tackling obesity?

Lord Kamall (Con): I am sure that noble Lords will agree that it is really important that we tackle these issues and respond to the weight increases over the Covid-19 lockdowns. In March, the Government announced £100 million of extra funding for healthy weight programmes to support children, adults and families to maintain a healthy weight. Additionally, more effort has been put into providing access to information.

Baroness Jenkin of Kennington (Con): My Lords, currently one in 10 people in the UK are suffering from type 2 diabetes, a figure which has doubled in the past 15 years. It already gobbles up an unsustainable 10% of the NHS budget. As my noble friend said, it is preventable and treatable through maintaining a healthy

weight, diet and exercise; there is no need for expensive medication. Can my noble friend continue to encourage systematic support so that people can achieve these objectives?

Lord Kamall (Con): I thank my noble friend for that question and recognise the work she did with the Centre for Social Justice on this issue. The Government are keen to drive the NHS diabetes prevention programme, which plays a pivotal role in supporting those at risk of developing diabetes. During 2018-19, over 100,000 people took up the programme. In 2019-20, NHS England delivered the long-term-plan target, supporting around 120,000 people on the programme.

Lord Patel (CB): My Lords, does the Minister agree that all those over the age of 40 who are obese, and those who record a high score on the diabetes type 2 assessment, should be offered a blood glucose and haemoglobin A1c test? If he does not agree, can he say why?

Lord Kamall (Con): The Government, in conjunction with the Department of Health and Social Care and many other partners, including Diabetes UK, are looking at the most effective way to tackle diabetes but also to understand the trade-offs that must be made and the balance of considerations. I will write to the noble Lord on the detail of his question.

Lord Jones of Cheltenham (LD) [V]: In addition to the link between Covid and weight gain, some people can develop diabetes after an acute Covid-19 infection. The causes are not fully understood. What research into this connection are the Government encouraging?

Lord Kamall (Con): The Government and the Department of Health and Social Care are reviewing the many impacts of Covid-19 that noble Lords will acknowledge. We are still trying to understand the various implications of lockdown. We have seen increases in weight leading to more type 2 diabetes. I will write to the noble Lord giving a detailed answer to his question.

Lord McColl of Dulwich (Con): My Lords, as my noble friend Lady Jenkin has already mentioned, we have known for many years that reducing weight can reverse type 2 diabetes. With others, I was doing this successfully over 60 years ago. This draws attention to the urgent need for an even greater campaign to deal with the 71% of people in the UK over the age of 30 who are obese or overweight.

Lord Kamall (Con): The Government have implemented weight-management services. Tier 2 behavioural weight-management services have been provided by 98% of local authorities thanks to the distribution of £30.5 million as part of the adult weight-management services grant. Additionally, £12.8 million was invested in an NHS digital weight-management programme for individuals with multiple long-term conditions, as well as NHS staff. There are a number of other programmes related to weight management which I may well go into in answering a later question.

Baroness Boycott (CB): I am sure that the Minister is aware of the great social inequality in levels of obesity, as there has been with Covid levels. If you cannot afford a healthy diet you run a much higher risk of developing obesity. What measures will the Government explicitly put in place to support those on lower incomes to easily afford healthy diets—for example, factoring the costs of healthy diets into benefit levels, boosting healthy-start vouchers and introducing fruit and vegetable prescriptions? Right now, if you want to get a lot of calories to make you feel full, the cost differential is around a factor of 10.

Lord Kamall (Con): In response to the increases in weight due to Covid-19, but also before, which led to more type 2 diabetes, the Government, the DHSC and the NHS have been looking in detail at how to respond. Further details will be made available.

Lord Robathan (Con): My Lords, I am glad that the Government recognise that this is a huge problem, and the dangers that being overweight brings, especially during Covid. However, does my noble friend not recognise that the strategy, good as it may be, is not working? Is it not time to revert to the situation when I was young, when it was not socially acceptable to be grossly overweight, and to push individual responsibility? Government policy should tell people that they must not eat so much.

Lord Kamall (Con): I am beginning to wish I had eaten a full breakfast. With any strategy or programme, we always have to be careful about unintended consequences. As we focus more on obesity and make more people aware of healthy living and healthy eating, it is important to have the right balance and to be aware of the impact this can have, so that we are not creating more problems, concerns and anxieties for those who suffer from eating disorders.

Lord Rennard (LD): My Lords, one in three deaths during the first period of the pandemic were among people with diabetes. Obesity accounts for most of the risk of developing type 2 diabetes and, even without the problems of the pandemic, a type 2 diabetic, such as me, at my age, is expected to put on one or two kilos every year. Will the Minister now look to reverse what the King's Fund says is, in real terms, a £1 billion cut in local authority public health budgets since 2015, and at providing even more support for programmes such as GP referral to fitness classes, which can help people manage their diabetes more effectively?

Lord Kamall (Con): As well as looking at the important role that funding can play, it is important to do better with the money available. There are many things we can do to make sure that the programmes we have are more effective, but I repeat that we have to make sure that they work and we have to look at the evidence. When discussing the evidence internally in the department, I have been told that many of these programmes will be reviewed after five years to make sure that they are effective and do not lead to unintended consequences.

Baroness Stuart of Edgbaston (CB): My Lords, the Minister made reference to the well-being strategy in his opening Answer. In the interest of joined-up government, I also urge him to take notice of another strategy, the Dimbleby review of the national food strategy. None of these problems will be resolved unless we go to their root, which is our attitude to food availability and the supply chain.

Lord Kamall (Con): The Government will consider a number of inputs in looking at the most appropriate strategy to address type 2 diabetes and, as many noble Lords have referred to, the increase in weight of many in our population during lockdown. The Government will consider the evidence of the Dimbleby independent review throughout the development of our food strategy.

The Lord Speaker (Lord McFall of Alcluith): My Lords, all supplementary questions have been asked, so we now move to the next Question.

Trade Policy: Environmental Considerations

Question

11.32 am

Asked by ***Baroness Quin***

To ask Her Majesty's Government what environmental considerations influence their trade policy.

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, Her Majesty's Government are committed to upholding the UK's high environmental standards in our trade policy. We consider a wide range of environmental issues in our trade policy and in what we are seeking to pursue in multilateral fora, as well as under our new free trade agreements. This includes upholding commitments in the Paris Agreement, maintaining our right to regulate to meet net zero and, of course, co-operating on issues from forests and fisheries to greenhouse gas emissions.

Baroness Quin (Lab): My Lords, the Government's trade strategy seems to aim to increase trade with geographically distant countries, but this does not make much environmental sense. Have the Government conducted an assessment of their trade policies on harmful climate emissions, by air or sea? Will they raise the environmental impact of trade policies at COP 26?

Lord Grimstone of Boscobel (Con): We will certainly raise the impact of trade policies at COP 26. On the noble Baroness's point about where our trade agreements are being made, of course it might have been better if Australia and New Zealand were close to Europe, but they are not. They are important countries to make trade agreements with, and that trumps the question of geography, in this case.

Baroness Chakrabarti (Lab): Would the Minister explain the process within government to audit trade or other policies to ensure that climate catastrophe is given priority in these considerations?

Lord Grimstone of Boscobel (Con): The most effective audit we have is the deep scrutiny that noble Lords give our trade agreements and trade policy. We have some of the most advanced scrutiny mechanisms in the world, and noble Lords do a good job of auditing us and holding us to account.

Lord Purvis of Tweed (LD): Let us test that. On 14 September, the Commons Environment, Food and Rural Affairs Committee said that the Government were kicking the can down the road or "running the clock down" on the establishment of the Trade and Agriculture Commission. Can the Government update us on when it will be established on a statutory basis? For full scrutiny, will the Minister ensure that the scrubbed legal texts of the Australia and New Zealand deals will go to the statutory Trade and Agriculture Commission, so that it can fulfil its duty and report to us, before we are asked to ratify those agreements?

Lord Grimstone of Boscobel (Con): My Lords, as soon as I heard the magic words "Trade and Agriculture Commission" being mentioned by the noble Lord, I thought he was going to congratulate me on that fact that the Government have today published our response to the report of the Trade and Agriculture Commission on how best to advance the issues of British farmers, food producers and consumers in future trade policy. As to his point, there is a very narrow difference between the TAC that has been set up and the statutory TAC. As the noble Lord knows, that difference entirely arose because the Trade Act last year did not allow the payment of allowances to commission members given the way it was assembled at that time. It has become clear to us that, to allow for the best membership of the TAC, some form of allowance—not generous, I hasten to add—should be paid to its members. The members who will form part of the statutory TAC are those who have been appointed today to form this new TAC, and we should welcome them to their important roles.

Lord Hannan of Kingsclere (Con): My Lords, I congratulate my noble friend the Minister and all the other Ministers in the trade department on securing a trade deal with our friends and allies in New Zealand. Is he aware of reports that show that the carbon footprint for New Zealand lamb eaten in London is lower than for domestic lamb, because the vast majority of carbon emission is in the production phase, on the farm? The economies of scale and efficiency reforms that have made New Zealand lamb affordable have also reduced carbon emissions. Is not the best thing we can do for the environment to make the world richer, and is not freer trade an important lever to pull in that regard?

Lord Grimstone of Boscobel (Con): My noble friend makes some excellent points. I wish I had made his point on lamb myself, so I thank him for that, and for drawing the House's attention to the agreement in principle with New Zealand being reached, as announced today. The environmental chapter of that agreement will break new ground for the UK and New Zealand in supporting our shared climate and environment goals, clean growth and the transition to a net-zero

economy. I am pleased that the mood of the House is to welcome the approval in principle of this very important agreement.

Baroness Hayman (CB): My Lords, I remind the House of my interests, as set out in the register. The Minister will recall the discussions we had on these issues during the passage of the Trade Bill through this House. In his comments then, and today, he was reassuring about government policies in this area, yet government practice on the Australia deal has been far from reassuring. I reiterate the plea made by the noble Lord, Lord Purvis of Tweed, and ask the Minister whether the Government will be fully transparent and open about the terms of both the Australia and New Zealand deals to allow the scrutiny of the House, of which he is so flattering.

Lord Grimstone of Boscobel (Con): The noble Baroness is right to draw attention to scrutiny. I am always happy to repeat our commitment to scrutiny from the Dispatch Box. Both the Australia and New Zealand agreements are at the in-principle stage, at the moment. The full texts will be published in due course. They will be made available to the House in good time and will be scrutinised by the TAC and by your Lordships' International Agreements Committee. We will make sure that there is time for all those processes to be completed thoroughly and to the standard that noble Lords wish.

Lord Grantchester (Lab): Documents leaked to Sky News reveal that the Department for International Trade can drop both the climate asks on precedence of multilateral environmental agreements over FTA provisions and on the reference to the Paris Agreement temperature goals. This is of great concern. Can the Minister say whether the Norway agreement last week was one of very few including such clauses because Norway insisted, and otherwise, for a Conservative Government, it is always trade deals at all costs, irrespective of other issues?

Lord Grimstone of Boscobel (Con): My Lords, I am very pleased to be able to comment categorically that the leaked document to which the noble Lord refers is not government policy and is not being considered by Ministers.

Lord Lilley (Con): Will my noble friend reaffirm that the Government's trade policy is based on the facilitation of trade by the reciprocal removal of barriers, not on seeking excuses to retain protectionist restrictions we inherited from the EU, or signalling our approval or disapproval, or trying to influence non-trade policies of other countries except as part of multilateral agreements? Will he remember the 19th-century dictum that free trade is God's diplomacy?

Lord Grimstone of Boscobel (Con): My Lords, it is of course a great pleasure to have God on our side in these matters. The noble Lord is right: we are a global trading nation. Our future prosperity depends on us being a global trading nation. This will remain one of the core priorities of this Government.

The Lord Speaker (Lord McFall of Alcluith): Lord Curry of Kirkharle? Not present? I call the noble Baroness, Lady Jones of Moulsecoomb.

Baroness Jones of Moulsecoomb (GP): The Minister seems to be ignoring the fact that Australia has much lower food standards—incredibly low. It uses paraquat, which has been banned for years here in Britain, and antibiotics, which are also banned. Of course, we now have a trade deal with New Zealand—are we going to fly those kiwi fruits in? Australia also has incredibly low animal welfare standards. The Minister is ditching our better food for the sake of some boastful statement he can make here in the House.

Lord Grimstone of Boscobel (Con): The noble Baroness's question veers toward the unfair. What do I see when I read the Australia free trade agreement? I see a comprehensive environment chapter with Australia that protects our rights to regulate to meet net zero, sets our shared commitment to building mutually supportive trade and environment policies, and establishes co-operative efforts to support our green economy through trade in a range of areas. That seems to fit the bill.

The Lord Speaker (Lord McFall of Alcluith): My Lords, the time allowed for this Question has elapsed.

Private Equity Takeovers

Question

11.43 am

Asked by ***Lord Sikka***

To ask Her Majesty's Government what assessment they have made of the takeover of United Kingdom companies by private equity firms; and in particular, their effect on the economy.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the UK's merger regime recognises that investors play a major and positive role in the UK economy and that many UK sectors have benefited substantially from takeovers and mergers. On the few occasions that private equity-funded acquisitions have raised concerns, the Government have always carefully monitored developments and taken action when there were clear public interest grounds.

Lord Sikka (Lab): My Lords, the typical business model of private equity includes high leverage, financial engineering, tax abuse, pension dumping, job losses and asset stripping. This trail of destruction includes Silentnight, Bernard Matthews, Debenhams, Maplin, Cath Kidston, Toys "R" Us, Four Seasons and much more. When will the Government commission an independent inquiry into the impact of private equity's destructive practices on all stakeholders?

Lord Callanan (Con): The UK's merger regime, which I remind the noble Lord was put in place by the last Labour Government, recognises that overseas investors

[Lord Callanan]
play a major and positive role in the UK economy, and that many UK sectors have benefited substantially from takeovers and mergers. Such transactions can help to boost UK jobs, increase management efficiency and support businesses to grow on the world stage. We benefit from being an open and accessible economy.

Lord Browne of Ladyton (Lab): My Lords, I am sure that the Minister is aware of the latest Bank of England financial stability summary, which specifically warns that the current level of debt-fuelled US equity takeovers poses a growing threat to the UK economy. Bearing that in mind, what assessment has he made of the US National Bureau of Economic Research's academic study, which found that when private equity firms buy up public companies, employment shrinks 13% in two years after the acquisition, and the fact that that has prompted senior Democrats to introduce the Stop Wall Street Looting Act to prevent private equity funds forcing companies they purchase to take on new loans to extract dividends they could not otherwise afford? Does he appreciate the irony of the potential of that Act becoming law in the US?

Lord Callanan (Con): My Lords, of course we look at all transactions closely and there are specific grounds to intervene, set out by the Government that the noble Lord was actually a member of, as I said. We recognise the need for greater accountability for large private companies, including those owned by private equity. We published plans to do just that in our proposals on restoring audit and governance.

Lord Fox (LD): My Lords, I am sure that the Minister is aware of the acronym ESG, which stands for environmental and social governance—an important way of making sure that businesses behave properly. But there are different reporting standards for listed companies and private equity companies. Will he ensure that all companies trading in this country report on a level playing field? Will he undertake to make sure that everybody affirms the same ESG standards?

Lord Callanan (Con): As the noble Lord is aware, there are a multiplicity of different international standards, but we are of course introducing the transparency requirements on climate disclosures, as he knows. We have the audit reform proposals, which will extend the reporting requirements to many large private companies as well. We will publish our response to that consultation shortly.

Lord Bassam of Brighton (Lab): My Lords, according to the financial market data company Refinitiv, private equity firms have made over 345 bids for British companies this year—the highest number since records began back in 1984. We need to ensure that new owners act responsibly, so does the Minister have confidence that the regulatory bodies have sufficient oversight and powers to intervene when private equity owners of British companies fail that duty? How can we build national economic resilience at home to promote global Britain abroad if companies are being bought up so easily and cheaply?

Lord Callanan (Con): My Lords, we benefit in global terms from being an open and accessible economy. That brings in billions of pounds-worth of inward investment. My noble friend Lord Grimstone, who is in charge of the Office for Investment, works extremely hard to attract overseas investment. We must be very careful not to send out the message that we do not welcome inward investment into this country. That was something recognised by the previous Labour Government and certainly something recognised by this Government. Of course we keep these matters under review. We have introduced the National Security and Investment Act, which gives us additional powers to intervene on national security grounds, and we extended the grounds on which the Secretary of State can intervene under the Enterprise Act.

Baroness Wheatcroft (CB): My Lords, some private equity companies are good managers of businesses, others rather less so. Does the Minister agree that, given the need of the Treasury to bring in extra cash, the treatment of carried interest—the favourable tax treatment of private equity operators—is no longer sustainable?

Lord Callanan (Con): My Lords, I have never noticed any lack of interest from the Treasury in extending the tax base whenever it possibly can, but the current tax rules reflect the hybrid nature of this reward. If investment managers realise their carried interest gain within three years, that gain is treated as income and taxed accordingly. This approach is also followed by other comparable jurisdictions.

The Lord Speaker (Lord McFall of Alcluith): Lord Dubs? Not present? I call the noble Lord, Lord Holmes of Richmond.

Lord Holmes of Richmond (Con): My Lords, does my noble friend agree that inward investment and an economy open for global business are good, but where a UK target company has been built largely and perhaps sometimes exclusively on taxpayer-funded government contracts, should we not reconsider the current regime?

Lord Callanan (Con): It is difficult to give specific examples, but there are grounds under national security, financial stability, media plurality or public health emergencies for the Secretary of State to intervene in mergers and takeovers, and, of course, the CMA monitors competition grounds. Beyond those factors, we welcome inward investors and I agree with the noble Lord that we should be an open and accessible economy.

Baroness Chakrabarti (Lab): My Lords, everyone agrees that there is a benefit in investment, but we are not talking about long-term or even medium-term investors. We are talking about short-term profiteers. They are opaque, undertaxed and underregulated. Will the Minister sense the mood of this House and consider regulating in this area, not just on national security grounds but on human security and economic security grounds?

Lord Callanan (Con): We have not defined exactly what national security is, so there are grounds for the Secretary of State to intervene if we consider it appropriate. But, beyond the measures that I set out, we believe there is merit in us being an open, accessible economy, open to inward investment—and I would not characterise all private equity in the same way as the noble Baroness did.

Protocol on Ireland/Northern Ireland: Impact on Trade

Question

11.50 am

Asked by ***Lord Hain***

To ask the Minister of State at the Cabinet Office (Lord Frost) what assessment Her Majesty's Government have made of the impact of the Protocol on Ireland/Northern Ireland on trade within the island of Ireland since 1 January.

The Minister of State, Cabinet Office (Lord Frost) (Con): My Lords, as noble Lords would expect, the Government continue to observe very closely the situation as regards trade on the island of Ireland and more broadly, for example, trade in goods from Great Britain to Northern Ireland. It is clear that trade in both directions between Ireland and Northern Ireland has increased significantly since the start of the year and that this constitutes trade diversion created by the pressures of the protocol.

Lord Hain (Lab): I thank the Minister for his reply. On the protocol, he told the Centre for Policy Studies at the Conservative Party conference on 5 October that he was "keeping the other side on the hop, cultivating uncertainty with regard to how we are going to react". Why?

Lord Frost (Con): My Lords, I did indeed say that, because it is my job to get the best outcome for this country in the negotiations that I am charged with conducting. That is what we did over the previous 18 months and that is what I intend to do now. I do not think it would be particularly good tactics to reveal to the other side exactly what we are going to do or how we are going to go about it.

Lord Moylan (Con): My Lords, in addition to disrupting and diverting trade, the Northern Ireland protocol contains a systemic democratic deficit, in that laws are made with direct effect for Northern Ireland by the European Union with no opportunity for democratic say by those affected. This is unique in Europe. Does my noble friend agree that the removal of the jurisdiction of the European Court of Justice in Northern Ireland is a necessary but not sufficient step for correcting this anomaly and restoring this basic human right?

Lord Frost (Con): My Lords, I very much agree with the thrust of the question asked by my noble friend. We made very clear in the Command Paper that we published in July that the European Court of Justice and the system of law of which it is at the apex are a big part of the political difficulty that has arisen in Northern Ireland, and we need to find more balanced ways of resolving disputes in future.

Lord Liddle (Lab): My Lords, in the Minister's recent speech, which he made in Lisbon, not in this House, he said that

"the Protocol represents a moment of EU overreach when the UK's negotiating hand was tied".

But are the facts not somewhat different? Is it not the case that the Johnson Government, on the Minister's recommendation, accepted an arrangement that Theresa May said no British Prime Minister would ever accept; that the Johnson Government, presumably on the Minister's recommendation, decided to prioritise a hard Brexit over the sustainability of the Good Friday agreement and peace and security in Northern Ireland; and that the Johnson Government, perhaps on the Minister's recommendation, signed a treaty in the full knowledge that they had no intention of implementing its full provisions? Is it not about time that the Minister accepted some personal responsibility for the mess we are in in Ireland?

Lord Frost (Con): So, my Lords, I reject the implication of the question that there is any contradiction between a so-called hard Brexit, which is the only real Brexit and the only form of Brexit that allows this country the freedom it needs, and peace and security in Northern Ireland. Those two objectives are perfectly and absolutely compatible. We agreed a protocol that we hoped would do the job; it needed sensitive handling; it was highly uncertain in some of its mechanisms; and unfortunately it has not had the sensitive handling it needed. Therefore, we need to come back to the question. That is a pity, but unfortunately it is the reality.

Lord Purvis of Tweed (LD): My Lords, the Northern Ireland Statistics and Research Agency's most recent publication, issued on 4 August, highlighted that in 2019 trade between Northern Ireland and the Republic of Ireland increased by 9.9%, whereas trade with GB increased by 6.6%—so the Minister's claim that there is trade diversion as a result of the protocol is not the case. There is now a trend, with growth in the Republic. Therefore, is it not part of the UK Government's responsibility to promote exports from Northern Ireland to Ireland and to make sure that the Northern Ireland economy benefits from certain parts of the protocol? What are the elements of the protocol that the Minister is most proud of?

Lord Frost (Con): My Lords, I am proud of securing a deal that delivered democracy and took this country out of the European Union in 2019, which the people of this country voted for. On trade, the figures from the Irish Central Statistics Office for the first eight months of the year show that trade from Ireland to Northern Ireland has gone up 35% and from Northern Ireland to Ireland has gone up 50%. Those are significant figures and clearly show that there is something unusual going on—which I think is trade diversion.

Baroness Chapman of Darlington (Lab): I have a couple of very simple questions for the Minister about this. I tried to ask them last week, after he flew back

[Baroness Chapman of Darlington]
from Lisbon, but he did not seem to want to answer them then. I shall try again today. They are very simple.

First, the Minister has sent a draft legal text of the protocol, which he says he has written, to Brussels. He does not want to show his cards on other issues but, seeing that he has already shown the text to Brussels, why is he not showing it to parliamentarians in the UK? Secondly, it is very important that he engages meaningfully and fully with elected politicians in Northern Ireland on this issue. Did he consult any Ministers in the Northern Ireland Assembly before he sent his draft text of the Northern Ireland protocol to Brussels?

Lord Frost (Con): My Lords, I think the question is based on a slight misconception that the legal text that we sent in represents some new stage or evolution in our position. It does not. It reflects the position that was set out in the Command Paper on 21 July and puts it into legal form. It is a negotiating document for the purposes of negotiations. It does not change the UK Government's position in any way. Of course we discuss with elected politicians in Northern Ireland all the time what our position is, and we did that while preparing the Command Paper.

Baroness Neville-Rolfe (Con): My Lords, I am interested in trade and especially in exports, because they are vital to UK growth and success. We heard from the Minister about trade within the island of Ireland, but how does he expect the pattern of UK trade within the EU 27, both in goods and services, to change in the years ahead?

Lord Frost (Con): My Lords, my noble friend identifies an important point, which is that trade in both goods and services is subject to a lot of noise at the moment—the ongoing Covid pandemic, the effects of leaving the customs union and the single market, stock building and so on—and it is difficult to isolate trends. Nevertheless, our goods exports are nearly back to the levels of 2019. Services exports and imports are down somewhat, but of course the huge impact on the movement of persons, tourism and so on has very significantly affected those figures. So it will be a long time before we reach a steady state, but I have huge confidence in the ability of our exporters and traders to manage that situation.

Lord Wallace of Saltaire (LD): My Lords, can the Minister clarify whether he understood when negotiating the protocol that it was incompatible with British sovereignty, or whether he has discovered that since? He will recall that AV Dicey's definition of UK sovereignty as indivisible, which I know he now follows, was shaped by his active and bitter opposition to Irish home rule. In those terms, the Good Friday agreement is also an infringement of indivisible UK sovereignty. Does the Minister think that should also be renegotiated?

Lord Frost (Con): My Lords, the difficulty we have with the protocol is not so much the sovereignty issue, because the territorial integrity of the UK and the integrity of the internal market of the UK are very clearly protected in the protocol, but the difficulty it has generated in movements of goods and trade within the United Kingdom. If the protocol was to work, it would have required very sensitive handling. Unfortunately, it has not had that sensitive handling, and therefore we have a political problem.

Lord Adonis (Lab): My Lords, the new EU ambassador to the United Kingdom presented his credentials to Her Majesty the Queen earlier this week. Afterwards there was a reception at which many Members of the House were present. The Minister was not present, nor was any representative of the Government, which—as a senior diplomat pointed out to me—would have been utterly inconceivable at an equivalent reception for a new ambassador from the United States or any of our other principal allies. I know that the Minister has now decided to set himself up as an anti-diplomat rather than a diplomat and unlearn all the arts and craft of his trade that he had accumulated over the previous 20 or 30 years, but does he not think that the interests of the United Kingdom would be well served by him once again becoming a diplomat, rather than gratuitously insulting our European partners?

Lord Frost (Con): My Lords, I very much wished to go to that reception. Unfortunately, as colleagues know, I was not well on Tuesday and could not attend, but my office was there and represented me. I wished to avoid any apparent discourtesy, and the ambassador has acknowledged that. It is very important that we maintain the normal diplomatic arrangements between our countries and territories, and it is absolutely my intention that we should do that.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the time allowed for this Question has now elapsed and we move to the second Question.

Protocol on Ireland/Northern Ireland: EU Proposals

Question

12.02 pm

Asked by ***Baroness Ritchie of Downpatrick***

To ask the Minister of State at the Cabinet Office (Lord Frost) what discussions he has had with the Vice President of the European Commission following the publication of the European Union's proposals regarding the Protocol on Ireland/Northern Ireland on 13 October.

The Minister of State, Cabinet Office (Lord Frost) (Con): My Lords, I am in regular contact with Vice-President Šefčovič about the full range of issues relating to the UK-EU relationship. Most recently, I met him in Brussels on 15 October for an initial discussion of the EU's proposals. I expect to talk to him again very shortly. My teams and that of the EU have been in talks in Brussels this week about the detail of the proposals that the EU has put on the table.

Baroness Ritchie of Downpatrick (Lab): My Lords, ongoing discussions will undoubtedly highlight the innumerable benefits that have flowed from the Northern

Ireland protocol, encompassing business and economic development, inward investment opportunities and job creation, as well as the areas in which a joint UK-EU approach is required around mitigations for medicines and agri-food products. In view of this, can the Minister indicate whether the Government have undertaken an evidence-based assessment of the impact of the removal of the European Court of Justice on local businesses in Northern Ireland? It is a yes or no answer. By the way, no business in Northern Ireland has highlighted a problem with the European Court of Justice.

Lord Frost (Con): My Lords, opinions differ on the innumerable benefits of the protocol, as the noble Baroness puts it. I certainly hear concern from business about the imposition of EU law without consent that the Court of Justice of the European Union is at the summit of. The difficulty is that it is not true to say, as some do, that the protocol gives the benefit of both worlds. It gives access to the EU single market for goods but at the very significant price of restricted access to Northern Ireland's major trading partner, which is Great Britain and the rest of the United Kingdom. That is the unsatisfactory balance that we currently have, one that needs to be redressed.

Baroness Crawley (Lab): My Lords, does the Minister intend to promote the benefits of the protocol, as set out by the noble Baroness, Lady Ritchie, to the business community in Northern Ireland, 67% of which believes that Northern Ireland's status now represents many opportunities for the region? Will he say which of the many benefits set out in the European Union's 13 October proposals he is most excited about and engaged with? For example, is it that if a lorry transports 100 different food products from GB to Northern Ireland, only one certificate will now be needed instead of 100 certificates? We would join him in such a campaign.

Lord Frost (Con): My Lords, my team has been in discussion with the EU on this subject all week. We are seeking to understand the detail that underlies some of the headline claims that the EU has made. It is possible that we do not fully understand that detail yet, but perhaps that will come. One aspect of the EU proposals that I am excited about is that they show that what previously it has considered impossible—changing its own laws for the special circumstances of Northern Ireland—is now possible. That is a very important and welcome step, and I hope the EU might be able to go further than the proposals it put on the table last week.

Baroness McIntosh of Pickering (Con): I think my noble friend would agree that the Northern Ireland protocol is an integral part of the withdrawal agreement. Does he not share my concern that, if we go back and seek to renegotiate the Northern Ireland protocol, we will open up and have to renegotiate the withdrawal agreement as well?

Lord Frost (Con): My Lords, the protocol has always been a somewhat separable bit of the withdrawal agreement, in the sense that it was renegotiated after the first version of the withdrawal agreement was agreed back at the start of 2019. It is to some extent free-standing in that sense, so I do not think that opening it up should affect wider parts of the deal. It is a text that is there to deal with a very specific problem, and therefore we need to find the correct, very specific solution.

Baroness Ludford (LD): My Lords, the *New York Times* ran an interesting article a few days ago under the headline "Showdown Over Northern Ireland Has a Key Offstage Player: Biden". It was clearly briefed by administration officials and said:

> "In recent days, unprompted, Mr. Biden asked his staff for an update on the negotiations between Britain and the European Union over trade arrangements in Northern Ireland. He urged them to relay a message to the Johnson government that it should not do anything that would jeopardize the peace accord in the North".

It also said that

> "pressure from the American president may cause Mr. Johnson to think twice about provoking another destabilizing clash with Brussels."

Does that pressure do so, or are this Government really going to antagonise what they love to describe as their closest ally?

Lord Frost (Con): My Lords, as a Government we obviously have our own dialogue with the US Government that does not depend on messages in the *New York Times*. I refer back to the statement made by the Prime Minister when he was in Washington last month, when he noted that he and President Biden were "completely at one" on the importance of protecting the Belfast/Good Friday agreement. We are completely at one on that subject.

Lord Kerr of Kinlochard (CB): I am really puzzled by the Minister's reply to the question from his noble friend, the noble Baroness, Lady McIntosh. Does he not acknowledge that in law the protocol is an integral part of the treaty? Does he accept that safeguard action under Article 15 of the protocol could not extend to abrogating Articles 12 and 5 of the protocol, which set out the role of the court? Does he accept that the EU could not conceivably agree to amend Article 12 to confer on a non-EU court the right to interpret EU law? If so, how would he deliver on his threat? Since it cannot be done legally, does he again envisage legislating to act illegally in a "limited and specific way"? If so, I do not believe this House would agree.

Lord Frost (Con): My Lords, obviously the protocol is part of the withdrawal agreement but that does not prevent its being reopened and renegotiated separately. The same is true of any treaty; it is possible to negotiate part and not the whole thing. On the Article 16 question, obviously the Article 16 provisions in the protocol are nearly sui generis. There are very few parallels for them anywhere else. The scope of how they may be used remains to be tested. What is clear is that they are safeguards to deal with an evolving and difficult socioeconomic situation and the issue of trade diversion. When and if we take action under Article 16, obviously that will be the purpose of any action. As I say, though, we hope to come to a consensual agreement rather than having to go down that road.

Baroness Chapman of Darlington (Lab): I take it from the answers the Minister provided to the previous Question that he did not consult Ministers in Northern Ireland about his new draft text and does not intend to publish it for the benefit of politicians in this country. I gently say to him that contentious issues in Northern Ireland are never resolved without the engagement of senior figures, and he needs to take this far more seriously. Rather than flying around Europe making speeches, why is he not speaking with Mr Šefčovič in Belfast to thrash out these issues? The people of Northern Ireland and the public here will tire of this endless Brexit drama vortex that he seems to want to keep us captured in. We want solutions and he will find them only through dialogue, and I suggest that that should take place in Belfast.

Lord Frost (Con): My Lords, we are obviously engaged in a very intensive dialogue on this question, both at my level and among teams and beyond that. As I said, obviously we talk to senior politicians in Northern Ireland across the range of opinion the whole time, and that is the responsibility of others in this Government as well as myself. We will publish the legal text if it is useful to the process, just as we did last year in negotiations on the trade and co-operation agreement. When it is useful and when it can help to get us closer to agreement then we will consider doing that, but at the moment it is a confidential negotiating document.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the time allowed for this Question has elapsed.

Protocol on Ireland/Northern Ireland: Effect of Renegotiation on Other Trade Negotiations

Question

12.13 pm

Asked by ***Baroness Hayter of Kentish Town***

To ask the Minister of State at the Cabinet Office (Lord Frost) what assessment Her Majesty's Government have made of the diplomatic consequences for (1) current, and (2) future, trade negotiations, of their decision to seek to renegotiate the Protocol on Ireland/Northern Ireland.

The Minister of State, Cabinet Office (Lord Frost) (Con): My Lords, the Government are implementing a successful programme of trade negotiations around the world. Agreement in principle was announced with New Zealand overnight, and we have already reached agreement in principle with Australia. In both cases, these are hugely beneficial free trade agreements to both parties. We do not believe that our efforts to resolve the difficulties arising from the Protocol on Ireland/Northern Ireland will have any diplomatic consequences for our FTA negotiations programme.

Baroness Hayter of Kentish Town (Lab): That really sounds like wishful thinking. We have heard about New Zealand, and indeed I think the noble Lord was in his place at the time. We have applied to the CPTPP and we have the Australia deal. Can he really think that his willingness to tear up an agreement that he negotiated and the Prime Minister signed—in good faith, we assume—just two years ago will help the work of his fellow Ministers as they negotiate delicate deals with other countries around the world regarding the likelihood that we will hold to any agreement that we sign?

Lord Frost (Con): My Lords, no one is speaking of tearing up the Northern Ireland protocol. We have made very clear that our wish is to negotiate a new version of the protocol with a new balance, and to do so consensually. That is not unusual in international relations, and there are plenty of examples that one could give. On the FTA question, look at the facts: we negotiated 60-plus free trade agreements last year before withdrawal; we have a huge programme of negotiations going on; and I am sure that they will come to good and beneficial results.

Baroness Altmann (Con): My Lords, does my noble friend agree that, in any trade negotiation, trust is important and that, having signed agreements, it is important for the UK to maintain that trust? Does he agree that, in almost all cases, the free trade agreements agreed thus far do not require us to remove regulations that we already have? Would it be possible for the UK to commit to a period until, let us say, 2024 or 2025 for maintaining our regulations in order to rebuild trust and work out a solution that can demonstrate the UK's good faith in trying to identify a new resolution for Northern Ireland?

Lord Frost (Con): My Lords, as I have said on previous occasions, the question of trust is important and it takes two sides to create trust. As I set out in the speech in Lisbon to which the noble Baroness previously referred, there are a number of things that the EU has done that have not necessarily been conducive to building trust either, but we need to move on from that and generate new momentum to try to reach agreement on a revised protocol. On the question of SPS regulations, the difficulty is that free trade agreements are not the only reason why you might wish to evolve your own agri-food regulations, and indeed the EU has evolved its own autonomously since the start of 2021. Where there is divergence it is for that reason, not because of anything that we have done.

The Earl of Kinnoull (CB): My Lords, 24 committees and groups were set up under the trade and co-operation agreement. Have all 24 now met and can they be considered fully operational?

Lord Frost (Con): My Lords, they have not all met yet, although they have largely met. I think four of these committees still have to meet this year, then the trade partnership committee, and then we hope for another meeting of the Partnership Council before the end of the year. The agendas for specialised committees are published on GOV.UK for those who are interested. So the programme has well begun and we expect to complete a full round by the end of the year.

Lord Anderson of Swansea (Lab): My Lords, can anyone trust this Government on international legal matters? They have already admitted to breaching international law again on Northern Ireland. Now they have failed to honour a protocol that they freely entered into, and they threaten to breach our clear obligations under the European Convention on Human Rights. Is this cavalier attitude to international legal obligations likely to be a positive or a negative feature in relation to our future partners?

Lord Frost (Con): My Lords, I am afraid I do not entirely agree with the suggestion that we have been cavalier about our obligations under the protocol. Unfortunately, the problems that exist in Northern Ireland are the problems of implementation of the protocol, not of non-implementation of it. We have spent hundreds of millions of pounds on setting up services to help British businesses to trade with Northern Ireland, but unfortunately that has not solved the underlying difficulties. So implementation is not the solution; renegotiation and a better solution is.

Lord Newby (LD): My Lords, in his speech in Portugal the Minister said that the Government are

"constantly faced with generalised accusations"

that they

"can't be trusted and are not a reasonable international actor."

When I asked him last time that he was at the Dispatch Box why this might be the case, he said that was a question that he constantly asked himself. I wonder whether this constant process of self-reflection has produced a clearer answer than the one that he was able to give me at that point.

Lord Frost (Con): My Lords, I like to think that I engage in a constant process of self-reflection. I am reassured that it usually reaches the same result, which is that when I look at the way that this Government have acted on the international stage since Brexit was established, the role that we have played in the world, the establishment of AUKUS and our position on issues to do with China and many other issues, I think we stand as a constructive and fully responsible international player.

Viscount Trenchard (Con): My Lords, does my noble friend agree that it is internationally recognised that the UK is rightly standing by its obligations to protect the Belfast/Good Friday agreement and that the EU has also recognised this, as evidenced by its agreement to negotiate changes to the protocol? Does he not also agree that the UK can now act as a leading advocate at the WTO of free and fair principles-based international trade, leading to greater prosperity for many millions around the world?

