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PARLIAMENTARY DEBATES  
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# HOUSE OF LORDS

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<b>Abbreviation</b>	<b>Party/Group</b>
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

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# House of Lords

Monday 23 May 2022

2.30 pm

Prayers—read by the Lord Bishop of Oxford.

## Senior Citizens: Means-tested Benefits

### Question

2.36 pm

Asked by **Lord Dodds of Duncairn**

To ask Her Majesty's Government what steps they are taking to ensure that senior citizens avail themselves of the means-tested benefits and allowances to which they are entitled.

**The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office and Department for Work and Pensions (Baroness Stedman-Scott) (Con):**

My Lords, it is more important now than ever that we ensure that all eligible pensioners claim the vital financial help that pension credit provides. That is why we have been working really hard to increase the take-up of pension credit. On 3 April, we launched a new pension credit awareness campaign. Pension credit not only tops up the incomes of the most vulnerable pensioners but is a passport to other benefits, such as help with housing costs and heating bills, council tax reduction schemes and free TV licences for the over-75s.

**Lord Dodds of Duncairn (DUP):** My Lords, I am grateful to the Minister for that reply, but over 2 million senior citizens now live in poverty in this country—yet billions of pounds in means-tested benefits go unclaimed every year. As she rightly said, this is urgent now, given the cost of living crisis and the start of a period of escalating energy price increases. The Minister referred to take-up awareness campaigns and so on, but surely more could be done about the availability of data and joining up benefit application processes. Will she commit to ensuring that even more will be done to put more money in the pockets of pensioners? After all, this is money to which they are fully entitled.

**Baroness Stedman-Scott (Con):** I will answer the last question first. The Prime Minister has been clear that we are working extremely closely on this and will continue to do so. We will do more; no option is off the table but, unfortunately, it will take a little more time for us to announce those initiatives.

**Baroness Redfern (Con):** My Lords, there is no doubt that the triple lock is so valuable to pensioners. The Government announced a one-year response to it—because of exceptional circumstances post pandemic, they said. I ask my noble friend the Minister: will the Government commit to restoring the triple lock? What support will be available during this time for pensioners who face fuel poverty as a result of soaring energy prices?

**Baroness Stedman-Scott (Con):** The Chancellor has already committed to restoring the triple lock. Before I came here, I double-checked this and I can say that, yes, the triple lock will be restored. On fuel poverty, a

package of support to help households with rising bills, worth £9.1 billion, was announced on 3 February. Customers of the state pension are also entitled to an annual winter fuel payment worth up to £300. The cold weather payments and the warm homes discount scheme will also be available to those in receipt of pension credit.

**Baroness Ritchie of Downpatrick (Lab):** My Lords, mindful that many people, particularly senior citizens, have great difficulty in making ends meet and have to choose between eating and heating, will the Minister and her colleagues give careful consideration to a dedicated programme for the take-up of benefits among that cohort of senior citizens throughout the UK, working with the devolved Administrations as well?

**Baroness Stedman-Scott (Con):** I thank the noble Baroness for that contribution and suggestion. As I said, it is important that we do everything we can. I cannot commit to a dedicated support service but, as I have done on many occasions, I will take it back to the Minister for Pensions and will write to the noble Baroness in due course.

**Baroness Altmann (Con):** My Lords, it is of course important that people entitled to pension credit get it, but what are the Government doing to help the poorest pensioners? The winter fuel payment is lower than it was in 2009 and cold weather payments and warm home discounts have not increased for over 10 years. Given that in the pandemic the Government considered that a £20 a week addition to universal credit was needed, perhaps current emergency situations require consideration of similar measures for the state pension, or at least pension credit.

**Baroness Stedman-Scott (Con):** I reiterate what the Prime Minister has said: no option is off the table. We will do what we can but noble Lords will have to wait a little longer for those announcements to be made.

**Baroness Sherlock (Lab):** My Lords, I am glad that nothing is off the table but I would quite like to see something on the table. Maybe the Chancellor could be encouraged to think that there is a bit of urgency about this. One reason take-up is not always the answer is that the amount of pension credit that goes unclaimed is around £1,900 for every family entitled to receive it. That is why the state pension matters so much and why abolishing the triple lock this year—of all years—was so damaging. However, as this is about take-up, I looked at the stats and found that take-up is lower among older pensioners than younger ones. It is markedly lower for pensioners who are single rather than in couples. What does that tell the Government and what are they going to do to make sure that the money gets to where it is most needed?

**Baroness Stedman-Scott (Con):** On pension credit take-up, the noble Baroness has made interesting and accurate points. We have this campaign. The Minister for Pensions is working with the BBC, other media outlets, GP surgeries, post offices and so on. It is our

[BARONESS STEDMAN-SCOTT]

job to make sure that people are aware of the benefits of pension credit and to encourage take-up, but there is only so much we can do in that way. We really believe that families could be helping relatives entitled to pension credit to claim it.

**Lord Forsyth of Drumlean (Con):** My Lords, further to the answer my noble friend gave earlier, when will the triple lock be restored?

**Baroness Stedman-Scott (Con):** When the benefit uprating comes, based on the September figures for that year, the triple lock will be restored.

**Baroness Janke (LD):** My Lords, what has been done to improve the application process for pension credit and make it simpler and more easily accessible to many pensioners, particularly those on their own and older pensioners who may not have easy and quick internet access?

**Baroness Stedman-Scott (Con):** The noble Baroness's question prompts me to go back and have a look at the application process. Perhaps I can come back to her on that. I am not sure that I can answer her other question about the internet, but I will go back and see what we are doing in particular to encourage and help people to claim via that.

**Lord Tomlinson (Lab):** My Lords, notwithstanding everything that has been said about poverty among pensioners, they are not the only group in society suffering poverty. In the Minister's enthusiasm to make sure that something is put on the table to help pensioners, can she also deal with the large number of people who are in work but getting such low pay that they have to get means-tested benefits? There is just as much of a problem in making sure that they apply for the available benefits, and I hope the Minister will make sure that she gives full attention to them as well as to pensioners.

**Baroness Stedman-Scott (Con):** I assure the noble Lord that all groups are being looked at, in terms of making sure that they get what they are entitled to. We have universal credit, which in its technical form is working very well, and we are going to do the migration to universal credit, which will help to make sure that people get the benefits that they should have.

**Baroness Seccombe (Con):** My Lords, I know that there has been extensive advertisement of pension credit in the national newspapers, but has my noble friend considered using local papers—particularly any freebies that are going, because they are read by a lot of older people?

**Baroness Stedman-Scott (Con):** My noble friend makes a very good point. We are also making sure that we promote it in doctors' surgeries, day centres, post offices and the local press. If anybody has any ideas for how we can do it better in local media, please let me know.

**Baroness Uddin (Non-Aff):** My Lords, evidently, the campaign is not reaching the most vulnerable in our societies, including those who may have problems in

accessing such campaigns. I have said this a number of times in the House, but will the Minister consider contacting some of the local newspapers and council newspapers as well as the satellite channels for this campaign, to reach the most vulnerable in our society?

**Baroness Stedman-Scott (Con):** I would like to think that all those people are being contacted, but let me go and check. I shall make sure that that gets fed into the system.

**Lord Davies of Brixton (Lab):** My Lords, the Minister mentioned that this was an urgent priority for the Government. It is an unfortunate fact that it has been an urgent priority for all Governments for at least 70 years. Will she agree that the only ultimate answer is to make sure that more people retire with an adequate pension, without the need for means-tested benefits?

**Baroness Stedman-Scott (Con):** The noble Lord has made that point on many occasions and I admire his tenacity. We are doing what we can to make sure that the state benefit is there and that there is a benefit system to support people, but I cannot commit to the challenge that the noble Lord has given me.

## Long Covid Question

2.47 pm

Asked by *The Earl of Clancarty*

To ask Her Majesty's Government what steps they are taking to support sufferers of long Covid.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con):** The Government are committed to supporting people with long Covid and are spending £224 million on long Covid care, establishing 90 specialised services for adults and 14 paediatric services for children and young people across England. Those assess people with long Covid and direct them into care pathways that provide appropriate support, treatment and rehabilitation. We are also spending £50 million on research better to understand long Covid and how to treat it.

**The Earl of Clancarty (CB):** My Lords, the ONS reports that more than 1.1 million sufferers of long Covid in the UK are unable properly to undertake day-to-day activities as a result of their condition. Asthma + Lung UK has seen a doubling of those seeking help with long Covid in the last six months. Will the Government ensure that specialist clinics are provided across the whole country and that sufferers receive appropriate treatment without enduring long waiting times, as often appears to be the case at present?

**Lord Kamall (Con):** I thank the noble Lord for his question. We have established 90 services and 14 paediatric services. We are at the forefront of research on this. A number of countries are asking about and looking at what are doing on so-called long Covid. I should be clear that long Covid is not an accepted medical term. There are three terms: acute Covid-19, which lasts up

to four weeks; ongoing symptomatic Covid-19, which lasts between four and 12 weeks; and post-Covid-19 syndrome, which has lasted for more than 12 weeks. Each patient will have different forms and symptoms, and we are seeking to understand that through further research.

**Lord Wigley (PC):** The Minister referred to £50 million being allocated to research. How much of that is for studies on affected children, estimated to number some 120,000, and what steps is he taking to ensure timely access to support for children with long Covid?

**Lord Kamall (Con):** The noble Lord is absolutely right that we have to look particularly at the issue of paediatric care, as well as other long Covid sufferers. The research is varied in terms of the different medical definitions I just gave. Of the three categories, the latter two loosely tie in with what we understand long Covid to be. They are also in line with the WHO definitions. We have established specialised paediatric services, and the research will look across age groups to see what the most appropriate interventions will be.

**The Lord Speaker (Lord McFall of Alcluth):** My Lords, we have a virtual contribution from the noble Baroness, Lady Brinton.

**Baroness Brinton (LD) [V]:** My Lords, following on from the question of the noble Lord, Lord Wigley, some of the paediatric long Covid clinics are only treating children for fatigue, and not for respiratory, neurological or blood problems. Will the Minister meet with me and the Long Covid Kids support group to hear some of the problems they face?

**Lord Kamall (Con):** I thank the noble Baroness for making us aware of that. I know that there has been extensive stakeholder engagement to understand what the particular issues are. I am happy to commit to a meeting with the noble Baroness.

**Lord Winston (Lab):** My Lords, would the Minister be kind enough to let the House know through which body the funding for this research is being undertaken? Is it through UKRI or some other body? How is it split up between different funding bodies? What has been achieved so far with the research that has been done?

**Lord Kamall (Con):** The NHS is working with the wider scientific community to better understand both Covid-19 and its long-term health impacts. The £50 million in research is to understand, first, the actual condition—and, as I said earlier, it is not necessarily a medical condition—and how we map and treat it. In addition, we have had 22 research studies to examine the cause of long Covid, to diagnose the condition and to optimise the design of healthcare systems. A lot of this has been done by the National Institute for Health and Care Research, which continues to welcome applications for further research.

**Lord Suri (Con):** My Lords, long Covid must be taken seriously, as it is a sickness that has different degrees of symptoms for everyone recovering from coronavirus. Although most people recover quickly,

there are those who have symptoms which last weeks or months after the infection has gone. There is also a burden on the people who must look after, and take care of, those suffering from long Covid, as it impacts people across all age groups. I request that Her Majesty's Government take the necessary steps for research into long Covid so that people do not continue to suffer for such lengthy periods following the infection stage.

**Lord Kamall (Con):** My noble friend is absolutely right that we must take this seriously. This is why, first, we have tried to map it to the three medical conditions I mentioned earlier: acute Covid-19, ongoing symptomatic Covid-19 and post-Covid-19 syndrome. We are also looking at the WHO definition, which defines post-Covid-19 condition as the condition that

“occurs in people who have a history of probable or confirmed SARS-CoV-2 infection; usually within three months from the onset of COVID-19, with symptoms ... that last for at least two months”

and which

“cannot be explained by an alternative diagnosis.”

In my meetings with other Health Ministers from across the world, they want to learn from us what we are doing on long Covid and how we can co-operate better.

**Baroness McIntosh of Hudnall (Lab):** My Lords, the Minister has stressed the fact that the diagnosis of long Covid is quite tricky and variable, according to the period of time over which people have suffered from it. Can he tell the House what support the NHS is able to provide for GPs to understand how to look at people who are presenting with an unspecified collection of symptoms which might be long Covid? Can he also say what is being done to help employers to understand this?

**Lord Kamall (Con):** The noble Baroness makes an important point because there have been some reports that patients feel that GPs have not taken their concerns seriously. In response, NHS England has worked with the Royal College of General Practitioners to provide advice for GPs on the identification and management of long Covid. They have also worked with Health Education England to produce e-learning modules on Covid-19 recovery and rehabilitation. Rather than take up too much time, I commit to writing to the noble Baroness on her second question.

**The Lord Speaker (Lord McFall of Alcluth):** My Lords, we have a virtual contribution from the noble Baroness, Lady Harris of Richmond.

**Baroness Harris of Richmond (LD) [V]:** My Lords, my 15 year-old grandson has long Covid and has not been able to go to school since November. His school has been fantastic at trying to assist him, but there is only so much that it can do. What are the Government doing to help schools to support these pupils?

**Lord Kamall (Con):** The noble Baroness emphasises just how wide, varying and diverse the symptoms of long Covid are. We know that children and young people can develop long Covid, just as adults can. NHS England has therefore not only established

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specialised paediatric services to provide care for children and young people, but is looking at providing specialist advice and support to general paediatric services as we learn more, as well as co-operating with international partners to learn from their experience.

**Lord Patel (CB):** My Lords, the Minister quite rightly referred to the correct definition for people who suffer from long Covid as having a post-Covid-19 syndrome. That implies that people may suffer from multi-organ conditions and, in that respect, training is important. Does the Minister agree that NICE should be asked to publish guidelines for all professionals to recognise this condition?

**Lord Kamall (Con):** The NICE guidelines start with the definitions as I have laid out previously, and the NICE definitions are aligned with the World Health Organization. On the noble Lord's specific question, I will have to write to him.

**Baroness Merron (Lab):** My Lords, the Equality and Human Rights Commission made an announcement on Twitter that it recommended that long Covid should not be treated as a disability. That would mean that those suffering from the condition would have to take their employer to a tribunal if they felt that they were being discriminated against. Can the Minister tell your Lordships' House what his view is on how reasonable or not this is? What steps are being taken to promote understanding by employers of this debilitating condition and to encourage and guide them to be open to making changes in the workplace to support sufferers in continuing to work?

**Lord Kamall (Con):** The noble Baroness makes a very important point. We are learning more about the different types of long Covid, how to treat them and what interventions they need. People will not always need to go to a primary or secondary care centre for their treatment; in fact, there is an app to help people who can be supported at home. In terms of general advice about disability or to employers, we are working across government as we learn more about this in order to give appropriate advice to employers.

## National Institute for Health and Care Excellence *Question*

2.57 pm

Asked by **Baroness Morgan of Drefelin**

To ask Her Majesty's Government what steps they are taking to address capacity issues in the National Institute for Health and Care Excellence.

**Baroness Morgan of Drefelin (CB):** I beg leave to ask the Question standing in my name on the Order Paper and, in so doing, I declare an interest as chief executive of the research and care charity Breast Cancer Now.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con):** A key priority for NICE this year is to increase the flexibility and capacity of its technology appraisal programmes through a more proportionate approach to assessments that will enable it to continue to consistently deliver timely guidance on new medicines. From April 2023, NICE aims to expand its capacity for technology appraisals by 20% to respond to increasing numbers of new medicines.

**Baroness Morgan of Drefelin (CB):** I thank the Minister for his Answer and for writing to me on this. NICE does a really important job in our health system and I pay tribute to it for that. However, one thing that I have observed recently is that, in some of the more tricky technology appraisals, sometimes you have a first rejection, then another committee meeting, then possibly another reappraisal. This puts a huge amount of stress on patients, often at the end of life, when they are really worrying about whether they will have access to the treatments under review. Is there anything more that the Government can do to help ease the passage of these interim access agreements that patients can have?

**Lord Kamall (Con):** I am sure that the noble Baroness appreciates that this was a new process, because of the Orbis trial. In some ways, NICE was not exactly prepared for that. NICE has learned from that lesson and 100% of its guidelines are issued within 90 days of licensing. It has learned the lesson but, sadly, there was a confluence of factors: one was Orbis and the other was that the committee meeting regarding recommendations ran over because there were a number of other cancer drugs that it was trying to look at. It has put this on the agenda for the next meeting.

**Baroness Walmsley (LD):** One of the ambitions in the life sciences vision is to enable early diagnosis and treatment, including immunotherapies such as cancer vaccines. However, last year, 20 treatment evaluations were paused because of lack of capacity at NICE. If successful R&D cannot be translated into treatments because of lack of NICE evaluations, how will that impact on commercial incentives and the ambitions set out in the life sciences vision?

**Lord Kamall (Con):** The noble Baroness makes an important point about how this fits into the life sciences vision, and NICE is very aware of it. In fact, only last week, I saw a draft business case for NICE for future years, and it takes on board the very point the noble Baroness refers to. NICE is looking at making sure that it has more timely advice and that it can respond quickly; it has also increased capacity, not only for conditions like this but for more digital devices.

**Lord Hunt of Kings Heath (Lab):** Can the noble Lord explain what he means by a more proportionate response? Does that mean that NICE is reducing the number of stages that are involved in this process? Is it going to increase the capacity it has? How is it going to actually deliver the improvements that the noble Lord has explained?

**Lord Kamall (Con):** NICE has recently concluded a comprehensive review of its methods. It wants to introduce greater flexibility in the appraisal of medicines for more severe diseases but is also reviewing the criteria for highly specialised technologies, to make them clearer and more specific. We hope this will benefit medicines for patients with rare diseases and improve equitable access to new and innovative treatment. On the exact detail, I am afraid I am going to have to write to the noble Lord.

**Lord Lansley (Con):** My Lords, would my noble friend agree with me that the publication by NICE last month, about its work on evaluating new treatments for severe drug-resistant infection, was really valuable, in that it looked at the benefits across the health system as a whole as the basis for an assessment of what an annual subscription for such drugs might be? Can my noble friend say how the Government are taking this work—which is a world first—and working with other countries to try to ensure that, collectively, that kind of subscription can incentivise the drugs industry to bring new treatments for antimicrobial resistance to the market?

**Lord Kamall (Con):** I thank my noble friend for the question but also for highlighting the fact that NICE is trying to change the way it works to be more flexible and responsive. The new subscription-style payment model that the NHS is developing has been designed to try to address the lack of new antimicrobials being developed and the growing threat posed by antimicrobial resistance, or AMR. The recent guidance from NICE on the two new AMRs is a world first and an important step forward. What NHS England has now got to do is enter into negotiations with the manufacturer, with a view to making them available to NHS patients.

**Lord Turnberg (Lab):** My Lords, NICE is a remarkably effective organisation, but is the Minister aware of the gross inefficiencies in the system which operates in order for health technology assessment approvals to occur? There is a huge number of committees through which this process has to go. Is there any way of reducing this nightmare?

**Lord Kamall (Con):** I am aware of some of those issues, but I wonder whether the noble Lord could write to me with some more specific examples. In my meetings with various organisations, including the Health Technology Alliance and others, wherever they have raised these issues we have looked at them. The NHS, the department, NICE and others are trying to work with suppliers, manufacturers and providers to see how it can be more responsive. If we are going to realise the life sciences vision, we have to make sure that we make the best of the NHS as a global centre of excellence and show that we are at the forefront of research.

**Lord Naseby (Con):** While we all understand the importance of NICE, can my noble friend reassure us that NICE is working within a fixed budget at this difficult financial time?

**Lord Kamall (Con):** I think my noble friend will find that lots of departments and lots of public bodies are working within budgets at the moment, given the

financial situation. NICE is very aware of this, and has looked at how it can do more with the same money to increase capacity and be more responsive.

**Baroness Wheeler (Lab):** My Lords, NICE is a critical participant in the Innovative Licensing and Access Pathway, launched over a year ago. It aims to make use of regulatory freedoms post Brexit to speed up access for NHS patients to new drugs, including cancer treatments. Can the Minister tell the House how many treatments have been or are being considered through ILAP and when we might expect to see the first ILAP treatment being made available on the NHS?

**Lord Kamall (Con):** I know I have the answer here somewhere but I cannot find it, so I commit to write to the noble Baroness.

**Lord McColl of Dulwich (Con):** My Lords, can the Minister kindly inform NICE and the Department of Health that they are misleading the nation and have done for years in telling them that all the calories we eat are used up in exercise? That is not true and has never been true. Only a fraction of the calories we eat are used up in exercise. Could the Minister do something about NICE and the Department of Health?

**Lord Kamall (Con):** I will try my best. If I may, I shall use this opportunity to respond to the noble Baroness's earlier question. We have seen horizon scanning in regulatory science, which means that ILAP is at the forefront of cutting-edge developments. It is open to commercial and non-commercial, and UK-based and global developers of medicines. As I said, I will write to the noble Baroness with more detail. On doing something about NICE and the NHS, I have constant meetings with the NHS, as do other Ministers. One of the challenges that came up during the passage of the Health and Care Bill—I know that noble Lords who have been Ministers previously made this point—was that Ministers here have to respond on issues but decisions are quite often taken at NHS level.

**Lord Patel (CB):** My Lords, I am yet another doctor. In defence of NICE, it has, despite the financial constraint, delivered 50% more appraisals in 2020-21 and is likely to do an extra 20% this year. The important point I want to make is the point made by the noble Baroness, Lady Morgan of Drefelin: patients need to have access to effective treatment sooner. If the appraisals are causing delay, for whatever reason, that is the place where NICE needs help, to get patients early access. For instance, a breast cancer drug that treats patients with triple-negative breast cancers, with a higher mortality, is available in one part of the United Kingdom now, but it is not available in England.

**Lord Kamall (Con):** The noble Lord makes a very important point. One of the things we are looking at, so that we will not only be a centre for life sciences but make sure that our NHS is at the forefront of healthcare worldwide, is to make sure that we look at the different stages of medicines when they are approved, if they have conditional marketing, and the different stages of approval to see whether we can get them to patients earlier. As the noble Lord says, we should share the

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good news about NICE. It issued guidance within 90 days for licensing of 100% of new active substances in 2021-22 and has the highest number of technology appraisals in any year since appraisals began. There is some good news, but NICE recognises that it has to do more and we are in conversation about that.

**The Lord Speaker (Lord McFall of Alcluith):** I call the noble Lord, Lord Howarth of Newport, who is contributing virtually, to ask the fourth Oral Question.

## Inflation Question

3.08 pm

*Asked by Lord Howarth of Newport*

To ask Her Majesty's Government when and at what level they expect inflation, as measured by the consumer price index, to peak in the United Kingdom.

**Baroness Penn (Con):** The independent Office for Budget Responsibility set out the official inflation forecast in its March economic and fiscal outlook. It expected CPI inflation to peak at 8.7% in the fourth quarter of this year, before falling back towards the 2% target. We understand how rising costs are impacting the costs of living. The Government are providing support worth over £22 billion this year to help families with these pressures.

**Lord Howarth of Newport (Lab) [V]:** My Lords, we know that there is worse to come, but do we not need decision and action now? The cost of living crisis is with us now, hitting the poorest the hardest, with one in five households already in fuel poverty and 2 million adults who cannot afford to eat every day. Does the noble Baroness understand that bromides do not warm or feed anyone? Procrastination is inexcusable and it is insufferable that action is delayed because of bickering between No. 10 and No. 11. Will the Government immediately increase benefits in line with actual inflation?

**Baroness Penn (Con):** The Government are putting in place support now. It is worth remembering that the household support fund is open, it is ready, it is there for people to access. It is also worth remembering that national insurance thresholds will increase in July, putting more money back into the pockets of the lowest-income households. It is also worth remembering that the rebate on people's energy bills, worth £200, is yet to come—it will come in October. We are keeping the situation under review, we are standing ready to do more, but more action is already committed to by the Government that will flow through to people's pockets over the coming weeks and months.

**Lord Bilimoria (CB):** My Lords, in my role as president of the CBI, I remember asking the Chancellor in February 2021 whether he was worried about inflation. Since then, we have had galloping inflation, and businesses and consumers are suffering hugely as the noble Lord, Lord Howarth, said. Are the Government concerned that we are now entering stagflation, and should not they be doing all they can to incentivise investment for

growth, for example, by reducing the highest tax burden in 71 years, by bringing back a temporary cut in VAT of 12.5% and by having a permanent 100% tax reduction on capital investment by business?

**Baroness Penn (Con):** My Lords, I absolutely agree with the noble Lord on supporting investment and putting our efforts towards growing the economy. He will know that we have cut business rates by 50% for eligible retail, hospitality and leisure businesses this year. We have increased the employment allowance from £4,000 to £5,000, cutting the cost of employment for 495,000 small businesses, and we have increased the annual investment allowance to £1 million. I know that there is more to do, but I agree with the sentiment in terms of increasing investment in our economy.

**Baroness Kramer (LD):** Do the Government recognise that those on low incomes are experiencing inflation much closer to 13% rather than CPI? Will they step away from the practice of masking the true damage by constantly using the CPI number and therefore recognise the urgency, for example, of increasing universal credit by at least £25, as has been recommended by civil society groups?

**Baroness Penn (Con):** My Lords, the Government recognise that inflation can have a differential impact. The ONS suspended its publication of inflation by income level during the pandemic due to trouble accessing the data. That has now been reinstated. The Government also recognise that differential impact in the support they provide to people; for example, extending the warm homes discount, increasing the work allowance on universal credit, and, as I said before, having the household support fund in place.

**The Lord Bishop of Oxford:** My Lords, I have seen at first hand from touring every part of the three counties in the Diocese of Oxford the rise in the take-up of food banks in recent weeks. I pay tribute to all those who work and volunteer in them. I have heard heartbreaking stories of those who need to use them. The Government's response to the Covid pandemic was remarkable in its creativity and urgency, helping the poorest. Will we see now a windfall tax? Will we see more targeted support for the poorest in the communities as an urgent matter?