Lord Frost (Con): My noble friend makes an extremely good point: that after Brexit, as an independent global trade player, we are one of the biggest in the world. We are very influential and hope to become more so in the WTO, and to be able to stand up and speak for trade liberalisation across the world, which is of huge benefit to us all.

Lord Hannay of Chiswick (CB): My Lords, will the Minister tell us what the case is for the UK being the only country in the world which has two separate Ministers and two separate departments, each dealing with roughly one-half of our overseas trade? What are the consequences for our handling of negotiations? What analysis has he received from the embassy in Washington on the realism of expecting decisive progress on a US-UK trade agreement under the Biden Administration?

Lord Frost (Con): My Lords, the decision taken, which I think is a good one, is that the UK-EU TCA is so sui generis—in fact, it goes much beyond trade into many wider areas such as law enforcement, road transport and so on—that it is best to handle it in a sui generis way. I do not know whether that decision is for ever, but it is the one that has been taken at the moment. We are ready to talk to the US about an FTA when it is ready. The US is conducting a review of its external trade policy at the moment. Some negotiating rounds have already taken place, but we stand ready to talk when both sides are ready.

Baroness Smith of Basildon (Lab): My Lords, I have listened carefully to the Minister's answers today and rarely have I heard answers so complacent about the concerns raised in your Lordships' House on our international reputation and future ability to negotiate agreements, whether they be trade agreements or the complex negotiations around COP 26, if there is a lack of faith in us being trusted to keep our word on agreements we have already negotiated. I hope that he will go away and reflect on the comments he has made to your Lordships' House today. On that issue, I bring him back to his earlier comment about the legal text. He said, "We will publish the legal text if it is useful". We think it would be very useful and, if there is no difference from what has already been said, can he explain why he will not publish it? I bring him back to the issue of trust and transparency as something on which this Government have to make up for lost ground.

Lord Frost (Con): My Lords, we will publish the legal text if it is useful to the negotiating process between us and the European Union. At the moment, I am not convinced that it would be; circumstances may change, so that is not a decision of principle. To return to the first point of the question, I am of course in no way unmindful—quite the opposite—of our international reputation but, in the end, I cannot do anything about how others perceive us.

Noble Lords: Oh!

Lord Frost (Con): I am not complacent about things that are in our hands, which is the situation in Northern Ireland. I am in no way complacent about that and it is the focus of the activity we are trying to pursue. This Government are responsible for the prosperity and security of Northern Ireland. That is why we are pursuing the task as we are and that, along with the support of the Good Friday agreement, is our primary objective as we go forward.

Lord Foulkes of Cumnock (Lab Co-op): My Lords—

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the time allowed for this Question has elapsed and I must ask the noble Lord to resume his seat.

Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill

Second Reading

12.25 pm

Moved by ***Lord Callanan***

That the Bill be now read a second time.

Debated in Grand Committee on 19 October.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): I remind the House that the debate before Second Reading on the Bill took place in Grand Committee on 19 October, and call the noble Lord, Lord Callanan, on behalf of the noble Lord, Lord Greenhalgh.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, I beg to move formally that the Bill now be read a second time.

Lord Cormack (Con): My Lords, I would like to put it on record that I took part in the debate in Grand Committee. Because the timing was changed twice, many who wished to take part in that Second Reading had to withdraw. This is not a very satisfactory way of proceeding. It is exceptional and I would like my noble friend's assurance that he does not wish to do this again. Second Readings should take place on the Floor of your Lordships' House.

Lord Callanan (Con): My Lords, much as I would like to reassure the noble Lord, these matters are not within my control. As he is no doubt well aware, these are matters agreed between the usual channels of the main party groupings. There have been extensive opportunities to take part in briefings and other matters related to the Bill.

Bill read a second time and committed to a Grand Committee.

Arrangement of Business

12.26 pm

Lord Foulkes of Cumnock (Lab Co-op): My Lords, before we get on to the main business, can I raise a procedural point? The Deputy Speaker was in the Chair during the Questions to the noble Lord, Lord Frost—the Minister of State—and will have seen that, unusually, a large number of supplementary questions were not reached. Would it be possible for the House to refer to the Procedure and Privileges Committee to look at how these important questions, to the only Cabinet Minister answering questions in this House, can be properly dealt with? It is a matter of great importance and everyone should have the opportunity to ask that Minister questions.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): That is not a question for me, as the noble Lord knows, but he is absolutely at liberty to make a representation to the committee if he wishes to do so.

Skills and Post-16 Education Bill [HL]

Report (2nd Day)

12.28 pm

Amendment 35

Moved by ***Baroness Barran***

35: After Clause 13, insert the following new Clause—

"Information about technical education and training

Information about technical education and training: access to English schools

(1) Section 42B of the Education Act 1997 (information about technical education: access to English schools) is amended as follows.

(2) In subsection (1), for "is an opportunity" substitute "are opportunities".

(3) After subsection (1) insert—

"(1A) In complying with subsection (1), the proprietor must give access to registered pupils on at least one occasion during each of the first, second and third key phase of their education."

(4) After subsection (2) insert—

"(2A) The proprietor of a school in England within subsection (2) must—

(a) ensure that each registered pupil meets, during each of the first and second key phases of their education, at least one provider to whom access is given (or any other number of such providers that may be specified for the purposes of that key phase by regulations under subsection (8)), and

(b) ask providers to whom access is given to provide information that includes the following—

(i) information about the provider and the approved technical education qualifications or apprenticeships that the provider offers,

(ii) information about the careers to which those technical education qualifications or apprenticeships might lead,

(iii) a description of what learning or training with the provider is like, and

(iv) responses to questions from the pupils about the provider or approved technical education qualifications and apprenticeships.

(2B) Access given under subsection (1) must be for a reasonable period of time during the standard school day."

(5) In subsection (5)—

(a) in paragraph (c), at the end insert "and the times at which the access is to be given;";

(b) after paragraph (c) insert—

"(d) an explanation of how the proprietor proposes to comply with the obligations imposed under subsection (2A)."

(6) In subsection (8), after "subsection (1)" insert "or (2A)".

(7) After subsection (9) insert—

"(9A) For the purposes of this section—

(a) the first key phase of a pupil's education is the period—

(i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 13, and

(ii) ending with 28 February in the following school year;

(b) the second key phase of a pupil's education is the period—

(i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 15, and

(ii) ending with 28 February in the following school year;

(c) the third key phase of a pupil's education is the period—

(i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 17, and

(ii) ending with 28 February in the following school year.""

Member's explanatory statement

This amendment ensures that providers of technical education and apprenticeships are given reasonable access to pupils in secondary schools in England at key points during the course of their education to provide relevant information about technical education and apprenticeships and that pupils meet with providers on at least two occasions.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, Amendment 35 is in my name. I am pleased to bring this amendment to the House. The Government believe strongly that young people and adults, at all stages of their career, need to be equipped to make informed choices. They need to know about the range of qualifications and training available to them so that they can progress to their chosen field. I know that it is rightly a matter of great concern for this House that all young people are introduced to the benefits of technical education and apprenticeships, so that they can make informed decisions about the next step in their education or training.

In particular, I thank my noble friend Lord Baker for his tireless commitment and vision in focusing on this important issue and for his amendment to the Technical and Further Education Act 2017, which led to the commencement of the Baker clause. This means that schools have a statutory duty to provide opportunities for pupils to meet technical education or apprenticeship providers and learn about technical education options.

As part of the original Baker clause, the Government set out clear requirements and expectations in statutory guidance, and offered support through the Careers & Enterprise Company. Despite some examples of excellent practice, the Government are still seeing too many schools failing to comply with the duty. They have seen providers blocked from going into schools or schools limiting provider encounters to selected groups of pupils. In March 2021, the UCAS report *Where Next?* showed that almost one in three young people said that they did not receive any information about apprenticeships from their school.

12.30 pm

The Government originally set out our plans for how to strengthen the Baker clause in our *Skills for Jobs* White Paper. Thanks to engagement with your Lordships in this House, and especially with my noble friend Lord Baker, the Government now think that this is the right time to bring forward improvements to the legislation. It is time to strengthen the Baker clause so that all young people can learn about the exciting high-quality opportunities that technical education and apprenticeships can offer. This will fulfil our commitment in the White Paper to introduce the new minimum requirement, covering who is to be given access to which pupils and when.

Our amendment builds on the current duty by specifying that schools must put on three encounters with providers of approved technical education qualifications or apprenticeships. All pupils must go to the first two encounters, in either year 8 or year 9, and again in either year 10 or year 11. The third encounter, in either year 12 or year 13, will be optional for pupils to attend. We have listened to my noble friend Lord Baker's wish to specify in more detail the number or type of providers that every pupil must meet during their mandatory encounters.

This amendment will give the Secretary of State the power to set out further details in secondary legislation, if needed. For example, it could require pupils to meet a representative from an FE college or a UTC where there is one within reasonable travelling distance of the school. The school must give each provider a reasonable amount of time to meet pupils and must timetable these visits during normal school hours. They may of course supplement this with provider visits at other times, in addition.

The amendment will also help to safeguard quality by setting parameters for every provider encounter. The school must ask the provider to share information about both the provider and the provision that it offers, to explain what career routes those options could lead to, to provide insights into what it might be like to learn or train with that provider and to answer questions from pupils. We believe that this amendment strikes a careful balance between widening access for providers and managing the requirements on schools. It also offers flexibility to amend details further in response to future policy change.

We must also remember that providers are one important element within the wider careers framework, the Gatsby benchmarks of good careers guidance. We expect schools to provide a wide range of careers activities, including curriculum learning linked to careers, employer encounters, experiences of the workplace and personal guidance, to support pupils to make fully informed choices. I beg to move.

Lord Baker of Dorking (Con): My Lords, I will speak to Amendment 35A, which is in my name and those of others. Before explaining its purpose, I say to the Minister that the whole House appreciates how difficult it is to take over a Bill three-quarters of the way through. This is a very complicated and difficult Bill that requires a great deal of educational knowledge, and she has measured up to that enormously—it must have taken a lot of midnight oil. I thank her very much.

The purpose of these two amendments is exactly the same: to make the Baker clause workable. I drafted the Baker clause four years ago in order to improve careers guidance because I wanted students to leave school at 18 knowing about apprenticeships and about what FE colleges, independent sixth form colleges, private providers and UTCs do. Quite frankly, heads

[Lord Baker of Dorking]
do not tell their students very much, because, for every student who goes, they lose between £5,000 and £6,000. They even keep in their schools students whom they individually believe would be better in other education training. That is the position.

When John Nash, who was then a Minister, agreed it, I was told that he would tidy up my drafting, and I thanked him for that. I begged the department to make it a legal duty for schools to hold these meetings, because heads will not be keen to—they will try to avoid them. I was told that that would be met by ministerial guidance when the Bill was on the statute book. Ministerial guidance was issued, but it was largely ignored.

When we approached schools and UTCs locally—some of them never replied—we were told that they were too busy to do this and that they could not do it. They also fobbed it off and said, "You can have a meeting in late June or July, after the exams", when the schools are half empty. They did not even realise that, if you cannot have these meetings before 28 February each year, they are useless because, on that day, school lists close for the September of that year. So I was not very impressed with that.

As I said, when the Bill was enacted, the ministerial advice was totally ignored, so the Baker clause has not been operable for three years. The Government have now provided a way of making it operable. I do not think that this will be as effective as the new clause that I have written for two reasons. First, secondary legislation will delay the actual implementation, probably for weeks or months, quite frankly. They have to go through consultation. As we know, secondary legislation is, in many cases, never debated, but when it is, it cannot be amended. It is really a measure of government by decree rather than debate, and that is inappropriate. My proposed new clause would mean that this would come into effect on the day that the Bill receives its Third Reading in the House of Commons—much earlier than under the Government's amendment.

The government amendment is quite defective when it says that there should be one meeting in the school. The point is that there will be three phases or times—13 to 14, 15 to 16, and 18—when providers can go in to approach the children. But they say that there should be "at least one" meeting, which means that, if an FE school gets in first—say, on 30 November—the duty of one meeting has been met and all the others can be turned down. That is totally inappropriate. My amendment says that there should be up to three meetings—I do not think that we should disrupt schools more than that. They would not be for a full day; they would be for two or three hours each, and perhaps two or three providers could speak. That is basically what my amendment says.

The other deficiency in the Government's amendment is that it does not mention, as my amendment does, the information which providers have to provide. That is in my proposed new subsection (2A)(b) and it includes

"(i) information about the provider and the approved technical education qualifications or apprenticeships that the provider offers … (ii) information about the careers to which those technical education qualifications or apprenticeships might lead … (iii) a description of what learning or training with the provider is like, and … (iv) responses to questions from the pupils about the provider or technical education qualifications and apprenticeships".

So my amendment sets out clearly what the providers have to do when they go in. I am afraid that the government amendment depends on secondary legislation, which, as I have said, cannot be debated or amended in this House, and it would delay the introduction of the Bill. My amendment is a much more effective way of doing it.

When I asked the department to say that UTCs would definitely be included among providers, it said, "Well, we cannot give you that complete guarantee." That is a great mistake, because UTCs have the best record in respect of students leaving who do not become unemployed. That is what we are very proud of. The average level of student leavers not in education, employment or training, or NEETs, is 9.3%; we are 3%. Last year, four university technical colleges had no NEETs at all: in Hull, Portsmouth, Aston in Birmingham and Sellafield's UTC on the north-west coast. Students in schools should know that and know that they have very good career prospects by going to university technical colleges.

I have set out why I think my amendment is more effective. It would definitely come in earlier than the Government's, probably by months, so I commend it to the House. When the time comes, I shall seek to test the opinion of the House.

Lord Adonis (Lab): My Lords, in the choice between the Minister's amendment and that of the noble Lord, Lord Baker, we are faced with action versus less action. Lloyd George famously said, "When traversing a chasm, it is desirable to do so in one leap." I cannot think of any good reason why the House would not go for the serious action rather than the lesser action.

We are supposed to be agreed on the objective, which is that more young people should have the opportunity to engage in technical, vocational and apprenticeship routes which are suitable to them. It is very difficult to engage in those routes if you do not know about them. We are talking about schoolchildren who for the most part are not aware of those routes; they are in schools which have an academic curriculum. It is a big problem going back to the Education Act 1944, which, alas, we seem to have been incapable of putting right over the course of 50 years, that we have an unfit-for-purpose education system so far as vocational and technical education is concerned and pathways through to apprenticeships which are still largely non-existent. We are trying to put this right, and there is a broad consensus in the House that it should be put right—the problem is that the Government have produced a mouse instead of a Bill. I am afraid that this Bill is largely a placeholder put in the space marked "technical education, apprenticeships, levelling up"—we know that the Prime Minister thinks that levelling up is part of his core mission, so he has to have something which occupies that space—but it does not have a policy in it that will match the objectives.

The Minister should be prepared simply to accept the amendment in the name of the noble Lord, Lord Baker, since it is technically possible, and it would lead to a big difference in the exposure of school-age

children to technical education options. It should happen, and the fact that it is not going to happen, and it appears that we are going to have vote on it in 15 or 20 minutes, is because the Government are half-hearted, inconsistent and largely AWOL on whether we are actually going to move and start transforming provision in our schools and our educational system relative to technical education. I hope that the noble Lord's amendment is put to the vote and carried, and maybe, on the rebound, when hopefully they are faced with a large majority, the Government will accept it.

12.45 pm

Those of us who have had responsibility for these issues know only too well that putting before young people serious information about alternative options is a real problem in our schools. The noble Lord started the city technology colleges, and I took forward the academies programme. I am strongly in favour of schools having strong leadership and governance. You do not get successful institutions in any walk of life unless they are purpose-driven and have strong leadership and governance. The other side of having strong leadership and governance is that, by and large, the headteachers of those institutions are not wildly keen for students to go to other schools and colleges. That is for obvious reasons, as the noble Lord said: because they lose £4,000 or £5,000, and because they probably believe that what their school offers is better than what another school would offer. This is a particular problem in respect of the university technical colleges, because they recruit their students at the age of 14, which is precisely midway through secondary education. The last thing that a headteacher wants—and they will be looking after number one first and foremost—is for their students to have information about options that could lead them to leave the school halfway through.

There is a systemic failure here, which can only really be addressed by having an absolutely enforceable right for alternative providers to come into the school. For the most part—there will always be exceptions; we know that you get particularly enlightened headteachers—human nature is not going to work in an aligned way in respect of alternative providers being able to come in. We also know that that is the case because we tried the halfway house before. An amendment to a previous Bill tabled by the noble Lord did not have the teeth of this one. It did not create an enforceable right to come into a school and was dependent on guidance. He was very charitable about the guidance, saying that it was ignored, but the guidance was so weak that, even if it had been fully observed, it still would not have delivered the policy objective that he sought to achieve.

At this the second time of addressing this issue, we must not flunk it; we must actually see that young people are given the opportunity to go to an institution which, if they have a technical bent, is more suitable to them and which will prepare the way for them to go to an apprenticeship. There are number of ways in which we need to address this chronic issue—and we shall come later to issues relating directly to the apprenticeships system, which is still woefully inadequate in this country. One way to do so is to see that young people of school age, particularly at 14, which is when they start developing a greater awareness of the talents that will enable them to succeed in life, have information about, and are able to choose, institutions which are best suited to developing those talents. We cannot have an education system in a first-rate country like ours unless it is able to deliver that objective. That is what is at stake here. I hope that the House will support the amendment in the name of the noble Lord, Lord Baker.

Lord Storey (LD): My Lords, we have come a long way from the days when someone considering their further education or career development would be told, "There's a cupboard. Go and choose your prospectus". We now have a situation where there is an academic curriculum for the academic students and the other 50% of students are pushed or cajoled into a sixth form which is clearly not suitable for them. We know why: money counts. To answer the point made by the noble Lord, Lord Adonis, we live in a sort of educational free-market economy where schools compete with one another. When the A-level results come out, all the banners go outside the various secondary schools trying to entice pupils to switch to their sixth forms. But I am not interested at the moment in the academic students; I am interested in those other students for whom a further educational or vocational pathway would be far better.

I want to ask the Minister quite directly why we should not support the amendment in the name of the noble Lord, Lord Baker. It eminently makes sense; why are the Government not supporting it? I have not heard any reason given.

It is shameful that schools behave in this way. You would think that a school would want the best for its pupils. If a young girl or boy is suited to a vocational career, the school should do all in its power to make that happen, but we do not see that happening, which reflects badly on those schools. I have to say, though, that there are many secondary schools that do the opposite and—even before the clause of the noble Lord, Lord Baker—have fairs where different colleges and career representatives come along to show what is on offer. We should not need this clause; it is shameful that we do, but we do. I would be interested to know from the Minister what sanctions we placed on those schools that have not operated the current Baker clause. Is Ofsted, for example, reporting in its inspections when a school has not co-operated with or involved other FE colleges, providers or careers opportunities?

Finally, the Minister quite rightly talks about the Gatsby benchmarks but, again, not all schools have achieved the right level that they should; it is an ongoing process. We very much support this amendment and will do so if it goes to a vote.

Lord Aberdare (CB): My Lords, I will not speak at any length about these two similar amendments, because I agree wholeheartedly with what all three speakers so far have said. Both represent an improvement on the current situation but, as we have heard, Amendment 35A from the noble Lord, Lord Baker, has stronger teeth and would provide for more frequent access—three times during each of the three specified phases, rather than just once. That is much more in line with the requirements of the Gatsby career benchmarks. It would require meetings with a representative range of educational and training providers, including UTCs,

[Lord Aberdare]
rather than just one provider, and it would not rely on any as yet unspecified statutory guidance. For all those reasons, it makes it much more likely that the requirement for pupils to receive these opportunities really takes place. I will certainly support the noble Lord if he puts his Amendment 35A to a vote.

The Minister's helpful letter to us on Tuesday included a positive section on careers information and guidance, although I continue to regret the absence of a renewed careers strategy to provide an overall context and objectives for the various laudable actions that she set out. She mentions the support given by the Careers & Enterprise Company's personal guidance fund for activities, including training for careers professionals, and the development of a pipeline of qualified careers professionals for the future. I wonder if she has made any assessment of the numbers of such professionals needing to be trained, what level of qualification they need to be trained to, and whether the funding and other incentives on offer are sufficient to meet those needs—in other words, a sort of workforce development plan for careers professionals. That is one reason why I think it would be helpful to have a strategy that sets out all the elements that are needed to deliver the kind of careers support that we need.

I end by echoing the point made by the noble Lord, Lord Storey: these amendments are important, and it is equally important that we make sure they are in some way enforced and the requirements are met.

Lord Lucas (Con): My Lords, we had a fair old ding-dong last time we met on this Bill, with the Government proposing that we should destroy an entire suite of examinations in order to improve access to T-levels. Yet here they are refusing to make minor changes to the sight that children are given of T-levels—which have many other benefits—as an option.

I do not see how the Government are being consistent on this. If they want T-levels to be fully appreciated as an option by young people, they need them to be put in front of those young people, clearly and frequently. That is what my noble friend Lord Baker's amendment would do, and the Government's amendment would not. I am thoroughly with those noble Lords who have spoken in saying that my noble friend's amendment is a better way forward than the Government are yet proposing.

I also encourage the Government to look at a couple of old chestnuts to do with performance tables. If you want head teachers to say to children that they will be better off in an FE college and encourage them to go to it, you ought to give them credit for the results that they achieve there. It ought to be something that appears in the performance tables, credited to the school that has made that decision; otherwise, the incentive is just to hang on to pupils for the money. If schools are risking a blip in the performance tables because the A-level results will be bad and it would have been much better if they had gone to a technical college, there will be a real incentive for schools to encourage children to take that option.

The other aspect is to provide much better data on where children end up after school. At the moment, the information provided on what happens to those who do not go to university is very thin, uninspiring and not the sort of thing that encourages a parent to say, "Oh, that looks interesting; why don't we look at that?" The provision of data and information is really important in helping parents to help their children make decisions, and the Government are falling a long way short on that. They have the information; it is just a question of deciding that they will publish it or make it available to others who will publish it. I really encourage them to go down that road.

My noble friend the Minister said that she hoped children would be making fully informed choices. I totally agree with her. If we can bring universities up to that standard, I should be delighted as well.

Baroness Neville-Rolfe (Con): My Lords, I share the sentiments of my noble friend Lord Baker about the way that my noble friend the Minister has taken a grip of this Bill, and I thank her for that. I have to say, therefore, that it is with some trepidation, and with the benefit of my business and bureaucratic experience, that I rise to throw a bit of cold water on the detail of both amendments.

As noble Lords will know from earlier discussions, I am very keen to see vocational careers education, training and, above all, apprenticeships advocated in schools—and, in fact, by employers themselves. We clearly have a problem. However, I worry about the bureaucracy that will be created by this provision; it is a concern with either version. To comply with the provisions, a lot of detailed work would have to be done by teachers, who work so hard; by providers—including UTCs, which I agree should be involved—of post-16 education; and by employers, if they join providers in schools, which is something that I think can often work well. They will have to do a lot of form-filling and more recording, health and safety-style. Then, as has been said, there will be extra guidance, but we do not know exactly what will be in that; it could make it easier or it could make it worse.

I worry that this will deter exactly the people and institutions that you want to get into schools to encourage youngsters to think about their futures and choose the right educational option. Too many people, in my view, now go to university and not enough go into good vocational routes. I have experience in Germany and Switzerland and elsewhere. To pick up on something that the noble Lord, Lord Adonis, said, in those countries, they often move at 14 or 16, which can be extremely helpful with the vocational route.

My worry is that the beneficiary of these micro-rules will be, yet again, the consultants who will have to help with process and compliance. I am obviously very sympathetic to the objective of these amendments, but I would like some reassurance from the Minister on how we make this system simple and efficient and how we enforce it sensibly—before we go through the Lobbies. As the noble Lord, Lord Aberdare, was saying, there are costs and resource requirements in doing all these things in schools, and they have to come from somewhere else. So if we are going to make a change of this kind, we need to understand how it will be done and how it will be enforced, and that it will be done in a sensible and effective way, not adding needlessly to the weight of burden on our teachers.

Baroness Wilcox of Newport (Lab): My Lords, I am grateful to my noble friend Lord Adonis for clearly defining the difference between Amendments 35 and 35A—I will henceforth think of Amendment 35A as "A for action".

The skills White Paper promised a three-point plan to enforce the Baker clause, back in January 2021. Point 1 of the plan was the introduction of specific minimum requirements, but the Government's amendment states that pupils should expect only two mandatory visits from providers of technical education and apprenticeships over the course of their secondary education, although individual schools may opt to provide more. I doubt that. I agree with the noble Lord, Lord Baker, that this is wholly inadequate.

1 pm

I also share the concern that leaving the details to secondary legislation is unacceptable. Unlike primary legislation, it will not be subject to the same level of scrutiny through Parliament. Moreover, it cannot be amended. I therefore fully support the new Amendment 35A—A for action—from the noble Lord, Lord Baker, that would require schools to organise three mandatory encounters with technical education and training providers over the course of a pupil's secondary education.

Duties are important to ensure that all schools are required to provide these opportunities and that all students will receive at least three chances during the course of their secondary education. The noble Lord, Lord Baker, has had to revisit his work from four years ago. I worked in schools for over 30 years and I know that, unless instructions are on a statutory footing, advice will be ignored in an already overcrowded curriculum in England. As a former teacher, I understand how important it is for students to receive such advice, on both a statutory and regular basis. We would have preferred a mandate that pupils receive such advice at least once a year. However, we support what has been placed in front of us and will give further support if the noble Lord, Lord Baker, tests the opinion of the House.

Baroness Cohen of Pimlico (Lab): My Lords, anybody who has sat in a meeting with heads of education can imagine discussions to work out how not to offer pupils at age 16—I do not have much knowledge of provision below that level—a full and free choice as frequently as possible, because of worries about redecorating classrooms, hiring more teachers or the other income-related things that heads need to think about. While I am sympathetic to this worry, I am even more sympathetic to the absolute need to offer pupils a full and informed choice at as many stages as we can afford. I too intend to support the amendment of the noble Lord, Lord Baker.

Baroness Barran (Con): My Lords, I once again thank my noble friend for his amendment and his commitment to this issue. Before I respond to the points raised by noble Lords, I would like to express my support and thanks to head teachers, who received a certain amount of criticism in this debate regarding where they place their priorities. After the last couple of years, when they have shown unstinting strength of leadership and courage in the face of incredibly difficult conditions, I would like to put on record that we owe them our thanks, first and foremost.

I will try to answer the questions from the noble Lord, Lord Storey, on why the Government are not supporting this amendment and the role of Ofsted in monitoring the Baker clause. Ofsted has updated its school inspection handbook to strengthen the focus on careers guidance, including by clarifying that inspectors will always report when a school falls short of the requirements of the provider access legislation—the Baker clause—as well as considering how it affects a school's inspection grade. If I may, I will write to the noble Lord, Lord Aberdare, regarding his detailed questions about the careers framework.

Turning to the amendment itself, I will clarify for the House my understanding of the difference between our government Amendment 35 and Amendment 35A. On a number of occasions, your Lordships referred to three provider encounters under Amendment 35A; the provisions are for three encounters per phase of education, so a total of nine—I think my maths is right. The noble Baroness, Lady Wilcox, spoke about having at least one encounter a year, but it is more than one a year. Amendment 35A seeks to increase the number of provider encounters to nine per pupil: three during each of the first, second and third key phases of a pupil's education.

The Government's amendment has three mandatory offers on the part of the school, two of which are also mandatory for the pupil and would take place in the first two phases of their education, with the third, optional encounter then taking place in the last phase. My noble friend acknowledged that schools are incredibly busy places. We are trying to find a balance which underlines the priority we place on this education without taking up too much curriculum time.

I thank my noble friend Lady Neville-Rolfe for her remarks regarding bureaucracy, something that everyone, not just the Government, would like to minimise. That is another reason why consulting on the detail of implementation to make it as streamlined as possible is helpful.

On the question of timing, raised by my noble friend Lord Baker, I should clarify that the implementation of our amendment is not dependent on secondary legislation. The principle and number of encounters would be set out in the Bill, as my noble friend knows, while the secondary legislation would just provide further detail on the types and numbers of providers and some other points. Our amendment would come into effect at the same time as the amendment from my noble friend.

As my noble friend set out eloquently, his amendment also seeks to name university technical colleges in the Bill as one of the providers that every pupil must meet where practicable. This would give more weight to one provider over the rest. While we understand and absolutely respect his commitment, we want to act in the interests of all providers and therefore pupils, not just university technical colleges.

We include in our amendment the power for the Secretary of State to set out further details about the number and type of providers in secondary legislation if needed. We can, as part of this, consult school and

[Baroness Barran]
provider representatives on these matters. We must be careful not to prejudge the outcome of any consultation by giving a guarantee that we will name UTCs in the secondary legislation. Putting this detail in secondary legislation also allows us to retain more flexibility to update the legislation in line with future policy changes.

In conclusion, the Government believe that Amendment 35 supports the interests of schools and all providers and allows flexibility for future changes in secondary legislation. We are absolutely committed to making the Baker clause work better, in a way that works for pupils and providers. I therefore hope that my noble friend—

Baroness Neville-Rolfe (Con): Before the Minister sits down, could she say a little bit about the enforcement of these provisions? My understanding of her reply to the noble Lord, Lord Storey, is that Ofsted will keep an eye on this. Is that all that happens? If you do not keep detailed records in the educational space, what happens to you? Perhaps this is not an issue as it is not the norm to keep them. I am mystified as to how this would work in practice.

Baroness Barran (Con): I thank my noble friend for her incredibly kind comments earlier about how quickly I have picked up this brief. I cannot confidently respond further than I did in my response to the noble Lord, Lord Storey. Schools take Ofsted inspections extremely seriously, so I hope the fact that the inspection framework and handbook have changed to accommodate this will give my noble friend some reassurance. I will also write to her and put a copy of the letter in the Library.

Lord Aberdare (CB): My Lords, before the Minister sits down, can I ask her for a point of clarification? She mentioned that the amendment in the name of the noble Lord, Lord Baker, required nine meetings. My understanding is that it is

"on at least three occasions during each of the first, second and third key phase".

I may be misunderstanding this, but I understand a key phase to be a two-year period, so it would be six rather than nine.

Baroness Barran (Con): I think trying to do mental arithmetic at the Dispatch Box is risky, but, as I read it, it is three times three because of the first, second and third key phases. Maybe we both need to go to numeracy boot camp, but I think three threes are nine —or at least they were when I was at school, which admittedly was a very long time ago. I believe the correct figure is nine, because the amendment specifies the first, second and third phase of education and three encounters in each phase.

I therefore hope that my noble friend will feel able to withdraw his amendment.

Lord Baker of Dorking (Con): My Lords, I thank all the Peers who have spoken, and I am glad to see I have some support—

The Deputy Speaker (Lord Palmer of Childs Hill) (LD): No, we are dealing first with Amendment 35.

Amendment 35 agreed.

The Deputy Speaker (Lord Palmer of Childs Hill) (LD): We now come to Amendment 35A, which is now in an altered form because of the passing of Amendment 35. Amendment 35A would leave out the new Clause last inserted by Amendment 35 and insert the new Clause as printed on the Marshalled List.

Amendment 35A

Moved by ***Lord Baker of Dorking***

35A: After Clause 13, insert the following new Clause—

"Amendments to section 42B of the Education Act 1997

(1) Section 42B of the Education Act 1997 is amended as follows.

(2) After subsection (1) insert—

"(1A) In complying with subsection (1), the proprietor must give a representative range of education and training providers (including, where reasonably practicable, a university technical college) access to registered pupils on at least three occasions during each of the first, second and third key phase of their education."

(3) After subsection (2) insert—

"(2A) The proprietor of a school in England within subsection (2) must—

(a) ensure that each registered pupil meets, during both the first and second key phase of their education, with a representative range of education and training providers to whom access is given, and

(b) ask providers to whom access is given to provide information that includes the following—

(i) information about the provider and the approved technical education qualifications or apprenticeships that the provider offers,

(ii) information about the careers to which those technical education qualifications or apprenticeships might lead,

(iii) a description of what learning or training with the provider is like, and

(iv) responses to questions from the pupils about the provider or technical education qualifications and apprenticeships.

(2B) Access given under subsection (1) must be for a reasonable period of time during the standard school day."

(4) After subsection (5)(a), insert—

"(aa) a requirement to provide access to a representative range of education and training providers to include where practicable a university technical college;"

(5) In subsection (5)(c), after "access" insert "and the times at which the access is to be given;"

(6) After subsection (5)(c), insert—

"(d) an explanation of how the proprietor proposes to comply with the obligations imposed under subsection (2A)."

(7) After subsection (9), insert—

"(9A) For the purposes of this section—

(a) the first key phase of a pupil's education is the period—

(i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 13, and

(ii) ending with 28 February in the following school year;

(b) the second key phase of a pupil's education is the period—

(i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 15, and

(ii) ending with 28 February in the following school year;

(c) the third key phase of a pupil's education is the period—

(i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 17, and

(ii) ending with 28 February in the following school year.""

Member's explanatory statement

This amendment will ensure that Section 2 of the Technical and Further Education Act 2017, commonly known as the Baker Clause, is legally enforceable.

Lord Baker of Dorking (Con): I am glad we have got that little bit right. I first thank all the Peers who have spoken, including some Conservatives, in support of my amendment.

As regards the number of days, I make it absolutely clear that there should be three meetings. These meetings will not last for the full day; they will last for two or three hours at the very most, with maybe two providers coming in. There would be meetings at ages 13 to 14, 14 to 16 and 16 to 18. That is not what the government amendment says—it says that they will have "at least one". The legal advice I have is from Mr Stephen Ravenscroft, who is well known to the department because he is the leading figure on educational law, but I managed to get at him first before the department. He has given me a very clear legal position on this: the point about "at least one" is that if a provider gets in first, the others do not have a right to be heard. The school can say, "We have had at least one meeting", so I think my amendment is actually stronger than the Government's.

I seek to test the opinion of the House.

Baroness Barran (Con): Before the noble Lord sits down, I am genuinely concerned that we have a fundamental understanding of the number of encounters that the two amendments seek to deliver. The government amendment says that

"the proprietor must give access to registered pupils on at least one occasion during each of"—

that is, every time; those are my words, not the amendment's—

"the first, second and third key phase of their education."

So there would be three mandatory encounters. The following part of our amendment says that, during each of these phases,

"The proprietor of a school … must … ensure that each registered pupil meets … at least one provider",

so, with the greatest respect to my noble friend, a single provider is not sufficient. That is what our amendment says, so I would just like to make that point clear.

Lord Baker of Dorking (Con): I would like to seek the opinion of the House.

1.15 pm

Division on Amendment 35A

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Amendment 35A agreed.

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1.31 pm

Consideration on Report adjourned.

Integrity of Electoral Processes

Question for Short Debate

1.31 pm

Asked by ***Lord Tyler***

To ask Her Majesty's Government what plans they have to consult on measures to enhance the integrity of electoral processes.

Lord Tyler (LD) (Valedictory Speech): My Lords, at the outset, I want to pay tribute from my own personal experience to Sir David Amess. He was a truly honourable Member, and I appreciate enormously his family's call for more co-operation and working together. That is something I have tried to do throughout my 30 years in this Parliament.

It is perhaps sad but necessary to start by taking note of the deterioration in the public and political dialogue since David and I were first elected. During the whole of my service here, I have been privileged to work with colleagues from other parties and from none on a number of projects, not least in areas of direct relevance to the subject of this debate. It was a particular privilege to work with the late Robin Cook to reform the Commons—successfully—and try to reform this House, not quite so successfully. I have been able to co-operate closely with Conservative allies, too, in such notable reformers as Ken Clarke, Sir George Young, William Hague and Andrew Tyrie, as they then were. I have also had very constructive shadow relationships with Commons Agriculture Ministers such as John Gummer, Douglas Hogg and Nicholas Soames. At this stage in their careers, they will perhaps forgive me for blighting their preferment prospects with No. 10 by mentioning their names now.

What has changed, especially in the past two years, is that that constructive co-operation with Conservatives —now in the Johnson mould—has become impossible. That tradition of Conservative principle, combined with a pragmatic pursuit of shared values and objectives, has simply vanished. I am sorry to say that the once great Conservative and Unionist Party has become a narrow, dogmatic cult. I know that many great figures of the past and present on the Benches opposite know this to be true, though they cannot say it. Andrew Rawnsley admirably summed this up 10 days ago under the headline, "Like all cults, Borisology is detached from reality and destined to end badly".

He wrote:

"The Conservative & Unionist party is no more. It has ceased to be. It has expired and gone to meet its maker. It's kicked the bucket, shuffled off its mortal coil, run down the curtain and joined the choir invisible. This is an ex-party."

The present leadership do not care about conserving the union. They do not feel obliged to conserve Britain's reputation in the world—not even by maintaining the legal obligation for realistic international aid—so destroying the UK's soft power role. They have no time for conserving business ethics, failing to apply due diligence to the award of huge contracts to their political friends and donors. They demean such core elements of our constitution as respect for the rule of law. They have even threatened the constitutional position of the monarch, with their underhand attempt at an illegal Prorogation of Parliament. Was that conservative? Likewise, tearing up international agreements signed with people the Prime Minister calls friends and partners is not conservative. It now appears that Ministers intend to opt out of the European Convention on Human Rights, for which Churchill worked so hard. Is that conservative?

I owe my time in this Parliament to the people of my beloved ancestral county of Cornwall. They are feeling the distinctly unconservative, scorched-earth nature of this Government particularly keenly. It is easy to underestimate quite how badly people feel let down by the level of deceit, misrepresentation and deliberate distortion—downright leaver lies—that has become all too common since the 2016 Brexit referendum. Both the Prime Minister and Mr Gove promised that the level of EU investment funding for Cornwall, as a region of generally very low household incomes and below-average economic activity, would be fully replicated in the new post-Brexit national support programme. Tory MPs repeated that promise. EU structural fund support this year would have been some £100 million. As Cornwall Council now warns, the actual UK support now firmly promised is only £3 million. Even if the proportion of SPF is matched, the maximum would be £57 million. So much for levelling up.