**Baroness Penn (Con):** My Lords, we do not believe that windfall taxes are simple or easy, but we are also pragmatic, and we want to see energy companies which have made extraordinary profits at a time of elevated prices investing those profits back into British jobs and growth. If that does not happen, no option is off the table. When it comes to further help for families across the country that are facing real difficulty, the Government are looking very carefully and stand ready to do more.

**Lord Howell of Guildford (Con):** My Lords, is it not time to go to the roots of this terrible energy price and inflation problem? Those roots are largely international; at this moment, there is ample gas around the world and ample oil capacity to offset Russian exports and bring prices very sharply down. Should we not make it

a diplomatic and foreign policy priority to bring pressure on those who could increase capacity quickly to do so, and to do so in the interest of the consumer, prices and indeed the entire European situation—and the Ukraine situation as well?

**Baroness Penn (Con):** My noble friend makes a good point. Of course, the Government have published their energy security strategy, which looks at the number of those issues. The point about international co-operation can also be very well applied to food security and food exports; I know that the Prime Minister and the Foreign Secretary have had conversations with their counterparts in recent weeks to look at what more we can do to ensure food exports, for example from Ukraine.

**Baroness Lister of Burtsett (Lab):** My Lords, with regard to the differential impact of inflation, the Resolution Foundation and the Institute for Fiscal Studies calculate a 10% inflation rate for the bottom 10th of the population, many of whom, in and out of work, rely on social security, which has gone up by only 3.1%. The discretionary household support fund is no answer. Does not the differential impact of inflation strengthen the case made by noble Lords across the House and across the political spectrum for a further increase in benefits as soon as possible?

**Baroness Penn (Con):** My Lords, I acknowledge the point about the differential impact of inflation. That has not always been the case, but according to the IFS's report it was driven largely by the increase to the energy price cap and rising energy prices. That is where we have focused our support, through the warm homes discount and the £150 council tax rebate that is coming through to people now. In addition, as I said, there is forthcoming support, with a further £200 off people's energy bills in October.

**Lord Fox (LD):** My Lords, the Minister's change of narrative on an energy windfall tax is intriguing, but would she agree that the Government have already received a windfall from increased receipts from VAT and from petroleum duty? Given that much money—perhaps the Minister can tell your Lordships' House how much extra money has been received—there is a pot available to help the least able. Will she agree that this money should be used now to help the poorest people in this country?

**Baroness Penn (Con):** My Lords, with regard to a windfall tax, my comments only echoed those of the Chancellor and those of the Prime Minister. On the additional revenue that has come in through VAT receipts and other areas, the noble Lord is right, and we have used additional finance to provide extra support to people that is worth over £22 billion. That includes new help that will flow through to people's pockets—not yet, but in the future. For example, once the uprating in the thresholds for national insurance is in place in July, people will have more money in their pay packets as a result.

**Lord Tunnicliffe (Lab):** My Lords, I have great sympathy with the Minister; we are all asking her to be the Chancellor and she is not. She might do a better

job, but she is not yet the Chancellor. I will ask her a question to which she can make a commitment. There is a consensus in this House that action is needed now. Can she personally make sure that that consensus is conveyed to the Chancellor?

**Baroness Penn (Con):** I can absolutely assure the noble Lord and all noble Lords that I will convey the opinion of this House on this matter to the Chancellor.

**Lord Hannan of Kingsclere (Con):** My Lords,

“Inflation is always and everywhere a monetary phenomenon”, as Milton Friedman pointed out. We printed a lot of money during the lockdown without producing any real-world goods. If this was really about the war in Ukraine, how come Japan and Switzerland have inflation of less than 3%? Will my noble friend the Minister urge the Bank of England to reduce the ultimate cause of the problem, which is printing lots of money so that people could stay at home producing fewer things? We will not restore fiscal sanity without sound money.

**Baroness Penn (Con):** I am afraid that I am going to have to disappoint my noble friend. We cherish the operational independence of the Bank of England, and that applies to QE as well as to interest rate-setting.

### **Universal Credit (Removal of Two Child Limit) Bill [HL]** *First Reading*

3.18 pm

*A Bill to remove the limit on the number of children or qualifying young persons included in the calculation of an award of Universal Credit.*

*The Bill was introduced by the Lord Bishop of Durham, read a first time and ordered to be printed.*

### **Refugees (Family Reunion) Bill [HL]** *First Reading*

3.19 pm

*A Bill to make provision for leave to enter or remain in the United Kingdom to be granted to the family members of refugees and of people granted humanitarian protection and to provide for legal aid to be made available in such cases.*

*The Bill was introduced by Baroness Ludford, read a first time and ordered to be printed.*

### **Schools Bill [HL]** *Second Reading*

3.20 pm

*Moved by Baroness Barran*

That the Bill be now read a second time.

**The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con):** My Lords, I thank those noble Lords who showed an interest in this Bill during the humble Address debate on the Queen's Speech last week. I welcome the shared interest

[BARONESS BARRAN]

in delivering high-quality education, and in keeping our children safe, that was witnessed across all sides of the House.

Over the past 12 years, we have seen great improvements to the school system. The proportion of schools rated good or outstanding has increased by 19 percentage points, from 68% in 2010 to 87% in 2019. While my predecessors delivered significant progress, the Government recognise that yet more must be done to level up the school system. We must, therefore, bring forward vital reforms which will support children, schools, teachers and parents. This Government have a vision to create a fairer and stronger school system that works for every child. All children should have a safe and effective education and, as both Houses have consistently argued, we must ensure that no child is left falling through the cracks.

In March, my right honourable friend the Secretary of State for Education published the schools White Paper, setting out the Government's long-term vision for a school system that helps every child to fulfil their potential by ensuring that they receive the right support, in the right place, and at the right time, founded on achieving world-class literacy and numeracy. This included our ambition that, by 2030, 90% of primary school children will achieve the expected standard in reading, writing and maths, and the percentage of children meeting the expected standard in the worst performing areas of the country will have increased by a third.

The Bill sits within a wider programme of steps that we are taking to deliver this ambition, including a parent pledge for any child who falls behind in English or maths, investment in teacher training, teacher starting salaries set to rise to £30,000, a new arm's-length curriculum body, and the creation of education investment areas to increase funding and support to areas most need in need, plus extra funding in priority areas facing the most entrenched challenges.

This Bill seeks to level up standards by supporting every school to be part of a family of schools in a strong trust. To achieve this, we must play our role in ensuring system quality by rethinking the way in which we uphold trust standards, so that our legislative framework is fit for purpose for a fully trust-led system. We are seeking the power to deliver, for the first time, a coherent single set of regulations on academy standards. This will set transparent, publicly available standards that academies must meet, replacing a diverse set of contractual and funding arrangements with each individual trust. Alongside this, we are seeking new intervention powers, to ensure that action can be taken to tackle serious failure if it occurs. These measures will lay the foundations for a successful, fully trust-led system.

We must also ensure that all schools can feel comfortable joining a trust without losing their individual characteristics. That is why we are putting clear protections for faith schools and grammar schools into primary legislation to provide confidence that their unique characteristics can be retained within an academy trust. We recognise that local authorities can play an important role in this journey, so we are giving them

the ability to request conversion of their schools. Outside the Bill, we also plan to enable local authorities to establish their own trusts.

To build a genuine level playing field for children, we need to ensure an equitable distribution of resources. There remains too much variation in funding between comparable schools in this country. That is not right, and our long-planned reforms for funding will be delivered through the Bill, enabling us to resolve it.

The Government have already made great progress in reforming the school funding system. In 2018 we introduced the national funding formula, a system which meant that local authority areas received consistent funding based on a single formula for the first time. However, the current system still means that the local authority's own formulae determine how much each school is ultimately allocated.

The Bill takes us to the next step, moving to a direct national funding formula, meaning that each mainstream school is allocated funding on the same basis, wherever it is in the country, and each child can be given the same opportunities, based on a consistent assessment of their needs.

The Bill also introduces new measures on attendance. Clearly, to benefit from a high-quality school education, consistent attendance is vital. We made good progress in the years between 2009-10 and 2018-19, with levels of pupil absence falling from 6% to 4.7%, meaning that students were spending an extra 15 million days in school. That being said, the Government understand that more needs to be done. Pre-pandemic levels of persistent absenteeism were at one in nine pupils, and these figures have risen further during the pandemic. We recognise that these absences greatly enlarge the gap between vulnerable and disadvantaged pupils and their peers. We know that schools are working hard to ensure that pupils are attending lessons, but reforms are needed to provide them with the right support to do this effectively.

The Bill will require schools to publish an attendance policy, as well as putting attendance guidance for schools, trusts, governing bodies and local authorities on a statutory footing, making roles and responsibilities clearer. This will build on their existing work on attendance and deliver greater consistency of support for families across England, and focus better, more targeted multi-agency support on the pupils who need it most.

The Bill also seeks to deliver this Government's commitment to introduce registers of children not in schools—something that this House has persistently debated and rightly requested. The Government acknowledge the great value that a good home education can bring and support the principle of choice for parents, but we know that some children miss out on high-quality, full-time education because they are missing from the system.

In 2020-21, there was an estimated 34% increase in children whose parents chose to educate them outside the school system at some point during that period. The children not in school registers will provide accurate data and enable local authorities to identify children in their areas who are not receiving efficient, full-time education. We also recognise the need to support

families who are home educating, and therefore we will require local authorities to offer support to interested parents of registered home-educated students.

The Bill will protect more children by expanding registration requirements for more educational settings that provide all, or the majority of, a child's education. We will work closely with Ofsted, enhancing its powers to investigate registered independent educational institutions that are breaching relevant restrictions and unregistered independent educational institutions that are being conducted unlawfully. These additional enforcement powers will provide the ability to suspend registration pending further investigation.

This Bill will also broaden the scope of the current teacher misconduct regime so that it includes more educational settings. This will ensure that children who receive their education at further education colleges, special post-16 institutions, independent training providers, online education providers and some independent educational institutions will be protected and safeguarded by the teacher misconduct regime. It will clarify that teachers who have committed misconduct at any time when not employed to undertake teaching work can be investigated by the Secretary of State, and that misconduct uncovered by departmental officials can be referred without the need for it to be referred by a party external to the department.

I feel hugely optimistic about what we will collectively deliver once this Bill has had the benefit of the minds and experience in this Chamber. The Bill provides the opportunity to continue progress in reforming the school system so that it works for all children, supports teachers and provides parents with the confidence that their child is receiving the best and safest possible education. Reforming the school system is not a quick fix and work will carry on long after we consider the legislation before us today, but this Bill takes essential strides towards creating a stronger, fairer and safer school system that will improve the education of children across this country. I beg to move.

3.31 pm

**Baroness Chapman of Darlington (Lab):** My Lords, it is a pleasure to follow the Minister, and I very much welcome the tone of her words. Obviously, we have concerns about the Bill and the missed opportunity that it represents, but I look forward to working with her and getting to know her as we try to improve this legislation.

Before I begin, I wish to acknowledge the work of my noble friend Lord Watson, who held this post before me. I hope he does not mind me saying how fortunate I feel to have someone like him sitting behind me to guide me and allow me to benefit from his experience and knowledge as the Bill proceeds.

Although there are welcome measures in the Bill, it is a profound disappointment to us because it is a missed opportunity. We feel that it shows that the Government have barely begun the thinking that is needed to address the immediate challenges faced by our schools. Right now, 200,000 children are in areas without a good or outstanding primary school, secondary school class sizes are growing, children are leaving education without the skills they need, mental health

needs are unmet, particularly since the pandemic, and the Government are not saying anything of any substance about social mobility or careers advice. Teachers, Ofsted and the Government's own early years review expressed concerns over the rise in reception children who are not school-ready—and we know how difficult it is for those children to catch up later in their school lives.

Unfortunately, there is much more to say about what is missing from the Bill than about what is there. The Bill lacks an ambitious, substantial plan to support children's recovery from the pandemic. The OECD tells us that older children, and even 16 to 24 year-olds in England, have worse literacy and numeracy than those in comparable counties. Where are the proposals to improve teaching standards or to tackle the exodus of burnt-out school staff? Where are the measures to equip our students with the skills they need for the industries of the future in an ever-more globalised and technologically advanced economy? After 12 years, the Tories are still not sure about what academies are for, and the Bill proves it. If the point is freedom, why is the Education Secretary seeking direct rule over their standards? I think we know why. It is for the same reason that the Government have taken to using legislation to give Ministers powers to act, rather than being clear about what they intend to do with those powers. It is because the Government are running out of ideas and energy, and on this topic we simply cannot afford for that to happen.

With an 80-seat majority and able effectively to make any changes they like, the Government could be doing so much more, but they are seeking to confer unprecedented powers on the Education Secretary without, it seems, any clue about the direction they want to go in or how they want to act to help children and families. In taking these powers on a whole range of issues, from the curriculum to the length of the school day, Ministers have not explained—they really ought to—what they intend to do with these powers. They might find that there is agreement across the House. We agree that the national curriculum should apply to academies. Is that what the Government think? If so, let us discuss it—and why then would the Secretary of State want the power when there could be agreement across the House?

For all the White Paper's claims to be following the evidence, the Office for Statistics Regulation had to write to the Department for Education to highlight issues around the transparency, replicability and, most importantly, quality of the statistics presented in the evidence note underpinning the White Paper. We are concerned about this: pushing ahead with full academisation without being clear why the Government are doing it and without having evidence to support the plan—the ideology about structures—when what is needed is a focus on educational attainment, standards and children's experience in the classroom.