Further, to add blatant insult to injury, we have just learned that Ministers have torn up their promise, made to me in this House during debates on the then Trade Bill, that all existing protections for Cornish speciality food products under the excellent EU scheme would be fully retained in future trade deals. My noble friend Lord Purvis of Tweed pointed out on Thursday that the agreement with Norway and other countries has ditched that commitment. There is no protection there for Cornish pasties, clotted cream and so on. The Minister could only splutter in reply:

"You cannot get all that you ask for, of course, when you negotiate these agreements."—[*Official Report*, 14/10/21; col. 2021.]

Did they even ask for this important protection? What is happening with all the other trade negotiations? It is this cavalier relationship with the truth that divorces today's Conservative Party from its past and betrays the legacy of Macmillan, Heath, Major—and, yes, even Thatcher.

Eventually, I believe that the time of this clique will be over, both in the country and in the Conservative Party. But for now, the Johnson junta is making an insidious attempt to defy electoral gravity in perpetuity by weighting the entire system in its favour. Last week, the chair of the official Committee on Standards in Public Life said:

"It is essential … that parties obtain funding in ways that are free from suspicion that donors receive favours or improper influence in return … I doubt many would argue that our current system meets this test."

That was a masterclass in understatement.

Yet, far from achieving cross-party and independent consensus on how to achieve transparency and safeguards, the Government's Elections Bill actually increases the chance of elusive foreign financial inducements. It is demonstrably designed to inflate the influence of Tory millionaires while disfranchising millions of citizens who are less likely to vote Tory. It is deliberately partisan and a real threat to the basic integrity of our electoral system.

For about 150 years—since 1883, in fact—the law of the land has sought to prevent rich men buying the constituency elections that determine who will govern Britain. Candidates and their agents have been held responsible for all expenditure intended to advance their cause. This Government, in their own party interest, are attempting to reverse the 2018 Supreme Court judgment which reinforced that essential safeguard. In a feigned pursuit of "clarification", the Bill would enable huge sums of money to be invested by the richest party in marginal seats while its candidate and his or her agent took no responsibility for it. There would be no effective control or limit.

To this, they add an attempt to change mayoral and PCC elections from the relatively fair supplementary vote system to the self-evidently less fair first past the post system, which cheats so many electors of any impact. Perhaps the most compelling line in the Government's 2019 manifesto was the promise that they would be

"making sure that every vote counts the same—a cornerstone of democracy."

In today's multiparty democracy, that clearly requires the end of first past the post for the House of Commons. Parliament has legislated to make this happen in Scotland, Wales and Northern Ireland. MPs should perhaps recall the admonition, "Physician, heal thyself." That would be an initiative on which we could all work together, co-operate and seek consensus.

I could hardly leave the House without reflecting on a lifetime commitment to changing how Members get here. I recall being accused of being "an old man in a hurry" when I was an enthusiastic proponent of the coalition Government's substantial and sincere attempt to reform this place in 2012. I pointed out then that progressing to elections a century after they had first been envisaged in the Parliament Act 1911 could only be considered "hurried" in this Chamber. At that time, there was real cross-party consensus for promising elections—just no consensus on delivering them.

Among the deluge of reports and submissions on electoral and political reform that I have been wading through in my office, clearing the decks for departure, I came upon a previous submission by the then Leader of the Opposition here, the noble Lord, Lord Strathclyde, entitled "Delivering a Stronger Parliament". I will read only a short extract:

[Lord Tyler]

"The Senate should have 300 members called Senators ... All political members should be directly elected in largely county-based, three-member constituencies. There should be an end to the abuse of patronage of the Blair years."

But there was a footnote:

"It is truly alarming to think that the Prime Minister could believe the perpetuation of patronage on the recent scale was appropriate to any century, least of all the 21st".

Yet today's Prime Minister has again turned places in this Parliament into an instrument of patronage, to be purchased at party dinners. I hope the noble Lord, Lord Strathclyde, will do me a parting favour by repeating his former words to Mr Johnson.

We cannot escape some criticism of the media for creating the destructive atmosphere that we see today. Some of the media has had a really divisive role in the past five years. Today is Trafalgar Day: "England expects that every man will do his duty". However, marine historians remind us that at least 10% of the crews in Nelson's fleet were not English; they were foreigners. In the Brexiteer media, they would be branded as unpatriotic immigrants.

I plead with true Conservatives—in both Houses and beyond—to reclaim their party. For many years, I have had staring at me on my desk the reminder from Edmund Burke: "The only thing necessary for the triumph of evil is for good people to do nothing." For all my reservations about the leadership of this Government, I sincerely believe that this House is a place full of good people. My Lords, I wish you well.

1.43 pm

Lord Rennard (LD): My Lords, it is of course always a great pleasure for me to follow my noble friend Lord Tyler, and it is with considerable sadness that I now do so for the last time.

It was in 1964, 58 years ago, that my noble friend was first elected to the Devon County Council and became the youngest councillor in the country. In February 1974, he was elected as the Liberal MP for the Bodmin constituency. He won then by just nine votes, then narrowly lost in the October election by just 665 votes. Many people might have given up politics at that point—but not Lord Tyler.

He fought the Beaconsfield parliamentary by-election in 1982. He came a strong second, easily consigning to third place the new young Labour candidate—one Tony Blair. In 1983 and 1987, he organised the general election tours for David Steel. He became chair of the Liberal Party, while I was one of its campaign officers, and we had high hopes for the then Liberal/SDP Alliance. But at the end of that decade, my party hit the rocks in the European elections of 1989.

Sensing the national disaster ahead, I decided to abandon what was happening at my party HQ and began making the first of my many campaign visits to Cornwall to support my noble friend's campaign there to try to become the MEP. Again, he did not win, but, after a campaign in which I worked closely with his election agent, Dame Annette Penhaligon, he was the only Liberal Democrat in the country to achieve second place in that election, polling over 30% of the vote, compared to just 6% for my party nationally. Our campaign, including the distribution of over 250,000 tabloid newspapers in his support, set in motion the process which eventually resulted in every seat in Cornwall being held by a Lib Dem MP.

In 1992, I helped him to win the North Cornwall constituency, which now included the town of Bodmin. He later became the Chief Whip in the Commons for my party, while I was its director of campaigns and elections. We worked very closely together with the late and much missed Lord Ashdown of Norton-sub-Hamdon.

We then became colleagues here when he retired from the other place in 2005. We worked together on many aspects of reform to your Lordships' House, seeking, as he said, to go much further than we were able. We worked together to try to establish the principle of fairness in the funding of elections nationally, and to defend the principle of there being a level playing field in constituency campaigns, and we have worked to try to reduce the number of people unable to participate in our democracy because they are not registered to vote, to prevent the Government changing the rules of elections in favour of their own party, and to protect the independence and role of the Electoral Commission.

My noble friend's debate today is very timely. Never before have a Government sought to gain control of the independent Electoral Commission, to change spending rules to enable marginal seats to be bought, and blatantly to increase the power that comes with millions of pounds rather than with millions of votes.

We will greatly miss my noble friend in the debates ahead, we thank him for his many contributions, and we are most grateful to Lady Tyler for everything that she has done in support of him, his constituents, and the cause of democracy.

1.47 pm

Lord Hayward (Con): My Lords, I have had the pleasure to write and speak privately to the noble Lord, Lord Tyler, to express my regret that he is leaving this Chamber. Therefore, I shall just briefly put on the record that I have always found him generous, thoughtful, considerate and helpful, and I shall have those memories. I am wearing Liberal Democrat colours—I say with pain—but, more significantly, as he will recognise, they are one half of Cornish colours.

I should like to pick up on the issue of electoral integrity in a different way. Next year, we will have elections. One of those will be the mayoral election in Tower Hamlets. Previously, Lutfur Rahman was found guilty of corruption. He has indicated that he intends to stand again. Richard Mawrey described him as

"pathologically incapable of giving a straight answer … he was not truthful."

He described people who worked for him as "chosen from his cronies." He described another person as a "hatchet-man".

Lutfur Rahman was ultimately found guilty of 10 different corruption offences. In the penultimate paragraph of Mr Mawrey's comments in his judgment, he states:

"Mr Rahman has made a successful career by ignoring or flouting the law … and has relied on silencing his critics by accusations".

That is a man who is now entitled to stand for election next May and has indicated that he intends to do so.

I received from Mark Baines a brief extract from a Sylheti channel where Lutfur Rahman is present. On four occasions during that meeting, different people do not refer to campaigning for votes, but repeatedly use the word "collect". I have had it checked and confirmed that this is the correct translation of the word used. Who are these people? They are the Tower Hamlets Carers Association. In other words, they are looking after the elderly in old people's homes, yet Lutfur Rahman's henchmen are saying that they will collect votes.

Following the theme of the debate in the name of the noble Lord, Lord Tyler, what should we do to achieve electoral integrity? We could comment on other aspects of the Elections Bill, but I would like to see four things, if possible. I have circulated extracts of the video from which I quoted to a number of Peers and the Minister. First, I would like the Government, on an all-party basis—because that is how the noble Lord, Lord Tyler, and I have tried to work on occasions, although we have had disagreements—to bring forward the postal and proxy votes aspects of the Elections Bill, along with undue influence, and complete them to be used for the local elections next May. Secondly, I ask that the Electoral Commission prepares itself now and starts looking at the records, financial paperwork and the rest on Aspire—the party under which Lutfur Rahman and his cronies will campaign—to ensure that it has met all the required regulations, in a way that it did not previously. Thirdly, I ask the police to nominate and identify an individual. Fourthly, I ask all the political parties that are not part of Aspire to work together to defeat a man who was found to be so corrupt on a previous occasion.

1.52 pm

Lord Cormack (Con): My Lords, we can all agree with that but, by Jove, the noble Lord, Lord Tyler, is ending with a bang rather than a whimper, with the splendid and spirited speech he made—rather like the way he entered Parliament. I was there in 1974, because I was elected in 1970, and he came in and was immediately able to command the House with his speeches. He punched above his weight then and has done throughout. Naturally, I cannot agree with everything he said and certainly do not today. He is a bit of an expert in ex-parties so, when he pronounces the impending doom of mine, I take it with the proverbial pinch of salt—although I am bound to say that the slight tendency among certain members of my own party to move towards English nationalism is something I do not endorse in any possible way.

I very much disagree with the noble Lord, Lord Tyler, on the future of your Lordships' House, but the great thing about him is that he has always spoken with complete conviction—even when completely wrong. He has always been immensely courteous. He has been a true parliamentarian and this place will be the poorer for his going. I very much wish he had stayed for the forthcoming Bill on elections, because he would have had much to contribute, as my noble friend Lord Hayward will, and I hope to have my twopenneth too. It is important that the integrity of the electoral process is always maintained, because a democracy is flawed if its electoral process is not beyond criticism. We have to look at certain things, certainly at the way in which votes can be manipulated—or collected; that was a frightening quotation from my noble friend Lord Hayward a few moments ago.

I am very sad that we are seeing the end of an extraordinary parliamentary career. The thread that has run through it is persistence. The noble Lord, Lord Tyler, as he is now, came into the House of Commons, was with us for six months and was gone. He was outside it for 18 years, but he maintained his political campaigning throughout, proclaiming his beliefs and his love for his beloved Cornwall. He came back for North Cornwall in 1992 and stayed for 13 years, and then came to your Lordships' House. When I joined him five years later, it was clear that he already had an established presence here. Although he has not agreed with the fundamental basis of your Lordships' House, as I have, he always conducted himself with total propriety and always made a contribution, using the House as it is, even though it is not how he would have wished it to be. I hope it never is as he wished, because I greatly value the Cross Benches—that is just one reason. Nobody will deny him his place in late 20th-century and early 21st-century British politics. He has made a noble and notable contribution in both Houses. I wish him well and hope he uses his visiting rights frequently.

1.56 pm

Baroness Brinton (LD) [V]: My Lords, I declare my interest as a director of the Joseph Rowntree Reform Trust and, in so doing, note that it has provided grants over the last 70 years to ensure both that the integrity of our electoral processes remain robust and that Governments and parliaments ensure that our voting systems enhance our democracy and do not bring it into disrepute.

I echo the many tributes that have already been paid to my noble friend Lord Tyler for his role in your Lordships' House and so much more. As my noble friend Lord Rennard already said, he was first elected a councillor in 1964. When I joined the Liberals in 1974, he was already a well-known character. He was one of my predecessors as chairman of the Liberal Party in 1983, was elected as the MP for North Cornwall in 1992 and, as the noble Lord, Lord Cormack, said, joined this House in 2005. For the entirety of that time, he has had a passion and commitment unrivalled by any parliamentarian to ensure that the integrity of electoral processes is good. He is admired by all of any party passionate about elections, even if they disagree with some of the things he wants.

My noble friend and I have attended the Make Votes Matter campaign meetings for years, which brought together all those interested in proportional representation, initially, but it also discusses issues such as whether your Lordships' House should become an elected chamber. Klina Jordan, the chief executive of the Make Votes Matter coalition, has written to me to say:

"Paul is a remarkable and dedicated champion of democracy. His passion for making sure all voices are heard and all people are properly represented has been a driving force in the movement to Make Votes Matter. As a leading figure in our cross-party Alliance for Proportional Representation, his immense wisdom, generosity of time and strategic insight have been invaluable. We warmly wish him a very happy, healthy and well-deserved retirement."

[Baroness Brinton]
I echo that to your Lordships' House from the many hundreds of thousands of people across the country who continue to fight for proportional representation.

My noble friend Lord Tyler has spoken about the risks to the integrity of our electoral processes and that they have never been more at risk than now. Over the past few hundred years, our society and democracy have developed and changed beyond recognition but, unfortunately, our voting system has failed to keep pace. Our party believes that first past the post has no place in a modern democracy and should be replaced by a system of proportional representation. That is not just to get more Liberal Democrats and other smaller-party people represented; the key reason is to make sure that a vote counts for every voter.

The idea of a minority ruling over the majority goes against the UK population's most basic ideas about democracy, but we have learned that with first past the post it is just the norm. For nearly 90% of the time since 1935—almost 90 years—we have had single-party majority Governments, but not one of them had the support of a majority of voters. The current Conservative Government have a majority of seats but only 43% of the votes. They gained an extra 48 seats despite an increase of only 1.2% in the vote share. Almost since the first general election, politicians who, frankly, most of us did not vote for and do not agree with have had the power to govern the UK however they like. The Liberal Democrats are particularly disadvantaged by first past the post, losing a seat despite increasing our overall vote share by 4%.

The other problem with this system, almost alone in Europe, is that it seems to operate on a two-party political basis whereby diversity is suppressed. As my noble friend Lord Tyler said, our system now enables seats to be either so safe that they never change hands or to be bought by the party that can invest the most in them, mixing national and local funding mechanisms under the law to their advantage. Our system is broken.

When so many voters are denied a voice, Parliament fails to reflect the people it is supposed to represent. It is vital that this be remedied. It is not just bad for democracy; it is bad for politics and our entire society. In saying farewell to my noble friend Lord Tyler, I shall end on this. There are many others in Parliament who will pick up and run with the work he has been steadfastly doing over the past 40 years. We will continue and at some point, we will succeed.

2.02 pm

Lord Desai (Non-Afl): My Lords, I join other noble Lords in regretting that the noble Lord, Lord Tyler, has chosen to retire. One of the few advantages of this place is that you never have to retire. Why give up such a fun place? However, he has done it. I was somewhat surprised that he made a Second Reading speech on a Bill which is not yet before us. I shall not refer to what the noble Lord said in his speech because I thought he was talking about something else. As an economist, I know one thing: forecasts are always wrong. I think the noble Lord's forecast about the future of the party will not be right. It will be here for a long time to come—when I and most of us present are no longer here.

My worry is about something very different. It is that our democratic system is outdated. The people outside, especially those below the age of 50, or perhaps 35, do not understand why we have to go to a polling booth on a certain day to vote. Your Lordships' House has progressed to having a Peer hub. I remember that when I was on a committee to elect the Speaker in this place—that shows how long I have been knocking around here—I asked why we should not vote more mechanically, rather than having six minutes to count the votes. I was told that there had to be a process by which the water flows from one part of the bottle to the other, to ensure that it lasts for six minutes. I also suggested that the Speaker sitting on the Woolsack should have a little computer to tell them what is happening. I was told that that is not our practice.

Now, not only do we have a Peer hub, but most of our citizens would prefer not to go to a voting booth but to vote online. Why have we not even thought about that? When I talk to my children and grandchildren, they do not understand why elections are organised in such an antediluvian way. Elections should be much more citizen friendly. Citizens should be allowed to vote whenever they want to vote. Why must it be on a particular day? They should be allowed to vote on any day of a given week, for example.

There are other things to think about. MPs' surgeries have been very much on our minds lately. Why are we doing this completely outdated thing? Why does a citizen have to see his or her MP face to face? We have learned during the pandemic that all that is completely unnecessary. You can do it online. It would be much more convenient for our citizens not to have to see their MP face to face. The fact that they have to do so shows that the system is not very efficient. I think I am being signalled to shut up, so I shall.

2.06 pm

Baroness Ludford (LD): My Lords, noble Lords on these and other Benches have paid tribute to my noble friend Lord Tyler, so I shall be brief. I will pick up the comment of the noble Lord, Lord Cormack, that my noble friend Lord Tyler has been true parliamentarian for 30 years. He will be hugely missed, not only on our Benches but across the House. I believe it is his 80th birthday in eight days' time, so I wish him an early happy birthday, but I say to him that 80 is no age at all.

Noble Lords: Hear, hear.

Baroness Ludford: The older I get, the more I think that 80 or 85 is no age at all. My noble friend is really being very cheeky retiring early.

My noble friend gave a compelling survey of all the threats to electoral and democratic legitimacy. I want to talk about the Government's intention to bring in voter ID. The number of specific accusations of voter fraud at polling stations is low and very few accusations result in cautions or convictions. The Joint Committee on Human Rights did a report. In evidence, the chief executive of the Electoral Commission, Bob Posner, told the committee:

> "I'm not suggesting that there is a high incidence of it happening and of its being established, but we cannot say with confidence that there are not higher levels of personation than the statistics on cases brought by the police actually show. We can know only so much about that."

That seems to me to be a bit of an Aunt Sally: we think there may be more but we have no idea and no proof. Mr Posner told the committee that making a change in introducing voter ID not only has to improve security, it also has

"to maintain complete accessibility to the system; and it has to be a workable, practical system."

On both those scores there is considerable doubt. Voter ID is a solution in search of a problem, and one that entails considerable risks.

The Electoral Reform Society said that across the 2018 and 2019 voter ID pilots, 1,000 people were turned away from voting. The ERS, like the Joint Committee on Human Rights, has instead called for the introduction of automatic voter registration. The ERS also urged the Government to replace the current first past the post electoral system with proportional representation. It said that voters already think the UK's system is safe and secure, but not that it is fair, so fairness should be the priority.

The JCHR called on the Government to find out whether requiring people to show ID to vote might decrease engagement with the electoral process, particularly among people from black, Asian or minority ethnic backgrounds. Cabinet Office research showed that 4% of eligible adults do not have ID that is recognisable or in date. If correct, this would mean that 2.1 million people may not have suitable photo ID to vote, especially older people, people with disabilities, the unemployed and those without qualifications. It showed that 5% of those surveyed said they would be less likely to vote in person if voter ID was introduced. That is a severe impact.

Our colleague, the noble Lord, Lord Woolley of Woodford, founder and director of Operation Black Vote, spoke to us about how mistrust in the Government and their institutions made him

"deeply afraid that if there is another layer of bureaucracy it will be another impediment for a group

—black and other ethnic minority voters—

that is already hesitant about fully engaging in the democratic process."

I shall skip the bit about the ECHR, since I know noble Lords know all about the obligations of the ECHR, but I conclude with the Joint Committee on Human Rights' conclusions. The Government must explain why they have reached the view that voter ID is necessary and proportionate, given the low number of reported cases of fraud, the even lower number of convictions and cautions, the potential for discrimination and the lack of clear measures to address potential discrimination. I hope the Minister can give me those answers today.

2.10 pm

Baroness Smith of Basildon (Lab): My Lords, when I saw the title of today's debate, tabled by the noble Lord, Lord Tyler, which is to ask the Government

"what plans they have to consult on measures to enhance the integrity of electoral processes",

my first thought was: how appropriate for a valedictory speech from the noble Lord, following 16 years in your Lordships' House but also a lifetime of campaigning on constitutional and political issues. I am pleased to respond on behalf of our Benches. I am only sorry that, in the four minutes available to me, I cannot do justice to the noble Lord's career in Parliament and the campaigning he has done. I suspect that he takes his voluntary departure from your Lordships' House with mixed emotions. It is a retirement well earned. As we heard, before taking his place in your Lordships' House, he represented two constituencies in the House of Commons. Throughout 30 years in Parliament, he has, as we have heard from him and his colleagues, been a stalwart of his political party.

The noble Lord would expect me to say that, at times, we have differed on what reform of Parliament means and what changes could be made, but we have never disagreed on the commitment to the integrity, honesty and public confidence in our system and our representatives at every level of public service. I believe that he should take pride in the work he has done—but I have a sneaking feeling, reinforced by his comments today, that his choice of debate is not because he considers that all is well but because, as we have heard from his opening speech, like many of us he fears for the integrity of our system and processes.

I am never quite sure whether the Government are just careless about the integrity of our national institutions, or, as others have suggested, it is part of a calculated effort to undermine and erode anything that Boris Johnson sees as opposition. Some of these attempts would be quite comical if they were not probably intended. Noble Lords will recall, when we had the tax credits debate shortly after I became Leader, a government Minister threatened to introduce a thousand extra Peers into your Lordships' House. On another occasion, there was a plan to divide Parliament and send half of it—the House of Lords—up to York. We also saw the unlawful Prorogation of Parliament, and now we even see attempts to make our independent courts system more political. Just this week, on the front page of the *Sunday Telegraph*, it was reported that

"Mr Raab revealed that he is devising a 'mechanism' to allow the Government to introduce ad hoc legislation to 'correct' court judgments that ministers believe are 'incorrect'."

I find that truly shocking.

The noble Lord, Lord Tyler, outlined so many of the concerns that many of us in your Lordships' House share. In among the many other sad examples that I could give is the focus of today's debate: the Elections Bill. The Government originally planned to call it the elections integrity Bill. Perhaps it was an examination of its content that saw that misnomer of a title soon dropped. Back when I was a Minister, a lesson I learned with regard to legislation was to clearly identify the problem you are seeking to address or resolve, then judge whether the remedy was an effective and proportionate response. The Government's Elections Bill fails both those tests, but it is perhaps passes the Johnson test—to weaken any critics, using his largely unquestioning parliamentary majority to do so.

I want to be clear: confidence in and the integrity of our country's system of voting is essential. There can be no compromise on that. So I thought, let us have a look at the impact assessment—perhaps that will shine a light on and identify the problem the Bill seeks to solve. Under the heading:

"What is the problem under consideration? Why is government action or intervention necessary?",

[Baroness Smith of Basildon]
there is no problem identified. There is nothing about abuse, merely that the Government want to ensure that,
"our elections remain secure, fair … and transparent."
There is no justification for the measures proposed.

The question from the noble Lord, Lord Tyler, is moderate and sensible. He merely asks what plans the Government have to
"consult on measures to enhance the integrity of electoral processes."
Would it not be great if the Minister could stand up and tell us something that will satisfy the entire House? When a significant constitution-related change, such as that in the Government's Bill, are proposed, the sensible, pragmatic and decent way forward is to seek consensus across the political spectrum. There will always be differences in views on the voting system, campaigning styles and related issues, but on the most fundamental of questions about the robustness and integrity of the system, I believe there is a mainstream political consensus.

I am grateful for the opportunity that the noble Lord has given the House to address some of these issues. I am sorry he will not be with us when we get to discuss that Bill, but I will also say that these Benches are grateful for the noble Lord's service to this House. We wish him well in his retirement and we wish him a very happy birthday.

2.16 pm

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, I am grateful for the opportunity to wind up in this debate. I shall try to watch the right clock this time. I, of course, begin, as every noble Lord who has spoken has done—and I thank all those who have spoken—by congratulating the noble Lord, Lord Tyler. I congratulate him not only on bringing this important subject before us—and it is an important subject—but on his valedictory speech. It is a proper recognition of his great contribution to his party to see so many of his colleagues here to wave him on his way. I share the sadness expressed from those Benches that he will no longer be with us.

It was, as the noble Lord, Lord Rennard, reminded us, very long ago—I think Sir Alec Douglas-Home was still Prime Minister—when the noble Lord, Lord Tyler, was first elected as Britain's youngest county councillor back in 1964. Gosh: that was the year that China exploded the atom bomb and the old Liberal party gave us the noble Lord—the noble Lord has always been a true liberal, in the very best sense of that word, which all of us endorse. Ever since then he has been a consummate servant of the county, the country and the party he loves, and of both Houses of Parliament. He is concluding 30 years of service in Parliament. I certainly will miss him.

The noble Lord was a great campaigner against the misuse of the 0870 prefix. I assure that him that, if he ever wants to telephone me in future, he will not have to dial 0870. I shall always welcome hearing from him. I shall miss him for his scrutiny. He was, as somebody said, and is still a great parliamentarian. His scrutiny was always properly persistent. They were times today when it felt a little bit like the wasp around the jam—the jam under the clotted cream, of course—but it was far more congenial. His contributions have always been congenial.

I conclude by saying that as a comrade, when we were noble friends in the coalition years at the time of the attempt to reform your Lordships' House, the noble Lord and I found ourselves on the same side of the argument on many occasions in our views about the future—views which are rather more congenial on his Benches than they were on mine, as my noble friend Lord Cormack reminded us. However, I wish the noble Lord, Lord Tyler, very well in the future, as we all do.

It has been implied that the Bill has not had proper scrutiny or consideration. The Government have long been working on the programme of electoral integrity. We take the responsibility to preserve and build on our democratic heritage with the utmost seriousness, as does everyone in your Lordships' House. All citizens must be able to participate in our elections and feel confident that their vote is theirs and theirs alone. That is why this Government set out plans to protect and strengthen our democracy in our manifesto, and why we have introduced the Elections Bill, which is currently progressing through the other place, to deliver on that promise. It has been the focus of significant interest and, as we have heard today, will no doubt come under fierce scrutiny when it arrives in your Lordships' House. Twelve scrutiny sessions have already been scheduled in Committee in the other place, including four evidence sessions that took place in September.

My honourable friend in the other place set out the extensive history of the measures in the Bill. I must say to the noble Baroness opposite that many elements are long-established commitments or have stemmed from reports and reviews conducted by parliamentarians. For example, the measures to secure postal and proxy voting methods were born out of the recommendations of my noble friend Lord Pickles in his 2016 review into fraud. The overseas electors measures were set out in a specific policy statement issued in October 2016. The measures seeking to improve the accessibility of our polls were born out of the Government's call for evidence, *Access to Elections*, in September 2017. The new electoral sanction for intimidation in the Bill also directly derives from the *Protecting the Debate: Intimidation, Influence and Information* consultation in July 2018, and the same consultation informed the transparency in digital campaigning methods. These were also the focus of a technical consultation on digital imprints from August 2020, the government response to which was issued in June this year. In addition, we undertook a range of voter identification pilots in 2018 and 2019. So there has been a great deal of pre-consideration, and I look forward to justifying it in answer to the challenges that will doubtless come from the Benches opposite. I think the Government can respond to those comprehensively.

Certain issues have been raised in the debate that I must touch on. My noble friend Lord Hayward gave me notice of the issue that he brought to the attention of the House. I saw by the reaction to his speech the concern that was felt across the House at the matters that he raised in his characteristically thoughtful remarks. A number of concerns have been highlighted about the current arrangements for postal voting, which do leave the system open to potential vote harvesting, and the recent reports from Tower Hamlets are concerning.

That is why the Government are introducing a number of measures designed to improve the integrity and robustness of postal voting. The Bill will provide a power to limit the number of postal votes a person may hand in at a polling station or to the returning officer on behalf of others. It is currently envisaged that, in addition to their own postal vote, an individual will be able to hand in the postal votes of up to two electors. If a person hands in postal votes on behalf of more than the prescribed number of electors, all the postal votes will be rejected. The Bill will also ban political campaigners from handling postal votes issued to others and will require those registered for a postal vote to reapply for a postal vote every three years in order to keep their absent ballot arrangement. This will provide the opportunity for someone who may initially have been convinced to have, or coerced into having, a postal vote to break out of that situation and prevent their vote being stolen.

We will have no truck with the practice of so-called family voting. It is unacceptable in any century, certainly the 21st century, that a man should go into a polling station and seek to direct the way that a woman should vote. That is already unlawful and we look to the authorities to prevent such occurrences.

I understand that the noble Lord expressed a concern that the measures in the Bill should come into force promptly in order to reduce the risk of future abuses taking place. I will certainly reflect on what he said, but it is vital that the processes that we put in place to support these measures are workable for both voters and those who administer elections. These are complex changes to deliver, but I have heard the noble Lord.

The noble Baroness, Lady Brinton, said—and I understand the historic aspiration of the Liberal Party—that first past the post has no place. The Elections Bill will legislate to change the electoral system for all elected mayors and police and crime commissioners from the supplementary vote to the well-understood and long-established system of first past the post. Britain's long-standing national electoral system of first past the post ensures clearer accountability and allows voters to kick out the politicians who do not deliver. We do not have a third party that sits permanently in power deciding which of the two larger parties should form an Administration. First past the post is simple and fair. The person chosen to represent a constituency should be the one who receives the most votes. I must remind the House that the 2011 nationwide referendum endorsed first past the post, rejecting a change to the voting system. The referendum result should be respected. In 2011 AV was supported by a majority of the local voters in a mere 10 of the 440 local counting areas, so we will implement our manifesto commitment.

The noble Baroness, Lady Ludford, raised issues relating to voter ID. I have no doubt that we will debate that at great length when considering the Bill, so I will not anticipate all those arguments, but I understand where she is coming from. I have heard the arguments but unfortunately, I do not agree with them. Showing photographic identification is a reasonable and proportionate way to confirm that someone is who they say they are. It will allow us to take action against the vulnerabilities in the system that the 2016 report by my noble friend Lord Pickles and leading international election observers such as the OECD and the Electoral Commission all agree are a security risk. The 2021 Electoral Commission winter tracker was also very clear that the majority of the public—two in three voters, 66%—say that a requirement to show identification at polling stations would make them more confident in the security of our elections. If they are more confident, notwithstanding what the noble Baroness said, they are more likely to participate. A comprehensive equality impact assessment was published alongside the Bill. As I say, I have no doubt that we will discuss this at great length on the Elections Bill and I look forward to being of service to your Lordships' House and going some way towards convincing your Lordships that voter ID is sensible, proportionate and desirable.

In conclusion, exactly as the Minister of State for Equalities and for Levelling Up Communities noted during her first debate on this Bill in the other place, we are indeed having a lot of scrutiny of this Bill. I look forward to that. The only thing I do not look forward to is not hearing the familiar and respected voice of the noble Lord, Lord Tyler, assisting us in those considerations.

2.28 pm

Sitting suspended.

Skills and Post-16 Education Bill [HL]

Report (2nd Day) (Continued)

2.31 pm

Amendment 36

Moved by ***Lord Storey***

36: Before Clause 14, insert the following new Clause—

"Personal Education and Skills Account

(1) A Personal Education and Skills Account ("PESA") is an account—

(a) held by an eligible adult (an "account holder"); and

(b) which satisfies the requirements of this section.

(2) An eligible adult is a person who—

(a) is aged 18 or over; and

(b) is ordinarily resident in England.

(3) A PESA may be held only with a person (an "account provider") who has been approved by the Secretary of State in accordance with regulations.

(4) The Secretary of State may by regulations establish a body to administer the operation of the PESA scheme.

(5) In the case of each person who is eligible under subsection (2), the body established under subsection (4) must open a PESA for that person.

(6) If a person does not wish to hold a PESA, they must inform the body under subsection (4) in writing in accordance with regulations.

(7) The Secretary of State must pay into each PESA a deposit of £4,000 during the year in which each account holder attains the age of 25 and a deposit of £3,000 during the year in which each account holder attains—

(a) the age of 40; and

(b) the age of 55.

(8) Further contributions may be made to a PESA by—

(a) an account holder;

(b) employers; or

(c) any other person as may be prescribed by regulations by the Secretary of State.

(9) At any time after an account holder has attained the age of 25, they may transfer funding from their PESA to an approved institution for their chosen education or training course.

(10) For the purposes of subsection (9) an "approved institution" is—

(a) a "relevant provider" under section 18;

(b) such other education or training providers as may be approved by the Office for Students.

(11) Prior to an account holder making an initial funding transfer, the National Careers Service must offer a careers guidance consultation to that account holder."

Member's explanatory statement

This amendment provides for individual "skills wallets" which may be used by a person to pay for education and training courses throughout their lifetime. The Government will make a payment of £4,000 when an individual turns 25 and then two further payments of £3,000 when an individual turns 40 and 55.

Lord Storey (LD): Amendment 36 provides for the introduction of personal education and skills accounts, commonly known as skills wallets. As stressed by many of your Lordships during the passage of the Bill, there is growing discontent about the way in which post-16 education and training are provided and the reality of the skills needed for our population.

We know that in future the average British worker will do several different jobs throughout their lifetime; almost half will retrain completely during the course of their career. Meanwhile, the number of adult learners has fallen dramatically, almost halving between 2004 and 2016. With technology advancing and the world of work always rapidly changing, skills learned at 18 or 21 will not last a lifetime. It has never been more important for people to continually develop new skills. Yet our higher education and student finance systems are still tailored mainly to people taking their first degree or beginning an apprenticeship around the age of 18. Meanwhile, there is a desperate shortage of funding in the FE sector. The current system limits the opportunities, and people do not get the chance to make the most of their talents. Do we not want to empower people to develop new skills, so that they can thrive in the technologies and industries that are key to Britain's economic future? Championing flexible lifelong learning will give people the power to follow the path that best suits their ability. A skills wallet would be open to every adult over the age of 18 and resident in the UK.

I remind the House of the quite important words of the previous Secretary of State for Education when introducing the lifetime skills guarantee:

"What we are determined to do, and what we must do, is give people the opportunity to retrain and upskill, so that if one door closes, they will have the key to open others."

He went on to say that the Government

"stand for empowering everyone in this country, wherever they live. We stand for the forgotten 50% who do not go to university."

The measures that he wanted to see

"will embed greater flexibility in the technical and vocational system to support not just young people but adults who need to retrain and upskill at any point in their working lives."—[*Official Report*, Commons, 1/10/20; col. 541.]

Those comments justify the need for this amendment. I beg to move.

Baroness Garden of Frognal (LD): My Lords, I think there has been a regrouping; I was about to speak on an amendment that seems to have disappeared from here. I have added my name to Amendment 45A from the noble Lord, Lord Watson, which is still in this group, and of course I entirely endorse what my noble friend Lord Storey said about the importance of the skills wallet.

The amendment from the noble Lord, Lord Watson, is on lifelong learning. Of course, we would much rather see the support for this as grants, rather than loans, to attract adults with financial obligations that deter them from accruing more long-term debt—particularly if it is to encourage their own learning. The amendment is designed to monitor how well the lifelong learning arrangements are working. We particularly wish to see how restricting funding for those studying for an equal or lower-level qualification than one they already hold is impacting the nation's skills level.

Changes in the world of work mean that many people who already have a level 3 qualification, if they are made unemployed and need to retrain, will need to be able to study for a subsequent qualification at this level or below. The lifetime skills guarantee extended the entitlement beyond those aged under 25 to all adults, but only to a limited list of level 3 qualifications and only for those who do not already have one. It is vital that adults are able to reskill at a lower level in a skill area different from the one already mastered, if that will enable them to gain employment.

This really important amendment calls for the Secretary of State

"to publish an annual report on the impact on re-skilling of funding restrictions on those who wish to pursue a qualification at a level equivalent to or lower than one they already hold."

Lord Aberdare (CB): My Lords, I have also added my name to Amendment 45A from the noble Lord, Lord Watson. During the first day of Report, the noble Lord, Lord Coaker, spoke about previous unsuccessful skills improvement initiatives and asked,

"why will it be different this time?"—[*Official Report*, 12/10/21; col. 1765.]

Why will the Government's new skills system, as embodied in the Bill, work better than its predecessors? In my view, one of the answers will need to be a really vigorous and well thought-through approach to reporting, monitoring and evaluating the different elements of the strategy and how they all work together. The lifelong learning entitlement and the lifetime skills guarantee—I think I have those the right way around—are essential elements of the strategy but need to be transformed from slogans into realities. A crucial part of achieving that will be review, review, review.

I might prefer this amendment if proposed new subsection (1) ended slightly differently, to read, "a report on the impact on the overall levels of skills in England and Wales of all the provisions of this Act", rather than confining itself to

"the rules regarding eligibility for funding for those undertaking further or higher education courses."

In the meantime, I will content myself with supporting the noble Lord's amendment as it stands—with its effect of ensuring that the impact of the equivalent or

lower qualification rule is at least reviewed and assessed on a regular annual basis—while encouraging the Minister to look at beefing up further the process of reviewing the overall progress of the skills strategy, beyond the performance monitoring and review of designated employer representative bodies described in her letter to us.

Baroness Bennett of Manor Castle (GP): My Lords, I slightly unexpectedly find myself to be the first person to speak to Amendment 40 in the name of the noble Lord, Lord Watson of Invergowrie, also signed by the noble Lord, Lord Storey, and me. Amendment 45A calls for a review to look at the issues around a restriction on allowing people to study at a level below that which they already possess. Amendment 40 goes further in removing restrictions.

I would have thought that naturally the Conservative position would be a belief that the person best placed to decide their best course of study would be the individual concerned rather than the state. This is a question of individual choice, about people knowing best their own situation. Therefore, while I very much support Amendment 45A, which at least calls for a review, I would go back to the more fundamental change in Amendment 40.

I am also in favour of Amendment 36 in the name of the noble Lord, Lord Storey. Education is a public good. We hear a lot of talk about investment for levelling up. Well, investment in people is the most fundamental investment of all. It is flexible, it enables people to make choices for themselves. A new or improved railway line or better school facilities are there and accessible to people, but people making their own choices is what investment in education is all about.

I am also in favour of Amendment 48, not yet addressed by the noble Baroness, Lady Sherlock. I will leave her to fully explain this, but it is worth stressing that what does not get measured and focused on does not get funded or supported. That is the principle behind that amendment.

Baroness Sherlock (Lab): My Lords, as this is my first speech on Report, I welcome the noble Baroness, Lady Barran, to her new ministerial role, and place on record my thanks to the noble Baroness, Lady Berridge, for her hard work on the Bill and her openness and willingness to engage with those of us on this side.

I speak specifically to the government amendments in this group. My noble friend Lady Wilcox will talk about the others in this group. We would have preferred them to be de-grouped, but time is short. However, the Government were planning to bring back for Report detailed amendments on the lifelong loan entitlement. Since they have now decided not to do that, we are left with several questions which I must ask. I apologise for doing so on Report, but we have not had an opportunity to do so otherwise.

In Committee, the Government tabled some amendments which were presented as providing some of the wiring in the basement of higher education that would be needed when Ministers unveiled their renovation plans in the form of the LLE. However, since those plans must wait until another day and, we are told, until more primary legislation, because Ministers want to wait for the consultation first, we are left with some big questions. One obvious question is: when will the consultation happen? Indeed, why is it not already out there? What is holding it up?

Ministers have brought back some parts of the wiring amendments on Report. The LLE is meant to cover courses and modules in FE and HE. Clause 14 amends the Teaching and Higher Education Act to allow for the funding of courses in FE and modules in FE and HE, a lifetime funding limit and for funding not just for an academic year. Clause 15 amends HERA to change the definition of a "higher education course" to make it clear that the regulatory regime applies to modules. Government Amendment 39 defines what a course and a module are. However, at the risk of being nerdy, I point out that the Government have not brought back the parts of an amendment that they tabled in Committee which required the Office for Students to specify fee limits for modules as well as courses. We are told offline that the Government will provide for modular fee limits after the consultation. Will that require primary legislation? Does any other aspect of the LLE require primary legislation? If so, can we have a timescale for it? If not, can the Minister say how and when Parliament will have a full debate on the shape and scope of the LLE absent primary legislation?

Where does that leave us in the gap between the Bill taking effect and the new regime being brought forward? If THEA will now permit student loan funding to cover modules which are not taken as part of a full course, does that mean that a provider could do that now but with no fee limits, or would that require regulations to be made, perhaps under THEA? If so, can the Minister assure the House that no such regulations will be brought forward ahead of the debate on the primary legislation promised to enable LLE?

I have three other questions. First, does the same definition of a module in the Bill, as it will be amended, apply for all purposes—funding and regulation—in both HERA and THEA? I ask because Clause 15 as amended by government Amendment 39 offers a definition of a module, which I mentioned in Committee. However, new subsection (1)(e) in Clause 14(1) provides that regulations under Section 28A of HERA may prescribe the meaning of "module" in relation to HE or FE. Can the Minister clarify that distinction? Secondly, on funding, irrespective of how LLE develops, does it mean that a module can be funded via the student loan book only if it is part of a full course? In other words, would the Bill as amended exclude a module which was not part of a qualification?

2.45 pm

Finally, the Bill brings the regulation of modules clearly within the remit of the OfS but there are lots of outstanding questions about what quality looks like for modular provision. The OfS has just closed its second-phase consultation on its proposals for new quality and standard conditions, in which it repeatedly stressed that their new conditions were designed to work for modules as well as courses. It will shortly consult on new quantitative metrics. The current measures—student continuation, completion, and progression to graduate jobs—will self-evidently not

[Baroness Sherlock]
transfer across to modules from full HE courses. Is the intention for that consultation to consult on new metrics which will apply to flexible modules as well as full courses? If so, is the Minister concerned that this may pre-empt decisions of this House?

I am concerned that by legislating now on the regulation of flexible provision but holding back on funding and other details, the law is being changed without adequate scrutiny of what the new system will look like. Why have the Government brought these amendments back now? Why not hold off until we have that new primary legislation and Parliament can have a full, informed and coherent debate about how this will work?

Baroness Wilcox of Newport (Lab): My Lords, as the Bill before us today is about education, I hope that noble Lords will not mind me veering slightly off topic for a moment. Today marks the 55th anniversary of the Aberfan disaster, the catastrophic collapse of a colliery spoil tip on 21 October 1966 that killed 116 children and 28 adults as it engulfed Pantglas Junior School. I was a pupil at Pontygwaith Junior School in the Rhondda at that time, another valleys primary school built on the side of a mountain, and as we returned to school after lunch we were sent into the yard and told to put our hands together, close our eyes and pray for the children of Aberfan. I had never heard of Aberfan at that time, but I have never forgotten it since.

I speak to Amendments 40, 41, 45A and 61 in the name of my noble friend Lord Watson, who unfortunately, because of the change to the timetable, is unable to be here today. The Government originally promised to table LLE amendments ahead of Committee, but unfortunately very few of substance materialised. We were told that they would be tabled for Report, but we have now been advised by the Minister and her Bill team that this was not possible and that they intend to consult and pilot the lifelong loan entitlement before returning with new primary legislation. This is disappointing given that the LLE is supposed to be the Government's flagship policy and is urgently needed, but it is not surprising, because the sheer complexity of what they are trying to build was immediately apparent to all—apart from, it seems, the Bill team.

Perhaps the delay will give the Minister time to reflect on the length of the LLE. At present, it will offer up to four years of equivalent funding for levels 4 to 6, and while for some people this may be enough, for others it simply will not be. Undertaking a foundation or access year plus a three-year bachelor's degree, which is a common route, would use it all up in one go. Therefore Amendment 41, requiring the Secretary of State to consult on extending eligibility to six years to give greater flexibility, is important. It will be especially important to those studying part-time and help to encourage adult learners to take up an offer to study and upskill. It is supported by the Association of Colleges, training providers and other stakeholders that we have engaged with in preparation for this debate.

I am very grateful to the noble Lord, Lord Storey, for tabling Amendment 43, which allows the Secretary of State to make provision for the LLE to include maintenance provisions to include living costs to help disadvantaged students. We tabled this amendment in Committee and, as my noble friend Lord Watson highlighted then, one of the main barriers for adult learners, highlighted in the DfE's own impact assessment, is the cost of study, including living costs. Yet, as drafted, the LLE covers only tuition costs. The Welsh Government recently introduced reforms to tackle this issue by extending maintenance support, including means-tested grants to all students regardless of mode of study, while maintaining low tuition fees for part-time study. Unsurprisingly, this has had a huge impact on participation.

Amendment 40 removes the equivalent or lower qualification—ELQ—exemption rule for the LLE to ensure eligibility for student loan funding for another qualification at that or a lower level, to facilitate career changes. It also ensures LLE eligibility regardless of subject, intensity of study, institution or learning style. We are concerned that, unless reformed, the ELQ rule could pose a significant barrier to further education providers working with local employers to deliver training in priority sectors that support communities.

I will not repeat in full the arguments my noble friend Lord Watson gave on this issue in Committee, nor will I repeat the searching and directly targeted questions from my noble friend Lady Sherlock. The ELQ rule means that anyone qualified to level 4 cannot access government loans or grants to study a qualification at an equivalent or lower level. I suggest this must be urgently reconsidered if the LLE is to succeed in providing opportunities for people to reskill for a new career where such skills are in demand. According to the Office for Students, there are exemptions to the ELQ rule if it is a qualification in a public sector profession, such as medicine, nursing, social work or teaching, or if the student is studying for a foundation degree or receiving a disability student allowance.

Mayoral combined authorities with devolved powers have begun to move away from the ELQ rule. Indeed, the Conservative-controlled West Midlands Combined Authority is running a pilot offering fully funded care management qualifications at level 3 and 4 to black, Asian and minority-ethnic women regardless of their prior attainment. The Augar review also proposed scrapping the complex ELQ rule. The need has been recognised, and there are precedents for the Government to follow.

It was disappointing that the noble Lord, Lord Johnson, withdrew last week what was then Amendment 42, requiring the Secretary of State to publish an annual report on the impact on reskilling of funding restrictions on people requiring a qualification at a level equivalent to or below the one they already hold. We were supportive of that amendment, so it has been resubmitted in the name of my noble friend Lord Watson and appears as Amendment 45A. I do not propose to elaborate, as it is self-explanatory.

Another complex area concerns credit transfer arrangements to allow students to move between education providers. Amendment 61 is a probing amendment designed to elicit more information on this. A universal credit transfer system would have significant benefits to many students, not least in terms of widening participation. The Open University's OpenPlus programme, where students initially study at one institution

before completing their studies at another, is an example of what can be achieved. I would be very grateful if, ahead of consultation, the Minister can outline how the Government intend to address and overcome the lack of commonality which my noble friend Lord Watson raised in Committee. Can she say what discussions the DfE has had since then with the devolved Governments and what those discussions have produced? Any scheme for allowing students to use credit flexibly must enable transferability across the UK—many people living in Newport study in Bristol, and vice versa—and internationally. It also needs to support credit transfer not just in HE but between FE and HE. I hope the Minister can say how she anticipates that will be facilitated.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I thank the noble Baroness, Lady Wilcox of Newport, for reminding us of the tragedy of Aberfan and the terrible loss of life on that day. I will speak first to the amendments in my name on the lifelong loan entitlement and then respond to your Lordships' amendments.

The amendments being laid today primarily address the technical underpinnings of the LLE and make other minor corrections to enable a strong legislative framework. We are laying them now to introduce the enabling powers for the Secretary of State that are necessary to the delivery of the LLE from 2025. The Government previously set out that we would table additional amendments, as your Lordships have noted, outlining further detail on the modular fee limit policy of the LLE. Following further policy development and engagement with stakeholders, including debate in Committee in this House, the Government have decided not to lay these before we consult. As noble Lords have noted, these are complex issues and it is essential that our final policy approach is informed by the needs of students, providers and all key stakeholders. This complexity was demonstrated in Committee by some of the questions on the detail and implementation of the lifelong loan entitlement. Given the intricate nature of such legislation, we must not pre-empt further policy design or decisions based on the consultation.

The noble Baroness, Lady Sherlock, asked what the consultation will contain. We intend to seek views on our ambition, objectives and coverage. This will include aspects such as but not limited to: the level of modularity —this will cover the minimum number of credits a course will need to bear to be eligible for funding; maintenance support; how to support quality provision and flexible learning; how to incentivise and enable effective credit transfer; and whether restrictions on previous study should be amended to facilitate retraining and stimulate high-quality provision. We intend to bring further primary legislation following consultation. This will allow us to meet the rollout timetable of the LLE from 2025, as originally planned.

The noble Baroness, Lady Sherlock, describes herself as nerdy; in my world, that is a great compliment. I thank her for her kind remarks about my getting to grips with the role, but I also commend my noble friend Lady Chisholm, who has found herself on an equally steep learning curve. To be clear on the timing of the LLE consultation, we commit to delivering the LLE from 2025. We cannot give the noble Baroness a firm date today, but it will be lined up so that we can deliver on that commitment. She also asked whether fee limits would require primary legislation; I can confirm that they would.

The noble Baroness also asked why the Government are laying amendments on the LLE now rather than waiting for future primary legislation—I have an instinctive feeling that, if we had not laid these amendments, she might have challenged the Government on our commitment to really delivering on this. Part of the reason is to be absolutely clear that there should be no doubt about that level of commitment.

In terms of the definitions of a module in the Bill, from both a funding and a regulatory perspective, I know that the noble Baroness has been in correspondence with colleagues in the department and I am happy to put a full, detailed response in a letter in the interests of time. The THEA and HERA legislation have two very different purposes. The former makes provision for loan funding via a broad set of regulation-making powers for the Secretary of State; the latter is principally about the regulatory regime—the powers of the Office for Students—and specifically enables the setting of fee limits for higher education courses by the Secretary of State. In Clause 14, new Section 28A(1)(e) modifies Section 22 of THEA by inserting new subsection (2ZA). That enables the Secretary of State to define what "module" means in relation to a higher or further education course for the purposes of making loan regulations.

Clause 15, which is to be amended by the government amendments, takes a slightly different approach due to the different regime that it covers. It clarifies that a module of a "full course"—an HE course, for example, mentioned in Schedule 6 to the Education Reform Act 1988—is itself a category of higher education course for the purposes of Part 1 of HERA 2017 when it is taken separately from the course from which it is derived.

3 pm

Finally, the noble Baroness asked whether it was the intention that a module can be funded via the loan book only if it is part of a full course. The funding of modular loans will be delivered via regulations, using the modified powers to THEA under Clause 14 of the Bill, as noted earlier. The policy intention is for the lifelong loan entitlement to fund whole courses—or their component modules, if taken separately—that meet the necessary regulatory requirements and are provided by or on behalf of a registered provider. All registered providers currently offering loan-funded provision should be able to offer modular learning through the LLE. It is not the policy intention to fund modules that are not component parts of whole courses. The Bill would allow for regulations that could include or exclude from funding modules that are not part of a qualification. We will consult on the scope and policy of the lifelong loan entitlement, including seeking views on objectives and coverage, together with aspects such as the level of modularity.

The noble Baroness also asked about the regulations on fee limits and whether these would be introduced ahead of debate on the primary legislation. Any fee regulations would have to follow an affirmative resolution procedure, so there would be a debate in both Houses

[Baroness Barran]
if and when the primary legislation has been introduced. I hope that that answers the noble Baroness's questions, and I thank her for giving me warning of them.

As I was saying, we intend to bring further primary legislation following consultation, and we are still committed to meeting the rollout timetable of the LLE from 2025. As a number of noble Lords have said, we share that vision for lifelong learning to make sure that everyone, no matter where they live or their background, can gain the skills that they need to progress in work at any stage of their life.

As part of the lifetime skills guarantee, the lifelong loan entitlement will be introduced from 2025, providing individuals with a loan entitlement to the equivalent of four years of post-18 education to use over their lifetime. The LLE will create a flexible skills system through which people can build up learning over their lifetime and have a real choice in how and when they study. It will make it easier for students to navigate the options available, and it will encourage provision to meet the needs of people, employers and the economy better. We will endeavour to keep the House updated on the progress of the development of the LLE.

I turn now to the government amendments in my name, which seek to do three things. First, they will clarify what is meant by "module", in reference to a higher education course. Secondly, they will avoid introducing a potential bureaucratic burden on providers. Thirdly, they will correct a previous error in legislation surrounding the teaching excellence framework. Specifically, Amendment 39 will amend Clause 15, which itself amends the definition of "higher education course" in the Higher Education and Research Act 2017, to make express provision for the regulation of modules.

Currently, the post-18 education student finance systems do not provide for modules. The LLE will transform student finance by supporting more flexible and modular provision. These proposed changes will provide the explicit underpinning for the delivery of modular provision. On Amendments 37, 38 and 39, Clause 15, once amended, will make specific provisions for modules in Part 1 of HERA 2017, which relates to the regulatory regime under the Office for Students. These amendments also reduce the potential burden on providers to provide or publish information in relation to modules under Section 9 of that Act.

Amendment 59 relates to the high-level quality rating, which is currently an award under the teaching excellence and student outcomes framework—TEF—for providers without an approved access and participation plan. Higher education providers with a TEF award currently benefit from an uplift to their fee limit, which means that they are able to charge at a higher level than higher education providers without a TEF award.

There is currently an error in the legislation that could prevent a timely link between TEF awards and a provider's fee limit. For example, let us consider a provider that does not have an approved access and participation plan. Whether that provider is entitled to the TEF fee uplift in any academic year is dependent on whether it had an award on 1 January in the calendar year before the relevant academic year. This means that a provider seeking to charge the TEF fee uplift in the academic year 2022-23 would be able to do so based on an award in force in January 2021, rather than January 2022, which was the original intent. This amendment will correct this and ensure that there is a more timely link between fee limits and the TEF, helping to further incentivise excellence in higher education. Amendment 73 to Clause 27 is a related consequential amendment that sets out that the new clause in Amendment 59 will come into force two months after Royal Assent.

Finally, I turn to Amendments 68 and 69, which set out the territorial extent of the provisions contained within the Bill. The LLE provisions extend to England and Wales but apply in relation to England because we are making amendments to the English student finance system. The noble Baroness, Lady Wilcox, asked about our engagement with the devolved Administrations. We have engaged with them on the LLE and on other measures in the Bill, and contact and engagement continue as work on this area progresses.

Overall, we believe that these changes will help pave the way for more flexible study and for greater parity between further and higher education. As I said, we will consult on the detail and scope of the lifelong loan entitlement in due course.

I will now respond to your Lordships' amendments and I thank all noble Lords for their contributions today. I turn first to Amendment 36, in the name of the noble Lord, Lord Storey. The Government warmly share the noble Lord's desire to promote lifelong learning. However, this amendment would create significant fiscal and logistical challenges. It has the potential to disrupt our established loan support system in order to accommodate an additional system of grants. This would substantially increase costs to the taxpayer, both in the costs of such grants themselves and in their administration.

The amendment would mean that every individual in England would have a personal education and skills account. A report on this policy was published by the Independent Commission on Lifelong Learning in March 2019, setting out that the maximum total liability to government of PESAs would be £6.6 billion per year. It is worth noting briefly that this figure is likely to be an underestimate, because the PESA envisioned in that report was for a £9,000 sum, rather than the £10,000 suggested here.

The amendment also suggests that a new body would be created to administer these learning accounts for every adult resident in England. This process would have to happen seven years before an individual can first make use of any funds at age 25, and integration of these new accounts within the Student Loans Company's existing operations would have significant cost and operational impacts. Moreover, there is an opportunity cost to the Government depositing thousands of pounds into these accounts, only to be left idle, waiting for an unknown point of use. This poses a strong contrast to our current loan support, made available at the point of study. Finally, these significant changes would risk delaying the rollout of the lifelong loan entitlement beyond 2025.

Turning next to Amendment 41, from the noble Lord, Lord Watson, the Government's vision for a four-year post-18 education loan entitlement mirrors the

four years' full-time undergraduate training recommendation of the *Independent Panel Report to the Review of Post-18 Education and Funding*. As many noble Lords will be aware, the panel reported following extensive consultation and stakeholder engagement, and sought specifically to promote both uptake of higher technical qualifications and flexible study through this recommendation.

The recommendations made were intended to strike the right balance between taxpayers and students. This amendment would potentially enable much greater cost to be borne by taxpayers than has been proposed by the Government. It is also worth noting that the existing flexibilities for part-time students will remain under the LLE and that part-time study would be able to exceed four calendar years, as needed. This would mean that, as currently, a student could study a course of four academic years at a lower intensity, over, for example, six calendar years, if they desired.

I turn to Amendment 61, again from the noble Lord, Lord Watson. I warmly welcome the interest that he has placed on ensuring that the Government have the powers needed to deliver the LLE, and agree strongly with the underlying principle. The Government believe that at the heart of the LLE is enabling greater flexibility. Where appropriate, learners must be able to accumulate and transfer credit between providers, building up meaningful qualifications over time. The Bill, and the government amendments we have tabled on the lifelong loan entitlement, provide the building blocks of a modular system; we intend to come back with further legislation once we have consulted on how that system should be made to work best in the interests of students.

In developing the LLE, we are working closely with the sector to understand current incentives and obstacles to credit transfer and recognition. We will examine how to support easier and more frequent credit transfer between providers, working towards well-integrated and aligned higher and further education provision, with flexibility that enables students to move between settings to suit their needs. So while we welcome the push behind this amendment, it remains important that consultation informs our approach to credit transfer. We must not predetermine the outcome, nor pin the Government to a path of top-down regulation, without understanding fully the impact on providers and learners.

I will now address Amendments 40 and 45A, tabled by the noble Lord, Lord Watson, on retraining and ELQs. The Government agree that many learners need to access courses in a more flexible way to fit study around their work, families and personal commitments, and to retrain as both their circumstances and the economy change. Developing skills across the country is a key priority for the Government as we seek to build back better from the pandemic.

In April, we launched the "free courses for jobs" offer as part of the lifetime skills guarantee. This gives all adults in England the opportunity to take their first level 3 qualification for free, regardless of their age. The offer builds upon the pre-existing legal entitlement for 19 to 23 year-olds to access their first full level 2 and/or level 3 qualification, which the free courses for jobs offer complements. Through the adult education budget, full funding is also available through legal entitlements for adults aged 19 and above to access English and maths, to improve their literacy and numeracy, and to access fully-funded digital skills qualifications for adults with no or low digital skills.

3.15 pm

However, I should also note that existing equivalent or lower qualification rules were designed to help maintain a sustainable system. As such, we are designing the lifelong loan entitlement to support students pursuing higher and further education flexibly, but also to share the costs fairly. We want the lifelong loan entitlement to provide value for money to students, the education sector and the taxpayer. The complexity of this balance and the transformative nature of the LLE are among many reasons why we intend to consult on the detail and scope of the LLE before legislating on eligibility. It is crucial that careful consideration of the needs of providers, learners and stakeholders informs our final policy design and that we do not pre-empt the findings of the consultation.

Regarding Amendment 45A, introducing an ongoing review on eligibility into primary legislation before the policy detail is yet finalised may also prejudice the outcome of the consultation. Additionally, the Government believe that a yearly report without an end date could be an undue and non-proportionate burden to be tied to at this stage.

I again note that Amendments 40 and 45A would be out of kilter with similar legislation passed previously in your Lordships' House in relation to student finance. As outlined earlier, much of the detail of how the system works, such as exact eligibility criteria, has been set out in secondary legislation, and the necessary monitoring and review will be undertaken after changes have been implemented and had time to embed.

On Amendment 43, tabled by the noble Lord, Lord Storey, I can reassure him that the Bill already provides the necessary powers for maintenance support. Clause 14(1) modifies the powers in Section 22(1) of the Teaching and Higher Education Act 1998, so that regulations will be able to provide for maintenance and living cost loans for eligible students taking designated modules of higher or further education courses. The introduction of this would follow consultation, which, as I have mentioned, will cover maintenance support. This amendment is therefore not necessary but I warmly welcome—and the Government agree with—the underlying principle: a need for appropriate support for students while they undertake their studies.

The Bill makes explicit provision for supporting the introduction of the lifelong loan entitlement. The funding of modules of courses will help create a more flexible system of provision across higher and further education. As I have said, much of this work is subject to the consultation on the lifelong loan entitlement, which we will be launching in due course. As such, I would hope that noble Lords will feel able not to move their amendments when they are called.

Lord Storey (LD): I thank the Minister for all her comments. I beg leave to withdraw Amendment 36.

Amendment 36 withdrawn.

Clause 15: Lifelong learning: amendment of the Higher Education and Research Act 2017

Amendments 37 to 39

Moved by ***Baroness Barran***

37: Clause 15, page 18, line 17, leave out "In section 83(1) of"

Member's explanatory statement

This amendment is consequential on the Minister's second amendment at page 18, line 17.

38: Clause 15, page 18, line 17, after "2017" insert "is amended as follows.

(2) In section 9 (mandatory transparency condition for certain providers), after subsection (3) insert—

"(3A) The OfS must not request information relating to modules of full courses by virtue of a transparency condition more frequently than it requests information relating to full courses by virtue of the condition."

(3) In section 83(1)"

Member's explanatory statement

This amendment ensures that requirements for higher education providers to provide information by virtue of a transparency condition are no greater in relation to modules than to full courses.

39: Clause 15, page 18, line 23, leave out from "course" to end of line 24 and insert ", where it is undertaken otherwise than as part of that course;".

(4) In section 85 (definitions)—

(a) in subsection (1), at the appropriate place insert—

""full course" means a higher education course that is not a module of another higher education course;";

(b) after subsection (1) insert—

"(1A) References in this Part to modules (except in relation to references to the full course of which the module forms part) are to modules which are—

(a) modules of full courses, but

(b) undertaken otherwise than as part of those courses.""

Member's explanatory statement

This amendment clarifies that the two categories of higher education course for the purposes of Part I of the Higher Education and Research Act 2017 are full courses and modules of full courses where they are undertaken otherwise than as part of full courses, and defines references to modules accordingly.

Amendments 37 to 39 agreed.

Amendments 40 and 41 not moved.

Amendment 42 had been withdrawn from the Marshalled List.

Amendment 43 not moved.

Amendment 44

Moved by ***Lord Addington***

44: After Clause 15, insert the following new Clause—

"Lifelong learning: special educational needs

When exercising functions under this Act, the Secretary of State must ensure that—

(a) providers of further education are required to include special educational needs awareness training to all teaching staff to ensure that all staff are able to—

(i) identify, and

(ii) support,

those students who have special educational needs;

(b) providers of further education provide support for students with special educational needs or disabilities that is of an equivalent standard to those with similar needs in higher education."

Member's explanatory statement

This amendment places a duty on the Secretary of State to ensure that there is sufficient SEN training for teachers of students in further education and that there is support for students with special educational needs or disabilities that is of an equivalent standard to those with similar needs in higher education.

Lord Addington (LD): My Lords, I have two amendments in this group, and I welcome the support of the right reverend Prelate the Bishop of Durham for them. They are both about special educational needs in the further education sector. Special educational needs in further education are a bit like they are in everything else: an afterthought. They are an afterthought with a couple of special bits of legislation attached, including education, health and care plans, which allow some support until the age of 25 but do not apply to higher education. For those who get to higher education with special educational needs, there is a nice, structured support centre based on the disabled students' allowance—some of the old jobs of which are taken on by the institution.

Why did I need to preamble like that? My amendments are trying to take best practice from the other two areas of education and apply them to further education. If you happen to attend a higher education institution and you have an identified special educational need, the institution must do certain things—for instance, it must make sure that you have information capture available to you. A few noble Lords might ask what that is. It is where students can digitally record a lecture, seminar or whatever and transfer it into a format which they can take the information from. It could be putting it on to a screen or into verbal means. Basically, there are lots of clever things you can do with technology nowadays that you could not do 10 or 20 years ago which mean that just about anybody can access it in any way they want to. This is a duty in higher education.

Some might ask why I have tabled these amendments, as these two areas are different. I think it was the right reverend Prelate's office which provided me with the fact that over 100,000 students taking higher education degrees are doing it at colleges—100,000 students are able to get this support, but they cannot get it if they are on a level 4 or level 3 course. I think level 5 is covered by it; if I have that wrong, I put my hands up, but the principle is still there. Why are we not taking the best practice from one area of education and applying it to another? Let us face it: making sure that further education is a viable option is central to this debate. Everything in the Bill implies that, and we have an overlap of provider, so why are the Government not doing this?

There is also the question of how to train people to deal with this, and that is also a part of Amendment 44. Virtually everybody with a special educational need or disability that applies in this sector—depending on which end you take it from—will usually have a slightly different learning process. Can they write or read well? Will they absorb the information in the same way? Can they tolerate the same amount of time concentrating

within a lecture or tutorial? All these people are slightly different, and understanding that is the way that they can succeed. I once again refer to the disabled students' allowance, which guarantees support in higher education. So, level 6 and level 4 apparently have two totally different systems which contradict each other, and there is a different structure again within schools. How are we going to make sure that the best is taken from one system and applied to another, especially where there is a very high level of overlap? You will have the expertise and you will have people involved in it. Even if it is not in your institution at the moment, the one down the road will know—pick up the phone and find out. It is not that difficult.

When it comes to Amendment 46 and teacher training in further education, we have an awareness programme for schools and those trained in them. It does not include that much, and I think it should be much wider. It is based upon the most commonly occurring problems that a teacher will have to account for. I should have identified my interests: I say once again in this Chamber that I am dyslexic, the president of the British Dyslexia Association and the chairman of a company that organises packages of support for people in work and education. In the school system, there is an awareness package which means that teachers have some basic knowledge of those most commonly occurring conditions. Dyslexia comes at the top of that list, but it is only the top. To highlight how difficult it is for the person providing the training, co-occurring difficulties are almost the norm. For example, it is very common for a dyspraxic student to also be dyslexic. There is a conglomeration of little oddities and changes in patterns of learning which are difficult to meet for both the student and the teacher giving the support. Teachers must have some knowledge, because more of the same is a guarantee of failure in many cases.

To give a little example in the case of dyslexia, if you say, "Oh, if we give him lots of spelling tests, he will learn to spell", no, he will not. He will just forget more words. Give him the same spelling test a lot, and he will learn a few. That is the tip of the iceberg. Teachers need to work differently and need the knowledge to understand why somebody will not respond in certain ways. They at least need to know that they should find out more. If that degree of knowledge is not provided, there is almost a guarantee of failure or delay. This is fair neither to the person doing the teaching nor to the person receiving it.

Both these amendments call upon the Government to institute actions which have been done in other areas of the education system. They should make sure that they take examples from there. I would like to go further and institute better back-up and support. When the Minister replies, she will undoubtedly have a list of lots of regulations and all the things that should happen, but they do not, because there is no way of going forward and co-ordinating them. I also hope that the Minister from the second-half team for this Bill will carry on from the first-half team in recognising that we are not just talking about high levels of need. We need to make sure that somebody who is in danger of doing less well and possibly failing receives the same attention as somebody who is a dramatic failure. At the moment, requiring that stamp of approval from the plan or the official diagnosis—saying that you are of a sufficient level of severity to need X level of help—means that we are worrying about those on the edge, who might just get through on a good day but probably will not. With small adjustments to their behaviour or the way information is presented to them, those people can actually get through.

I look forward to hearing what the Minister has to say. I hope I do not have to press either of these amendments, but that is now in the Minister's hands. I beg to move.

The Lord Bishop of Durham: My Lords, this is my first opportunity to welcome the Minister to her new role, and, indeed, the noble Baroness, Lady Chisholm, to hers. In my own role as chair of the National Society—which I declare as an interest—I look forward to working with them both on many matters relating to education and the Church of England's place as a major provider.

Turning to Amendments 44 and 46, which I was pleased to add my name to, I thank both noble Baronesses for the time they gave us recently to discuss them. The need for specific provision to be made to better meet the needs of students with specific learning needs and disabilities at all levels has been made—not for the first time—with great expertise by the noble Lord, Lord Addington, and I wholeheartedly support these amendments. Given the range and varied nature of the learning needs among FE students, their lecturers, tutors, assessors and other staff must have the skills to recognise those needs to be able to adapt their own approach to teaching, learning and assessment, and to be able to promptly and appropriately refer students for more specialised or intensive support.

Amendment 44 does precisely what is required and, in addition, poses a challenge. Such high-quality support is very widely available in HE, often in the departments of FE colleges which deliver HE provision and from which it might be made more widely available. Is it not both educationally and ethically desirable that those on FE programmes should have the same access as their fellow students in HE?

3.30 pm

Amendment 46 is also carefully drawn. It would require special needs awareness training that is relevant to students of ITT FE courses within an institution. It may be said that, in contrast to ITT provision for schoolteachers, the content, assessment and delivery of teacher training in FE is very different and that such a degree of prescription is inappropriate and much is already being done. In other areas, such as funding, governance, qualifications and many more, there is no such hesitation. In this particular field, the need for a strong lead from government and the investment it requires are, I think, fully recognised by Ministers, officials and the sector. I sincerely hope that the Government will be open to accepting these amendments.

Lord Storey (LD): My Lords, these are really important amendments from my noble friend Lord Addington, and I hope that the Minister will take note. Again, I would ask her, "Why not?" It is hugely important that in our education system, whether it be in nursery or in

[Lord Storey]
university, we are able to identify where there are special needs requirements. Teachers and support staff need that training, because when they are able to identify, they can provide the support that is needed.

I remember as a young teacher going on a very simple course—dare I say it, it was like a couple-of-hours course—on being able to identify children who suffer from dyslexia, but it taught me that if you could identify children who were dyslexic you could then give them all sorts of support. For example, if you handed out worksheets that were in a certain colour—and please correct me if I am wrong—those children could prepare, understand and read in a better way. That is why the amendment is important.

One would hope that children with educational needs would be picked up at an early stage in our education system, but that is not to say that it always happens. It is a very simple amendment. It says that all teachers should have that simple, basic training, and let us hear why not, and that the support needs to be there.

The other amendment also says something that we have been saying for a long time; certainly, my noble friend Lord Addington has been doing so. Why not have this as a definite component in our teacher training that all teachers should be exposed to—that they should learn about identifying special educational needs? Whether they are trained on the intensive Teach First programme, doing a SCITT programme or doing a postgraduate education course, everybody should have a component involving being able to identify individual children who may have special educational needs and understanding their requirements.

I hope the Minister will respond positively.

Baroness Wilcox of Newport (Lab): These amendments would place a duty on the Secretary of State to ensure that there is sufficient SEN training for teachers in further education so that there is support for students with special educational needs or disabilities that is of an equivalent standard to that for those with similar needs in higher education. The amendments would also ensure that there is sufficient SEN training for those involved in initial teacher training.

FE colleges, sixth-form colleges, 16-19 academies and independent specialist colleges approved under Section 41 of the Children and Families Act 2014 have specific statutory duties which include the duty to co-operate with the local authority on arrangements for children and young people with SEN, the duty to admit a young person if the institution is named in an education, health and care plan, and the duty to use their best endeavours to secure the special educational provision that the young person needs. These duties require extra training and support, which is key to their successful implementation. We fully support the amendments in the name of the noble Lord, Lord Addington. His specialist knowledge and understanding of this subject have identified clear gaps in the current provision that need to be plugged by these amendments to the Bill.

Baroness Chisholm of Owlpen (Con): My Lords, I start by thanking the noble Lord, Lord Addington, for his advocacy for learners with special educational needs and disabilities. I thank the right reverend Prelate for his words as well. I feel that, across the board, we come from a very similar position, even if the Government's methods are slightly different.

Turning first to Amendment 46, I agree with the noble Lord that it is vital for our teachers to be trained to identify and respond to the needs of all their learners, including those identified as having special educational needs and disabilities. Where the Government differ is on the best way to achieve this aim. Let me explain our position. The new occupational standard for FE teaching, published in September, has been developed by sector experts who employ teachers. The standard sets out key knowledge, skills and behaviour, including a specific duty that focuses on the importance of inclusion, which—I hope that this vital point will ease the noble Lord's concerns—will support the early identification of learners' needs and enable teachers to respond to them effectively.

The occupational standard is the right place to set the expectations of our teachers. We have been clear that we intend to make public funding available only to training programmes that meet the new standard. For the reasons I have just set out, I believe that it would be inappropriate to specify particular course requirements in the Bill when a standard newly developed by sector experts already achieves this. I can assure the noble Lord that our intention is to drive up the quality of FE teacher training so that it can meet the varied and often complex needs of learners in the sector.

Turning to Amendment 44, the Government are committed to driving up the quality of teaching in further education and strengthening the professional development of the FE workforce. To that end, we are already providing significant funding for programmes to help spread good, evidence-based practice in professional development, including provision currently being delivered by the Education and Training Foundation to support the professional development of teachers working with SEND learners. It is also important to note that, under the SEND code of practice, colleges

> "should ensure that there is a named person in the college with oversight of SEN provision to ensure co-ordination of support … This person should contribute to the strategic and operational management of the college. Curriculum and support staff in a college should know who to go to if they need help in identifying a student's SEN, are concerned about their progress or need further advice."

Ultimately, decisions must be made by providers themselves about what training is relevant and necessary in response to the specific needs of their learners and those who teach them. Of course, students with SEND must get the support they need to benefit from the lifelong loan entitlement. Students with SEND are an important part of our vision for and motivation behind a flexible skills system. We believe that this kind of flexible provision will be of particular benefit to these students. We plan to use the LLE consultation to build our evidence base on how to support all people to access or benefit from the LLE offer.

The noble Lord, Lord Storey, mentioned the importance of primary schools and nurseries in picking up pupils who may have problems. The number of primary school-age pupils identified with SEND has increased over the past five years. In 2021, pupils with

SEND represented 17.2% of primary school-age pupils. The most common SEND support needs are usually in speech, language and communication. Among pupils with an EHC plan, autistic spectrum disorder is the most common type of SEN. This shows that children with SEND are being picked up earlier, which is so important and means that they can get support from the age of five onwards. I know this from personal experience, because I have a grandson who has mild autism. His support in his state primary school has been second to none, and I know that that will carry on right through for the rest of his education.

There would also be a further issue if this was mentioned on the face of the Bill. The Secretary of State would then have to specify requirements relating to one particular element of the training programme, SEN awareness, even if others were not identified.

I thank the noble Lord again for submitting these amendments and hope he is satisfied with the work being done in these areas. I hope he will feel comfortable to withdraw this amendment and not move his other amendment.

Lord Addington (LD): My Lords, here we go again. They say that they will take out pupils if they spot them, they will really get on with it, but they will not specify that you have the skills to spot them. They will not turn around and say that you are trained to spot that somebody has a moderate difficulty.

Pupils may get to having a plan, but local authorities have spent over £100 million resisting plans and—I repeat this—on a good day, around 85% of appeals are lost, but it is normally about 90%. Only tiger parents with sharp claws get their kids through that process. Most pupils are not picked up because of the education system we have at the moment, from school to college and onwards. Noble Lords should remember that most of those in college were not given the correct support at school, and most are not spotted or are spotted late. Without staff who are in a position to identify them and give support, the only way in which pupils can get support is by getting plans or higher levels of definition, which is expensive, slow and damaging to that person. The person trying to teach them cannot do it, so you have someone who is a pain in whichever part of their anatomy you care to choose in that classroom. That is what happens when people are not given a basic level of training.

I would like the Minister to come back on what I said about support for people in colleges—technical support, including information capture—as she said nothing about it in her reply. Does she have anything in her notes on this?

Baroness Chisholm of Owlpen (Con): My Lords, I did mean to mention that, so I apologise. There will be details on continuous professional development in the skills White Paper, which is committed to supporting improvements for FE teachers. This will include funding schemes to support educational technology and staff using digital forms of educational delivery, such as the ed-tech demonstrator programme; supporting new and inexperienced teachers by embedding early career support in government-funded programmes such as Taking Teaching Further and enabling access to high-quality mentoring; and running the FE professional development grants pilot, which is supporting collaborative, sector-led professional development approaches in the three key areas of workforce capability to use technology in education, subject-specific professional development, and supporting new and inexperienced teachers.