We on these Benches have proposed a national excellence programme, which would drive up standards and make sure that every child leaves school job-ready and life-ready. We would end charitable status for private schools and use the money saved to fill workforce vacancies. Our children's recovery plan would deliver small-group tutoring for all who need it, as well as

[BARONESS CHAPMAN OF DARLINGTON]

breakfast clubs and after-school activities for every child, quality mental health support for children in every school, and continued professional development for teachers to improve teaching and learning, and it would target extra investment, from early years to further education, to support children at risk of falling behind.

This Bill gives the Secretary of State his own to-do list. There are broad powers to set standards for academies, including in critical areas such as the curriculum and school-day length. Can the Minister tell us whether this marks the end of what the Government have described as the “trust-led approach”? It certainly looks like it. This could be described as a power grab. Is that needed because academies are not to be trusted to manage their own affairs, perhaps? Or do the Government intend to deal with the eye-watering salaries of some academy heads? If that is what they want to do, they should say so, and introduce proper measures to address the problem rather than simply taking the power to consider fixing it at some unspecified date in the future.

These powers include the curriculum, so does the department intend to use this power, for example, to educate our children about credit scores, applying for a mortgage, understanding employment and rental contracts, and digital skills? We should all hope so, because these are sorely needed—but we just do not know from what is on the face of the Bill.

We will be tabling amendments to ask the Secretary of State, at the very least, to consult on these powers and, in the interest of transparency, report on how they are to be used. We are keen to maximise parliamentary oversight of the standards and their implementation, and for opportunities for parents and carers to influence the education of their children. It should be noted that there has not been an opportunity for pre-legislative scrutiny, as the Government have chosen to start this Bill in your Lordships’ House. In the other place, a committee of MPs would be able to take evidence from stakeholders to help inform their deliberations. Would the Minister be open to suggesting that this stage could be included when the Bill reaches the other place? That kind of scrutiny can be beneficial.

Local authorities will be able to apply for any and all of their schools to become academies. They will have to consult governors but will not need the agreement of governors—so we will be pressing the Government on this in Committee. We think that local school governors should not be steamrollered if they have concerns about becoming an academy, because this would be damaging to parental confidence.

Local authorities will be required to give parents of children not registered in a school educational support if they ask for it, so what are the Government going to do to make sure that councils are resourced sufficiently to do that? Will guidance as to the kind of support that the Government have in mind be available in Committee?

On admissions, what do Ministers anticipate the role of local authorities to be in future? Ensuring honest brokerage is vital to fairness and for parents’ confidence.

There are aspects of the Bill that we welcome. We very much welcome Ofsted being given the powers it needs to inspect unregistered schools. This is a situation that has persisted for too long and we will support the Government’s efforts to resolve it. Similarly, we are pleased to see teacher misconduct regulations extended to cover supply and part-time teachers, and to more settings. Children deserve to be safe in their classrooms, and teachers who break that trust should be held to account.

Schools will have to devise attendance policies in future and we do not disagree with that. They will need to set out new responsibilities for staff, but we all know that they are already at breaking point in terms of workload so will there be guidance, training and support, and will the Government make that available, to make sure that what happens is effective and has the impact that we all want to see in schools?

There are some welcome measures, but why is there nothing on several pressing issues that our children are facing, including crumbling school buildings, unqualified teachers, the lack of school food standards and the lack of transparent financial arrangements? We will attempt to help the Government by tabling amendments on all these issues to strengthen the Bill where we can.

We should not forget that schools are struggling with the exact same cost of living crisis as the families they serve. Do Ministers have a plan to help them to keep up with the rocketing price of food, to help them to improve inadequate broadband or for children suffering terrible mental health due to their financially precarious home lives? So far, the Bill is just silent on these issues.

The Queen’s Speech said that education was at the heart of the Government’s agenda. I am afraid that is not the message that the Bill sends. Teachers, children and parents need action and leadership from the Government. They could be doing so much more. We do not expect Ministers to engage and agree with us on everything that we suggest, but we look forward to working with noble Lords from across the House to turn what is unfortunately an unambitious and lacklustre piece of legislation into an Act that does justice to our children and their families.

3.42 pm

**Lord Storey (LD):** My Lords, I remind the House that I am a vice-president of the Local Government Association. I thank those organisations and individuals that have been kind enough to send out briefings, particularly the NEU, Professor Anne West at the LSE and Dr David Wolfe. It is good to see the noble Lord, Lord Watson, here; his contribution on education in your Lordships’ House has been enormous, and I thank him for that.

Last Tuesday we debated the glorious speech—sorry, the gracious Speech, though it was probably glorious as well. Many Peers spoke on education, and this Second Reading gives us an opportunity to reconsider some of the excellent and important points raised then. I said that I wanted every pupil, no matter the type of school, to have the same educational opportunities and resources. I also said it was important that the parent voice was heard loud and clear in schools and that transparency, accountability and openness must prevail.

To my mind, transparency should be the hallmark of the Bill. Part 1 sets out a new framework for the regulation of multi-academy trusts. In launching the schools White Paper, the Government said they wanted all children to

“benefit from being taught in a school in, or in the process of joining, a strong multi-academy trust”.

Stand-alone schools in multi-academy trusts have no individual control over governance, admissions, finance and destiny, so let us remind ourselves that academies in MATs have no legal identity of their own.

These individual academies have precious little of the individual independence and decision-making that they were promised when the programme was first espoused. It is the MAT that has the legal status and it is the MAT that has the contract with the Secretary of State, which means the school has no automatic right to make decisions or policies relating to the running of the school; stand-alone academies and maintained schools do. The school becomes a satellite of the all-powerful centre, with head teachers and governing bodies virtually powerless. With some MATs having schools all over the country—say, from the north-east to the south-west—there is a real concern about how, for example, local circumstances and ethos are reflected.

Decisions in academies are often made without transparency by trustees whose appointment is opaque. Often, they have little or no experience in educational matters. Is this really the best way to run educational schools? School academies in MATs have no individual power over governance arrangements and are often locked into a contract that is no longer appropriate for the values and educational direction of staff, pupils and parents.

Finally, MATs, while having accounts signed off by an external auditor—who, by the way, they appoint themselves—do not have to provide detail of how public money is spent. Data published by the MAT can mask financial decisions regarding individual schools in the MAT. The lack of financial transparency leads to concerns about how public money is used. We see, for example, excessive salaries paid to trusts’ chief executives. It can also use public money to pay out compensation claims and non-disclosure agreements, all hidden from the public, whose money it is. We have seen how procurement contracts can be a murky area, with contracts going to family and friends without proper transparent arrangements. Maybe we should consider Ofsted, when it inspects academies, applying the same rules as it does to maintained schools and looking at the financial arrangements as well. We will be tabling a number of amendments to ensure that transparency is the order of the day.

I turn to the other important issue in the Bill: school funding and the national funding formula. We very much welcome these proposals but want to raise the issue of the funding of small village schools, which are the centre of many rural communities and of which the right reverend Prelate the Bishop of Durham spoke during the Queen’s Speech. It is sad to reflect that between 2000 and 2019, 183 rural schools closed. We need, through the funding formula, to do all we can to support these rural schools and the communities they serve.

Similarly, this is an opportunity to look at transport for school students, an issue that has never been properly addressed. In Northumberland, for example, pupils have to travel long distances to get to an FE provider or sixth-form college. We think free transport should be extended to the age of 18. Community should be at the heart of educational change.

I hoped that the Bill would set out a clear role for local government and that a partnership could develop between local government and multi-academy trusts. There are a number of areas for which LAs are ideally placed, having local knowledge and expertise, including admissions, expulsion appeals, school place planning and working with Ofsted to tackle unregistered schools—an area where a partnership approach would be so beneficial. The 2016 White Paper proposed three roles for local authorities in an all-academy system:

“Ensuring every child has a school place ... Ensuring the needs of vulnerable pupils are met ... Acting as champions for all parents and families.”

It did not, however, propose any new powers to help them fulfil these roles. It is also vital that an element of local discretion is used in the national funding formula, allowing councils to take local priorities and the needs of their area into account.

I congratulate the Government on listening and being prepared to tackle the issue of unregistered schools. No child should be placed in a school where unacceptable practices bordering on indoctrination take place. We must liberate children from such dangers. Similarly, home schooling needs to be regularised. Home-school educators do a fantastic job, and we should pay tribute to their commitment, or the commitment they take on—by the way, with no financial support—but is it right and proper that home educators are not registered? Perhaps they need a light touch in terms of support as well. I have no doubt that your Lordships have faced a deluge of emails from the home-school educating lobby complaining of any changes, but it is not acceptable for hundreds of thousands of children that we have no idea where they are. Their safety and well-being are paramount, and I congratulate the Government on this simple measure.

Finally, I want to raise an issue which is very important to me: the issue of pupils who are permanently excluded from school. These are the most vulnerable children who need the most care and attention. They invariably have special needs, whether behavioural or emotional, and certainly have learning difficulties and often difficult family circumstances. If they are excluded from school, they might be lucky that there is a pupil referral unit on the school site, but in most cases it will be left to the local authority to find an educational placement for them. Because local authorities still have huge budgetary pressures, they often place these damaged young people with the cheapest provider they can find, and that provider will be unregistered. Some of the educational practices of these unregistered schools are frankly not acceptable. Because they are not registered, they do not have to be inspected by Ofsted, so we have no knowledge of what is going on. All excluded pupils should be placed with a registered provider so that they can get the best possible support and educational opportunity. Remember: some of these young people, as well as being sent to an unregistered

[LORD STOREY]

school, might also be with an unregistered care provider. My goodness, this is the 21st century and we are treating children in this way.

I was interested in the points made by the noble Baroness, Lady Chapman, on the curriculum. Over the next eight years, when the Government hope to implement these proposals—of course, there will be a general election during that period too, and goodness knows what will happen then—we are going to have a system where some schools will have freedoms in the curriculum and others will not. I hope we will come together and start looking at ways to ensure that all schools have the same opportunities and freedoms, which can go together, and that way be better prepared if and when they become academies.

Covid has been a real shock to our schools and education service, with pupils missing huge amounts of schooling, falling further and further behind with their education, having increased mental health problems and Covid disproportionately affecting children from poorer families and communities. Boosting education, ensuring the resources and best teachers are there for all pupils, is the best way to level up.

3.53 pm

**Lord Harries of Pentregarth (CB):** My Lords, I begin by paying tribute to teachers. I believe teaching is one of the most challenging jobs anyone could do and today in particular they face multiple challenges, not least the mental fragility of so many pupils, as outlined so powerfully in today's news. The Bill raises a range of concerns, and I will be listening carefully to those who address them as well, of course, as to the Government. In the limited time available I will confine myself to one issue, which is to sketch out the background to an amendment that I will be introducing in Committee on fundamental British values.

I believe that it is more important now than ever before that pupils understand the fundamental political values upon which our life together is based. They are under threat all over the world, not just from totalitarian states like China and Russia but in countries that still claim to be liberal democracies but where, in reality, there is a significant loss of those fundamental freedoms and rights that are integral to a true democracy.

The teaching of fundamental British values has its origin in the 2011 Prevent strategy. This was taken up in 2014, when schools were directed to promote the fundamental British values of

“democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.”

When these values were first announced, they met with two kinds of opposition. First, there was a worry that, because they came in as part of the Prevent strategy, their formulation had in fact been skewed in one direction—tolerance of all faiths—to the neglect of other fundamental values. The second criticism was that they claim to be British values when, it was argued, such values belong to other societies as well.

Concern about this wording and recommendations for a slightly different formulation were put forward in 2015 in *Living with Difference*, the report of the Commission on Religion and Belief in British Public Life—of which I was a member—set up by the Woolf

Institute in Cambridge and chaired by the noble and learned Baroness, Lady Butler-Sloss. It has also been taken up by two House of Lords special committees of which I have been a member, in particular in the 2018 report *The Ties that Bind: Citizenship and Civic Engagement in the 21st Century*, from a committee chaired by the noble Lord, Lord Hodgson of Astley Abbotts. So this amendment has not come out of the blue but has been marinating for 12 years.

The first question that arises is whether the phrase “fundamental British values” is still the right one. Should it not be “the values of British citizenship”? That title does not claim that these values are exclusive to our society, but it rightly and legally claims that they are the values of anyone who is a British citizen, whether by birth or by adoption.

On the values themselves, democracy, the rule of law and individual liberty—or, perhaps better, freedom—must surely remain in place. But, although the rest of the list—

“mutual respect and tolerance of those with different faiths and beliefs”—

is indeed essential, what about equal respect and concern for every person as such, able or differently abled and of whatever race or background? Would it not be better to talk about individual worth and the equal respect and concern due to everyone, whatever their beliefs? The word “tolerance” is somewhat uneasy in this context; there are some beliefs that we should not tolerate. But we should respect people and their right to hold beliefs, even if we do not respect the beliefs themselves.

I will talk in more detail about the exact wording when I move my amendment. I just emphasise that its purpose is to strengthen the statement on values by making it less lopsided and more philosophically coherent. However, in the amendment, I will include one addition to the values already there. It is clear that the one value that clearly resonates with young people more than any other at the moment is the environment. So should we not, in addition to including respect for people, take this opportunity to add respect for the environment? This would mean taking into account the systematic effect of human actions on the health and sustainability of the environment, both within the United Kingdom and on the planet as a whole, for present and future generations. I believe that such an addition would be widely welcomed as strengthening the teaching of values in our schools.

I believe that it is absolutely fundamental that pupils in our schools should be fully conversant with the political values upon which our society is founded.

3.59 pm

**The Lord Bishop of Durham:** My Lords, I declare my specific interest as chair of the National Society. Noble Lords will know that the Church of England started mass education for the poor in England in 1811 through the work of the National Society. We built thousands of schools which have been at the heart of our commitment to the common good ever since. The state joined in this educational endeavour 50 years later. A strong mutual relationship developed, culminating in the dual system settlement in the 1944 Education Act.

Since a Labour Government introduced academies in the early 2000s, that system has been evolving but bringing complexity and fragmentation. Free schools added to this. Academies started as an innovation to bring fresh approaches to improve outcomes, especially for children in the most disadvantaged areas. There has been much success, although not in every case. Academies are now the predominant school type. As the system moves towards all schools being academies in a strong trust, it is right that we give detailed attention to ensure that academies are placed within a firm legislative context rather than rely on the largely contractual nature of the present arrangements.

One-third of our 4,700 schools are academies, but, with two-thirds still to convert, our schools need to know that the future of the partnership between Church and state, and the principles maintained since the 1944 Act, remain secure with sufficient safeguards. We welcome the comprehensive clauses relating to schools with a religious character. They set out how that settlement between Church and state continues when much of the existing maintained legislation can no longer be used as the basis for their operation.

We are very grateful for the way in which DfE Ministers and officials have engaged with us so that the areas of policy with specific relevance to the future of schools on sites that have been provided by the Churches are addressed. These include the governance, both individual and within MATs, the arrangements for worship and religious education and the question of land ownership. The Minister will understand that in Committee we will continue to test that the detail in the Bill fulfils that need, including ensuring that guarantees are in the Bill and not simply left to regulations. This may mean bringing amendments where we consider change is required.

We are not only interested though in the parts of the Bill which relate specifically to the schools provided by the Church of England, the Catholic Church and other faith communities. Our vision is for the common good and the best possible educational outcomes for every child. Church members work in all types of schools, parishes engage with all character of schools and our training is accessed by teachers and heads from schools other than our own.

We have a clear vision that education is for every child to experience life in all its fullness. It is for wisdom, not simply knowledge. This means enabling children to be creative, enjoy sport, build strong relationships, explore spirituality and learn languages, alongside equipping them with numeracy and literacy and preparing them for the world of work. When we reduce education to simply being about literacy, numeracy and the workplace, we sell children short.

We know that giving children a safe, loving environment in which to learn is essential, so knowing where children are matters. Thus, attendance and registration are important, but the collection and use of data needs careful consideration to make sure that the balance between safeguarding and freedom of choice is maintained. This will include the right to home education, which is significant for some children. The right reverend Prelate the Bishop of St Albans, who cannot be present today, plans to engage further in Committee on this.

With many families struggling to juggle complex issues of poverty, additional health or special educational needs, we need the state to provide support, not simply punitive measures to enforce attendance.

Every child having a good teacher is at the heart of the Government's strategy, but I am concerned that the current process of reaccrediting initial teacher education providers seems somewhat flawed, with many established providers being unsuccessful in the first round. This is likely to exacerbate the teacher supply crisis.

It is vital to ensure the sufficiency of teacher education provision; then those teachers need to be inspired, developed and given the maximum resources possible to deliver excellent education in every single school. The proposed changes to the funding system describe how the funding will be used and distributed. We need to ensure that such provision works for schools in areas of disadvantage and for the huge number of small schools that are at the heart of our rural communities. We cannot escape the hard reality that, with all the pressures on school budgets, the reforms and aspirations of the Government will be made possible only if we invest courageously in the education of our children. We need a big vision for our schools, and we need to ensure that this legislation is the best that it can be to effect that vision.

4.05 pm

**Lord Altrincham (Con):** My Lords, the Schools Bill clearly supports the Prime Minister's ambition to improve schooling for all children and to even out spending across education. In looking at evening up spending, an important area is left very uneven—the provision of mental health services for children. It is extremely varied across the country, as we know, and is currently at the stage where schools have an expectation that there is a mental health lead in the school, but no particular separate counsellor at this stage, and no provision or funding for a counsellor for children.

Every generation of schoolchildren has its own challenges, but by far the biggest challenge for this generation of schoolchildren is mental health. Opinions vary as to why that is the case, but the situation is running very strong in schools at the moment. The Bill as currently configured, as the noble Baroness, Lady Chapman, and others have noticed, makes no provision for mental health. At the very heart of an even approach across education that will secure fairness and equality for children, there needs to be much stronger provision and a much more direct approach—and, frankly, urgent access to counsellors in schools. As we know, the current position is that, in extreme situations, children are passed across to CAMHS in the NHS. But it is completely impossible that CAMHS will have sufficient capacity—and it never will have sufficient capacity. The problem lies in schools, and the schools need more support.

Beyond getting children back into school—obviously the Bill reflects where we are post pandemic—and making sure that they are all in some form of education, and I welcome the provisions to make sure that that is the case, the Bill provides some degree of support for well-being and mental health. But beyond that there is another set of problems in secondary schools at the moment, and it is another area that we should look at

[LORD ALTRINCHAM]

urgently, certainly while the Schools Bill is making its progress. It is the area of eating disorders and gender. In that area, schools are facing a bewildering set of issues that arise and are passed to teachers, who often have very limited training and limited ability to handle the situation.

The legal environment around this is still somewhat ambiguous. Despite the Education Act 1996, which provides that parents should always be involved, and despite the Equality Act 2010, which should always ensure that there is a balanced discussion of difficult topics within a school environment, the legal environment is very difficult for schools. In this position, teachers face a bewildering set of issues, and children are finding all manner of ways in which to make life quite difficult in schools. Teachers therefore experience a situation in which women's rights and privacy is eroded, parents' participation is neglected and free speech is ignored. In this environment, teachers in schools need much stronger guidance from the department and from Ofsted. That is another area that we might take a look at.

I do welcome the Bill. It is extremely important that we even up spending for all children—but, in the current environment in schools, part of that should be about addressing mental health. As a matter of urgency in secondary schools, and in particular to protect the needs of teenage girls, we should look very quickly and urgently at the legal environment around these gender, self-harm and depression issues.

4.09 pm

**Lord Blunkett (Lab):** My Lords, I have a declared interest as the honorary president of the Association for Citizenship Teaching. I agree entirely with the comments of the noble and right reverend Lord, Lord Harries. I just wish that citizenship teaching was taken more seriously, from the top and right through the system, from headteachers to Ofsted in particular. I know that the Minister will listen today, because she listened earlier this year. I hope that she can take back to her colleagues in the department the comments from this afternoon and those in Committee. I also hope that, when she comes to respond to the debate today, she will say something about the juxtaposition between the special educational needs Green Paper and consultation and this Bill, and whether proposals will be brought forward when the Bill reaches the House of Commons.

I commend what has just been said in relation to mental health, the way we need to take it much more seriously and how that then needs to be co-ordinated so that local authorities and local health services have a very key role to play. Of course, this is highlighted by today's report on safeguarding and children in care, which shows that we have a scandal on our hands. This might not have been so bad—although it would not have resolved it—had Sure Start not been destroyed in what I consider to be a criminal fashion.

I turn now to the Bill. Not everything in an education Bill is actually about education. I very much appreciate that a lot is going on elsewhere. However, we have a crisis in recruitment, including a shortage of

30,000 teachers. We have a shortage of male teachers and role models. One in seven who starts teaching drops out in the first year. We have had a 25% cash cut on the amount spent on repair, maintenance and renewal compared to 2010, and we will get back to 2010 levels for revenue funding only in two years' time. The situation is scandalous. While the Bill has a number of very good elements in it which have already been mentioned—including the role of Ofsted in the registration of children who are allegedly taught at home—there is so much left out. It is a mouse of a Bill. As my noble friend Lady Chapman on the Front Bench has described it, the Bill is a lost opportunity.

I will concentrate on trying to wheedle out where we are going with the structure, functions and accountability of the service. We started in 2010 with the mantra that every school would be free-standing: free to do what it wished, and free to adopt the curriculum or not. Thank God that we have moved away from this and returned to the idea which all education institutions—or at least 90% of them—understood to be the case: you need a family of schools in which schools worked, contributed and spread success together. We are moving back to that, albeit under the multi-academy trust model. This actually makes free schools a complete anomaly—that is, the idea that you can create a new school only by calling it a free school, even if it is not free because it is part of a multi-academy trust which, as has already been spelled out, will now be dictated to by the department itself. We have moved seamlessly in 12 years from everything being part of an isolated, fractured and “fragmented education system”—as the former Chief Inspector of Schools, Michael Wilshaw, called it seven years ago—to putting them into multi-academy trusts. We have moved from, “You do it your way and all flowers will bloom”, to giving the Secretary of State powers—which I actually welcome on the whole—to intervene to avoid failure.

However, we are not really providing any accountability; it has already been said in this debate that the missing element is accountability. This involves the engagement of parents and governing bodies with some role and power to ensure that this is a function of the whole community and not just the creation of isolated multi-academy trusts peppered across the country. This also involves ensuring that those recruited as trustees—and, I hope in the future, as governors—of the schools themselves are appointed on a transparent basis. There is so much to do to rethink the curriculum and assessments, and to work out how best to teach in the modern era, what to teach and how to prepare young people for a very different future. Very little of what is in this Bill will affect the fundamentals of our education system for the future, and that is a great shame.

4.15 pm

**Lord Shipley (LD):** My Lords, it is always a pleasure to follow the noble Lord, Lord Blunkett. I remind the House that I am a vice-president of the Local Government Association. The noble Lord, Lord Blunkett, made a number of very important points, comments and suggestions to the Minister on special educational needs and mental health, and he reminded us of some of the big problems that face the school system—not least recruitment and the cut in the repairs budget over

the last decade. I have asked a few people over the last few days who are heavily involved in the school system if they could do one thing to improve life in their schools, what it would be. They said, “Repair our school buildings—have the money to do it”, so that issue could be addressed outside the context of this Bill.

I agree absolutely with the noble Lord, Lord Blunkett, too, about the concept of a family of schools and the role of governing bodies as local entities; both those points were very important. But as my noble friend Lord Storey said, there are a whole range of issues around multi-academy trusts that we need to address as a part of the passage of the Bill—the powers of the academy trust over the local authority, the school itself, its governing body, the head teacher, and, of course, the Secretary of State.

The purpose of this Bill is to

“Level up opportunity by delivering a stronger and more highly performing school system that works for every child, regardless of where they live.”

That is most welcome, but it says nothing about overall resources, and nothing about the curriculum. I am doubtful if it can be done without both those issues being addressed.

I am content to support a national funding formula to eliminate some of the inexplicable differences that occur within the current structure, but some schools are small, some schools are rural, some are in very deprived areas, and we must look very carefully at the methodology of a new funding formula. To say that each mainstream school will be allocated funding on the same basis wherever it is and that every child will be given the same opportunities based on consistent assessments of their needs will prove very hard to deliver unless local authorities have a role in identifying schools in need of extra support. I hope the Minister might be able to respond to that point when she replies to the debate.

The briefing that accompanied the Queen’s Speech said that there would be four main benefits of the Bill. I think the Government should use “could” or “might” or “hope” rather than “would”, because there is a huge problem around the issue of resources.

I recognise the importance of strengthening of the attendance regime, particularly post-Covid. Yes, all schools should publish an attendance improvement policy—attendance matters profoundly, as research shows us, so putting attendance guidance on to a strategy footing seems right. But we need preventive measures to encourage high attendance and there has to be a shared debate about what that means and what needs to be done to ensure that schools can increase their attendance.

There has been a lot said about safeguarding children wherever they are in education, and Parts 3 and 4 of the Bill are important: they address child protection and, as my noble friend Lord Storey rightly identified, this is about children’s rights, and we have to consider that in the context of what Parts 3 and 4 propose. I am in favour of registration by local authorities of children who are not in school; I think that most of the general public would be surprised to learn there is not a register of this kind. It will therefore be important for local authorities to have one and to provide support to home-educating families.

Part 4 of the Bill proposes increasing the powers of regulation via Ofsted to inspect any place providing a majority of education for more than five children. I am interested to hear from the Minister why the figure of five has been decided on, as opposed to four or three. I understand the complexity of that question—there has to be a number—but the justification would be interesting because there could be a case for making it lower.

I agree that we should not allow more loopholes to exist that prevent Ofsted carrying out its legal duties, such as claiming that an educational institution is part-time or providing further education. I just say to the Minister that I would like to explore in Committee whether prosecution, where there is unlawful activity, should lie with Ofsted or Ofsted’s role should be as the witness and the local authority should provide the legal support.

In my final minute or so, I note that I hope that the Minister will understand the importance of confirming the role of a local authority handling appeals and exclusions, school place planning, admissions policy across a local authority area and guaranteeing the necessary standards for special educational needs.