Lord Addington (LD): I thank the Minister for sharing her notes. It is clear that her department does not get what I am saying. There are higher education institutions that have got this right. Why not simply take that technology which has been set up—if it is not there, you are in trouble—and make sure it is available for people who are slightly lower down the grading system? These people are, after all, trying to get jobs or training at the end of this. Clearly, the Government have not taken that on board.

I feel I must call a Division on this, when the time comes. I would like to divide on both my amendments, but I am prepared to withdraw Amendment 44. I shall seek the opinion of the House on Amendment 46, but I beg leave to withdraw this amendment.

Amendment 44 withdrawn.

Amendment 45

Moved by ***The Lord Bishop of Durham***

45: After Clause 15, insert the following new Clause—

"Universal credit conditionality

The Secretary of State must review universal credit conditionality with a view to ensuring that adult learners who are—

(a) unemployed, and

(b) in receipt of universal credit,

remain entitled to universal credit if they enroll on an approved course for a qualification which is deemed to support them to secure sustainable employment."

Member's explanatory statement

This amendment is intended to ensure greater flexibility for potential students in receipt of universal credit to take up appropriate training that will better equip them for employment.

The Lord Bishop of Durham: My Lords, I rise to speak to Amendment 45, tabled in my name, and I am grateful to the noble Baroness, Lady Bennett, for supporting it.

As Members will be only too aware, the £20 uplift to universal credit has ceased. A number of faith leaders, including myself, wrote to the Government alongside many other people seeking for that decision to be reversed. The response was the assertion that helping people back into high-quality, well-paid jobs is now the priority.

3.45 pm

In order to achieve that objective—which is one that I know everyone in your Lordships' House will applaud—it is necessary for those seeking such jobs to be suitably trained and qualified, especially if the economic and social shock of the pandemic means that they now need to change jobs for new ones or to completely retrain to meet new demand. Indeed, an early survey by Adecco in June 2020 suggested that just under one-third of employees were considering a

[The Lord Bishop of Durham]
career change post pandemic, and a further 16% had already embarked on some form of training during lockdown with that goal in mind.

Being able to access high-quality training is crucial to those aspiring to the high-quality, well-paid jobs that are rightly the Government's objective. That was a consistent theme in the excellent points made by a succession of speakers of day 1 of Report, whether in relation to green skills and jobs, by the noble Baroness, Lady Hayman, or the need to increase the skills of our whole workforce, by the noble Baroness, Lady Morgan, and many others.

It is no good having such opportunities available in theory, but finding that those who face the greatest challenges are, in practice, unable to take them up because they simply cannot afford to do so or the current eligibility criteria in effect exclude them from doing so. Among that cohort, people who are reliant on universal credit face particular difficulties in accessing such high-quality training. That is partly because the default setting for universal credit is that the client must not be in education, since support for that comes from the separate and quite distinct system of loans and grants designed for their needs—as the very helpful and recently updated policy note puts it.

As noble Lords will be aware, it is of course true that there is provision in specified circumstances for courses to be treated as a work preparation requirement for UC claimants up to a maximum of 30 hours per week in certain categories, which allows time for claimants to fulfil the other work-related requirements of their UC conditions. However, the briefest glance at the government regulations for UC that refer to education, or at the government guidance on claiming UC if you are a student, immediately showed just how complex the rules are in practice. That guidance also clearly shows how being available for work is a requirement of being able to claim UC regardless of the educational commitment, which can prove an insurmountable barrier for prospective students.

The present procedure allows a course of education to be included in an individual claimant's work search requirements when that is approved by the claimant's adviser. Such a request is frequently successful. However, while it is reassuring that, in some cases, education can be included in work search requirements, the fact that this is on a discretionary basis remains a cause for concern for prospective students, not least because they are reliant on their universal credit income. The uncertainty that this creates, along with the complex regulations that must be applied correctly, serves as a disincentive to many claimants to actually pursue the education that will get them into the higher-skilled work.

In addition, according to information provided by the Association of Colleges, there is a recurring issue whereby UC claims are incorrectly refused in the case of young people living independently, who are eligible to pursue full-time, non-advanced education within UC, due to the system assuming the education to be advanced. There are also significant problems facing prospective students who need financial support for accommodation or subsistence, which are either excluded from current funding or insufficient in scale. Rereading this and explaining it shows just how complicated the system is currently.

However, the good news is that a potential solution is already in the Government's hands. In broad terms, the amendment in my name seeks to give practical effect to one aspect of the Government's lifetime learning guarantee—a commitment that we fully and warmly support. More specifically, until the end of this month, the trials of the intensive work search programme, which is available throughout the UK and lasts 16 weeks, and the 12-week skills boot camps, which are available in England, show that it is possible to offer full-time provision as part of that lifetime skills guarantee. In addition, the Kickstart programme has been so successful that is has now been extended until March, with some 69,000 young people starting Kickstart jobs since September 2020.

Plainly, the effectiveness of these approaches needs to be properly confirmed. In any extension of UC eligibility for learners who are retraining or changing career, proper safeguards will be required to prevent abuse of the system. For example, it has been suggested that those who have obtained a recent qualification—say, within the last five years—might be ineligible for further full-time study if in receipt of UC.

The purpose of this amendment, though, is simple and straightforward. It is to enable those in receipt of universal credit to access the skills and qualifications they will need for the future, and thereby access the high-quality, well-paid jobs that the country needs to rebuild our economy, to help create a fairer and more just society, to help them and their families to flourish, and to fulfil the very purpose for which universal credit is said to exist.

I know that the Minister is acutely aware of these issues and look for reassurance that the Government are equally aware and, more importantly, committed to finding further new and creative ways to maximise incentives for those wishing to acquire new skills and take up high-quality, stable jobs and who currently rely on universal credit for all or the majority of their income.

Lord Storey (LD): I will speak on Amendments 62 and 63, and thank the noble Lords, Lord Blunkett, Lord Aberdare and Lord Bird, for putting their names to them. I was taken by a comment in an earlier debate when the Minister used the phrase

"no matter where they live or their background".—[*Official Report*, 19/7/21; col. 90.]

That phrase is quite key, and another phrase came in a Statement from the Commons Minister:

"Talent exists everywhere in this country. We have to ensure that we give it every opportunity to flourish, wherever people come from."—[*Official Report*, Commons, 1/10/20; col. 541.]

But for people on universal credit, those fine sentiments and words do not ring true.

The right reverend Prelate was absolutely right that universal credit, as well as being a financial support, is a barrier to learning in many cases. He was also right to say that it is incredibly complex. One of the aims at the introduction of universal credit was to remove the 16-hour rule that applied with jobseeker's allowance, where claimants would lose benefits if they worked or

studied more than 16 hours a week. While universities no longer enforce this, time limits have not been discarded. Young people cannot normally claim universal credit if they are studying full-time, which is more than 12 hours. However, they might be able to if they meet certain criteria—for example, if they are responsible for a child, are disabled, are under 21, or are under a non-advanced education course and do not have parental support, for example if they are care leavers. These restrictions might incentivise some young people away from intensive study that would support their chosen career.

If a young person is already claiming universal credit, a decision will be made on whether they can continue to claim that finance while going on a course they have been referred to by a work coach. That seems bizarre. Full-time study is normally allowed where the course lasts a maximum of eight weeks. In April 2021, due to the pandemic, the Government announced that they would extend course length in some scenarios to 12 weeks and 16 weeks on the new skills boot camps for six months. Those receiving universal credit have obligations to prioritise job searches and take available jobs if they are able to, which restricts the opportunity for every unemployed person to receive financial support to study a college course with no impact on their benefit. So we need clarity on these issues. We need to ensure that, to use the Minister's phrase, whoever you are and wherever you come from, you should be able to access learning.

If we look at Kickstart, again, universal credit is a barrier. We talk about Kickstart as being available for 16 year-olds, but you can apply to go on a Kickstart scheme only if you are receiving universal credit. Can the Minister explain the thinking behind that? Why are the Government advertising Kickstart for 16 year-olds when 16 year-olds are not entitled to universal credit and are therefore unable to go on a Kickstart scheme?

I now turn to the amendment on Kickstart. Kickstart has generally been perceived as a good scheme, with real possibilities to help young people, and I am delighted that the Government announced an extension of the programme—but there have been problems. I understand that any new scheme will have teething issues and will need to be embedded and sorted, but let us look at some of the problems that have existed. These are not my words; they come from employers.

First, they say "Actually, do you know what? We don't just want a six-month scheme. If we're really going to develop the career opportunities of those young people, it should be a 12-month experience." In many cases, companies have not found the experience as easy as they thought it might be: they have found it, at times, very frustrating, waiting months for approval and then with a further delay for roles to go online on the system; referrals that are totally unsuitable for the job specification coming to their business, suggesting that the role-matching automation is deeply flawed; lack of support for any queries, with weeks to receive a reply, and never from the same person; payments incorrect; and late or no record of the young person, despite all the procedures being followed. Small firms—and this is perhaps why so few small businesses have got involved—do not have the resources or time to manage these processes. We need to get those issues right, because it is a good scheme that has the potential to really help the issue of youth unemployment.

I will make just one more statement. We talk about youth unemployment and give an overall figure of, I think, 12.4% now—but of course that is the headline figure. We should look deeper at the figures. For example, among black people aged 16 to 24, the figure was 41.6% unemployed.

So the message is: let people not be debarred from learning because they are on universal credit; and Kickstart is a good scheme—sort it out and let it continue. Be inventive about it: perhaps it could be linked to apprenticeships. The sky is the limit. We are talking about young people's livelihoods and opportunities—so, Minister, go for it.

4 pm

Lord Aberdare (CB): My Lords, I have added my name to Amendment 62 from the noble Lord, Lord Storey, and I seem to have added my speech to his as well, because I very much echo what he said. I was involved in delivering a rather similar previous scheme, the Future Jobs Fund, to young unemployed Londoners. Based on that, I entirely agree with the noble Lord that Kickstart has the potential to become a really valuable programme. I emphasise the word "potential" because I do not think it has got there yet, but it offers substantial benefits to the young participants it focuses on and to the employers who take them on.

For the participants—most, if not all, of whom are at risk of long-term unemployment—six months is long enough for them to become acclimatised to working life and to develop the employability skills they need for their Kickstart placement and for future jobs. The employers can fill short-term vacancies at a low cost, which might even lead to some Kickstarters being taken into permanent roles at the end of the placement, having proved their capability and worth.

Importantly, the scheme also recognises the need for many Kickstarters to receive extra support and training when they start by providing £1,500 for so-called wrap-around support, which is much needed for those who not only are new to the world of work but might often come from chaotic living circumstances. We used to have to send taxis to pick up some of ours to take them to their work, until they realised that they had to be up and dressed at a certain time in order to be there.

However, despite its excellent intentions, the scheme seems to be falling short of expectations, with only about two-fifths of available Kickstart jobs having been taken up by September, including in sectors heavily hit by the pandemic and now much in need of extra staff, such as hospitality, travel, retail and care. Many of the reasons for this disappointing performance, as described by the noble Lord, Lord Storey, sound rather familiar to me, including delays, bureaucracy and complexity. It can take several weeks for a business, and indeed the specific jobs within that business, to be approved for Kickstart; only then does the rather unreliable process of identifying and recruiting candidates start. These must be referred by jobcentre work coaches, and it might take considerable time for them to come up with enough suitable candidates for employers to interview and recruit.

[Lord Aberdare]

Again echoing the noble Lord, small businesses in particular, many of which could and do offer highly worthwhile Kickstart places, are often put off by the time, effort and bureaucracy involved. They are no longer required to use gateway providers to get involved in the scheme, but many of them continue to do so to reduce the burden on themselves of the complex administration involved.

It also seems that Kickstart is not as well integrated with other skills programmes, such as the apprenticeships programme, as it could be. Ideally, every successfully completed Kickstart placement should lead to clear pathways to further development whenever possible, including one or more apprenticeship options.

It would indeed be a pity if, just as some of these issues with Kickstart are beginning to be ironed out, and with numbers and outcomes picking up momentum, the scheme came to an end on 31 December—what I thought was its current cut-off date of, but it sounds as if that has possibly been extended. The noble Lord's amendment would require the Secretary of State to review the scheme's operation and consider whether its lifetime should be extended, with or without further modifications; for example, relating to eligibility and the link to universal credit. Surely such a review should be seen as an absolute necessity to learn the lessons of the scheme so far and consider whether or how it could be built on or improved.

Baroness Bennett of Manor Castle (GP): My Lords, I rise with great pleasure to offer my support to Amendment 45 in the name of the right reverend Prelate the Bishop of Durham, to which I have attached my name. It is, in a way, the reverse of Amendment 63: Amendment 45 says that adult learners should be able to get universal credit; Amendment 63 says that you should be able to become an adult learner while on universal credit. I am not sure which is the best way round, but I am not sure that it matters or will make much practical difference. Both the right reverend Prelate and the noble Lord, Lord Storey, have clearly outlined the Kafkaesque complications that arise, and the unreasonable unintended traps people can find themselves in when they seek to study and find that the system simply does not allow them to.

I want to come from the other point of view very briefly and think about the overall good of the country. As I was contemplating these amendments, I thought back to hearing an economist talk about how, slightly counterintuitively, having a very short period between people becoming unemployed and finding a new job might not be the best thing, because if you have very low levels of unemployment benefits, as we do in the UK compared to many continental countries, people have to grab the first job they can secure—the first job that comes along. That means that you get an awful lot of square pegs in round holes. You get people who are not best for the job. They are not good for the employer and it is not good for them to be in a job for which they are not suited. If you have a longer period, people are able to assess and improve their skills and then find the right job, stay in that job for longer, advance in it and make real progress. We need to move towards a system that allows that to happen. When we talk about the economy, we talk about how we can solve our productivity problem. These are the base issues that we need to think about. Amendments 45 and 63 address them.

On Amendment 62, I want to offer the Green group's support. The noble Lord, Lord Aberdare, said nearly everything I was going to say, so I am not going repeat it. It was reminiscent of some of the reports you hear of the green homes grant and employers struggling to get paid. If we are talking about small employers, their cash flow can become a serious problem.

I note one figure that says that the north-east—the region with the highest unemployment in England—is the area with the lowest rate of take up of Kickstart. That is obviously a concern, and it should be looked at in a review, particularly in the light of the Government's levelling-up agenda.

Baroness Sherlock (Lab): My Lords, I am grateful to the right reverend Prelate the Bishop of Durham and all noble Lords who have spoken. In Committee, we had a good debate about universal credit and the various ways in which people are discouraged by the rules from getting the skills that they need. I think the issue is that government policy is not properly joined up. We need to have skills, employment and social security policy fully aligned to make this work.

What is going wrong? I suspect that, at heart, it is an issue of departmental responsibility. DfE basically wants people to get training to increase their skills so that they can engage in productive, sustainable work, but most people cannot afford to train or retrain without financial support. I suspect DfE would quite like them to be able to get benefits while they do it. However, DWP does not think its benefit system is there to support students in education and training; it thinks that is DfE's job. In general, that works. Most students are supported by loans or grants, and a lot of people on universal credit want to get back into work and universal credit supports them while they do. But there are clearly people who may struggle to get back into sustainable jobs unless they increase, update or change their skills, and it is likely that there will be more of them in the future than there have been in the past.

In Committee, the right reverend Prelate the Bishop of Durham and other noble Lords identified a number of barriers that get in the way of people wanting to do that. The Minister's defence was basically twofold. She said, first, that DfE and DWP are working together on it and there is a trial under way for six months. She said that there is flexibility on conditionality, so that if you get universal credit and are part of the intensive work search scheme, you can study full time for 12 weeks, with boot camps and so on—the lot.

Secondly, she said that the benefit system may not be there for education and training for most people, but some people can get help. The Minister mentioned Regulation 14 of the Universal Credit Regulations 2013. I went back and refreshed my memory of that regulation. It lists the exceptions, but the only exceptions are young people doing A-levels or the like who are not living with their parents, those who have kids and some disabled people with limited capacity for work. As I read on—the Minister can correct me—I thought

that all Regulation 14 does is remove the blanket requirement that you must not be in education to qualify for universal credit at all. I do not think it stops people—even in those groups—having conditionality requirements placed on them in the way that the right reverend Prelate the Bishop of Durham described, which might make it impossible for them to take on a training course. Can the Minister clarify that?

It is really quite hard to work out who can get universal credit for training, at what level and where. To that end, can the Minister tell the House whether any or all people wishing to carry out study necessary for a course leading to the lifetime skills guarantee could get universal credit while they do it, as Amendment 63 suggests? If not, how should they support themselves while they do that?

Amendment 45 from the right reverend Prelate the Bishop of Durham makes a broader point about the needs of people who are unemployed and need training to get secure, sustainable employment. There is a balance here. The benefits system is not there to fund everybody wanting to retrain, but this amendment could pick up some of those people who are long-term unemployed or may have gone from one low-paid, insecure job to another, perhaps with periods on benefits in between. Might not they and the taxpayer be better served if they could afford to get trained for a secure and sustainable career? How could they be helped under the Government's current approach?

I turn now to Amendment 62, which would require the Government to reconsider how long Kickstart runs and who is eligible for it. When we debated Kickstart in Committee on 19 July, the Minister, the noble Baroness, Lady Penn, said:

"I cannot say that we will extend the duration of the Kickstart scheme or change its eligibility".—[*Official Report*, 19/7/21; col. 103.]

A summer is a long time in politics because, as we have heard, a Written Ministerial Statement has now announced that Kickstart is running until the end of March. Who knows? By the time we get to Third Reading, maybe eligibility will have been reviewed as well—you never know.

I have a sneaking suspicion that the decision to extend the timescale was driven less by the rhetorical powers of noble Lords—marvellous though those are—and rather more by the fact that Kickstart is nowhere near hitting its targets. There were meant to be 250,000 placements by December. The latest figures I could find were in a Written Answer to my noble friend Lady Wilcox on 21 September in which the noble Baroness, Lady Stedman-Scott, said that 69,000 young people had started Kickstart jobs as of 8 September. Does the Minister have more recent figures? That Answer also said that more than 281,000 jobs had been approved. If 281,000 jobs have been approved and only 69,000 people have started work, that is worse.

The regional position, raised by the noble Baroness, Lady Bennett, is really significant. I have raised the positions of the north and north-east before—not just because I live in Durham—but that Written Answer said that in the whole north-east of England only 3,170 people had started Kickstart jobs. Something is going wrong.

Can the Minister tell the House what the Government are doing to rescue this scheme? In particular, why is there this lag between jobs created and jobs filled? What is happening to get young people into these jobs? Do the Government expect to meet their 250,000 target by December, March or another date? I look forward to the Minister's reply.

Baroness Chisholm of Owlpen (Con): My Lords, I thank the right reverend Prelate, the noble Lords, Lord Storey and Lord Aberdare, and the noble Baronesses, Lady Bennett of Manor Castle and Lady Sherlock, for taking part.

Amendments 45 and 63 from the right reverend Prelate the Bishop of Durham and the noble Lord, Lord Storey, broadly seek to enable individuals studying at level 3 and below to claim universal credit—an issue debated at some length in Committee. It is of course vital that students feel supported and have the confidence to come forward to upskill. Where we differ is in how that support is financed.

As the noble Baroness, Lady Sherlock, talked about, there should be a joined-up approach between the Department for Education and the DWP. Important work is already under way on this subject, as she mentioned. Officials at the Department for Education and the Department for Work and Pensions are working closely together to help address and mitigate the barriers to unemployed adults taking advantage of our skills offer.

There is a new DWP train and progress initiative aimed at increasing access to training opportunities for claimants. As part of this, in April 2021 a temporary six-month extension to the flexibility offered by universal credit conditionality was announced. As a result of this change, adults who claim universal credit and are part of the intensive work search programme can now undertake work-related full-time training for up to 12 weeks, or up to 16 weeks as part of a skills boot camp in England. This builds on the eight weeks for which claimants were already able to train full-time. I am pleased to inform your Lordships that this flexibility has now been extended to run through to the end of April 2022. These measures are truly helping to ensure that UC claimants are supported to access training and skills that will improve their ability to gain good, stable and well-paid jobs.

4.15 pm

We must remember that Section 4(1)(d) of the Welfare Reform Act 2012—which I know we have in our minds all the time—sets out that one of the basic conditions of entitlement to universal credit is that the person must not be receiving education that can be defined in regulations made under subsection (6). As noble Lords are probably already aware, financial support for students comes from the current system of learner loans and grants designed for their needs. Where students have additional needs that are not met through that support system, exceptions are already provided under regulation 14 of the Universal Credit Regulations, enabling those people to claim universal credit. That includes those responsible for a child, as either a single person or a couple, or those aged 21 or under studying non-advanced education such as A-levels who do not have parental support.

[Baroness Chisholm of Owlpen]

It is an important principle that universal credit does not duplicate the support provided by the student support system. Importantly, universal credit may still be available for an adult who is undertaking a course up to level 3, provided that their course is compatible with work-related requirements agreed with their work coach. Where the course is work-related and will give the person the best chance of securing work, the work coach may consider it a suitable work-preparation activity. In such cases, time spent on the course will be deducted from the amount of time the person needs to spend looking for work. We therefore do not think it necessary for the UC regulations to be amended in the manner suggested.

I turn to the topic of Kickstart and the amendment from the noble Lord, Lord Storey. As I am sure noble Lords are aware, the Kickstart Scheme was created and deployed rapidly to provide urgent jobs for young people to support their long-term work prospects. Kickstart will help to reduce the long-term effects of unemployment caused by the pandemic.

To be effective, the scheme must be targeted. For that reason, Kickstart funds the creation of jobs for people aged 16 to 24 on universal credit and at risk of long-term unemployment. Through Kickstart, these young people have the chance to build confidence and skills in the workplace and gain experience that will improve their chances of progressing to find long-term, sustainable work. As of the end of September, over 86,000 young people had started in a Kickstart job, with over 3,500 young people starting in roles each week. Whether we are going to reach 250,000 is, I am afraid, not something that I can say now.

With regard to the noble Lord's amendment, I hope he is delighted to hear that on 4 October the Chancellor announced that Kickstart would run to the end of March 2022, thereby allowing the Government to continue to offer Kickstart jobs to as many young people as need them. Alongside that, we have been delighted to see the wider labour market open up and more opportunities become available to young people. We do not want Kickstart to displace existing vacancies so there are no plans to extend eligibility beyond universal credit claimants.

As noble Lords can see, this is a clear demonstration that the Government are already keeping Kickstart under review. The amendment is therefore unnecessary. I hope this has provided some explanation to noble Lords.

Some questions came up that I will try to answer. I think the noble Lord, Lord Storey, asked me about advertising Kickstart to 16 year-olds when they are not entitled to universal credit and therefore cannot do it. I partly answered that when I said that, while it is unlikely, some 16 year-olds can qualify for universal credit and, in turn, Kickstart. This number may be low but, for those eligible, Kickstart can be there to support them. As I said earlier, it is for those 16 to 17 year-olds who may be responsible for a child or who have regular and substantial caring responsibilities, among other examples.

The noble Lord, Lord Aberdare, talked about Kickstart moving to apprenticeships. Once a Kickstart job has finished, work coaches will discuss further opportunities, such as apprenticeships and traineeships. But we know that all young people who have gone through Kickstart will have improved their employable skills.

The noble Lords, Lord Aberdare and Lord Storey, talked about small and medium-sized businesses. We have worked hard to make Kickstart available to them, creating gateways. New small and medium-sized businesses can apply directly to DWP—we received feedback saying that this was something that they wanted. We also created more for sole traders to take part through Gateway Plus organisations that place a young person on their pay system. We also created a network of Kickstart district account managers in every jobcentre area to manage and support employers of all sizes.

The noble Baroness, Lady Sherlock, asked how people who have undertaken training under the LSG will fund themselves if they cannot get universal credit. Adults who study at level 3 or above can apply for an advanced learner loan to help them with the costs of a course at a college or independent training provider, if they cannot do so through existing entitlements. There is also a bursary fund to help vulnerable and disadvantaged people, via colleges and apprenticeship providers, with support such as childcare. I hope that answers noble Lords' questions.

I ask the right reverend Prelate the Bishop of Durham to withdraw his amendment and the noble Lord, Lord Storey, not to move his when it is reached.

The Lord Bishop of Durham: I am very grateful to the Minister for her responses and for clarifying the situation. I am very concerned in particular about the gap that exists between now and 2025; come 2025, I think most of her answers would satisfy me, but that is four years away. So, slightly reluctantly, I would like to test the opinion of the House.

4.23 pm

Division on Amendment 45

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Amendment 45 agreed.

Division No. 2

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Donaghy, B.
Drake, B.
D'Souza, B.
Durham, Bp.
Elder, L.
Falkner of Margravine, B.
Faulkner of Worcester, L.
Foster of Bath, L.

Foulkes of Cumnock, L.
Fox, L.
Garden of Frognal, B.
German, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hannay of Chiswick, L.
Harris of Haringey, L.
Harris of Richmond, B.
Haworth, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hollick, L.
Howarth of Newport, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kerslake, L.
Khan of Burnley, L.
Kidron, B.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Levy, L.
Liddle, L.
Lister of Burtersett, B.
Ludford, B.
Macpherson of Earl's Court, L.
Mandelson, L.
Marks of Henley-on-Thames, L.
Maxton, L.
McAvoy, L.
McConnell of Glenscorrodale, L.
McCrea of Magherafelt and Cookstown, L.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Merron, B.
Monks, L.
Morrow, L.
Newby, L.
Oates, L.
O'Loan, B.
Osamor, B.
Paddick, L.
Parminter, B.
Patel of Bradford, L.
Pendry, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Randerson, B.
Ravensdale, L.
Razzall, L.
Rennard, L.
Ritchie of Downpatrick, B.
Rosser, L.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Sikka, L.
Smith of Basildon, B.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stephen, L.
Stern, B.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
Tope, L.
Touhig, L.
Tunnicliffe, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Warwick of Undercliffe, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wilson of Dinton, L.
Wood of Anfield, L.
Wrigglesworth, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Altmann, B.
Anelay of St Johns, B.
Arran, E.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Barran, B.
Bellingham, L.
Benyon, L.
Berridge, B.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Callanan, L.
Carrington of Fulham, L.
Carrington, L.
Chisholm of Owlpen, B.
Clarke of Nottingham, L.
Colgrain, L.
Colwyn, L.
Cormack, L.
Courtown, E.
Craigavon, V.
Cruddas, L.
Davidson of Lundin Links, B.
Davies of Gower, L.
Deben, L.
Deighton, L.
Dobbs, L.
Duncan of Springbank, L.
Dundee, E.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fairhead, B.
Fleet, B.
Flight, L.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Framlingham, L.
Fraser of Craigmaddie, B.
Godson, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goodlad, L.
Grade of Yarmouth, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hay of Ballyore, L.
Hayward, L.
Herbert of South Downs, L.
Holmes of Richmond, L.
Horam, L.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Kalms, L.
Kamall, L.
King of Bridgwater, L.
Kirkhope of Harrogate, L.
Lancaster of Kimbolton, L.
Lang of Monkton, L.
Leigh of Hurley, L.
Lingfield, L.
Lucas, L.
Mackay of Clashfern, L.
Mancroft, L.
Manzoor, B.
McColl of Dulwich, L.
McGregor-Smith, B.
McLoughlin, L.
Meyer, B.
Morgan of Cotes, B.
Moylan, L.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Nicholson of Winterbourne, B.
O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Randall of Uxbridge, L.
Rawlings, B.
Reay, L.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Smith of Hindhead, L.
Spencer of Alresford, L.
Stedman-Scott, B.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Stroud, B.
Stuart of Edgbaston, B.
Suri, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wei, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B.
Wolfson of Tredegar, L.
Young of Cookham, L.
Younger of Leckie, V.

4.37 pm

Amendment 45A

Moved by ***Baroness Wilcox of Newport***

45A: After Clause 15, insert the following new Clause—

"Lifelong learning: review

(1) Within one year of the commencement of either section 14 or section 15, and each year thereafter, the Secretary of State must prepare and publish a report on

the impact on the overall levels of skills in England and Wales of the rules regarding eligibility for funding for those undertaking further or higher education courses.

(2) The report under subsection (1) must in particular examine the impact of restricting funding for those who wish to pursue a qualification at a level equivalent to or lower than one they already hold.

(3) The report under subsection (1) must be laid before both Houses of Parliament."

Member's explanatory statement

This amendment would require the Secretary of State to publish an annual report on the impact on re-skilling of funding restrictions on those who wish to pursue a qualification at a level equivalent to or lower than one they already hold.

Baroness Wilcox of Newport (Lab): My Lords, I would like to test the opinion of the House.

4.38 pm

Division on Amendment 45A

Contents 160; Not-Contents 150.

Amendment 45A agreed.

Division No. 3

CONTENTS

Aberdare, L.
Addington, L.
Adonis, L.
Alli, L.
Alton of Liverpool, L.
Amos, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley, L.
Best, L.
Blake of Leeds, B.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bradley, L.
Brinton, B.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Burt of Solihull, B.
Campbell of Pittenweem, L.
Carrington, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chapman of Darlington, B.
Chidgey, L.
Clancarty, E.
Clement-Jones, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Corston, B.
Craigavon, V.
Davies of Brixton, L.
Davies of Oldham, L.
Dholakia, L.
Donaghy, B.
Drake, B.
Durham, Bp.
Elder, L.
Faulkner of Worcester, L.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Garden of Frognal, B.
German, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hannay of Chiswick, L.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Haworth, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hollick, L.
Howarth of Newport, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Khan of Burnley, L.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Levy, L.
Liddle, L.
Lister of Burtersett, B.
Ludford, B.
Mandelson, L.
Marks of Henley-on-Thames, L.
Maxton, L.
McAvoy, L.
McConnell of Glenscorrodale, L.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Merron, B.
Monks, L.
Newby, L.
Oates, L.
O'Loan, B.
Osamor, B.
Paddick, L.
Parminter, B.
Patel of Bradford, L.
Pendry, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Randerson, B.
Ravensdale, L.
Razzall, L.
Rennard, L.
Ritchie of Downpatrick, B.
Rosser, L.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Sikka, L.
Smith of Basildon, B.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stephen, L.
Stern, B.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stuart of Edgbaston, B.
Stunell, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
Tope, L.
Touhig, L.
Tunnicliffe, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Warwick of Undercliffe, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wood of Anfield, L.
Woolf, L.
Wrigglesworth, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Barran, B.
Bellingham, L.
Benyon, L.
Berridge, B.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Callanan, L.
Carrington of Fulham, L.
Chisholm of Owlpen, B.
Colgrain, L.
Colwyn, L.
Cormack, L.
Courtown, E.
Cruddas, L.
Davidson of Lundin Links, B.
Davies of Gower, L.
Deben, L.
Deighton, L.
Dobbs, L.
Dodds of Duncairn, L.
D'Souza, B.
Duncan of Springbank, L.
Dundee, E.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Falkner of Margravine, B.
Fleet, B.
Flight, L.
Forsyth of Drumlean, L.
Framlingham, L.
Fraser of Craigmaddie, B.
Frost, L.
Godson, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goodlad, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hannan of Kingsclere, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hay of Ballyore, L.
Hayward, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.

Jopling, L.
Kamall, L.
King of Bridgwater, L.
Kirkhope of Harrogate, L.
Lancaster of Kimbolton, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lingfield, L.
Lucas, L.
Mackay of Clashfern, L.
Manzoor, B.
McColl of Dulwich, L.
McCrea of Magherafelt and Cookstown, L.
McGregor-Smith, B.
McLoughlin, L.
Meyer, B.
Morgan of Cotes, B.
Morrow, L.
Moylan, L.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Nicholson of Winterbourne, B.
O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Pearson of Rannoch, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Randall of Uxbridge, L.
Rawlings, B.
Reay, L.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rogan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Spencer of Alresford, L.
Stedman-Scott, B.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Stroud, B.
Suri, L.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Trenchard, V.
True, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wei, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B.
Wolfson of Tredegar, L.
Young of Cookham, L.
Younger of Leckie, V.

4.50 pm

Clause 16: Initial teacher training for further education

Amendment 46

Moved by ***Lord Addington***

46: Clause 16, page 19, line 9, at end insert—

"(2A) Regulations under subsection (1) must include provision to require ITT(FE) courses to include special educational needs awareness training relevant to the students of ITT(FE) courses within an institution."

Member's explanatory statement

This amendment ensures there is sufficient SEN training for teachers of students of ITT(FE) courses

Lord Addington (LD): My Lords, I beg leave to test the opinion of the House.

4.51 pm

Division on Amendment 46

Contents 169; Not-Contents 147.

Amendment 46 agreed.

Division No. 4

CONTENTS

Aberdare, L.
Addington, L.
Adonis, L.
Alli, L.
Alton of Liverpool, L.
Amos, B.
Anderson of Swansea, L.
Andrews, B.
Armstrong of Hill Top, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Berkeley, L.
Best, L.
Blackstone, B.
Blake of Leeds, B.
Bonham-Carter of Yarnbury, B.
Bradley, L.
Brinton, B.
Browne of Belmont, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bull, B.
Burt of Solihull, B.
Campbell of Pittenweem, L.
Campbell of Surbiton, B.
Campbell-Savours, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chapman of Darlington, B.
Chartres, L.
Chidgey, L.
Clancarty, E.
Clement-Jones, L.
Coaker, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Corston, B.
Davies of Brixton, L.
Davies of Oldham, L.
Dholakia, L.
Dodds of Duncairn, L.
Donaghy, B.
Drake, B.
D'Souza, B.
Durham, Bp.
Elder, L.
Faulkner of Worcester, L.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Garden of Frognal, B.
German, L.
Glasgow, E.
Glasman, L.
Goddard of Stockport, L.
Golding, B.
Grender, B.
Grey-Thompson, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hanworth, V.
Harris of Haringey, L.
Harris of Richmond, B.
Haworth, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hollick, L.
Howarth of Newport, L.
Hunt of Kings Heath, L.
Hussain, L.
Hussein-Ece, B.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Khan of Burnley, L.
Kramer, B.
Lawrence of Clarendon, B.
Layard, L.
Levy, L.
Liddle, L.
Lister of Burtersett, B.
Ludford, B.
Macdonald of River Glaven, L.
Mandelson, L.
Marks of Henley-on-Thames, L.
Maxton, L.
McAvoy, L.
McConnell of Glenscorrodale, L.
McCrea of Magherafelt and Cookstown, L.
McIntosh of Hudnall, B.
McKenzie of Luton, L.
McNally, L.
McNicol of West Kilbride, L.
Merron, B.
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Oates, L.
O'Loan, B.
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Paddick, L.
Parminter, B.
Pendry, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prosser, B.
Purvis of Tweed, L.
Quin, B.
Ramsay of Cartvale, B.
Randerson, B.
Ravensdale, L.
Razzall, L.
Rennard, L.
Ritchie of Downpatrick, B.
Rogan, L.
Rosser, L.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Sikka, L.
Smith of Basildon, B.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stephen, L.
Stern, B.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Thurso, V.
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Tunnicliffe, L.
Tyler of Enfield, B.
Tyler, L.
Uddin, B.
Warwick of Undercliffe, B.
Wheeler, B.
Whitaker, B.
Whitty, L.

Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wood of Anfield, L.
Woolf, L.
Wrigglesworth, L.
Young of Norwood Green, L.
Young of Old Scone, B.

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Barran, B.
Bellingham, L.
Benyon, L.
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Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Brownlow of Shurlock Row, L.
Caine, L.
Callanan, L.
Carrington of Fulham, L.
Carrington, L.
Chisholm of Owlpen, B.
Clarke of Nottingham, L.
Colgrain, L.
Colwyn, L.
Cormack, L.
Courtown, E.
Craigavon, V.
Cruddas, L.
Davidson of Lundin Links, B.
Davies of Gower, L.
Deben, L.
Deighton, L.
Dobbs, L.
Duncan of Springbank, L.
Dundee, E.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fairhead, B.
Falkner of Margravine, B.
Fleet, B.
Flight, L.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Framlingham, L.
Fraser of Craigmaddie, B.
Frost, L.
Godson, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goodlad, L.
Grade of Yarmouth, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hannan of Kingsclere, L.
Hannay of Chiswick, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hayward, L.
Herbert of South Downs, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Kamall, L.
King of Bridgwater, L.
Kirkhope of Harrogate, L.
Lancaster of Kimbolton, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lingfield, L.
Mackay of Clashfern, L.
Manzoor, B.
McColl of Dulwich, L.
McGregor-Smith, B.
McLoughlin, L.
Meacher, B.
Meyer, B.
Morgan of Cotes, B.
Moylan, L.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Nicholson of Winterbourne, B.
O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Pidding, B.
Polak, L.
Popat, L.
Randall of Uxbridge, L.
Rawlings, B.
Reay, L.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Smith of Hindhead, L.
Spencer of Alresford, L.
Stedman-Scott, B.
Stewart of Dirleton, L.
Stowell of Beeston, B.
Stroud, B.
Stuart of Edgbaston, B.
Suri, L.
Taylor of Warwick, L.
Trenchard, V.
True, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wei, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B.
Wolfson of Tredegar, L.
Young of Cookham, L.
Younger of Leckie, V.

5.06 pm

Clause 17: Office for Students: power to assess the quality of higher education by reference to student outcomes

Amendment 47

Moved by ***Lord Lucas***

47: Clause 17, page 20, line 22, at end insert—

"(e) the mental health and wellbeing of persons who undertake a higher education course with the institution is supported."

Member's explanatory statement

To ensure that the Office for Students has a sufficiently powerful lever to enforce its policies on student support, mental health and suicide.

Lord Lucas (Con): My Lords, the origins of this, for me, lie 10 years ago, when one of my work colleagues was rung by a friend of her son to say, "I think you need to come down to Cardiff." That was the first she knew about her son being suicidal. Fortunately, it all ended well, but there are many other such stories that have ended badly.

The universal point in this is that the universities really have not looked after their students well enough. We get platitudes from them, every now and again, about what they will do, but they do not even follow the basic medical procedures of who to contact if they are really worried about someone. Nor do they, in their substance, take care of students in the way that we as parents might hope.

I tried, a few years ago, to see if universities would switch a bit in the American direction and pay close attention to what teachers said about students in their applications. The answer came back: "No, we cannot do that; we never get to know our students well enough in the three years they are with us to judge whether what a teacher said was right, so there is no way that we can build up a system of reputation and ability to judge teachers' comments in the way that American universities do." This is changing, and it is changing because of the Office for Students.

The Office for Students has produced an extremely good paper on what it expects universities to do on mental health. It is getting a real grip on access, saying that it is not only about how many disadvantaged people you let in but how you look after them while they are there. The fact that so many of them are dropping out is down to the universities. Universities must not blame what came before or do as the Government did last week and try to blame the examinations that students took before: these are your students; you have admitted them, so you look after them—we expect you to make a success of them. That is an enormously important change, and I really want the Office for Students to be in a position where it can enforce the ambitions that I just set out and make sure that universities come up to the mark.

Reading the underlying legislation, I was not at all sure that that was the case, which is why I put down these amendments. I am assured, in correspondence with my noble friend the Minister, that this is the case and the OfS has the powers it needs. I very much hope that that is what I will hear from the lips of my noble friend, when she comes to reply on this amendment.

Lord Adonis (Lab): My Lords, obviously the House is deeply sympathetic to the points made by the noble Lord, Lord Lucas.

I want to extend those points. The biggest cause of mental health stress for students over the past 18 months has of course been Covid. Over the past two years, a substantial part of their courses has not been physical; indeed, in many cases, they have had almost no contact at all with fellow students. Obviously, in a public health emergency, that situation was substantially unavoidable, although some universities dealt with the situation better than others. It is clear that there was a difficulty in students being able to meet in large groups and have physical contact. However, that is no longer the case.

I know—because they have been taken up with me personally, as I am sure is true of other noble Lords—that there are concerns about continuing restrictions on students meeting and face-to-face tuition. To me, such restrictions seem totally without justification now; if I may put it somewhat undiplomatically, they may be suited more to the convenience of university administrators and lecturers than to the well-being of their students. I know that the Government have been robust in their statements about the importance of returning to the full educational experience in universities, but this is clearly an ongoing issue. I think that the House would welcome a robust assurance from the Minister that universities should now be expected to return to offering the full educational experience; the Office for Students should also be making this clear to them.

On a related point, I find it extraordinary, given the serious diminution in teaching and learning that many students have experienced over the past two years, that universities have still charged them full fees. I was the guy who persuaded Tony Blair to introduce fees in the first place, so I have nothing against fees—we need properly funded universities and properly paid academics—but it is supposed to be something for something. The reason for paying the fees is to get the full educational experience. Indeed, part of the justification for the fees was that they would enhance the educational experience; we wanted universities to be able to staff up properly and offer proper facilities.

The other half of that contract applies too. Where students have not been able to gain the full experience and the quality of teaching and learning to which they are entitled in return for their fees of more than £9,000, the universities should have discounted those fees. I am surprised that the Government did not apply more pressure to them to do so; I assume the reason is that the Treasury was worried that, if the Government applied pressure on universities to discount fees, the universities would come and ask for the money. I have a feeling that what happened here was a kind of Faustian pact: the Government did not pressure universities because they did not want the consequential action of the universities asking them for money. But actually, it would be perfectly possible for universities, like almost every other enterprise in the country, to realign their outlays with their income and themselves take on the consequences of a reduction in fees. The idea that state funding is the only alternative to fee funding is wrong.

If I may say so—I have said this a lot over the past two years, but it still needs to be said—vice-chancellors are, for the most part, grossly overpaid. One of the less satisfactory outcomes of the fee reform, in particular the trebling of fees to £9,000, was vice-chancellors doubling their own incomes and creating a whole swathe of bureaucrats in universities. I went through the figures and was amazed at the swathes of bureaucrats in universities—all paid more than £100,000, and many of them paid more than £150,000—while none of the junior lecturers or PHD students gets any of this largesse. Apart from a few offers of short-term reductions in salaries, I have not noticed any university vice-chancellors taking this opportunity to apply proper scrutiny to the size and salaries of their senior management teams or, dare I say it, leading by example and cutting their own pay as part of a deal to cut student fees in response to the terrible experience that so many students have had to go through during the pandemic.

5.15 pm

Baroness Garden of Frognal (LD): My Lords, I added my name to the amendment of the noble Lord, Lord Lucas, which is self-explanatory, in a way. The Office for Students must have the powers to enforce its policies on student support and mental health and well-being. We must do our best to ensure that no student feels that suicide is the only way ahead. I have three student grandsons at different universities, and last year bore no relation whatever to the undergraduate experience of the past. As the noble Lord, Lord Adonis, has said, the recent Covid measures meant that many students had a lonely year, with obvious welfare implications. Their welfare is surely of the utmost importance and should be one of the factors that is taken into account for the purpose of assessing universities.

Baroness Sherlock (Lab): My Lords, I thank the noble Lord, Lord Lucas, for introducing his Amendment 47. I will comment on that before moving on to my Amendment 48 in this group. Even before the pandemic hit, health and welfare support systems in higher education were experiencing unprecedented demand. More students need more help with problems of increasing complexity. A DfE report in June, *Student Mental Health and Wellbeing*, found that almost all higher education institutions have been devoting more resources to supporting student mental health over the past five years but, in many cases, were still struggling to meet demand. The pandemic has exacerbated that considerably, as a number of noble Lords have mentioned, so I will not rehearse that.

It will be interesting to hear the Minister's answer to the noble Lord, Lord Lucas, and others on what the OfS can and does do about this. From memory, its new criteria on quality and standards relate to academic support only, rather than to specific non-academic support, but the Minister can explain how the OfS can otherwise work with universities on this.

[Baroness Sherlock]

It has offered some money, of course. It offered £6 million for innovative mental health support projects, although, when I looked at the small print, I found that half of that had to come from the providers doing the work. There are bits of money from outside. The noble Lord, Lord Parkinson of Whitley Bay, said recently in a Written Answer:

"As part of the mental health recovery action plan, the government has provided an additional £13 million to ensure that young adults aged 18 to 25, including university students, are supported with tailored mental health services."

That is really good. I thought, "Hang on; is that all 18 to 25 year-olds?" At a rough guess that gives about £2.50 each, which may not go very far. I wonder whether the Minister thinks enough resources are going to support services in higher education. If not, do they need more external support or should this be coming from fee income?

The second issue is that, realistically, pastoral care in higher education institutions can only ever be a first line of support. It is important that the NHS is there for students who need more than that kind of help. I spoke this week to a senior person from an institution that takes the mental health of students very seriously, and she spoke of being left trying to support suicidal and seriously mentally ill students herself, because there were no mental health beds available and the local community team had little to offer, because it was so thinly stretched. I have also been told about a lack of inpatient beds or even outpatient support for students with severe eating disorders, leaving them with nowhere to go for help. I ask the Minister whether the DfE is working with the Department of Health to ensure that their services dovetail, so that there is adequate support in local NHS services for those students who need more help than university pastoral care can offer.

Amendment 48 in my name seeks to ensure that the way the Office for Students regulates higher education does not jeopardise the goal of widening participation. Noble Lords know that the OfS applies a series of conditions for a higher education institution to be registered, labelled A to E. The most hotly debated are the B conditions, which focus on quality and standards, and especially B3, which states:

"The provider must deliver successful outcomes for all of its students,"

which I always thought was rather ambitious, but they are tested against numerical measures.

The OfS has run two consultations in the last year and is about to start a third, which is specifically on the new metrics for student outcomes. They will presumably, although not necessarily, relate to the current metrics, which are about student continuation, completion rates of degrees and graduate careers. These metrics are controversial, because many in the sector worry that the Government are abandoning contextualisation in setting standards for higher education institutions. It is funny to push back on the noble Lord, Lord Lucas: to declare that everyone should be treated the same does not allow for there clearly being differences in student outcomes between groups that reflect prior experiences, advantages or current circumstances, rather than academic ability.

To take one simple example, we know from the official figures that mature students have lower completion rates. There can be perfectly good reasons for that, which may not relate to things in the gift of the institution at which they study. We would not want institutions that recruit more mature students to find that their outcome measure was not as good and then be deterred from doing so. That would be ironic for a Bill that is supposed to promote learning in later life and part-time study.

I raised this issue in Committee but I am sorry to say that the Minister said very little and really, I got no comment at all on it. The only way I could think of raising it was to table a specific amendment to say that the OfS could not measure outcomes in a way that could jeopardise widening participation for students from disadvantaged and underrepresented groups.

Clause 17(7) says that the OfS does not have to publish different minimum levels in relation to different outcomes by, for example, student characteristics, type of institution or course. That does not mean that the OfS has to apply flat standards across the board, but it clears the ground for it to do so at will. Many people in the sector worry that that might penalise institutions that serve disadvantaged groups or areas, or even deter outreach activity. Section 2 of HERA means that the OfS has to apply some proportionality, and therefore contextualisation, to any assessment, but can the Minister tell the House how it can do that fairly without any benchmarking? Because I got nothing in Committee, I am really hopeful that the Minister can at least give the House some assurance that the OfS should judge quality with regard to the impact on disadvantaged and underrepresented students. I hope she can reassure us on that front.

Baroness Barran (Con): My Lords, I am grateful for the opportunity to speak to our measures on the Office for Students' quality assessment. Section 23 of the Higher Education Research Act 2017, which relates to the assessment of quality of higher education provided by registered providers, currently places no restrictions or stipulations on how the OfS might make an assessment of quality or standards.

As the noble Baroness, Lady Sherlock, pointed out, Clause 17 of the Bill provides much-needed clarity. It puts beyond doubt the ability of the OfS to determine minimum expected levels of student outcomes. These levels would be taken into account alongside many other factors, such as the context in which a provider operates, when the OfS makes its overall and well-rounded assessment of quality.

Turning to Amendment 48 in the name of the noble Baroness, I am grateful for the opportunity to discuss widening participation and access in higher education. Equality of opportunity for young people across the country is one of the Government's highest priorities. Access to higher education should be based on a student's attainment and their ability to succeed, rather than their background.

The latest figures show that we have made real progress on access to higher education, with a record 24% of disadvantaged 18 year-olds entering higher education in 2020. Disadvantaged 18-year-olds were proportionally 80% more likely to enter higher education as a full-time undergraduate in 2020 than in 2009.

I reassure the noble Baroness and the House that when the OfS exercises any of its functions, it already must have regard to the need to promote equality of opportunity in connection with access to and participation in higher education. That duty applies when the OfS is looking at how disadvantaged students and traditionally underrepresented groups are supported and what they go on to achieve. It includes access, successful participation, outcomes and progression to employment or further study.

As I have set out, the minimum expected levels of student outcomes will form only part of the overall context as the OfS makes rounded judgments, as it is required to do under its regulatory framework. The OfS has a public law obligation to consider wider factors which could include, among other things, the characteristics of a provider's students where appropriate. In reaching any final judgment, the OfS will balance contextual factors, proportionality and the need to protect students from low quality, including weak outcomes. Section 2 of the Higher Education and Research Act is clear that:

> "In performing its functions, the OfS must have regard to … the need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers".

The OfS is also subject to the public sector equality duty. Both will apply to this measure.

Amendment 47 is in the name of my noble friend Lord Lucas. Sadly, I echo his reflections on his conversations in Cardiff many years ago. I talked very recently to school leaders who also shared with me stories about students of theirs who have attempted suicide or, sadly, taken their own lives over the last 18 months. I thank my noble friend for raising this important issue both in Committee and again today. His amendment seeks to add the mental health and well-being support given to students to the outcomes against which the quality of higher education may be assessed by the Office for Students. I reassure him that the Office for Students already has a strong presence in the student mental health agenda, with significant levers in this area.

The OfS provides funding, support and guidance to higher education providers to ensure they provide appropriate mental health support for their students. As it stands, the OfS believes that further regulation would not be beneficial in a sector with a diverse range of suppliers and an equally diverse range of students. However, I reassure my noble friend that existing OfS powers under the Higher Education and Research Act 2017 are already flexible enough to allow it to impose a condition of registration relating to mental health, if it felt it necessary to do so.

We continue to work closely with the higher education sector to promote effective practice. The sector as a whole has established the overarching *Stepchange: Mentally Healthy Universities* framework, which is now complemented by the recently launched University Mental Health Charter programme and award scheme. The Government endorse this approach, including setting a clear ambition for all higher education providers to join the programme within the next five years. We also recognise the devastating effect that suicide has. A range of crucial prevention work and the promotion of effective practice are taking place across the higher education sector. We expect all universities to engage actively in this and deal sensitively if a tragedy occurs.

The Minister of State for Higher and Further Education, Minister Donelan, chaired a new round table on suicide prevention with Universities UK in June. The round table highlighted the importance of adopting and embedding the Suicide-Safer Universities framework and promoted good practice in the sector, helping to make sure that students are well supported during their time at university. The outputs include more regular analysis of student suicide data by ONS, including risk factors, which is central to informing preventive action, and the OfS publication of a new topic briefing, setting out approaches that universities and colleges can take to help prevent suicide among students.

The noble Baroness, Lady Sherlock, asked where this sits as a priority for government. She will not be surprised to hear that it is a key priority. I mentioned the round table that my right honourable friend the Minister held recently, but she has also written to vice-chancellors on numerous occasions, outlining that student welfare should remain an absolute priority, and has also convened groups of representatives from higher education and the health sectors and brought them together to address the issues that students are facing during the pandemic.

5.30 pm

The noble Lord, Lord Adonis, asked about the Government's stance on face-to-face teaching. He will be aware that the Government have recommended that universities return to a full curriculum, given the fact that the restrictions are now lifted, and obviously the Office for Students has a key role in ensuring that this happens.

Clause 17 is important because it serves to ensure that higher education provision delivers quality for all students, the taxpayer and the economy. It aims to help drive out the provision of poor-quality higher education courses that offer poor student outcomes and to support the OfS in taking action to drive up quality across higher education providers in a proportionate and risk-based manner. Therefore, I hope that the noble Baroness, Lady Sherlock, and my noble friend will not press their amendments.

Baroness Sherlock (Lab): My Lords, when the Minister looks at the record, she may find that she has not been able to answer some of my questions, particularly around mental health. Will she write to me?

Baroness Barran (Con): I shall be delighted to write.

Lord Lucas (Con): My Lords, I am very grateful for my noble friend's answer, which included just the words that I was after—that the Government are sure that the Office for Students has the powers that it needs to make progress in this area. I am very happy to leave it at that, given the record of the Office for Students to date.

I share with the noble Baroness, Lady Sherlock, the determination that disadvantaged students should not be disadvantaged further by the systems that we put in

[Lord Lucas]
place. I think that is entirely possible. I hope that we will see from the OfS a system of better admissions, so that universities put some real effort into understanding how best to detect and attract those disadvantaged students who will do well at university; that this is a collaborative effort, a proper national research effort to solve this national problem; and that they will similarly collaborate on how best to look after those students once they reach university. They should expect them to need additional support because, after all, they are disadvantaged. In both those areas, I feel that the Office for Students is determined to see progress. I am confident that with that determination over the next few years we will see it.

I also hope to see some real diversity of thought as well as intake in our universities. I will know that we have achieved it when an Oxford college asks the noble Lord, Lord Adonis, to be its next master.

Amendment 47 withdrawn.

Amendment 48 not moved.

Clause 18: List of relevant providers

Amendment 49

Moved by ***Baroness Barran***

49: Clause 18, page 22, line 14, at end insert—

"(c) confer functions (including functions involving the exercise of a discretion) on the Secretary of State or any other person."

Member's explanatory statement

This amendment expressly allows the inclusion, in regulations made under Clause 18(1) of the Bill (regulations relating to the list of relevant providers), of provision which confers functions on a person.

Amendment 49 agreed.

Amendment 50

Moved by ***Lord Clarke of Nottingham***

50: After Clause 21, insert the following new Clause—

"Provision of opportunities for education and skills development

(1) Any person of any age has the right to free education on an approved course up to Level 3 supplied by an approved provider of further or technical education, if he or she has not already studied at that level.

(2) Any approved provider must receive automatic in-year funding for any student covered by subsection (1), and supported by the Adult Education Budget, at a tariff rate set by the Secretary of State.

(3) Any employer receiving apprenticeship funding must spend at least two thirds of that funding on people who begin apprenticeships at Levels 2 and 3 before the age of 25."

Lord Clarke of Nottingham (Con): My Lords, this amendment was tabled by the noble Lord, Lord Layard, and myself. We discussed it in Committee, without much response from the Government. I travel more optimistically today and hope that we will get a more favourable reception. We probably should, because it is entirely consistent with the Government's stated aims on skills and the need for skills development in this country, and with the admirable spirit of this Bill, which I broadly welcome. As the noble Lord, Lord Adonis, said rather forcefully on more than one occasion in Committee and on Report, the Bill is very sound in principle, trying to develop our training and skills system in this country, but a little thin on substance in places. This amendment seeks to add a little more specific substance.

The first two subsections of the proposed new clause hang together and are connected. Proposed new subsection (1) speaks for itself, if one reads it. It deals with those people who have not managed to attain skills up to level 2 or 3, which are quite essential in today's world and will be for the future, and entitles them to free education of the kind they are entitled to up to the age of 18, as far as school education is concerned, if they, at any stage in their life and for whatever reason, turn to try that level of skill. People do not always take the opportunities available to them in their teens and early years. This subsection would enable people to turn to free education. It takes a step further, and for this particular case is more suitable. I have been listening to all the discussions we have had about the Government's loan schemes and so on, which I welcome. There is no need to read out the subsection's terms; noble Lords can read it for themselves. It spells out this entitlement to free education.

Such an entitlement is quite useless if, where you live, there is nobody in a position to provide such courses. That is where proposed new subsection (2) comes in. Although this is a modest amendment, it addresses the rather bigger problem of how we fund further education in this country. From listening to debates throughout the Bill, I see that there is nothing new in the world; we have been debating all this for 50 years. I can well remember that when I was Secretary of State we just acknowledged that further education had for too long been treated as the Cinderella of the education system. There was the great gap left by the failure of the 1944 Act to develop technical colleges and all the rest of it. I am not sure, when we look back on our efforts, that Governments of both parties of the last few decades have made anything like adequate progress.

One of the problems is the way that further education is funded. Proposed new subsection (2) deals with the question of how one would fund the entitlement to free education that proposed new subsection (1) proposes. There is a huge difference between the way courses are funded at schools—at the lower level—at universities and in further education. Schools are paid open-endedly about £5,000, if it is a sixth former, for every student they manage to retain. That is why it has been said several times in the debate that schools sometimes unhelpfully persuade people to stay in the sixth form because it is worth £5,000 a year for the school budget, when from a pupil's point of view they might very advantageously move to a more suitable course. If you are a university, for every student you manage to recruit for a degree course, of whatever quality you have laid on, £9,500 comes automatically, student by student.

Further education colleges are still subject to cash-limited budgets. Those budgets, like most public expenditure, have been particularly fiercely curtailed in recent years, for necessary reasons in large part. The proposed new subsection makes a straightforward suggestion: if you accept proposed new subsection (1), that you are giving a right to free education to the people whom I have described, then you actually have to provide the funding. It says that the Secretary of State, out of the adult education budget, at a tariff to be set by the Secretary of State, will provide the funding to colleges to provide the courses. It hangs together very neatly.

I cannot think of any policy reason or reason of principle for opposing these two modest suggestions. My hope, were we to get the second in place, is that sooner or later one would face up to the big prospect, which I hope the Chancellor is contemplating in his current public spending round, of moving further education colleges to the open-ended funding that will be necessary to let them play the major part they are going to have to play in the reskilling of our population, providing the skills for our economy in future years.

The third part, which is obviously related to the subject but moves on slightly, is on apprenticeships and the working of the apprenticeship levy. It makes the proposal that, following the introduction of the levy and the intention of injecting powerful financial incentives to get our employers back into providing the apprenticeships, opportunities and training that our workforce requires in future, two-thirds of the levy-funded apprenticeships should be for those between 16 and 25.

This is a marked change from what has actually happened since the apprenticeship levy was introduced, which I do not think anyone foresaw. I am sure that, when the policy was first brought in, the Ministers involved and the general public envisaged that we would see a steady growth of good-quality apprenticeships —because very valuable conditions were put in, such as having off-work training and not just calling everything at work "training", and so on—that young people would, steadily, have an attractive alternative if the academic education route did not suit them and that we would develop, through apprenticeships, people skilled in the new skills of tomorrow's economies, which our young people in particular will require if they are to have a satisfactory work career thereafter.

That did not happen because the large companies were, I am afraid—not too surprisingly—anxious to see how they could recover levy money and reduce the impact of what was otherwise a new tax by ascribing to the levy most of the training that they already did for their existing workforce of all ages. It did not have the effect that we all hoped—which would advantage the company as well—of making people contemplate taking on and providing new training opportunities for young people coming out of schools, colleges and universities in order for them to get into the beginnings of their careers.

I know that the Government have got rid of the worst excesses. People without any kind of training, at every level of large companies and in the public sector, including the Civil Service, in order to improve the figures were being described as apprentices. Most of them did not know that they were apprentices but, for the purposes of recovering the levy, quite high-ranking managers were described as such. As I said, the Government have got rid of the worst abuses. At one point, it was possible for a high-flying senior manager to go on a business management degree course at a university and the apprenticeship levy would be recovered against the cost incurred.

Therefore, our amendment seeks to take the policy back to what it was expected to produce when it was first introduced and certainly to what the general public and both Houses of Parliament thought we were talking about when we first introduced the apprenticeship levy. It depends on all kinds of other things, such as explaining it to the public, improving the status of apprenticeships alongside alternative academic and technical routes and so on. But it was mainly an opportunity for the under-25s.

I quite accept that there are older people who can benefit from training or retraining. Indeed, people will have to change their jobs far more frequently in tomorrow's economy, and plenty of people will, at the age of about 50, find that their existing job is coming to an end, and retraining is important. Because I have seen the Minister's note, I anticipate that her response, which will no doubt be as courteous as ever, will say, "Well, first, we cannot interfere with businesses; they must decide what training they want". That rather overlooks the fact that they are doing it for financial reasons, just to minimise what they spend on training anyway. More importantly, she will say, "Training is required by people of all ages". I have already conceded that, and that will include some people who are sent off on totally fresh training courses by their employers.

5.45 pm

The amendment says only that two-thirds should go on those under the age of 25; for one-third there is no age limit. If anyone starts producing good examples of people in later years who might reasonably qualify for funding for their training—and then the recovery of that funding by means of the levy through the employer providing it—that is fine, but the balance at the moment is absurd. Since the levy system started, the number of young people going into apprenticeships has actually declined, particularly at the ages of 16 and 17. The overwhelming majority of apprenticeships funded under the levy scheme are for older people.

I have described the way in which many large companies just use the scheme to attribute spending and recover the levy. All they are recovering is money that any large business ordinarily spends all the time and always did. There are always some people who need retraining. As you automate and change your technology, you give some extra skills training to your existing staff. If the companies were not doing that, they would not be successful and would not be progressing. To allow money to be used in that way does not really add to what any good company should be doing anyway, whereas the amendment advocates using the levy system as an incentive to give apprenticeship and training opportunities for those up to the age of 25, and I hope the House will accept it.

As I say, this is not a new question. Practically most people in the House, if they have taken an interest in the subject, have been advocating various policy changes

[Lord Clarke of Nottingham]
on the subject of skills shortages and training. I have already said that in 50 years we have not got very far. Particularly after Covid and Brexit, and because of the pace of technological and other change in the globalised economy, the need is more urgent now than it has ever been.

Back in the old days, decades ago when I was in the departments for employment and education, we had YTS and NVQs, the youth training scheme and national vocational qualifications—daring stuff and very controversial at the time, but primitive efforts compared with what we do now to try to rationalise and raise the quality of our training. At any time in the last few decades, if you asked the management of a medium-sized or reasonably small-sized company what the biggest problem was that they were facing in running their business—a question that I often asked at several of the departments I worked in—skills shortages, over and again, was likely to be the first thing that featured when they spoke.

I cannot remember the number of speeches that I have heard where we have compared ourselves with Germany and regretted the fact that the Germans are so good at technical qualifications—they do not have our problems of equivalent status, and so on. People on both sides should hang their heads in shame; we have all made speeches using that as an illustration to forward our policies, but we have not got there.

If I may say so, the Bill is a valuable attempt to catch up to the pace of events. It is needed at a key moment. The careers of the next generations of people are not going to resemble the careers of the last. The acquisition of skills is essential from a personal point of view, while making sure that we have a workforce for skills is fundamental to our getting back to having a healthy, modern economy. I therefore urge the Government—having considered the debate in Committee, where we had quite a lot of support—to consider making a positive and content-filled response to the amendment and, I hope, accepting it.

Baroness Garden of Frognal (LD): My Lords, I have added my name to Amendment 60 on the lifetime guarantee tabled by the noble Lord, Lord Watson, but I shall first say a few words about Amendment 50, which has been so eloquently introduced by the noble and learned Lord, Lord Clarke. It was good to go down memory lane with NVQs and YTS; I remember them well. I am concerned about subsection (1) in the proposed new clause, which requires funding for an approved course

"if he or she has not already studied at that level."

We have put quite a lot of effort into trying to get funding for people to study at levels equal to or lower than qualifications they already have, if that is going to enable them to get into a new job. To restrict this to people who do not have a level 3 qualification might well be problematic. But oh, how much I agree with him about apprenticeships. In my mind, an apprentice is somebody starting out in work, not a middle manager doing an MBA. Having something to try to ensure that apprenticeship levy funding goes to young people is essential if that system is to work properly.

On Amendment 60, it is important that the lifetime skills guarantee is on a statutory footing if it is to have any impact at all. Both these amendments refer to courses up to level 3. It is important that we do not overlook qualifications at levels 1 and 2, because often they are the gateway to learning for people who have been put off education at an early age, as I have said before. Level 1 learners can be people who are encouraged for the first time to find learning accessible, enjoyable and fulfilling, when at school academic learning and GCSEs had been nothing but off-putting and a source of failure. That is something we need to be sure to support. Once such people discover that a national qualification is within their grasp and their ability, they will often find the confidence to continue to upskill and to gain employment in areas that they previously assumed were unobtainable. If the Government are serious about levelling up, they must start at the lowest levels. Amendment 60 would be a definite boost to that agenda, and I hope the Minister will look on it favourably.

Lord Layard (Lab): I support Amendment 50, which could transform the lives of hundreds of thousands of our young people. Given the time, I shall make just four points. The problem is much bigger than most people, maybe myself included, have realised. In 2019-20, the proportion of all 18 year-olds who were in no form of education or work-based training was 30%. That 30% of the 50% not going to university are getting no education beyond the age of 17. This is completely extraordinary and shocking. What is the reason? It is that there simply are not enough places for these people to study and acquire skills compared with people going down the academic route.

The lack of places is almost entirely due to the completely different way in which those places are funded. As the noble and learned Lord, Lord Clarke, said, when young people go down the academic route, the funding automatically follows the student year by year, but for the other 50% the budget is simply set by the Treasury. It is capped in total and college by college. The current funding for 2021-22, including recent additions, is still less than half what it was in nominal terms in 2010. This is extraordinary and shows the failure of the system that this sort of thing can happen. It is difficult to think of any case of greater discrimination in any other aspect of our public life. I cannot think of any more extreme class-based discrimination than in that area.

What is the remedy? It is clear that the only approach which is fair to other 50% and which will adequately address the problem is to fund the other 50% the same way as the privileged 50% who go down the academic route—to make the money automatically follow these students. The proposal is that every student up to level 3 exercising the lifetime skills guarantee and taking an approved course—not just anything—should be automatically funded according to a national tariff. As the noble and learned Lord, Lord Clarke, explained, that is the essential part of the first half of this amendment.

The second half relates to apprenticeships. When I was very young, I worked for the Robbins committee. It established the principle that there should be enough

places for anybody who qualified for a place and who wanted to exercise access to it. That has always applied to higher education, ever since the Robbins report. It has never applied to the other 50%; they just have not been thought of in that way at all. That really has to change.

As the noble and learned Lord, Lord Clarke, said, we now have a severe lack of apprenticeships for young people. There is huge, well-documented excess demand but supply is falling. The system is completely unresponsive and far too much of the apprenticeship money is being diverted to the over-25s. I will give two reasons why I think that is wrong. First, what is the key duty of any system of education and training? The first key duty is of course to get everybody off to a proper start. Good initial training is the central feature of any just, efficient system.

There is an extra, economic fact about the use of resources which I think is very relevant. The Department for Education's own figures show that the benefit-cost ratio is much higher—in fact, double—for apprenticeships for the under-25s compared with those for the over-25s. For the sake of justice and efficiency, we have to redirect this money to an important degree back to the under-25s.

I would have thought this was a central proposal for any levelling-up agenda. We have a problem which is a major cause, almost the main cause, of our low national productivity per head. It is also a major cause of the spread of low incomes among the lower part of the workforce. If we are looking for items for a levelling-up agenda, surely this should be near the top.

I hope that as many noble Lords as possible will support this amendment and that the Government will also support it. If the Government find that they cannot support this proposal, I worry about the whole future of the levelling-up agenda.

Lord Adonis (Lab): My Lords, I agree with every word of what my noble friend Lord Layard and the noble and learned Lord, Lord Clarke, said. When I spoke in Committee, I gave the figures that show that the number of apprentices under the age of 25 is now lower than it was when the apprenticeship levy was introduced. Rarely has there been a policy which has failed so catastrophically to deliver its objective.

I do not want to repeat what my noble friend and the noble and learned Lord, Lord Clarke, said; their points about the failure to create apprenticeships in the private sector were very well made. The point I want to address to the Minister and introduce to the debate relates to one of the other really significant failures in the creation of apprenticeships, namely the failure to create apprentices in the public sector. This has been another very long-running and serious failure.

The worst provider of apprentices in the country among large organisations is the Civil Service, which had no scheme of creating apprentices at all before 2015. I met the noble Lord, Lord Kerslake, who was the head of the Civil Service then, and some of us worked very closely with him to get the Civil Service apprenticeship scheme going. There was quite a lot of foot-dragging and reluctance to do it. The Civil Service has a graduate fast stream and recruits tens of thousands of graduates each year across the different parts of the organisation, but had no apprenticeship scheme. An apprenticeship scheme was created and I checked before coming into the House where it had got to.

The other remarkable thing about it was the thing that persuaded the noble Lord, Lord Kerslake, to go for it: it turned out that the department responsible for apprentices—it keeps changing its name; I think it was then called the Department for Business, Innovation and Skills, but it may have been something else—had, I think, three apprentices under the age of 21. The department of apprentices was one of the worst apprenticeship providers in the entire country. That was the department, with its Ministers, that was supposed to preach to the private sector about how it should create apprenticeships.

6 pm

I checked where we are with apprentices now in the Civil Service. The state, which is the largest employer in the country, has an obvious capacity and indeed a duty. If everything that the noble and learned Lord, Lord Clarke, said is true about the economy at large, it is manifestly true that the Government themselves should create apprenticeships.

These are the statistics. According to the Civil Service statistical bulletin just out on the employment pattern in the Civil Service last year, since 2015, when the Civil Service apprenticeship scheme started, 29,000 apprenticeships have been created across the Civil Service at all levels. Across six years, that is about 5,000 apprentices in the Civil Service a year. The head count of the Civil Service, as of 1 January last year, was 456,410. Recruitment that year, which was lower because of Covid, was 40,680. There were 40,680 new recruits to the Civil Service last year and under 5,000 apprentices, so less than one in eight of all new recruits to the Civil Service is an apprentice. That is an apprentice at any age; it does not break it down by age, so I do not know how many of them are under 25.

It would be interesting to ask the Minister how many young apprentices, under 25, are in the Department for Education. Maybe the Box has time to provide her with a note by the end of the debate. She may not want to read it out, because it will be a very small figure. I will be surprised if the number of young apprentices in the Department for Education is into double figures—and this is the department, with its Minister, that is supposed to tell the rest of the country of the importance of apprentices.

That figure of 5,000 new apprenticeships a year created by the Civil Service is utterly pitiful. It should be many multiples of that. The idea that only one in eight new recruits to the Civil Service is an apprentice of any age, let alone a young apprentice, is a really serious condemnation of the state and the state's leadership in the creation of apprenticeships. If the state does not lead on this business, there is no reason whatever to expect that the rest of the country will follow.

Lord Aberdare (CB): My Lords, I fully support what the noble Lord, Lord Layard, described as the first half of Amendment 50, but I am rather less comfortable about the approach taken in the second

[Lord Aberdare]
half, requiring any employer receiving apprenticeship funding to spend at least two-thirds of it on people under 25 beginning apprenticeships at levels 2 and 3. That is an aim I entirely support, but I am not convinced that putting the onus wholly on employers to deliver it is the right way of going about it.

One of the concerns employers have regularly expressed about the current apprenticeship system is its lack of flexibility. This amendment would not only reduce the flexibility available to employers but impose extra requirements on them to manage their apprenticeship programmes and an extra level of bureaucracy resulting from the process of enforcing the requirements.

Employers already find it difficult to spend their levy funds, which is why so many apprenticeships go to reskilling and upskilling existing employees. The energy and utilities sector, which has a very good record of employing apprentices, has managed to spend on average only 54% of the levy funding available to it, so it is not as if there is not more money available. All that they do not spend just goes back to the Treasury.

I believe a better approach might be to introduce that extra flexibility into the apprenticeship levy system itself, to make it easier and more attractive for employers to offer more apprenticeships at these levels to younger people. This could be done through, for example, enabling part of an employer's levy funds to be used for pre-apprenticeship training initiatives in schools to identify and prepare young people who might then be suitable candidates for apprenticeships. I am sure there are other ways of motivating employers to offer more apprenticeships of this type, rather than introducing additional rules that could lead to their providing fewer.

I support two and a half thirds of this amendment, but I am slightly uncertain about the mechanism that the noble Lords are implying to address the third one.

Lord Forsyth of Drumlean (Con): My Lords, I have not participated in any of the proceedings on this Bill, partly because I chair the Economic Affairs Committee and we are looking at central bank digital currencies at the moment. But I bumped into the noble Lord, Lord Layard, who pointed out to me that this amendment is entirely in line with the recommendations made by the committee in its report, *Treating Students Fairly*, which was published in June three years ago. I shall not repeat the arguments so eloquently put by my noble and learned friend Lord Clarke of Nottingham, with every word of which I agree, but it was set out clearly in that report, more than three years ago, that the apprenticeship levy was not working. Indeed, we found that larger employers who were running very effective apprenticeship schemes had simply abandoned it, treating the levy as a tax, and done their own thing.

My noble and learned friend spoke about the way in which all the financial incentives are to keep people in schools and send them on to universities, where they do courses which do not enable many of them to use the skills and achieve the kind of living standards which they aspire to. In short, we probably need more plumbers, electricians, specialists and engineers than we do people who are experts in media studies. I am not saying that media studies is not a serious subject—well, actually, I do think that it is not a serious subject, but that is probably going to get me a lot of abusive emails. I am disappointed that, as this matter was discussed in Committee and as there has been so much about it in the all-party unanimous report, the Government are still dragging their feet on the matter.

When we discuss future topics in our committee, one thing that is regularly suggested is that we look at productivity. We always reject it, on the grounds that it is such a broad subject and so difficult, but this matter is absolutely central to productivity and, even more importantly, offers a future to so many of our young people. So I hope that my noble friend will consider this amendment. I take the point about providing flexibility.

One thing that struck me—and I know that the Government have taken some action on this—was that one of the officials who gave evidence to us proudly announced that the apprenticeship scheme had been used to send her to business school. Of course, that is the antithesis of what the scheme should be. I am not up to date on what has happened since, but there were some 400 different types of rules for different organisations, and the whole thing had become utterly bureaucratic.

The noble Lord, Lord Layard, referred to the Robbins committee. Those of your Lordships who have not read the report should just read the introduction; it is written in the most beautiful prose. It sets out the objectives, from all those years ago, and this amendment is central to achieving them.

When we were looking at treating students fairly, one thing we got in evidence was a diagram showing all the initiatives that had been taken by various Governments for training, and all the changes in names and so on. It is an unbelievably complicated process—not just YTS; there are literally tens and tens of different initiatives. What we need, in the words of Her Majesty the Queen, is perhaps less talk and more doing in this area. This amendment is a very important step forward if the Government decide to accept it.

Lord Cormack (Con): My Lords, I had not come to speak in this debate but to listen. However, some things said by my noble friend Lord Forsyth provoke me to make a short intervention. I do so because I am the chairman—I was the founder—of the William Morris Craft Fellowship. Every year, we award craft fellowships to craftsmen working, for the most part, on historic buildings, including stonemasons, plumbers and bricklayers; people who have gone through a proper apprenticeship in the past and who we select because we think they have the potential to oversee a great project. Your Lordships all know the sort of thing to which I refer: a great parish church or cathedral, or a country house in the possession of the National Trust or privately owned. These places are at risk because of the very few people who are coming forward and getting a proper apprenticeship in this modern age.

My noble friend referred to the young woman and the business qualification that she claimed to be an apprenticeship. I have met people who have claimed to have apprenticeships in flower arranging. But I am talking about young men and women—and there is an increasing, though not overall great, number of women—

who have spent four, five, six and sometimes seven years learning and mastering a craft. The noble Baroness, Lady Sherlock, on the Front Bench opposite, is a great devotee of Durham Cathedral, as I am of Lincoln and indeed all our great cathedrals. Their survival depends upon having men and women who are accomplished and able enough to master these crafts, which go back centuries. And they are in danger.

I am also a vice-president of the Heritage Crafts Association, which represents crafts men and women who very often work individually, at home, producing something, in the William Morris idiom, that is both useful and beautiful. We have produced only recently a red list of endangered crafts. I give you but one example: we are down to the last sporran maker. It might sound slightly amusing, but—

Lord Forsyth of Drumlean (Con): It is very serious.

Lord Cormack (Con): It is serious, as my noble friend Lord Forsyth knows better than most. Not only is it serious but it is outrageous that, to provide sporrans for a Scottish regiment, the Ministry of Defence has recently gone to Pakistan, whereas in Scotland they can still be made.