I must say, however, that I find the Bill a missed opportunity. There is nothing about primary schools and careers guidance—careers guidance occurs only from year 7, but it should start much earlier so that there is no loss of aspiration when children move from primary to secondary school. As Sir James Dyson said recently:

“Children are creative, they love building and making things ... but as they get closer to GCSEs and A-levels all that is squashed out of them.”

I would like to explore what we can do to help the other 50% in our schools who do not plan to go to university.

4.21 pm

**Baroness Meacher (CB):** My Lords, I shall speak principally to Parts 3 and 4 of the Bill and applaud the Government’s proposals to fill the gaps in the law that have inhibited action until now to close illegal schools. We know that the education provided in many unregistered religious schools is narrow in scope, predominantly scriptural in content and deeply conservative, intolerant and extreme in outlook. Because these schools have been able to evade inspections, bad practices of all kinds appear to have developed. Former pupils of such illegal settings told an all-party parliamentary group in December of the physical, emotional and sexual abuse they had suffered. They also talked of the narrow religious curriculum, with no English, maths or science in their school experience. I therefore welcome the compulsory registration of children not in school. This will help close a loophole exploited by proprietors of illegal schools who claim that they are merely providing supplementary religious instruction to children otherwise educated at home. The problem has been that such children can be entirely invisible to the authorities.

I also very much welcome the Part 4 increase in Ofsted’s power to inspect “independent educational establishments”. However, I hope we can have meaningful discussions with Ministers about the definition of an independent educational institution, restricted as it

[BARONESS MEACHER]

seems to be in the Bill at the moment to those that provide “a majority” of education for more than five children. This definition risks those establishments wishing to remain below the radar simply dividing their service in two—a morning school and an afternoon school—thus avoiding inspection. Can the Minister explain the thinking behind the limitation of Part 4 to institutions providing the majority of education? Do the Government have a solution to deal with these illegal schools seeking to evade inspection?

No doubt we have all had a briefing from Taunton Home Education asking us to oppose Parts 3 and 4. I have to say that I do not believe that these parts have anything really to do with Taunton Home Education, or indeed any other upstanding educational organisation. However, it may be helpful if the Minister can give some assurance to those sorts of educational establishments that this is not what Parts 3 and 4 are about.

Turning to religious education in schools, I hope this House can ensure that the content of religious education and worship in all schools reflects the full ambit of freedom of religion and belief and that a pluralistic and critical approach is adopted. I hope that comment chimes with the very important comments of the noble and right reverend Lord, Lord Harries of Pentregarth, whom I respect so much, I certainly do not wish in any way to say something contrary to what he said.

Finally, a huge issue not dealt with in the Bill, it seems, is child mental health. There is no doubt that mental health services for children are frighteningly underfunded and inadequate. The pandemic has greatly increased the number of children with challenging mental health problems, so we now have an issue of crisis proportions. I understand that the Government have agreed to roll out mental health support teams to just one-third of the country. Surely this cannot be acceptable. The Schools Bill provides the opportunity for us to roll out these mental health support teams throughout the country as a matter of urgency. I hope the Minister will agree that this is something we need to think about.

We have heard from a number of organisations representing children with different conditions and disabilities. There are clearly concerns that children with special educational needs will be compelled to attend a school from which they cannot benefit. I hope these fears are misplaced. It seems that families of autistic pupils, for example, fear they will be punished with fines for poor attendance when their child simply could not benefit from going to school. These concerns are surely genuine and I hope the Minister, in her reply to this debate, can make absolutely clear that the families of any child with a special educational need or disability will not be punished under the provisions of Part 3 for non-attendance at a school from which they cannot benefit.

On a positive note, I hope the Bill will ensure a much needed improvement in educational opportunities and support for young people with ME, the terrible disease that affects so many children as well as adults. I look forward to this House coming together with Ministers to prioritise amendments on these important issues.

4.27 pm

**Baroness Berridge (Con):** My Lords, with children sitting GCSEs, BTECs, A-levels and other qualifications, it is rather apt that today this Bill is having its Second Reading. Many noble Lords will, like me, be waiting with bated breath for the full performance and attainment gap data that will, sadly, perhaps confirm that Covid has disproportionately affected our most disadvantaged students. I welcome the Bill for the changes it makes for those students, but I am concerned about some missed opportunities.

Perhaps 20 years ago there was an ideal world of home education, done solely by parents who truly believed in it and did it very well. If those halcyon days ever existed, they are over, and I thank the noble Lord, Lord Storey, for his persistence and foresight in this matter. It is important to recognise, however, that there are parents who educate at home who have not chosen to do so for ideological reasons but because failures in provision for special educational needs children made them feel forced to remove their children from school and educate them at home.

The current situation was drawn to my attention by concerned head teachers. If a child in year 9 or year 10 is falling behind, any good school will engage persistently with parents, and sadly a tiny minority view that as a hassle. Some have cottoned on to the idea that if you tell the school you are home educating, the hassle from the school goes away. That is the story of some of the young people in our towns and cities today, and the local authority needs to know their details at the very least. They are vulnerable to criminal and sexual exploitation as well as to not getting an education. There is the risk that some parents may choose to keep their children away from other influences and expose them to truly extremist views. Then there are those who home education allows to harm their child physically and emotionally. Home education, or not being on a school roll, has been a factor in a number of the most serious cases of harm to children and in harm done by children who end up in the criminal court system. Although the Bill puts a duty on parents who are doing a good job, for the common good it is time to legislate.

Part 1 may seem technical, but it is essential to delivering better education for our most disadvantaged and SEND children and sorting out some of the messy world of trusts. It deals with the amber lights; I will come to the red lights later. The changes since 2010 mean that the Secretary of State has direct responsibility for the quality of education in our schools. I believe it has enhanced the role of the MP as it is the MP’s job to hold central government, not local government, to account. In theory they are better qualified to come to the Secretary of State who purchases the services and should sort of them out. The Secretary of State may, *inter alia*, already see an amber light in relation to an academy’s finances or may be aware that a trust has got hold of some Section 106 money and is embarking on an extensive building project with scant construction resources on the trustee body. Currently the Secretary of State may be powerless to intervene, but if you can catch problems, whether with finances,

building or governance, you can sometimes get into a school or trust before the education of the children suffers.

All this intervention is about preventing failure and making good use of public funds, and most academy trusts do a very good job. But rather like the great parents who home educate, the Secretary of State must have power to sort out the trusts which are in breach of standards or agreements. I have numerous questions in relation to the clauses and I hope we are not going to end up with a blend, with some matters dealt with in standards and some left in the agreements, which seems to be a possibility under the Bill. But I look forward to discussing those matters in Committee and hopefully in meetings beforehand.

If the red light of an “inadequate” Ofsted judgment can be avoided by these interventions, so much harm will be prevented. Once there is an “inadequate” judgment, the school’s contract can of course be terminated, but inadequate schools tend to have disproportionate numbers of SEND and free school meal children in them, so intervening early is essential to prevent this. Despite the best help from the House of Lords Library, the DfE, which produces the data, does not seem to produce free school meal and SEND figures separately for inadequate or RI schools. The Children’s Commissioner did her best in her *Ambition for All* report, saying:

“If you are a child receiving free school meals, you are 1.4 times more likely to be going to a school that is less than good.”

In short, children who are most in need of a good school are the least likely to be going to one. I do not often speak of Members in the other place—and particularly the right honourable Angela Rayner MP—but she did ask a question about this before the pandemic. It was maybe in a bit too much detail to give the department its dues, but I hope my noble friend the Minister will rectify this, as it is essential that MPs and Peers are able to look at the cohort of children in our failed or failing schools.

I am grateful that this Bill sits alongside the consultation on RI schools, as repeat “requiring improvement” judgments should be a red light and be able to end the role of the trust or the local authority with the schools. This has to stop, and two RI judgements should be that red light.

My final red light issue, which I will raise in Committee by way of an amendment, is, as many noble Lords have talked about, the state of school buildings. There is a school rebuilding programme, but there remains significant concern about certain building materials used in hospitals, schools and other public buildings. It is the expertise of your Lordships’ House to think through the unexpected consequences and ensure that the Secretary of State has the requisite legal powers should there be an issue with building materials affecting numerous schools which becomes relevant. Letters of comfort may not be enough if the responsible body’s lawyers advise them that they can be exposed to liability governed by the Health and Safety Executive.

I am disappointed that none of the barriers that cause local authority-maintained schools to get stuck and not transfer into the academy system are not

addressed in this Bill. Nor are the changes to trust law that can help certain transfers. I am disappointed that the parents of children at a grammar school, rather than a wider electorate, can ensure that the school remains selective. As of January 2021, only 4.9% of children in our grammar schools had free school meals; this really cannot be helping social mobility. I would be grateful if my noble friend the Minister—as the noble Baroness, Lady Chapman, outlined—could consider whether there are matters to do with the admissions code, which the Government used persuasively for looked-after children, that can be looked at in this regard.

I applaud the vision of the Bill, but it has to lead to a nimble and quick solution for academy trusts that are failing. While this legislation will give the Secretary of State the ability to intervene, it has to be used urgently and should be like a 999-urgent situation when a school is failing.

4.33 pm

**Baroness Morris of Yardley (Lab):** My Lords, I declare my interest in connection with Birmingham Education Partnership, to which I may refer at different stages of the Bill. I want to begin—as many of us have done—by welcoming the provisions on the register of children not educated in school, and the extension on inspection. That is to put on record my appreciation to my noble friend Lord Soley, whose Private Member’s Bill—a few years ago I think—laid the groundwork for the measures which we see today. I want to recognise that, and the very close way in which the Minister’s officials work with my noble friend Lord Soley and the group supporting him, so that we are where we are today.

I know that I have worked with my noble friend Lord Blunkett for many years, and I think we get on quite well, but I have now found that he is reading my mind, as I am addressing almost exactly Part 1, which are the measures that he addressed. I am going to try to find different words to say more or less the same thing, but to extend it in some places.

This is important. It is very tempting to look back and say, “I told you so; I said 10 years ago that it would go wrong, and it has gone wrong, and doesn’t that make me feel good?” I do not want to spend more than 30 seconds doing that, but the reason why it is important is that where we are now is part of a story—a narrative—and we will not get the future right unless we understand how we got to the point that we are at.

Quite honestly, this Bill could be called the 2022 academies (abolition) Bill, because if those of us who were around at the time think back to that Bill, we will recall that we were promised that we would be a nation of independent, autonomous schools, free from the control of local government and charged with innovating and raising standards in response to the market. Right at the front of this would be free schools that were thinking the unthinkable.

That has not happened; it is not a description, a decade on, of the school system facing us now. That train has hit the buffers. In its main parts, this Bill tries to remedy the faults that were created by the coalition

[BARONESS MORRIS OF YARDLEY]

Government in the years following their election. It does so in two ways: it tries to remedy the legal fault in individual schools, which are academies, and in the school system, which is the multi-academy trust.

There are many good academies, but they are no more successful than any other type of school. MATs are good, but have not proved to be that vision of a school system that will serve all children well and raise standards across the board. At this stage, I want to look at the approaches to both those problems that the Bill outlines.

The proposals in the Bill on academies are incredibly tight. If we look down the list of powers that the Secretary of State is taking for himself, we see that they cover absolutely everything—from governors to the length of the day, the term and the curriculum. Anybody—I look at the noble Lord, Lord Nash—who went through that Bill and served in the department in those days knows that that was not the vision that the academies programme set out to achieve. This Bill is dealing with the failures of past policies.

Like my noble friend Lord Blunkett, I do not mind that. I am probably too much of a centralist—if you have no levers, you cannot implement change. However, I question why the Government and the civil servants are best placed to lay down those standards. There is nothing that recognises expertise, experience and good will at local stages. I worry about that and will want to return to it in Committee.

What worries me most is the multi-academy trusts, and I think that is because we have not really explored them as much as we should. I am in favour of multi-academy trusts; they have always been the godsend of pretty awful legislation in 2010. I pay tribute to the noble Lord, Lord Nash, in making that his life's work in the department—to try to get away from fragmentation to partnership and working together. So I am in favour of them, but there are risks, and the lack of autonomy for schools within a multi-academy trust now is immense. In fact, the Bill makes all academies maintained schools and gives them all the restrictions that apply to maintained schools but leaves them with the name academy. Make no mistake: that is what the Bill does, and it deserves some thought. As much as I like MATs, I am worried about the even greater lack of autonomy and ability to express their own character that schools within a multi-academy trust will get. They are even told about pedagogical approaches, let alone the character of the school. I worry about that.

I also worry that there is no evidence on MATs, because the Government did not let Ofsted inspect them—no body of evidence on MATs has been built up. The Minister said on previous occasions that, as the phrase goes, MATs make good schools. That is not true. Good schools make good MATs. It is a very subtle reversal of what we think. Our challenge is to look at what makes a good school and replicate that; not what makes a good MAT and replicate that. We have no evidence on that, but we have evidence on what makes a good school.

I have very much welcomed MATs over the past years, partly because they are the only show in town, but they are not the only way of forming partnerships.

Has the Minister looked at clusters and federations? Has she looked at the possibility of getting small MATs to work together, rather than pushing them all into MAT sizes of whatever the Bill says?