I will not go on; I hope I have made my point. Apprenticeships are desperately important, and they are not second best. A young man or woman cannot work with his or her hands unless they have a brain that functions—although, rather interestingly, many people with dyslexia are particularly good crafts men and women. We need them, and we must have proper apprenticeships that enable them to become accomplished.

I am very taken by the amendment moved by my old noble and learned friend Lord Clarke. We began in politics together, way back in 1964, fighting in adjacent constituencies. I think he has performed a service to the House by moving his amendment, so ably seconded by the noble Lord, Lord Layard. I very much hope that my noble friend who winds up will accept the thrust and logic of what has been said and give us a comforting reply.

Baroness Neville-Rolfe (Con): My Lords, I rise to agree with almost everything that has been said about the importance of apprenticeships. This is the right moment to be pressing for reform, as both the Prime Minister and the Chancellor are emphasising the importance of skills in the post-Brexit economy and in levelling up, as the noble Lord, Lord Layard, indicated. However, there are some problems with this amendment as it stands—notably, the lack of clarity as to what it would cost, and exactly where the funding would be found for proposed new subsection (1).

6.15 pm

Turning to proposed new subsection (3), I would say that there is a case for some investment in management skills, which are very poor in parts of the economy and are often a cause of poorer company and public sector performance. Indeed, when I was a Minister, I had an assistant private secretary who was an apprentice and in fact became something of a showcase for how apprenticeships could be used right across the public sector. Some levy funding should be spent in these areas. However, I entirely agree with my noble and learned friend Lord Clarke that most apprenticeship money should go the under-25s. His proposal of two-thirds is worthy of consideration.

Frankly, this is only one of several things that are still wrong with apprenticeships. Another issue is that lower level apprenticeships have been phased out. In my Tesco days, such apprenticeships made many of the least well educated in the land extremely proud that they were able to achieve an apprenticeship and then able to move from one employer to another with a certified skill. The exclusions under the current scheme have led to much smaller numbers of people able to become apprentices, which I think is one reason why so much less is spent on the under-25s. Flexibility is also an issue. The noble Lord, Lord Aberdare, gave us some examples from his own experience, and of course we have had the experience of my noble friend Lord Forsyth's report on this whole area.

In conclusion, it is very good that we have this amendment. We have a new, impressive and energetic Secretary of State in Nadim Zahawi, and we have my noble friend the Minister. I hope that they will review the apprenticeship arrangements and that this amendment will spur them to action.

Baroness Wilcox of Newport (Lab): My Lords, the Queen's Speech promised that legislation would support a lifetime skills guarantee to enable flexible access to high-quality education and training throughout people's lives. It therefore beggars belief that there is no mention of this flagship policy in this skeleton Bill; indeed, the Bill is silent on the value of qualifications below level 3 altogether.

At present, 13 million adults in the UK currently do not have a level 2 qualification—that is equivalent to GCSE—and 9 million adults lack functional literacy and numeracy skills, leaving them vulnerable to job loss and making it harder for them to secure work. DfE data has shown that the return on investment for qualifications below level 2 is higher than for level 3. Furthermore, lower level qualifications offer many adult learners a key progression route. Without adequate support through the adult education budget for these lower level qualifications in future years, many students will not be ready for and able to progress to levels 4, 5, 6 and up to degree level, which this Bill—or indeed, in the absence of the LLE amendments, its successor—is intended to support.

Amendment 60 in the name of my noble friend Lord Watson would seek to rectify this by placing the LSG on a statutory footing. It is also intended to address concerns that, at present, the LSG does not offer support for subjects outside a narrow band of technical disciplines. Consultation and regular review of eligible courses are therefore key. Our amendment also addresses concerns that the LSG appears to omit reskilling and second level 3 qualifications by retaining the equivalent or lower qualification rule. I will not repeat earlier speeches on the need for ELQ reform, but I urge the Minister to reconsider including flexibility for subsequent level 3 courses in the LSG to unlock retraining for even more people in an area where there is a demand for skills.

I also support Amendment 50, in the name of the noble and learned Lord, Lord Clarke, and my noble friend Lord Layard, which would ensure that the LSG

[Baroness Wilcox of Newport]
and support for courses below level 3 are placed on a statutory footing. Amendment 50 also encompasses apprenticeships, which provide an alternative for able young people to the traditional academic route. It would ensure that two-thirds of the funding is spent on under 25s; this is key to ensure they are properly targeted.

Moreover, as noted by many noble Lords, the sharp decline in apprenticeships is deeply concerning, with 2020 seeing the lowest number of 16 and 17 year-olds starting an apprenticeship since the 1980s. We have seen 189,000 apprenticeship opportunities disappear since 2017, which is why Labour has called on the Government to use unspent funds from the apprenticeship levy to fund 85,000 new apprenticeships for 16 to 24 year-olds, creating opportunities for young people to rebuild from the ravages of the pandemic. More than £1 billion in apprenticeship levy funding paid by employers expired unused between May 2020 and February 2021 alone. It is absurd that businesses are allowing hundreds of millions of pounds of levy funds to expire, when so many young people are unable to access a high-quality apprenticeship. Vast sums of money going unspent is a sign of a system in need of fundamental reform to make it work for learners and business.

Skills and retraining must be a vital part of our economic recovery. I hope the Minister is persuaded of the merits of placing the LSG on a statutory footing, especially given it has cross-party and sector-wide support. After all, it reflects the Government's policy to try to address the skills gap in this country and to enable individuals to develop skills relevant to today's and tomorrow's labour market, in their area. This is an opportunity for the Government to show that levelling up is more than just a slogan or an addition to the name of a ministry.

Baroness Barran (Con): My Lords, I thank my noble and learned friend Lord Clarke and the noble Lord, Lord Watson, for their amendments, and all noble Lords who spoke in the debate. I concur with all noble Lords' ambitions around lifelong learning. This is an important issue with which the Government agree; however, we do not believe it is necessary to specify such a requirement in the Bill.

In April, we launched the free courses for jobs offer as part of the lifetime skills guarantee. This gives all adults in England the opportunity to take their first level 3 qualification for free, regardless of their age. We have ensured that our funding arrangements will allow relevant providers to access further funding if there is higher-than-expected learner demand. Over 400 level 3 qualifications are available, which have been specifically identified for their strong wage outcomes and ability to address key skills needs. Adults in all regions of England have been enrolling since April.

The free courses for jobs offer builds on the pre-existing legal entitlement for 19 to 23 year-olds to access their first full level 2 and/or level 3 qualification—a point raised by the noble Baronesses, Lady Wilcox of Newport and Lady Garden of Frognal—which the free courses for jobs offer complements. Through the adult education budget, full funding is also available, through legal entitlements, for adults aged 19 and over to access English and maths to improve their literacy and numeracy, and for adults with no or low skills to access fully funded digital skills qualifications, as we discussed in an earlier group of amendments.

The adult education budget also supports colleges and training organisations to work with adults at lower levels who want to re-engage with learning and/or their local labour market. This includes around 2,000 regulated qualifications and their components, and non-regulated learning, from entry level to level 2.

In areas where adult education is not devolved, the adult education budget can fully fund eligible learners studying up to level 2 where they are unemployed or earning below around £17,300 per year. In areas where the adult education budget has been devolved to mayoral combined authorities or the Greater London Authority, they are responsible for determining the provision to support outside of the legal entitlements.

The noble Baroness, Lady Wilcox, asked why the Government will not put the offer of free courses for jobs on a statutory footing. As she will be aware, this policy has been in delivery since April and is already benefiting adults aged 19 and above without a prior level 3 qualification in all regions of England. We do not believe that it is necessary to legislate in order to deliver this important investment in the nation's skills.

Lord Forsyth of Drumlean (Con): I am most grateful to my noble friend. It is fantastic that she has listed all these initiatives, but it does not really explain why she is not prepared to put this in the Bill. She says that she does not believe that it is necessary. Why?

Baroness Barran (Con): I am sorry; I thought that I was clear in my remarks. We are already delivering the policy and therefore do not believe that it is necessary to have it in the Bill.

Lord Forsyth of Drumlean (Con): But—

Baroness Barran (Con): If my noble friend will allow me to finish, I will come on to talk about some of the wider issues—particularly in relation to funding, on which I know he is a great expert—further on in my comments.

Lord Forsyth of Drumlean (Con): I do not wish to press too hard on this, but Governments are here today, gone tomorrow, and Ministers change. By putting this amendment in the Bill, it is clear to everyone what the future is; otherwise, we are relying on administrative decisions, which can change.

Baroness Barran (Con): My noble friend is quite within his rights to press me and the Government as hard as he sees fit, but I have set out the Government's position as best as I can at this stage.

Turning to the other aspects of the amendment in the name of the noble Lord, Lord Watson, I agree that the list of qualifications—

Lord Clarke of Nottingham (Con): I am sorry—I know that the point has been made—but I find this an extraordinary approach to legislation. Everything that

the Minister has said so far has given examples of things that the Government are doing that are compatible with the amendments that we are discussing. She has not raised a single objection in principle to either of the amendments, but she has been given a brief saying that it is not necessary to legislate. What harm is done by legislation, given that so many Governments in the past have, in the end, fallen rather short of their agreements in principle?

Baroness Barran (Con): I think that the Government's priority is to see this measure working in practice. Many of your Lordships have far greater experience than I do of how attempts have been made to reform this area, including through legislation, which have not delivered the outcomes that noble Lords across the House violently agree we want to see. So, our focus—

Lord Cormack (Con): I apologise. We are all on the same side here. I understand my noble friend's powers personally and understand that she has a big document with "resist" written on it, but why can she not talk to her ministerial colleagues and say, "We'll seek to come forward at Third Reading with something that reflects the concerns expressed by my noble and learned friend Lord Clarke, my noble friend Lord Forsyth and others"?

Baroness Barran (Con): I can assure my noble friend absolutely that I am in regular and detailed dialogue with my ministerial colleagues. I will certainly share your Lordships' concerns with them but, if I may, I would like to progress in responding to these amendments.

Turning to the other aspects of the amendment of the noble Lord, Lord Watson, I agree that the list of qualifications in the free courses for jobs offer should be updated regularly and reflect labour market need. That is why we keep the list under review and accept suggestions for additional qualifications twice a year from mayoral combined authorities, the Greater London Authority and qualification-awarding organisations. For example, we added hospitality qualifications to the offer in July to ensure that it meets key needs in that sector.

6.30 pm

Maintaining the offer as a policy entitlement allows us to continue to respond quickly to the changing labour market. I am sure that this is not the noble Lord's intention, but the amendment has the potential to slow that process down. There are an estimated 11 million adults aged over 24 in England without a level 3 who can now access their first level 3 via the three courses for jobs offer. We know that there are real benefits to adults gaining a level 3 qualification. Achieving a full level 3 on average gives adults 14% to 16% higher wages and a 4% increase in their chance of being employed. It is right that we focus on those who have not already achieved those advanced level skills, as they have a significant amount to gain. Learners who already have a level 3 or higher can still benefit from a generous government-backed advanced learner loan.

Turning now to the amendment tabled by my noble and learned friend Lord Clarke and also in the name of the noble Lord, Lord Layard, I absolutely agree with the noble Lord, Lord Layard, that this reform is fundamental to achieving our levelling-up ambitions. The Government are clear that the further education funding system needs to change in order to meet the needs of learners.

I shall spend a moment setting out what the Government are doing. We are reforming the adult skills funding system so that it is simpler, outcome-focused and more effective. We are currently consulting on this and it would be wrong to pre-empt the outcome of that consultation. We do not want to commit to funding arrangements on a piecemeal basis, which is why we cannot accept this amendment.

I remind your Lordships that we are proposing, first, to introduce a single skills fund that brings together all direct funding for adult skills, making the system easier for colleges to navigate; secondly, to establish a simpler and fairer way of allocating the money within the skills fund; and, thirdly, to give more certainty to colleges over their funding, including over multiple years, which I think goes to the heart of the second part of my noble and learned friend's amendment.

On the third element of my noble and learned friend's amendment, noble Lords are aware—my noble and learned friend anticipated this perfectly—that it is a central principle of the apprenticeship programme that employers take the decisions about who they recruit as an apprentice on which standard, including the level of apprenticeship, and government funding will then follow those decisions. We believe that employers are better placed to make those choices, as they know what skills they need and who might best meet that need. Therefore, we would be concerned about restricting that choice by agreeing to that part of the amendment. It might work for some employers, but not for all. It would reduce opportunities for older employees who may want to retrain for progress. There may also be younger people who want to start with a higher-level apprenticeship.

From August 2020 to April 2021, 16 to 24 year-olds accounted for just over 50% of apprenticeship starts and, in the same period, level 2 and level 3 starts made up more than two-thirds of total starts. The latest figures show that more than 101,000 apprentices have been supported through the apprenticeship initiatives between August 2020 and September 2021, of which 76% are aged between 16 and 24.

There were a couple of other questions. My noble and learned friend Lord Clarke talked about converting existing training into apprenticeships. Employers cannot simply convert their own training into an apprenticeship. The Institute for Apprenticeships approves all apprenticeship standards to ensure they meet high quality requirements. Apprenticeships must last a minimum of 12 months and include at least 20% off-the-job training.

The noble Lord, Lord Adonis, asked about the number of apprenticeships in the Department for Education. I am pleased to tell him that times have moved on since he and the noble Lord, Lord Kerslake, were battling on this. We have a strong internal apprenticeships programme. We have more than 350 apprenticeships, on standards from level 2 to level 7. Following a successful pilot last year, we put in place a new policy for external recruitment at our EA and EO grades,

[Baroness Barran]
which I am informed are the two lowest grades in the Civil Service, in February 2021. Externally advertised vacancies at these grades are now recruited as apprentices by default.

In conclusion, I am grateful to my noble and learned friend Lord Clarke and the noble Lord, Lord Watson of Invergowrie, for tabling these amendments. It is vital that all adults in England can access their first level 2 and level 3 qualifications for free, which is why the Government are already funding this through existing legal and policy entitlements. I also agree that the funding system must be fit for purpose. That is why, as I set out, we are currently consulting on new funding and accountability arrangements for the further education system, which aim to give providers more certainty and allow them to focus on education and training.

I hope my noble and learned friend and the noble Lord, Lord Watson, are satisfied with the work being done in these areas. If so, would my noble and learned friend be happy to withdraw his amendment, and would the noble Baroness, Lady Wilcox, in place of the noble Lord, Lord Watson, not move Amendment 60 when it is reach?

Lord Clarke of Nottingham (Con): My Lords, my noble friend kept thanking us all for introducing these amendments, which is very kind of her. I think we all thank her for the skill and courtesy with which she delivered her brief in attempting to reply. Faced as I am with a situation where, as far as I can see, her brief gives examples of things the Government are doing that are entirely compliant with our amendments but provides no reason in principle for opposing them, except that it is not convenient or wise, I would like to take the mood of the House and put my amendment to a vote.

6.37 pm

Division on Amendment 50

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Amendment 50 agreed.

Division No. 5

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Barker, B.
Beith, L.
Bennett of Manor Castle, B.
Berkeley of Knighton, L.
Berkeley, L.
Blackstone, B.
Blake of Leeds, B.
Bonham-Carter of Yarnbury, B.
Bradley, L.
Brinton, B.
Browne of Belmont, L.
Browne of Ladyton, L.
Campbell of Pittenweem, L.
Campbell-Savours, L.
Carter of Coles, L.
Chakrabarti, B.
Chapman of Darlington, B.
Chartres, L.
Chidgey, L.
Clarke of Nottingham, L.
Clement-Jones, L.
Coaker, L.
Cohen of Pimlico, B.
Collins of Highbury, L.
Cormack, L.
Corston, B.
Craigavon, V.
Davies of Brixton, L.
Donaghy, B.
Drake, B.
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Elder, L.
Falconer of Thoroton, L.
Forsyth of Drumlean, L.
Foulkes of Cumnock, L.
Garden of Frognal, B.
Glasgow, E.
Golding, B.
Grantchester, L.
Grender, B.
Hamwee, B.
Hanworth, V.
Harris of Richmond, B.
Haworth, L.
Hay of Ballyore, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hollick, L.
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Hunt of Kings Heath, L.
Hussain, L.
Jones of Cheltenham, L.
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Jordan, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Lawrence of Clarendon, B.
Layard, L.
Levy, L.
Liddle, L.
Lister of Burtersett, B.
Manchester, Bp.
Marks of Henley-on-Thames, L.
Maxton, L.
McAvoy, L.
McConnell of Glenscorrodale, L.
McCrea of Magherafelt and Cookstown, L.
McIntosh of Hudnall, B.
McNicol of West Kilbride, L.
Merron, B.
Monks, L.
Morrow, L.
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O'Loan, B.
Osamor, B.
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Parminter, B.
Pendry, L.
Pitkeathley, B.
Prosser, B.
Quin, B.
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Randerson, B.
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Rebuck, B.
Rennard, L.
Ritchie of Downpatrick, B.
Rosser, L.
Scriven, L.
Sheehan, B.
Sherlock, B.
Sikka, L.
Smith of Basildon, B.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Taylor of Warwick, L.
Thomas of Winchester, B.
Thornton, B.
Tope, L.
Touhig, L.
Tunnicliffe, L.
Warwick of Undercliffe, B.
Wheeler, B.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wood of Anfield, L.
Woolf, L.
Young of Old Scone, B.

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Agnew of Oulton, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Barran, B.
Bellingham, L.
Benyon, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Bridgeman, V.
Bridges of Headley, L.
Brougham and Vaux, L.
Brownlow of Shurlock Row, L.
Caine, L.
Callanan, L.
Carrington of Fulham, L.
Chisholm of Owlpen, B.
Colgrain, L.
Colwyn, L.
Courtown, E.
Cruddas, L.
Davidson of Lundin Links, B.
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Dobbs, L.
Duncan of Springbank, L.
Dundee, E.
Eaton, B.
Eccles of Moulton, B.
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Fairhead, B.
Fleet, B.
Foster of Oxton, B.
Fraser of Craigmaddie, B.
Frost, L.
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Greenhalgh, L.
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Herbert of South Downs, L.
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Hooper, B.
Horam, L.
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Jenkin of Kennington, B.
Jopling, L.
Kamall, L.
King of Bridgwater, L.
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Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lexden, L.
Lingfield, L.
Mackay of Clashfern, L.
Manzoor, B.
McGregor-Smith, B.
Morgan of Cotes, B.
Moylan, L.
Naseby, L.
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Neville-Jones, B.
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O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Pidding, B.
Popat, L.
Randall of Uxbridge, L.
Rawlings, B.
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Ribeiro, L.
Ridley, V.
Risby, L.
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Sarfraz, L.
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Scott of Bybrook, B.
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Sherbourne of Didsbury, L.
Smith of Hindhead, L.
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Stewart of Dirleton, L.
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True, L.
Udny-Lister, L.
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Wolfson of Tredegar, L.
Young of Cookham, L.
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6.52 pm

Clause 22: Further education in England: intervention

Amendments 51 and 52

Moved by ***Baroness Barran***

51: Clause 22, page 26, line 32, after "provides" insert "English-funded"

Member's explanatory statement

This amendment is consequential on the Minister's amendment to Clause 1 at page 1, line 7.

52: Clause 22, page 28, line 4, after "provides" insert "English-funded"

Member's explanatory statement

This amendment is consequential on the Minister's amendment to Clause 1 at page 1, line 7.

Amendments 51 and 52 agreed.

The Deputy Speaker (Baroness Henig) (Lab): I call the noble Baroness, Lady Barran, to move Amendment 53.

Baroness Barran (Con): Sorry, this group is for my noble friend Lady Chisholm.

Amendment 53

Moved by ***Baroness Chisholm of Owlpen***

53: Before Clause 25, insert the following new Clause—

"CHAPTER A1

CHEATING SERVICES PROVIDED FOR POST-16 STUDENTS AT ENGLISH INSTITUTIONS

Meaning of "relevant service" and other key expressions

(1) This section applies for the purposes of this Chapter.

(2) "Relevant service" means a service of completing all or part of an assignment on behalf of a student where the assignment completed in that way could not reasonably be considered to have been completed personally by the student.

(3) References to completing all or part of an assignment on behalf of a student include references to providing material to the student in connection with the assignment where—

(a) the student could use the material in completing the assignment or part, and

(b) the material—

(i) is prepared in connection with the assignment, or

(ii) has not been published generally.

(4) For this purpose—

(a) where, in connection with an assignment, a student seeks the provision of a relevant service, any material provided as a result is to be regarded as provided in connection with the assignment;

(b) material is published generally if it—

(i) is available generally without payment, or

(ii) is included in a publication that contains other educational or training material and is available generally (such as a text book or study guide).

(5) A person who provides, or arranges the provision of, a relevant service does so "in commercial circumstances" if—

(a) the person is acting in the course of business, or

(b) in the case of a person who provides a relevant service, its provision was arranged by another person acting in the course of business,

whether the person's own business or that of the person's employer.

(6) "Student" means—

(a) a person who is undertaking a relevant course at a post-16 institution or sixth form in England, or

(b) any other person over compulsory school age who has been entered to take an examination relating to a regulated qualification at a place in England.

(7) A "relevant assignment", in relation to a student, is an assignment (which may have been chosen by the student) which the student is required to complete personally—

(a) as part of the relevant course which the student is undertaking, or

(b) in order to obtain the qualification to which the course leads or for which the student has been entered.

(8) In relation to an assignment that is a relevant assignment—

(a) "personally" includes with any assistance permitted as part of the requirement (whether or not the assignment, if completed with that assistance, would otherwise be considered to be completed personally), and

(b) that assistance is "permitted assistance".

(9) Section (*Interpretation of Chapter*) sets out the meanings of other terms used in this Chapter (including in this section)."

Member's explanatory statement

This new Clause defines key terms for the purposes of the new Chapter (Cheating services provided for post-16 students at English institutions).

Baroness Chisholm of Owlpen (Con): I think we have all been in this Chamber for too long today, my Lords, and the brains are not working. But I do not do the scheduling; if I did, we probably would not still be here.

Group 14 is on essay mills and 16 to 19 academies. I will speak to Amendments 53 to 57, in the name of my noble friend Lady Barran. Contract cheating services have been a long-standing concern that your Lordships have rightly raised during the passage of the Bill. We have listened and I am pleased to bring these amendments

[Baroness Chisholm of Owlpen]
to the House. I commend the noble Lord, Lord Storey, for his unstinting efforts to clamp down on essay mills, where unscrupulous online operators provide assignments and other pieces of work for students in commercial circumstances.

Essay mills threaten to undermine the reputation of our education system, devalue the hard work of those who succeed on their own merit, prevent students from learning themselves and risk students entering the workforce without the knowledge, skills or competence to practise. We have worked with the higher education sector to clamp down on essay mills and to support students who might be targeted by these services. The sector has made great strides to help students understand the gravity of cheating and tackle the problem of cheating services. But, despite this activity, cheating services remain prevalent, with the pandemic leading to a further increase in the number of sites targeting their services at students in England. Amazingly, over 1,000 websites are now listed on uktopwriters.com, a comparison site of essay mill companies.

Our legislation will make it a criminal offence in England and Wales to provide, arrange or advertise cheating services in commercial circumstances to students taking a qualification at a sixth form or post-16 institution in England or enrolled at a higher education provider in England. It will send a clear message that contract cheating services—selling essays to students—are not legal, acting as a strong deterrent to those operating these reprehensible services.

Government Amendment 58 provides the Secretary of State for Education with an order-making power to enable the designation of 16 to 19 academies as having a religious character. It also provides for the Secretary of State to make regulations about the procedures relating to the designation. In addition, it sets out the freedoms and protections relating to religious education, collective worship and governance that the designation provides. I first thank the noble Lord, Lord Touhig—my noble friend—for raising this important issue in Committee. Both the noble Lord and stakeholder organisations such as the Catholic Bishops' Conference of England and Wales have been very helpful in their collaboration with officials. I am glad that we have come to this solution.

This amendment will ensure that, when existing sixth-form colleges designated with a religious character convert to become academies, they retain their religious character and associated freedoms and protections. It will also enable new and existing 16 to 19 academies to be designated with a religious character in the future. The Government are committed to supporting existing sixth-form colleges to be able to convert to academy status. I am pleased that a significant proportion of sixth-form colleges have already taken this step and are making a stronger contribution to strengthening the academies sector. This amendment means that the barriers which have prevented sixth-form colleges with a religious character from converting to become academies will be removed.

Government amendments 74 and 75 in my name are tactical and consequential amendments which would expand the Long Title of the Bill. They are a consequence of the government amendments relating to careers information and provider access, the banning of cheating services and the clause relating to allowing 16 to 19 academies to be designated as having a religious character.

We look forward to more sixth-form colleges becoming academies and strengthening the sector with their expertise. We also look forward to the creation of the new 16 to 19 academies with a religious character in the future. I beg to move.

Lord Touhig (Lab): My Lords, I take note of the point made by the Minister and will not detain the Chamber for long. I am sure that colleagues have been here much longer than I have today—I have been elsewhere. I congratulate the Minister on her appointment and pay tribute to her predecessor, the noble Baroness, Lady Berridge, for her hard work on this Bill.

I will speak to government Amendment 58. My interest in the Bill arose because existing legislation prevents Catholic sixth-form colleges becoming 16 to 19 academies without losing their religious character. The colleges currently benefit from several protections set out in the Further and Higher Education Act 1992. These relate to issues such as governance, collective worship, religious education and many others, and they are vital to maintaining the Catholic ethos of these colleges.

Any sixth-form college can of course become a 16 to 19 academy. However, the definition of "school" in the Education Act 1996, as amended by the Education Act 2011, excludes 16 to 19 academies. This means that 16 to 19 academies are currently ineligible for the protections and freedoms needed to remain Catholic.

Catholic dioceses across England that oversee colleges have developed strategies to bring the Catholic community together by creating families of schools within multi-academy trusts. These strategies enable schools to work in partnership and share resources. Many other sixth-form colleges around the country have become academies and are benefiting from the advantages of academy status. The 14—yes, there are just 14—Catholic sixth-form colleges across England would like to gain this benefit.

7 pm

In Committee, I tabled a probing amendment to empower the Secretary of State to allow sixth-form college corporations to covert to academies without losing their current statutory protection—the Minister referred to this. I was encouraged by the response from the then Minister, the noble Baroness, Lady Berridge, and I warmly welcome the work of her successor, the noble Baroness, Lady Barran, who, with her excellent Bill team, has worked with the Catholic Education Service to find a way forward. Therefore, I am pleased that the Minister has tabled Amendment 58 to address this issue.

The amendment represents nearly a decade of engagement between the Department for Education and the Catholic Education Service on this matter. From my conversations with the CES, I know that the amendment has been positively received across the dioceses and the catholic sixth-form colleges. Indeed,

Danny Pearson, principal of the Aquinas College in Stockport and chair of the Association of Catholic Sixth Form Colleges, said:

"Catholic sixth-form colleges are thrilled to see the government's amendments will, at last, enable sixth-form colleges to become academies. As highly performing colleges with proven track records, this will allow us to grow and share our expertise across educational sectors for the benefit of local communities".

He added:

"Many of our settings are in areas of high deprivation and this amendment will give colleges the stability and reach to ensure our young people get the life chances they deserve".

I thank the noble Baroness, Lady Chisholm, and the Government for tabling this amendment. I hope that the House will support it—I certainly will.

Lord Storey (LD): My Lords, I rise to speak on the issue of essay mills and contract cheating. I thank the Minister for tabling this amendment. There have been four Private Members' Bills, three of them from me. The first time, I drew number 2, and then there was then a general election. I then drew number 50, which never got debated, and then I drew number 3—and we have the Private Member's Bill up and running. I thank Chris Skidmore for putting one in the Commons as well.

More than 45 vice-chancellors and heads of UK higher education organisations wrote to the Secretary of State in 2018. The support and briefings of the Quality Assurance Agency for Higher Education have been fantastic. I also pay tribute to two professors who started this whole thing off before I got involved: Professor Newton and Professor Draper at Swansea University.

When I looked at a particular independent college in Greenwich and saw the effects of contract cheating and essay mills, I realised that this was a very serious problem that we faced not just in further education but in higher education and, increasingly, in schools as well, although this amendment does not deal with that. Some 15% of our students admit to using contract cheating services. Oxbridge Essays claims that it has produced, for cheating, 70,000 essays. This is not just about students being drawn into this situation—many of them are worried about their well-being, their mental state et cetera—it is also about the academic credibility of our higher education system. If we allowed this cancer to grow, it will affect our universities and colleges.

I pay tribute to the Minister's legal team, which has nailed this properly. I showed the amendment to a number of people, and, as you can imagine, I got some quite important replies. They said that the proposed strict liability offence—whereby there is no need to prove intent—is really important because it means that essay mills will not be able to rely on disclaimers, although they do have a due diligence defence. Getting strict liability offences through Parliament is extremely rare, but it is absolutely critical to this offence having any impact.

I would also like in passing to congratulate the Minister's press department or PR department. The Minister very kindly emailed me her intended amendment and it said, "Strictly embargoed for four days". I thought after the third day I would tip off the *Times Higher Education Supplement* or *FE Weekly* so I might get a little bit of credit, and they said "Oh, we got it four days ago". The Government obviously have an eye on publicity as well.

I thank the Government for this amendment. Students, vice-chancellors and universities up and down the country will be very grateful. This is not the end of it, in the sense that we have to make sure that we look at Wales and Scotland, because that is important, and we will at some stage need to look at secondary education as well. When the Minister winds up, will she consider saying that if breaches occur, we will look at how we can tighten up the situation? I am sure that these essay mills, which form a £1 billion industry, will be looking at ways around this, and we need to see whether we can find ways to stop breaches happening in future. I hope the House does not mind, but I am going to depart.

Baroness Wolf of Dulwich (Non-Afl): My Lords, I, too, strongly welcome the amendments tabled in the names of the noble Baroness, Lady Barran, and the noble Lord, Lord Storey, which seek to address the pernicious effects of essay mills. I must declare an interest as an adviser on skills to the Prime Minister and as an academic employee of King's College London. That is why I want to take this opportunity to say how important and welcome these amendments are. I pay particular tribute to the noble Lord, Lord Storey, who has been passionate and determined. Without his recognition that this is a major and serious issue which can be tackled, I am sure that these amendments would not have been tabled tonight.

There are a number of reasons why cheating has become a major problem for universities. It is partly to do with the pressure on people to get formal qualifications, the scale of universities and the temptation—you can do things you could not do before. There are two major sources of this. One is plagiarism, where we can fight software with software, and one is essay mills, where we cannot. I am quite sure that there will be a major improvement as a result of these measures: the firms will be unable to operate and students will take much more note of the risks attached to doing something illegal with these measures in place. The noble Lord, Lord Storey, has escaped, so I will send thanks in his direction. I say on behalf teaching academics all over the country that they will be extremely happy to see these amendments to the Bill, because it is almost impossible to know if somebody has used a commissioned essay.

Baroness Sherlock (Lab): My Lords, I thank the Minister for introducing the government amendments and all noble Lords who have spoken. I shall say a brief word on government Amendments 58 and 72, on religious academies. When my noble friend Lord Touhig raised this matter in Committee, my noble friend Lady Wilcox made clear our support for his endeavour, so it is good to see the Government responding positively by bringing forward on Report their own amendments to address the problem. I congratulate my noble friend Lord Touhig. Given how long this has seemingly been worked on, I hope that at least one academy, the Lord Touhig catholic academy, will be appearing any day

[Baroness Sherlock]
now to mark his success. I am going to ask him to put his name to my amendments in future, in the hope it will have a similarly positive effect on the Minister on future subjects. I look forward to his support. These amendments are very welcome.

Turning to the remaining government amendments in this group on essay mills, as I made clear in Committee, we fully support the outlawing of cheating services. Having had to research this matter for one of the many Private Member's Bills proposed by the noble Lord, Lord Storey—I had only just taken the brief on—I was shocked to find how comprehensive the available services are. I think I have regaled the House more than once with my story about commissioning imaginary essays on Augustine and the problem of evil and various other things, and being astonished to find the precision with which one could request services. There was even a "comparethemarket.com" for it. The whole thing is extraordinary.

I have a small number of questions, and I apologise, but given the amendments have been brought forward on Report, we have not had an opportunity to ask about them, so I hope the Minister will bear with me.

First, one of the conditions is that material provided to a student has to have been prepared in connection with the assignment, rather than published generally. One of the abuses of the current system has been essay mills selling the same essay to more than one student, as the same topic comes up again and again. If material had been prepared for one student and was then resold to 15 more, is that one offence or is each sale an offence?

Secondly, the policy note talks about committing offences in England and Wales. What does that mean? Does it mean that the website is hosted in England or Wales, that the company that owns it is registered there or that the owners and essay writers live there? Who commits the offence? Is it the person writing the essay, the one promoting the service, the staff, the owners or all of them?

I have two other quick questions. We are told that enforcement of the law will fall to the police and the CPS. Given the pressures on both, do the Government have a sense of how many prosecutions, if any, are likely in a typical year or will this rely on deterrence as a way forward?

Finally, the penalty on conviction is a fine. I sought clarification offline as to the likely scale of this and was told simply that this will be determined by the courts in accordance with Sentencing Council guidelines, with no cap on the powers of magistrates to issue fines. When I have had to deal with these things on Bills before, I have normally been given some kind of heads-up about the likely tariff or scale from the Government Benches, so can the Minister give us an idea? Are we talking about £50, £5,000, £50,000 or £5 million, or something relating to the profitability of the company? Can she give us some sort of heads-up or a rough benchmark?

I commend the Government for acting on both these points and look forward to the Minister's reply.

Baroness Chisholm of Owlpen (Con): I thank noble Lords for their comments. There is clear support across the House for these amendments and I am glad we have reached an agreeable solution on these important issues.

I will have to write on some of the questions raised, but I am able to answer a couple of them. The noble Lord, Lord Storey, asked whether the legislation will be extended UK-wide. We continue to engage and share our work with the devolved Administrations and would welcome a decision from them to legislate against essay mills in the future.

The noble Baroness, Lady Sherlock, asked if it is one offence or many. If sold 15 times, it is an offence not just once, but every time. I am swamped here; I think she also asked another question.

Baroness Sherlock (Lab): I will remind the Minister, but I am happy for her to write. My questions were about who commits the offence, what it means for it to be committed in England, the likely number of prosecutions and likely fines.

I ungraciously forgot to put on record my appreciation of the work of the noble Lord, Lord Storey, on this over many years, so I take the opportunity to do so now while I am on my feet. I commend him for all his work.

Baroness Chisholm of Owlpen (Con): On how this will work in practice, an enforcement body is not specified on the face of the Bill and therefore any supporting investigations and prosecutions would fall to the police and the Crown Prosecution Service respectively. It is up to them to decide the offence and fine. I will need to write to the noble Baroness on her other questions.

Once again, I thank noble Lords, especially the noble Lords, Lord Storey and Lord Touhig, for their support on these issues. I hope that the House will support these amendments.

Amendment 53 agreed.

Amendments 54 to 58

Moved by ***Baroness Barran***

54: Before Clause 25, insert the following new Clause—

"Offence of providing or arranging a relevant service

(1) It is an offence for a person to provide, or arrange for another person to provide, in commercial circumstances, a relevant service for a student in relation to a relevant assignment.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine.

(3) In proceedings for an offence under subsection (1) it is a defence for the defendant to prove, in relation to any of the matters mentioned in subsection (4), that the defendant did not know, and could not with reasonable diligence have known, the matter.

(4) Those matters are—

(a) if material is provided to the student as a result of the relevant service, that the student would or might use the material in completing all or part of the assignment;

(b) that the student was required to complete the assignment personally;

(c) that the relevant service was not permitted assistance.

(5) A statement in the form of a written standard term of the contract or arrangement under which the relevant service was provided or arranged—

(a) that the student would not use any material provided as a result of the relevant service in completing all or part of the assignment,

(b) that the student was not required to complete the assignment personally, or

(c) that the relevant service was permitted assistance,

is not, of itself, to be taken as sufficient evidence of a matter to be proved under subsection (3).

(6) A student does not commit either of the following merely by making use of a relevant service to complete all or part of an assignment—

(a) an offence under Part 2 of the Serious Crime Act 2007 where the offence that the student intended or believed would be committed is an offence under this section;

(b) an offence under this section committed by aiding, abetting, counselling or procuring the commission of an offence under this section."

Member's explanatory statement

This new Clause creates an offence of providing, or arranging the provision of, a relevant service as defined in new Clause (Meaning of "relevant service" and other key expressions) in relation to an assignment which the student is required to complete personally, and provides for defences where the defendant proves certain matters.

55: Before Clause 25, insert the following new Clause—

"Offence of advertising a relevant service

(1) A person who advertises a relevant service to students commits an offence.

(2) It does not matter for the purposes of subsection (1) whether the persons to whom the relevant service is advertised are only students, or only a particular category of students, or include persons other than students.

(3) For this purpose a person advertises a relevant service if, and only if, the person makes arrangements for an advertisement in which the person—

(a) offers, or

(b) is described or presented as available or competent,

to provide or arrange for another person to provide a relevant service.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine."

Member's explanatory statement

This new Clause makes it an offence for a person who provides or arranges (or would provide or arrange) a relevant service as defined in new Clause (Meaning of "relevant service" and other key expressions) to advertise that service to students.

56: Before Clause 25, insert the following new Clause—

"Offences: bodies corporate and unincorporated associations

(1) If an offence under this Chapter committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) a person who was purporting to act in any such capacity,

that person (as well as the body corporate) is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to a director of the body corporate.

(3) Proceedings for an offence alleged to have been committed under this Chapter by an unincorporated body are to be brought in the name of that body (and not in the name of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation.

(4) A fine imposed on an unincorporated body on its conviction of an offence under this Chapter is to be paid out of the funds of that body.

(5) If an unincorporated body is charged with an offence under this Chapter, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 apply as they apply in relation to a body corporate.

(6) Where an offence under this Chapter committed by an unincorporated body other than a partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, any officer of the body or any member of its governing body, that person (as well as the body) is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) Where an offence under this Chapter committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a partner, that partner (as well as the body) is guilty of the offence and liable to be proceeded against and punished accordingly."

Member's explanatory statement

This new Clause contains rules that apply where offences under the new Chapter (Cheating services provided for post-16 students at English institutions) are committed by companies and unincorporated associations.

57: Before Clause 25, insert the following new Clause—

"Interpretation of Chapter

In this Chapter, the following terms have the following meanings—

"assignment" includes an examination and any piece of work;

"examination" includes any form of assessment;

"permitted assistance", in relation to a relevant assignment, has the meaning given by section (Meaning of "relevant service" and other key expressions)(8);

"personally", in relation to an assignment that is a relevant assignment, has the extended meaning given by section (Meaning of "relevant service" and other key expressions)(8);

"post-16 institution" means—

(a) a higher education provider, within the meaning of Part 1 of the Higher Education and Research Act 2017 (see section 83(1) of that Act);

(b) an institution within the further education sector, within the meaning of the Further and Higher Education Act 1992 (see section 91(3) of that Act);

(c) a 16 to 19 Academy;

(d) any other institution or person, other than a school, that is principally concerned with the provision of education or training suitable to the requirements of pupils who are over compulsory school age;

"regulated qualification" means a qualification regulated by the Office of Qualifications and Examinations Regulation;

"relevant assignment" has the meaning given by section (Meaning of "relevant service" and other key expressions) (7);

"relevant course" means—

(a) a course of any description mentioned in Schedule 6 to the Education Reform Act 1988, or

(b) a course—

(i) providing education or training in preparation for an examination relating to a regulated qualification, or

(ii) which a person is required to complete in order to obtain a regulated qualification;

"relevant service" has the meaning given by section (Meaning of "relevant service" and other key expressions) (2);

"school" has the same meaning as in the Education Act 1996;

"sixth form" means a school, or part of a school, that is principally concerned with the provision of full-time education suitable to the requirements of pupils who are over compulsory school age;

"student" has the meaning given by section (Meaning of "relevant service" and other key expressions) (6)."

Member's explanatory statement

This new Clause defines certain terms used in the new Chapter (Cheating services provided for post-16 students at English institutions).

58: Before Clause 25, insert the following new Clause—

"16 to 19 Academies: designation as having a religious character

16 to 19 Academy: designation as having a religious character

After section 8 of the Academies Act 2010 insert—

"16 to 19 Academies designated as having a religious character

8A Designation of 16 to 19 Academy as having a religious character

(1) The Secretary of State may by order designate a 16 to 19 Academy as having a religious character.

(2) The Secretary of State may designate an Academy under this section only if the proprietor of the Academy is a qualifying Academy proprietor within the meaning given by section 12(2).

(3) The order must specify the religion or religious denomination in relation to which the Academy is designated.

(4) The Secretary of State may make regulations about the procedure to be followed in connection with—

(a) the designation of an Academy in an order under this section, and

(b) the inclusion in such an order of the specification required by subsection (3).

(5) Despite section 568(3) of EA 1996 (orders to be made by statutory instrument subject to the negative procedure), as applied by section 17(4) of this Act, a statutory instrument containing an order under this section is not subject to annulment in pursuance of a resolution of either House of Parliament.

8B Constitution of Academy proprietor, collective worship and religious education

(1) The articles of association of the proprietor of an Academy designated under section 8A must provide for a majority of the directors of the proprietor to be persons appointed for the purposes of securing, so far as practicable, that—

(a) the character of the designated Academy reflects the tenets of the religion or religious denomination in relation to which the Academy is designated, and

(b) in a case where there is a trust deed affecting the designated Academy, the Academy is conducted in accordance with it.

(2) The proprietor of an Academy designated under section 8A may (accordingly) conduct the Academy in a way that secures that the character of the Academy reflects the tenets of the religion or religious denomination in relation to which the Academy is designated (and, in particular, in a way that is in accordance with any trust deed affecting the Academy).

(3) The proprietor of an Academy designated under section 8A must ensure that at an appropriate time on at least one day in each week during which the Academy is open an act of collective worship is held at the Academy which pupils at the Academy may attend.

(4) The act of collective worship must—

(a) be in such form as to comply with the provisions of any trust deed affecting the Academy, and

(b) reflect the traditions and practices of the religion or religious denomination in relation to which the Academy is designated.

(5) The proprietor of an Academy designated under section 8A must ensure that religious education is provided at the Academy for all pupils who wish to receive it.

(6) The proprietor of an Academy is to be treated as complying with subsection (5) if religious education is provided at a time or times at which it is convenient for the majority of full-time pupils to attend.

(7) For the purposes of this section religious education may take the form of a course of lectures or classes, or of single lectures or classes provided on a regular basis, and may include a course of study leading to an examination or the award of a qualification.

(8) The form and content of religious education provided under this section—

(a) must be in accordance with the provisions of any trust deed affecting the Academy, and

(b) must not be contrary to the traditions of the religion or religious denomination in relation to which the Academy is designated,

but is otherwise to be determined from time to time by the proprietor of the Academy.

(9) Notwithstanding section 17(4), in this section—

"pupil" means a person receiving education at the 16 to 19 Academy;

"trust deed" includes any instrument (other than the articles or memorandum of association) regulating the constitution of the proprietor of the Academy or the maintenance, management or conduct of the Academy.""

Member's explanatory statement

This amendment makes provision about the collective worship and religious education to be provided at a 16 to 19 Academy designated by the Secretary of State as having a religious character, and about the appointment of directors of the proprietor of such an Academy.

Amendments 54 to 58 agreed.

7.15 pm

Amendment 59

Moved by ***Baroness Barran***

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

"Higher education course fee limits: administration

Relevant date for purposes of fee limit for certain higher education courses

In paragraph 3(3) of Schedule 2 to the Higher Education and Research Act 2017 (the fee limit where the provider has no access and participation plan), omit "before the calendar year"."

Member's explanatory statement

Certain fee limits for academic years of higher education courses depend on whether the provider had a high level quality rating on a particular date. This new Clause changes that date to 1 January in the calendar year in which the academic year begins from 1 January in the previous calendar year.

Amendment 59 agreed.

Amendments 60 to 64 not moved.

Amendment 65 had been withdrawn from the Marshalled List.

Amendment 66 not moved.

Amendment 67

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

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

"Code of practice by Information Commissioner's Office on data sharing in relation to post-16 education

(1) The Information Commissioner must prepare a code of practice for organisations which collect personal data for purposes connected to post-16 education, including the processing of applications for higher and further education courses.

(2) The code must—

(a) contain practical guidance in relation to the sharing of personal data in accordance with the requirements of data protection legislation;

(b) contain such other guidance as the Commissioner considers appropriate to promote good practice in the sharing of personal data of students and potential students; and

(c) have regard to children's rights in the digital environment as set out in the United Nations Convention on the Rights of the Child General Comment No. 25.

(3) Where a code under this section is in force, the Commissioner may prepare amendments of the code or a replacement code to reflect emerging technologies and changing needs of pupils, students and potential students.

(4) In this section—

"good practice in the sharing of personal data" means such practice in the sharing of personal data as appears to the Commissioner to be desirable having regard to the interests of data subjects and others, including compliance with the requirements of the data protection legislation; and

"the sharing of personal data" means the disclosure of personal data by transmission, dissemination or otherwise making it available."

Member's explanatory statement

This amendment places a duty on the Information Commissioner to prepare a code of practice in relation to the sharing of personal data between students and others.

Baroness Garden of Frognal (LD): My Lords, my noble friend Lord Storey has dashed off for his train and handed me a sheaf of papers on his amendment on data protection. I am quite good at speed reading but I do not think I am quite as good as all that, given all this material. However, this is an important amendment because data protection is important for students and pupils. It should be protected but the DfE does not have a good record. There is an ICO inspection report from February 2020 that comes out with such things as:

"There is no formal proactive oversight of any function of information governance, including data protection, records management, risk management"

and so on. The report says:

"The organisational structure of the DfE means the role of the Data Protection Officer (DPO) is not meeting all the requirements … There is no clear picture of what data is held by the DfE … The DfE are not providing sufficient privacy information"

and so it goes on. It is a very damning report.

The good news is that the Minister wrote a letter to my noble friend and the noble Baroness, Lady Kidron, setting out all the steps that the Government intend to take, and my noble friend is very satisfied with their approach on this. Despite this very damning report about data protection at the DfE, which seems to be absolutely non-existent, there is some hope here. Whether the Minister will accept the amendment I do not know, but I beg to move.

Baroness Sherlock (Lab): My Lords, I thank the noble Baroness, Lady Garden, for stepping in marvellously and introducing the amendment so confidently. It certainly seems, especially given the situation with the investigation that she describes, a pretty straightforward and simple way to address the issue, placing a duty on the Information Commissioner to prepare a code of practice in relation to the sharing of personal data. If the Minister is not going to accept this, perhaps she could tell us how instead the department intends to address these problems.

I would like to ask a little question. There have been concerns for some time that both practice and indeed legislation in education are loose in relation to data. Clause 11 makes provision to allow data sharing by and with Ofqual, the OfS and Ofsted as well as prescribed persons, and the provisions relate to technical education functions. Could that include students' personal data? If so, for what purposes? How widely could "prescribed persons" be interpreted?

Can the Minister clarify whether the scope of Clause 11 extends beyond England? Although the institutions to which the new powers apply are all currently based in England, the people and institutions from which they will obtain personal data under those powers could presumably be at any educational setting across the UK within the scope of the Bill. What consideration has been given to the prescribed persons to whom the institution may pass on the data being based outside England in accordance with their own data-sharing powers?

These days students need and expect consistent controls across their data for collection, for use, for distribution and for destruction when it is no longer required for the lawful purposes for which it was collected. I am aware that institutions have also called for better guidance. Concerns have also been raised that the Bill does not preclude commercial use. Could the Minister comment on that?

Data is a valuable asset and it needs appropriate safeguards and a public interest test, so I look forward to the Minister's reply.

Baroness Barran (Con): My Lords, Amendment 67 tabled by the noble Lord, Lord Storey, but skilfully presented by the noble Baroness, Lady Garden, seeks to place a duty on the Information Commissioner to prepare a code of practice in relation to the sharing of personal data by organisations that collect such data for post-16 educational purposes.

[Baroness Barran]

I thank both the noble Lord, Lord Storey, and the noble Baroness, Lady Kidron, for bringing this issue to my attention. The Government agree that this is an issue that needs addressing, and we share both noble Lords' aims for increasing assurances around the processing and sharing of personal data for learners and students in post-16 settings.

The department's response to this issue is to set up an education sector certification scheme, with the support of the ICO, that would allow the department to set standards in a wide range of areas. This would cover the data protection needs of the whole education sector, not just the 16 to 19 age group covered by the Bill. We feel that a certification scheme, rather than a code, gives us flexibility to deliver elements when they are ready. We will not have to wait until all elements are complete, which allows us to be flexible when responding to priority needs. In addition, as technology and the law change, we are able to update specific standards without having to update a full code, allowing us to remain flexible to future changes.

As the noble Baroness, Lady Garden, mentioned, I have written to both the noble Lord, Lord Storey, and the noble Baroness, Lady Kidron, detailing the department's ambition and next steps in tackling this issue, which will include writing both to the ICO and to the ed-tech companies by the end of the year.

I am amused at the definition of "a little question" from the noble Baroness, Lady Sherlock; it was at least three little questions. If I may, I will write to her on the detailed points. Broadly, the thrust of her questions is that student data should be protected. The department continually keeps its processes and practices under review to ensure that we are taking all necessary steps to protect data, including updates to access controls, audit trails of data usage and reviewing risk as part of our data protection impact assessment. In relation specifically to this amendment, the proposed data certification scheme would formalise these controls across the sector. If I may, I will respond in writing to her other points.

I therefore hope that the noble Baroness, Lady Garden, on behalf of the noble Lord, Lord Storey, will consider withdrawing his amendment. I again place on record my thanks to him and the noble Baroness, Lady Kidron, for bringing this to my attention.

Baroness Garden of Frognal (LD): I thank the Minister very much for her reply. We entirely agree that a certification scheme is better than a code and will provide more education expertise and focus and more transparency. I beg leave to withdraw the amendment.

Amendment 67 withdrawn.

Clause 26: Extent

Amendments 68 and 69

Moved by ***Baroness Barran***

68: Clause 26, page 31, line 12, after "15" insert "(3)"

Member's explanatory statement

The effect of this amendment and the Minister's amendment at page 31, line 20 is that the amendments of the Higher Education and Research Act 2017 made by Clause 15 have the same extent as the provision of that Act which they amend.

69: Clause 26, page 31, line 20, after "15" insert "(3)"

Member's explanatory statement

See the explanatory statement for the Minister's amendment at page 31, line 12.

Amendments 68 and 69 agreed.

Amendment 70 had been withdrawn from the Marshalled List.

Clause 27: Commencement

Amendments 71 to 73

Moved by ***Baroness Barran***

71: Clause 27, page 31, line 24, leave out "and 22 to" and insert ", 22 to 24, (Meaning of "relevant service" and other key expressions), (Offence of providing or arranging a relevant service), (Offence of advertising a relevant service), (Offences: bodies corporate and unincorporated associations), (Interpretation of Chapter),"

Member's explanatory statement

This amendment provides for the new Chapter (Cheating services provided for post-16 students at English institutions) to come into force 2 months after the Bill is passed.

72: Clause 27, page 31, line 24, leave out "25" and insert ", (16 to 19 Academy: designation as having a religious character), 25"

Member's explanatory statement

This amendment provides for the new clause (16 to 19 Academy: designation as having a religious character) to come into force 2 months after the Bill is passed.

73: Clause 27, page 31, line 24, after "25" insert "and (Relevant date for purposes of fee limit for certain higher education courses)"

Member's explanatory statement

This amendment provides for the new Clause (Relevant date for purposes of fee limit for certain higher education courses) to come into force 2 months after the Bill is passed.

Amendments 71 to 73 agreed.

In the Title

Amendments 74 and 75

Moved by ***Baroness Barran***

74: In the Title, line 4, after "qualifications" insert "and apprenticeships"

Member's explanatory statement

This amendment is consequential on the Minister's amendment to insert Clause (Information about technical education and training: access to English schools).

75: In the Title, line 6, after "providers;" insert "to create offences relating to completing assignments on behalf of students; to make provision about designating 16 to 19 Academies as having a religious character;"

Member's explanatory statement

This amendment is consequential on the Minister's amendments to insert new Chapter (Cheating services provided for post-16 students at English institutions) and new Clause (16 to 19 Academy: designation as having a religious character).

Amendments 74 and 75 agreed.

Title, as amended, agreed.

Covid-19 Update

Statement

7.25 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): My Lords, with the leave of the House, I shall now repeat a Statement made in another place by my honourable friend the Parliamentary Under-Secretary of State for Health and Social Care. The Statement is as follows:

"With permission, Mr Speaker, I would like to make a Statement on coronavirus. Even through the warm summer days, we drew up our autumn and winter plan. We used the time to plan and prepare, because we know that Covid-19 thrives in colder weather. With winter now around the corner, Covid-19 is re-emerging, as expected. It is clear that this pandemic is far from over: new cases of the virus are high; the pressure on our hospitals is steadily growing; and, sadly, we are seeing over 100 deaths a day. We must therefore be prompt and proportionate in how we enact the plan. We will not be implementing our plan B of contingency measures at this point, but we will stay vigilant and ready for all eventualities, even while pursuing plan A to its full extent.

Vaccines are our first line of defence. Eighty-six per cent of everyone in the UK over 12 has received at least one dose, and 79% of people have had at least two. Two steps naturally follow from this. The first is to plug any gaps in the wall by doing all we can to get vaccines into the unvaccinated. There are 4.7 million people over the age of 18 in England who have not accepted the vaccine, so we are working hard to encourage those who can take it to do so. It is never too late to come forward. We are also working with parents and schools to ensure that this life-saving protection is extended to over-12s.

Our vaccines continue to save countless lives, but early evidence shows that their protection can wane over time, especially in older and more vulnerable people. Our second step has therefore been to reinforce our wall of defence still further. That means third doses, not only for the immunosuppressed but booster shots for all those in phase 1 of our vaccination programme. We have given more than 4 million third doses and boosters in England so far. It is good, but it is not good enough. I want all those eligible to come forward. Over 85% of people have done it twice; there is no good reason not to do it again.

Those who are over 50 or in another priority group, and who had their second jab over six months ago, will be eligible for a booster. The NHS will send an invite once an individual is eligible. But if the invitation has not arrived despite a person becoming eligible, they should contact the national booking service. Boosters can be booked online or by calling 119, because there is zero room for complacency when it comes to this deadly disease and we all have our part to play.

Vaccines are not our only line of defence. Antivirals can stop a mild disease from becoming more serious. Our antivirals taskforce has been looking for the most promising new drugs, to speed up their development and manufacture. Yesterday, we signed a landmark deal for hundreds of thousands of doses of two new antivirals from Pfizer and Merck Sharp & Dohme. Should the MHRA approve their use, we will work with the NHS to make sure that they quickly get to those who need them.

There are, of course, further lines of defence: those that form plan B of our autumn and winter plan. We have always sought to maintain measures that are proportionate to the stage of the pandemic that we are in. We detailed plan B so that people and businesses would know what to expect. This includes face coverings in certain settings, encouragement to work at home where possible, and Covid certification. None of us wishes to implement these measures, but they are clearly preferable to having to close businesses or enforcing further lockdowns.

I recognise vaccine certification is of particular interest to my colleagues in this House. As we set out in our plan, we would seek to provide a vote in Parliament ahead of any regulations coming into force. However, at this time, we remain on Plan A and we will continue to monitor the situation carefully. We are identifying new variants all the time, including a new version of the Delta variant known as AY.4.2, which seems to be growing in prevalence.

Equally, we are monitoring the situation in our hospitals. I want to thank everyone in the NHS and social care for everything they are doing to keep us safe. Today, I can confirm to the House that we are making £162.5 million of additional funding available for social care through a workforce retention and recruitment fund to help local authorities work with providers to boost staffing and support existing care workers through the winter.

In closing, I want to underline just how many things remain within the control of each and every one of us. When we are offered vaccines for Covid-19, we can take up that offer. When we are offered a flu jab, we can take that too. When we have symptoms of Covid-19, we must isolate and get tested. Even if we are well, we can wear face coverings, meet outdoors, let the air in when we are indoors, regularly wash our hands and make rapid tests part of our weekly routine. Let me be clear: rapid tests are a vital tool. A quarter of the positive cases we are identifying at the moment come from lateral flow tests. They also help to give people peace of mind when they visit vulnerable people, such as grandparents.

Even before Covid, winter has always been a tough time for people across our country, for the NHS and for social care. We have another tough winter ahead. But we have a plan. We are prepared and, if things have to change, measures will be prompt and proportionate. We all have a part to play in protecting each other and the people we love."

I commend this Statement to the House.

7.32 pm

Baroness Wheeler (Lab): My Lords, I thank the Minister for reading the Statement.

Yesterday, the Secretary of State said that the pressures on the NHS due to Covid-19 are "sustainable". Today, we have the Commons Statement desperately trying to reinforce this message when, in reality, we see ambulances

[Baroness Wheeler]
backed up outside hospitals, patients waiting hour upon hour in A&E, cancer operations cancelled and NHS staff worn out and exhausted. Yet still, as we head into winter, the Government refuse to trigger plan B or tell us what the criterion is for doing so. Can the Minister spell out exactly what evidence and criteria will be used?

The British Medical Association is the latest front-line body to call for plan B's immediate implementation. Why can we not just make the wearing of masks on public transport, for instance, mandatory now? We must remember that SAGE, the Government's scientific advisers, called for plan B-type measures when the Government's autumn and winter plan was first launched, with Sir Patrick Vallance stressing the importance of going early with measures to stop rising cases.

Once again, the Government have failed to learn the lessons of the early stages of the pandemic. This hesitation to follow advice will lead to more cases, more hospitalisations and more deaths. The Secretary of State's warning that cases could rise to 100,000 is chilling. Today, we have the sobering update from the Government's own Covid dashboard showing 52,009 new coronavirus cases—the highest daily total and the first time the daily tally has topped 50,000 since 17 July.

It is obvious that plan A just is not working. The vaccination programme is stalling, particularly given the very late vaccinations for 12 to 15 year-olds and the mixed messages and worryingly low uptake of booster jabs. Ministers cannot blame the public when 2 million people have not even been invited for a booster jab, and on current trends the booster programme will not be completed until March 2022. Currently, there are just 165,000 jabs a day. Will the Government commit to 500,000 booster jabs a day and ensure that the programme is completed by Christmas, as it needs to be, particularly given the growing evidence of waning vaccination protection among double-vaccinated older and more vulnerable people? We learned from leaked data yesterday that only a quarter of care home residents have received a booster vaccination. Can the Minister confirm that this is correct and tell the House what urgent action the Government are taking to address this?

On children, where the highest rate of infections is concentrated and infections are running at 10,000 a day, only 17% of children have been vaccinated. This is a stuttering and wholly inadequate rollout of the children's vaccination programme. Does the Minister recognise that this slowness exposes the folly of the drastic cuts over the past decade in the number of school nurses and health visitors who support these immunisation programmes in our communities? Will retired medics and school nurses be mobilised to return to schools and carry out vaccinations?

As the winter crisis looms, the rollout of flub jabs is also crucial to bringing down hospital admissions and ensuring that the NHS can cope, but it is also painfully slow. Only 6% of over-65s have been vaccinated, and across the country we hear stories of cancelled flu jabs at GP surgeries and of pharmacists running out of supplies. Why are supplies apparently running so low, with infections, meanwhile, running so high? What are the Government doing to ensure adequate stocks at GP surgeries and chemists to meet the demand? Can the Government guarantee a flu jab to all those that need it by December? We must get ahead of this virus, because otherwise it gets ahead of us.

Can the Minister also comment on reports in today's media that as well as plan B, there is now active consideration of a plan C: no household mixing—in other words,

"a lockdown by the back door",

as the shadow Secretary of State, Jonathan Ashworth, has called it. Can the Minister tell the House what is actually under "active consideration", in the words of the Health Minister on Radio 4 this morning? No household mixing would be deeply concerning for many people who were prevented from seeing their loved ones for months at a time during the first and second waves of lockdown.

I am sure noble Lords will have much to say on mask wearing, as they did during yesterday's PNQ. Ministers continue to sow confusion, including among themselves, with the Secretary of State's comments in the Commons yesterday that politicians should "set an example" and wear masks in crowded spaces—yet the Leader of the House subsequently told MPs that there was no such advice for workplaces. Can the Minister explain what is going on?

The Statement also refers to the agreement with Pfizer and MSD on two new antiviral drugs, which we of course welcome, as they play a vital role in stopping a mild disease from becoming serious. Can the Minister tell the House about the expected timetable for MHRA approval and any provisional details on availability and rollout?

Finally, on social care funding, as usual we welcome the announcement at the end of the Statement of additional funding for local authorities to support staffing and care work through the winter, assuming that the £162.5 million workforce retention and recruitment fund is actually new money and not part of previous repackaged funding. Could the Minister confirm this? Can he provide more details as to how and when this money is to be available and how it will be allocated to local authorities?

Lord Scriven (LD): My Lords, I too welcome the Minister's reading the Statement from yesterday. We are discussing this on the day when more than 50,000 Covid cases have been recorded in the UK for the first time since 17 July. There have been over 52,000 cases and 115 deaths; 8,142 people are in hospital with Covid, and 870 of those are on a ventilated bed. We are discussing this just hours after the Royal Cornwall Hospitals NHS Trust has declared a critical incident because of the pressures it is under serving the people of Cornwall.

That shows why this Statement is not a master class in providing a range of effective public health measures to tackle a virus that spreads at speed, and more a master class in trying to keep the libertarian wing of the Conservative Party happy. The "jab, jab, jab" message is important but, when some people go on to the booking system now, they are not able to book. They are told to ring 119, as my honourable friend in

the other place, the Member for St Albans, Daisy Cooper, said early today; when they ring 119, operators tell them that they cannot override the system. I ask the Minister what is going on with the booking system and how soon it will be repaired. The "jab, jab, jab" message is important, but it is not, in itself, going to deal with the severity of the public health crisis we face. As Professor Adam Finn, a member of the JCVI, said yesterday, vaccinations in themselves are not going to stop us falling off the edge of the Covid cliff.

I want the Minister to explain these different rates, if plan A, of vaccination, is working. The seven-day rolling averages for Covid-19 cases per 100,000 of the population are: in the UK, just under 500, and rising sharply; in France, approximately 60, and falling; and in Spain, approximately 50, and falling. Even considering the variation in testing rates, the UK is clearly an outlier. Take a look at three months ago, when the Government removed all mandatory mitigation measures. The picture tells you the true story of why "jab, jab, jab", as a public health strategy, is not enough to deal with the Covid-19 problems. Then, the UK had approximately 300 cases per 100,000, and it now has 500; France had approximately 220, and it now has 60; and Spain had approximately 350, and it now has 50. It is because France and Spain, as well as other countries, have jabbed, jabbed, jabbed but also mitigated, mitigated, mitigated. Indecision is our greatest enemy in the fight against this disease.

Let us be clear: those of us who ask for extra mitigation measures, such as the use of mandatory face coverings, do so to stop the crippling lockdowns that have come before. The Government, as the Health and Social Care Select Committee has reported, have acted too little too late before when dealing with this virus. This means that the damage, both to public health and the economy, is greater than it would have been if the Government had listened to the expert advice and acted sooner.

On one very important mitigation measure we could take, the mandatory use of face coverings, the Minister said yesterday, answering a PNQ:

> "Personally, I do believe that many people should be wearing masks and that there is evidence for this."—[*Official Report*, 20/10/21; col. 145.]

If good evidence exists that wearing face masks helps to reduce the transmission of Covid-19, why have the Government stopped their mandatory use in indoor settings? Could the Minister please enlighten the House on what evidence the Government have that asking people to use self-judgment on wearing a face covering in certain indoor settings is more effective than making them mandatory? I am sure that evidence will be at the Minister's fingertips, as it is official government policy. They would not make up such an important policy to ditch a mitigation measure that could save lives without the use of good evidence—would they?

Furthermore, can the Minister explain why, at Prime Minister's Question Time yesterday, hardly any Tory MP sat on the green Benches had a face covering on, and why, today, a Minister sat on the government Front Bench in this House wore a mask below his chin, with both his nose and mouth exposed? Whose evidence are they following? What leadership and example does it set to the nation if the Government are, on the one hand, asking us to use our self-judgment to wear a face covering, but government Ministers and MPs in the House of Commons do not?

The evidence of experts in public health and epidemiology, and figures from Europe, show that a mixture of vaccination and mandatory mitigation measures is required, if the spread of the virus is to be contained to manageable levels, so that later in winter we do not have to slam on the brakes and have yet another lockdown.

Can the Minister clarify something that he said yesterday during a PNQ? When asked whether the Government still had confidence in SAGE and its workings, the Minister replied:

> "May I write to my noble friend on that?"—[*Official Report*, 20/10/21; col. 146.]

I know that the Minister is new and that he did not have all the details to hand, so I am giving him a second chance. Can he confirm from the Dispatch Box that the Government do have confidence in SAGE and the advice that it gives?

It is time to be clear that the message on vaccination take-up and extra mitigation on issues such as mandatory face coverings are required. Otherwise, we will be left in a situation where, unfortunately, more people will die than is necessary, the Government will be behind the curve in dealing with the virus and much more draconian measures will have to be taken. Now is the time for plan B, not for dithering and not taking the measures that are required.

The Lord Bishop of Manchester: My Lords—

Baroness Chisholm of Owlpen (Con): My Lords, it is the turn of the Front Bench.

Lord Kamall (Con): My Lords, I thank the noble Lord and noble Baroness for their questions, and I will try to clarify some of the issues. I also thank the noble Lord for his acknowledgement of my newness to the job and for giving me some bandwidth on it, if that is fair enough.

Let me be quite clear on the questions that were asked in terms of threshold. There is no pre-set threshold for considering plan B; we consider a range of evidence and data—as we have done throughout the pandemic—to avoid the risk of placing unsustainable pressure on the NHS. For example, while the number of Covid-19 patients in hospital is an important factor, the interaction with other indicators, such as the rate of increase in hospitalisations and the ratio of cases to hospitalisations, will also be vital. We will need to make a judgment on whether plan B is necessary based on the interaction of all those indicators, and informed by advice from the Government's scientific and clinical experts—I will come to that question later. As I have said, we have an effective vaccine and much-improved treatments, so we are not where we were last winter.

The Government's objective is to avoid a rise in Covid-19 hospitalisations that would put unsustainable pressure on the NHS. The Government will monitor all the relevant data on a regular basis to ensure that we can act if there is a substantial likelihood of this happening. The Government monitor a wide range of

[Lord Kamall]
Covid-19 health data which, to give a taste, includes cases, immunity, the ratio of cases to hospitalisations, the proportion of admissions due to infections, the rate of growth in cases and hospital admissions in the over-65s, vaccine efficacy and the global distribution and characteristics of variants of concern.

In assessing the risk to the NHS, the key metrics include hospital occupancy for Covid-19 and non-Covid-19 patients, intensive care unit capacity, admissions in vaccinated individuals and the rate of growth of admissions. The Government also track the economic and societal impacts of the virus to ensure that any response takes into account these wider effects. We also monitor a range of metrics on other NHS pressures, including winter respiratory hospitalisation rates, influenza, urgent and emergency care pressures, elective activity and ambulance response times.

A number of noble Lords asked, "So what is the plan for autumn and winter?" The Government's plan includes building our defences through pharmaceutical interventions, including vaccines, antivirals and disease-modifying therapeutics; identifying and isolating positive cases to limit transmission—test, trace and isolate; supporting the NHS and social care, including managing pressures and recovering services; advising people on how to protect themselves and others through clear guidance and communications; and pursuing an international approach, helping to vaccinate the world and managing risks at the border.

Of course, we have had to prepare contingency measures for if the various indicators and the range of scientific advice that we receive suggests that we have to move to plan B. The measures include: mandatory vaccine-only Covid status certification in certain riskier settings; legally mandating face coverings in various settings, such as public transport and shops; and communicating clearly and urgently to the public if the risk level increases. The Government may also consider asking people to work from home again, if necessary, but, once again, a final decision on this would be made at the time, dependent on the latest data and recognising the extra disruption this causes to individuals and businesses. The message is clear: we prefer not to go to plan B. We prefer to rely on informed choice, but we might have to go to plan B, if cases rise.

I was asked questions on some statistics. Some 49.5 million people had been given a first dose by the end of 19 October, and almost 45.5 million people had been given a second dose. More than 4 million boosters and third doses have been administered so far, including to one in three health and care workers who are eligible. But there is more to do: 5.5 million people have been invited for their booster so far, and another 1.9 million people will be invited this week, as they have become eligible over the last few days and weeks.

Looking at NHS pressures, we are working with NHS England, which is leading work with NHS providers, regions and stakeholders to ensure that robust operational plans are in place for the winter, including plans to meet potential increases in demand for emergency care driven by seasonal flu and Covid-19. To further protect the NHS this winter, we are also carrying out the largest ever seasonal flu vaccination, alongside Covid-19 booster vaccines for priority groups. The NHS will also receive an extra £5.4 billion over the next six months to support its response to Covid-19.

The noble Baroness asked about boosters in care homes. We are committed to ensuring that those who are most vulnerable receive their booster jab as soon as possible after they become eligible. That of course means that care homes are a priority. Vaccination teams have already visited over 40% of all care homes in England, and we expect thousands more to have either received a visit or have a date for a visit scheduled in the coming weeks. The latest figure I have, from a few days ago, is that 40% of care homes—in addition to the 40% where boosters have been received—have booked a visit. That leaves a 20% gap, which we are continuing to look at and work on. Some, for reasons of local outbreaks, cannot yet receive a visit, but we are very clear that 80% are on plan and we are looking at how to narrow that 20% gap.

The noble Lord referred to the NHS booking system. I was not aware of the problem, so I thank him for bringing it to my attention. I will investigate and get back to noble Lords, but I am afraid I do not have the answer at my fingertips. I am sure the noble Lord will appreciate that.

The noble Lord also asked about NHS capacity. The NHS can respond to local surges in demand in several ways, including through expanding surge capacity in existing NHS hospitals, mutual aid between hospitals, and making use of independent sector capacity and accelerated discharge schemes.

I apologise to noble Lords that I am over time. All I will say to finish off, in answer to the question about our scientific advice, is that we have confidence in SAGE. I was also asked who we listen to. Our approach has always been informed by scientific and medical advice, using the latest data. We take advice from the Chief Scientific Adviser, the Chief Medical Officer, the UK Health Security Agency, the NHS and others, which remains valuable. As always, scientific experts have contributed directly to ministerial discussions.

7.54 pm

Baroness Blackwood of North Oxford (Con): My Lords, I declare my interest as chair of Genomics England. Does the Minister agree that, as well as testing, sequencing is critical to tracing the pandemic as cases rise? In addition to delta, we are now observing the delta subtype, AY42, and we need to be constantly on our guard for vaccine escape. Can he say what steps are being taken to ensure that our so far really very good pathogen sequencing programme will be as responsive as it needs to be to the winter surge?

Lord Kamall (Con): I thank my noble friend for that question. The UK is world leading in genomics, and it is something that we can all be proud of. COVID-19 Genomics UK has now sequenced 1 million genomes, and the UK is working with global partners to fill global sequencing capability gaps. This includes building the new variant assessment platform, which will offer UK expertise to assess and detect new Covid variants emerging globally.

The Lord Bishop of Manchester: My Lords, I apologise for having stood up too early a moment or two ago; I am still very much learning my trade in this House, but I follow the dictum of Martin Luther, that if you must sin, sin boldly.

I am grateful for the Statement, and assure the Minister that the faith communities, which did a lot last year to get health messages to some of the harder-to-reach groups in our society, stand ready to do the same again this winter, but I wonder whether the Government have made a rod for their own back in having plan A versus plan B. It seems a very polar way to deal with things when, actually, we need a more graduated method. Perhaps I might encourage the Government not to be the prisoner of their own rhetoric and for the Minister to share with his colleagues in another place that perhaps we could have steps between a plan A and a plan B: we need gradual, incremental stages as the virus levels rise. I encourage him to try that.

Lord Kamall (Con): I thank the right reverend Prelate for his advice, and for pointing out the very important role that faith communities paid played helping many people get through the lockdowns. They play an important role in this country; many people often assume that it is down to the state, but faith communities play a really important role and complement many of the things we do.

In answer to the right reverend Prelate's specific question, it should not be seen as plan A or plan B; it is sequential. The Government would prefer that plan A works and that we vaccinate more and make sure that we reach those who have not yet been vaccinated. But if the figures, and the various factors we are looking at—scientific, but also socio-economic—suggest that we have to go to plan B, then we will. At the moment, we are hoping that plan A will work, but we are reliant on the advice that we get from the various scientific advisers that I outlined, but also the other stakeholders, to ensure that we test plan A. Hopefully, it will work, but if it does not, we will move to Plan B.

Baroness Hollins (CB): My Lords, I have recently returned from Germany, where medical masks are worn indoors in settings such as shops, restaurants, theatres, conferences, churches and, of course, on public transport. To enter, you have to show a Covid green vaccination pass—the QR code is checked—or, alternatively, a same-day antigen test performed and certified in a pharmacy. It is easy, it is acceptable, it is working and people feel safe. The death rate is much lower. Will plan B provide the same security and reassurance to British citizens as I experienced in Germany by mandating face masks and green passes, and will this happen soon enough to prevent more deaths? We started the pandemic with a first lockdown that was too late; plan B may be too late.

Lord Kamall (Con): I thank the noble Baroness for sharing her experiences from Germany. We are relying very much on a range of scientific advisers to tell us whether we need to move to plan B but at the moment, because we are not where we were last winter and because we have broken the link between cases, hospitalisation and deaths, we would prefer to try plan A. If we have to move to plan B, we will—on the advice of our range of scientific advisers—but there are also some concerns, as the House can imagine. I think it was Professor Mark Pennington of King's College London who said, when assessing Covid-19 and the response to it, that you have to look at it as a complex system. When one thing happens, there might be a reaction elsewhere but also unintended consequences.

One concern we have heard about mandating face masks at the moment is: who enforces that? Do we suddenly have more police enforcing it and become a police state? Transport workers are also concerned about having to approach certain people and ask them to put their mask on in the proper place, for fear of abuse, so we have to get the balance right. We will try to stick to plan A, given that we have broken that link between cases, hospitalisations and deaths, and encourage more people to get vaccinated while reaching out to those hard-to-reach groups. But if the numbers and the various indicators are there and the scientific advice tells us to move to plan B, we will do so.

Viscount Stansgate (Lab): My Lords, I too thank the Minister for repeating the Statement. It is such a pleasure to follow the noble Baroness, Lady Blackwood, to whom I had the pleasure of referring by name a week ago today in my maiden speech. SAGE is so crucial to the advice given to the Government. So far as I understand it, in the first half of this year SAGE met on at least a dozen occasions. Yet since July it appears to have met only three times. Is it true that SAGE has not met since 9 September and, if so, why? On 9 September, SAGE's official advice was that the epidemic was

"entering a period of uncertainty"

because of waning immunity and "changes in contact patterns"—which meant people going back to work and children going back to school. SAGE then

"reiterated the importance of acting early to slow a growing epidemic."

When SAGE advises the Government, as it did on 9 September, that

"Late action is likely to require harder measures",

does the Minister agree?

Lord Kamall (Con): I thank the noble Viscount for his question and welcome him to the House. The Government are taking a range of advice, including from SAGE, but also from the Chief Scientific Adviser, the Chief Medical Officer, the UK Health Security Agency and the NHS. We have to balance a number of different views. We want many scientific experts to contribute directly to ministerial discussions and believe that we have benefited from that wide range. I know that SAGE has met regularly; I do not have the latest date for when it did so but I can forward that information to him.

Environment Bill

Returned from the Commons

The Bill was returned from the Commons with reasons and amendments.

House adjourned at 8.02 pm.

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