I would really like some reassurances on how the Minister has come to this conclusion. If we are going for partnerships and interdependence rather than independence, where is the evidence that MATs are the way? The real problem is this: a decade ago, her predecessor said that there was only one way to raising schools and that that was academies. They were wrong. I think the Minister has the best of intentions, so I do not want her to say that MATs are the only way to partnerships. I do not know enough at the moment to know that that is true, and I suspect that it might not be. Those are some of the issues that I very much look forward to discussing as the Bill passes its stages.

4.40 pm

**Baroness Watkins of Tavistock (CB):** My Lords, I welcome the opportunity to speak in this Second Reading and draw attention to my interests in the register. I was the founding chair of Marine Academy Plymouth, now a successful member of the Ted Wragg multi-academy trust. In addition, I have a long-term interest as previous chair of the Acorn schools in Cornwall, working with students with special needs, and I now sit on the quality committee for Outcomes First, a company which owns several schools supporting children with a range of special needs. In addition, I have a family member involved in secondary school teaching.

I welcome the Schools Bill, particularly the emphasis on enhancing a sound approach to monitoring all children through their school attendance and following up those whose attendance is sporadic, which has a negative impact on their potential to learn and lifelong chances. The pandemic has shown us that we must follow up these children quickly and not leave it till the end of term.

The encouragement for all schools to become academies is, in principle, something I fully support. However, a similar approach was adopted to promote that all NHS trusts become foundation trusts, and is one which we now question following the recent pandemic, looking to other forms of partnership to provide best solutions. Do the Government intend to force all schools to either become or join an established academy trust, even if governors and parents support remaining within the local authority through other kinds of partnership schemes?

The emphasis in the Bill on ensuring equal opportunities for all children through a national formula for funding pupil places is clearly fair. However, in severely deprived areas, is there not an argument for considering not only pupil premium allocation but significant additional investment in new and improved school buildings, IT and sports facilities? I remember when the Conservative Government were elected and the schools building programme which had been instigated under the previous Government was in question. That meant that the money for which we had fought for Plymouth was at risk. I have to say that I came with the then principal and saw the then Education Minister, the right honourable Michael Gove, and the funding

came forward in Plymouth to build the new school extension that we had already anticipated. If you go and look at that school, which is now an all-through school, taking children at three through to 18, you will see that it is an example of where new buildings made a significant difference.

Grammar schools are, quite understandably, to be protected. Will these selective schools get the same pupil allocation as other academies, despite the fact that they take fewer students from poorer wards?

As the noble Lord, Lord Altrincham, has well articulated, there needs to be a greater emphasis in the Bill on the mental and physical health support provided to students and teachers in school. Too often teachers are undertaking health roles.

I understand that all schools will be required to provide school lunches and will receive funding for those entitled to free school meals. That seems to focus on lunch. Is there not an argument for providing school breakfasts as well? Will this be the subject of local authority funding rather than central funding?

Please could the Minister explain whether there will be an increased emphasis on reducing the number of children referred to pupil referral units? Should we perhaps say that all academies over a certain student-roll size—for example, 3,000—be required to make provision within the academies themselves for pupil referral units? This is a really important issue, and one that I hope we will explore as we take the Bill through the House.

I welcome the tightening of managing teacher misconduct, but I ask the Minister to clarify the definition of “teacher”. Is it someone with a nationally recognised qualification and/or a graduate who is contributing to teaching?

I note that there is an expectation that all academies should offer teachers the opportunity to access the teacher pension scheme, but what about other terms of service protection for teachers who move from one academy to another? For example, I am aware that some academies employing teachers count their first day of work in the new academy as day one, despite them having over five years’ teaching experience, for rights to sickness benefits outside those of statutory requirements.

I look forward to working constructively on the Bill in its passage through the House because I firmly believe that it is necessary to improve and enhance the education that pupils receive in future.

4.46 pm

**Lord Baker of Dorking (Con):** My Lords, this debate is not really about education; it is about the governance of schools. I think many of us in this House would prefer to be debating education, how to improve curriculum assessment and how to introduce technology and data skills into our schools—for schools of this century, not two centuries ago—but we cannot do that.

This is a cross-roads Bill, in that it increases the powers of the Secretary of State and the Department for Education in a way unprecedented since 1870. It gives them powers that I, the noble Lord, Lord Blunkett, the noble Baroness, Lady Morris, and Michael Gove never had. They are sweeping powers, including the

power to make every academy sign an agreement with the Secretary of State, basically saying that it will do what they say—it will no longer be guidance, it will be direction. It is amazing that this power is being taken.

After that, if the Secretary of State gives an instruction for the school to improve and it does not, they will then issue a warning of termination. If it does not get better, they will terminate the school. This gives Secretaries of State a power to close schools—a power that they have never really had since 1870. The only schools that have been closed by a Secretary of State since 1870 are schools about which Ofsted has said there is huge financial fraud or abuse of children. I did not close any, and about only two every decade have been closed, but the Bill gives them the power to intervene in a very complete way. Every academy has to sign an agreement with the Secretary of State saying that it must accept whatever advice is given—in fact, it is no longer advice or guidance; it is direction.

The Secretary of State will actually be able to change the governors of schools. Suppose that—I say to the noble Baroness, Lady Chapman—a school in Darlington gets into trouble and the Secretary of State says, “I’m going to cancel your governing board.” How can they know the people in Darlington to appoint as governors? They cannot. The same civil servants will be dealing the next day with a school in Weymouth, the following day with one in Plymouth and the day after that with one in Dartford.

We have to be very aware that this is an important Bill. It is a real grab for power by the Department for Education. We must remember that, since 1870, the Department for Education has never run a school. It does not know how to appoint heads or how to determine any of the aspects of running a school because it has never had to do that, but now it is going to take complete control over the education system. It should be watched—not least by members of the Church of England, because I know how delicate the relationship is between Secretaries of State and the Church.

One of the reasons why I am alerting the House to this is a situation that arose with the schools that I have been promoting: university technical colleges. About two and a half years ago, three of the colleges were having a bit of difficulty with recruiting, so my trust provided improvement programmes for them with local employers and the local university. We gave them more resources and they were all on the road to recovery. However, the department involved would not accept that and issued a termination notice to close all three. I said to the Secretary of State, “If you do this, we will challenge each one through judicial review”, and the department immediately withdrew its opposition and its attempt to do that because it knew it would lose. That was a direct abuse of power, and it was only because my charity could afford a judicial review that the schools were saved.

However, if they decide to close a school in future, they do not really need to take any notice of what the community says, as the noble Lord, Lord Storey, said. He waxed eloquent about the role of the community—the school in the community. They listen to the local parents and to the councillors and balance up whether

[LORD BAKER OF DORKING]

the school should be closed. There is nothing in the Bill about this at all. So I am just alerting the House to the fact that this is a game-changing Bill of a very significant nature, and it is totally unproven that the Department for Education knows very much about the improvement of schools—and I say that as a former Education Secretary.

I like one bit of the Bill very much indeed—the Government will be quite surprised to hear that. I warmly recommend the bit on the registration of home educators. We should pay tribute to the noble Lord, Lord Soley, who has conducted a campaign over the years to do this. Several Secretaries of State promised to do something about it. I see that my noble friend Lord Nash is in his place; he must have promised to do something. I am very grateful that something is being done about it. However, it goes a bit further. It is not just registration; local authorities will have the power to intervene, visit schools and determine what the nature of home education is. Some of it is excellent, but some of it is very questionable indeed, and it is not clear whether the students can cope with difficult subjects such as quadratic equations, trigonometry, the difficulties of physics and chemistry and things of that sort, and whether they have sufficient time for relaxation and sport. So that is a step forward. I strongly support that bit of the Bill.

I think the Government will take the Bill forward because it characterises their whole attitude. The Prime Minister today is going to create a department for the Prime Minister. He has already appointed a Cabinet Minister to report just to him. He will increase his staff dramatically so that he can challenge every department and every Secretary of State on any issue of policy so that he secures his will, his whims or his prejudices. That is a fundamental constitutional change in our country and I am simply amazed that Cabinet Ministers today are not prepared to object to it. The Prime Ministership has been described in our history as the “first among equals”. In the future it will just be the first—there will be no equals. That is again a grab for power at the centre.

4.52 pm

**Lord Knight of Weymouth (Lab):** My Lords, it is always a pleasure to follow the noble Lord, Lord Baker. I listened to what my noble friend Lady Morris said about following our noble friend Lord Blunkett and, very strangely, I find myself in exactly the same position with the noble Lord, Lord Baker. It is quite odd.

I should remind the House of my interests in the register as an owner of Suklaa, which is an education consultancy, and in particular as chair of the trust board for E-ACT, a multi-academy trust of 28 schools around the country.

I say at the outset that I am happy with the measures in the Bill around attendance, the regulation of independent educational institutions, teacher misconduct and the home-school register. I join noble Lords who paid tribute to the noble Lord, Lord Soley, who unfortunately could not be with us today. I may be persuaded on the national funding formula as well. I remember, as a Dorset MP, consistent concern about

how my political opponents in county hall were not passing on through the schools forum the amount of money that the more deprived schools in my consistency needed because they were spreading it evenly across the shire county.

However, like other noble Lords, including the noble Lord, Lord Baker, I have real concerns about Part 1 in respect of academy standards and regulation. The Government are trying to solve the right problem: the problem around academy agreements and the multitude of contracts between the Secretary of State and the academies and how confusing that is, the inability of Parliament to be able to easily legislate around what happens in academies, and the use of the academy handbook. For that to be regularised is the right problem for us to solve. However, the solution is jaw-dropping: making the Secretary of State effectively the chief education officer for 25,000 schools, and what is being proposed around standards, intervention and termination.

I understand that, if you are in the centre, you see when there are failures and you want to be able to use all those powers, but the problem—I say this quietly as far as my Front Bench is concerned but ask government Ministers to listen—is that, even if they think they will use these powers only when they need to and in the best possible taste, what about future Secretaries of State? They will not be in office for ever. Do they really want to give future Secretaries of State the power to do what on earth they like to schools in this country? That is what this Bill allows them to do. I do not think they really want that, or that the system that will implement this has the capacity to do so well.

The reality is that regional schools commissioners will have teams of officials who in the end will be going out to multi-academy trusts and telling them what to do. I like to think that they will all be of the calibre needed to be able to do that but, in the end, I am afraid that I do not believe it. Unfortunately, when the Bill talks about academy proprietors, it is silent on the difference between members and trustees. I want to be able to explore that in Committee because there are some real differences, for example around termination.

I did a bit of rough maths. If every school were to become part of a MAT, with 10 schools in a MAT and 10 trustees in each MAT, that would mean 25,000 trustees you have to be able to recruit. We have to work out whether a system in which you are dictated to on everything you have to do is the right environment for people to want to be trustees; I would question that. I see this as potentially the end of innovation in schools and the end of academy freedom. In particular, I ask the Minister whether this is the end of the curriculum freedoms that academies want to be able to enjoy.

This Bill doubles down on the direction of travel of the last 12 years, as my noble friend Lady Morris said. It is not empathetic. Will it help to recruit more and better MAT trustees? Will it help to get us more and better school leaders and teachers? It is understandable from the centre, but not in terms of incentivising us to be involved in the system. As others have said, we need a Bill that sets out a different vision for schools. There is a growing consensus for change in this country. The Government's targets for education by 2030 will not be met unless we do things differently.

The noble Lord, Lord Altrincham, talked about mental health and well-being, as others have done. I read this weekend that 420,000 children are being treated every month in this country for mental health issues. That is a crisis. Josh MacAlister's report on children's social care and the need for a family health service in schools is out today. We need to be putting children first and designing a school system. It is a universal service for children that should think properly about how we help children, especially the most vulnerable, to have the breadth of knowledge, of skills and of behaviours that they need to thrive, emotionally, socially, environmentally and economically. Then, with that vision, I think we can all go forward together in this House.

4.58 pm

**Baroness Garden of Frognal (LD):** My Lords, the range of speakers in this debate indicates how close schools are to your Lordships' hearts. It is always a pleasure to follow the noble Lords, Lord Baker and Lord Knight, and realise that our passion for schools transcends party politics.

I taught in a number of schools during a peripatetic life with my wonderful RAF husband—we moved 24 times in 30 years—in between working as a filing clerk and a copy typist; I was a “thinking copy typist”, which got me into trouble as copy typists were not supposed to think. So, we come to your Lordships' House with a wide range of experience. Teaching for me was always the most challenging, rewarding and occasionally terrifying work. My supply-teaching woodwork class remains an experience I would never wish to repeat. From time to time I taught my subjects, French and Spanish: but whatever class I was called upon to cover, it always seemed to me that education should be enjoyable and that learning should be fun—which was quite a challenge with French verbs but not impossible.

I would be thrilled to see a Schools Bill setting out the importance of music, art, drama, creative skills, coping skills, financial skills, preparing young people for adult life and, as my noble friend Lord Shipley mentioned, careers guidance, all the while stressing that learning must be relevant, and seen to be relevant, in order for young people to put their energy into their education. I strongly support the amendment on values as set out by the noble and right reverend Lord, Lord Harries of Pentregarth. However, there is none of that in this Bill; nor has there been in any of the other educational offerings from this Government. Even the skills Bill managed to be dull—quite a feat when we think how exciting and inspirational skills can be.

Having got that off my chest, I turn to the Bill. We have grave concerns about the provisions for special educational needs, but I shall leave my noble friend Lord Addington to speak on those areas that he is an expert in.

As a party which believes in localism and decisions being made as close as possible to the action, we are concerned at the growth in multi-academy trusts and the move further away from local authorities. My noble friend Lord Storey set out some of our major concerns about MATs. Surely local authorities need to

have new functions in planning school places and co-ordinating managed moves, especially where children might be at risk of exclusion. Every school should have its own governing body, since every school is different and parents and others close to the school should have a say in how the school is run and what the priorities are, and an awareness of particular issues and problems.

Councils need backstop powers to direct academies to expand school places, to deliver on councils' duty to ensure that there is a school place for every child who needs one, and to respond quickly to local needs and influxes in population. It is also for councils to have adequate powers to shut down illegal schools. That duty cannot be delegated to multi-academy trusts. Of course, as we have heard, home schooling will always be a hot potato. Home schoolers can be passionate about their choice and are already lobbying us on the provisions in the Bill. There are excellent reasons why some children thrive better with home schooling, but we must ensure that those children are not lost to the system.

Every child is entitled to protection from exploitation. We would like any adult in charge of a child to have a DBS check. This should be no problem at all for caring parents or guardians, and it would bring them into line with all other adults who deal with children. We need much better checks on unregistered schools, to ensure that the education they are providing is of good quality, fair-minded and caring. We have no truck with excellent home schoolers, but we must have a way of monitoring non-attendance at school.

Again, it should be for councils to have powers to check on children who are not in school, to ensure that they are receiving a suitable education, and for safeguarding purposes. We cannot give in to some of the more robust tactics of passionate home schoolers, who may be paragons of virtue themselves, but who cannot guarantee that all those who claim to be home schooling share their high standards of education and loving care.

There was once a proposal for a unique pupil number, so that each child could have their progress followed and could be traced if they fell out of the system. I do not know what happened to that. Registration of pupils is a modest measure. Surely no one could object to some means of ensuring that all children not in school were known, were not in danger, and were learning. As the noble Lord, Lord Baker, set out, we will always be concerned if additional powers are given to Secretaries of State—Ministers who are here today, gone tomorrow; I apologise to the noble Lord, Lord Nash—who often have no teaching qualifications or educational specialism. Please let us not resort to that as a backstop position. It should be for us in Parliament to take decisions on such important matters as education.

We also notice with great concern the growth in mental health problems in schoolchildren. What steps are the Government taking to increase provision for those who need support and counselling to help them through? Many of these measures impact on further education colleges. What discussions have there been with colleges about the proposals here?

[BARONESS GARDEN OF FROGNAL]

Parts of this Bill are good, even if they are unambitious and differ substantially from the Bill that I would love to see, but we will be scrutinising with care where positive amendments can be made.

5.04 pm

**Lord Blackwell (Con):** My Lords, I mention my interest as the governor of a specialist music school. There is clearly much to debate in the Bill, but I will focus on two areas of provision: grammar schools and home education.

I welcome the safeguards in the Bill for existing grammar schools, but I regret that it is not taking the opportunity to open up the development of new grammar schools. There are now just 163 grammar schools, in 36 LEAs, which means that children in 75% of England do not have access to a free academic school. I recognise that there are of course conflicting views on how much better children of high ability do at grammar schools, but you do not need statistics to appreciate that these children are stretched and motivated when they are in a cohort of children of a similar standard and that this allows the teacher to move at a faster pace and cover more material.

But it is not just about academic progress. What those who have not experienced these schools often fail to understand is the lifting of aspirations and confidence when those from less privileged backgrounds are in an environment and social mix where they can be encouraged to aim for the top. A top stream in some comprehensives may be able to replicate this, but most do not have enough children at that level. Sadly, this is most likely to be true for schools in deprived social areas. So, as the noble Lord, Lord Adonis, once observed, the elimination of grammar schools has replaced selection by ability with selection by postcode. If you are a talented child living in the wrong postcode—in the 75% of local authorities without grammar schools—your chance of getting the top-class education that you deserve has been taken away.

Of course, critics say that selection unfairly favours the children of middle-class parents. That may be true, but those children will benefit from their parental support in any system. That is no reason to take away the opportunity for high-ability children from less advantaged backgrounds to at least have a chance of gaining an education that can transform their lives.

Just to be clear, I am advocating not the return of compulsory 11-plus but simply the availability of free academic schools for anyone with the ability to apply to them. This is similar to the German gymnasium schools, for example, which operate so effectively. I do not understand why, in this country, it is rightly regarded as acceptable to single out the highest youthful talent in, say, football, swimming or drama and give it special support, while it is regarded as divisive to provide the same special support to children with academic talent. These are individuals who may go on to take valuable leadership roles in society.

The new Labor Prime Minister in Australia summed up his philosophy as:

“No one held back. No one left behind.”

That would be a good subtitle for the Bill. Expanding access to grammar schools is an important aspect of ensuring that our brightest children are not held back. I hope that it might be possible for the Government to go further on that aspiration.

The second area that I wanted to touch on is the provisions for home education. An estimated 80,000 children are not in school and are being educated at home. For the record, I note that that number includes some of my own grandchildren. Although the law puts the responsibility on parents to ensure that their children get an adequate education, it is of course important to ensure that these children are actually getting that and that the freedoms of home education are not being abused. So I strongly support the introduction of a simple register that, for the first time, would enable us to know who these children are. But I am not sure that it is appropriate for the Bill to say that a child can be taken out of a school and placed on that register only if the school agrees. It may be that a conflict with the school is the primary reason for choosing home education.

I fear that the Bill then goes too far in enabling local authorities to prescribe and collect detailed and potentially intrusive information about the means and methods by which parents are providing this education. If a local authority judges that the curriculum or teaching methods do not conform with its view of how children should be educated, it would then have extensive powers to require the child to attend a regular school. That provision leaves many parents worried that their existing freedom to choose how they educate their children will in practice be denied.

I recognise this is a difficult balance, but I urge the Minister to listen to the arguments on this and consider whether it might be better to monitor the output from home education rather than giving LEAs powers to control the inputs—for example, having an advisory service with home visits that can make informed assessments about whether each home-educated child is making the progress expected. If there are not adequate resources to do this for every child, parents could perhaps be required to provide an annual report setting out what progress the child has made, which might highlight specific cases where inadequate or unconvincing reports raise concerns.

I suggest that the Government need to review these provisions in the Bill carefully to ensure they do not go too far in giving local authorities excessive power to impose conformity on the freedom that is there for those who want to challenge conformity.

5.10 pm

**Baroness McIntosh of Hudnall (Lab):** My Lords, I declare my interests as a member of Middlesex Learning Trust and a trustee of Artis Foundation. When I spoke in the debate on the humble Address last week, I focused on things the Bill does not address. I am not going to go back to them, but I have not forgotten them, and I am very pleased that quite a lot of them have been addressed by others.

Today I want to concentrate on one aspect the Bill does address, which has already been touched on—I think—by the noble Baroness, Lady Meacher, who is

no longer in her place, but I missed a tiny bit of her speech, and certainly implicitly if not directly by the noble Lord, Lord Altrincham. These are the new provisions dealing with school attendance. In doing so, I acknowledge an excellent briefing from Ambitious about Autism.

I am assuming I do not have to explain in this very well-informed company what autism is. On current evidence, one in 57 children are affected. The briefing from Ambitious about Autism reveals that 31% of autistic children and young people—that is, over 43,000 students—were persistent absentees in 2021. Autism is a spectrum disorder, so different people present in different ways. I want to try to describe what it is like for one family with a charming, funny, articulate and highly intelligent autistic adolescent for whom school is a nightmare—not schoolwork, but school itself, the environment and the social demands. This is an ordinary middle-class family with two parents with high-pressured senior jobs, one of them in education. It is my family.

As most of us know, living with adolescents can be pretty gruelling at the best of times. An adolescent with an autism diagnosis and significant mental health problems, especially one who is highly articulate and intelligent, presents a whole different level of challenge. There are good times and bad times, of course. At good times, life goes along in a reasonably normal way; at bad times, it is very different. There is extreme volatility and unpredictable behaviour; there is acute distress leading to extended meltdowns and self-harm; there is frequent disruption to family and professional life, including mine, caused by the struggle to get the young person to school and keep them there, which is sometimes impossible. There is the limited availability of help and support, both in school and from other agencies such as CAMHS, which has already been alluded to. This is not from want of good will, but from want of resources.

Then, there is the stress, guilt and corrosive anxiety of trying to keep daily life more or less stable, which wear away at the mental and physical health of the parents, and there is the impact of constant disruption on other children in the family. It is relentless, exhausting and heart-breaking to see. What possible value could there be in adding to the pressure by threatening these parents and others in the same situation with fines and penalties?

Six in 10 young people say the main thing that would make school better for them would be to have a teacher who understood autism. I have heard a version of this many times over the years, but only half of teachers—53%—feel they have been adequately trained to support autistic children in the classroom. I know only too well what a difficult job teachers and school leaders have coping with everything that is asked of them. Most of them are doing their absolute best, but young people like my family member need special attention, which they often do not get.

Ambitious about Autism says:

“Compelling these young people to be at a school ... without the support they need to attend, will not help them learn.”

We hear from parents and teachers that, when autistic young people are forced into a classroom where they cannot access the learning, they may go into shutdown,

completely detaching from what is happening around them, or have meltdowns that affect other children and teachers and are very distressing for the young person themselves. It is just so.

What evidence does the Minister have that the provisions in the Bill will reduce absences in SEND groups, specifically among students with autism? Ambitious about Autism says punishing families of autistic pupils with fines for poor attendance will not make a positive difference;

“it will just further penalise families who already struggle to get support for their children.”

I am sure the Minister does not want this to happen. I hope she will accept the necessity to amend the Bill to ensure such potential—I hope unintended—consequences are avoided. I beg her to do so. My family and others like it do not deserve to have further pressure put on them. Their lives are difficult enough already.

5.16 pm

**Baroness Jones of Moulsecoomb (GP):** My Lords, I rise to speak about home schooling and hopefully to correct two or three of the misconceptions that have already been outlined by noble Lords. It is obvious that school does not suit everybody, and I declare an interest: three of my five grandchildren have been home-schooled, and they are turning out brilliantly. I think home schooling suits some people and suits some parents. Therefore, to put further measures and pressures on those parents could be a mistake.

Parents who home-school come from a huge range of backgrounds, and they have chosen to educate their children outside school, providing an individualised education to their child, suitable to the child's age, ability and aptitude, because it is in the child's best interests, and it is geared to supporting their well-being and future contributions as citizens.

At the moment, there are just over 78,000 children known to be home-educated in England. Many have tried school and found that it failed them. Common factors include a lack of effective special needs support in schools, the pressures of standardisation and testing, failure to stop bullying, discrimination and a lack of support for disabled children and those with medical needs. Registered children are kept track of by local authorities, and this continues at the moment.

The most in-depth study carried out into home education, in 2002 by Dr Paula Rothermel, found that home-educated children demonstrated higher levels of attainment and good social skills. Someone in my wider family has a PhD in astrophysics; they were home-educated, and it has not held them back so far.

Given the intrusive nature of the proposals, I would at least have expected some form of independently reviewed study showing that there is some sort of systemic problem with the freedoms of families who home-educate, which the Government have been unable to address by other means. Where is that study? Where has this repressive attitude come from?

Part 3 of the Bill has provoked a tidal wave of concern and condemnation throughout the home-education community. These proposals have been already rejected by parents and young people in a preceding consultation called *Children not in School*, so I am

[BARONESS JONES OF MOULSECOOMB]

wondering why they have come back now. The mandatory registration of home-educated children is not the simple creation of a list. Local authorities already possess and keep such lists. The Bill goes so much further, seeking to treat home education as a problem that needs bringing under control rather than as an asset that should be nurtured and protected. The Government do not trust parents. That is the message that is coming over.

It is a very serious step to compel law-abiding families who are educating their children at home to be subject to statutory inquiries about their children in the absence of any presenting problem. This approach to families crosses a line in the involvement of the state in family life. The state is going to be able to single out a discrete group of law-abiding families from their peer group and then subject them to special monitoring.

Crucially, the Bill introduces no system of oversight of local authority conduct or safeguards for the vast majority of home educators who deliver a high-quality education. Local authorities could misuse these proposed duties to impose standardised requirements on the format and content of education that children receive at home. This would, of course, destroy the whole point of the child-centred, creative and flexible schooling that is characteristic of home education at its best.

In the Green Party we have been careful to develop policy on home education in partnership with home educators and their children, because effective co-operation aligns professionals and citizens as equals and encourages them to work together to create services that are as effective as possible. As a result, society sees better outcomes from its public services. We have received briefings from home education groups not simply explaining the dangers of the proposals in their current form but offering concrete suggestions for achieving the Government's purported aims in a way that will better achieve the stated objectives and enable positive collaboration between home educators and local authorities, rather than the conflict that many of us can see happening.

If we want effective policy on home education that delivers good outcomes for children and young people, surely it is better to work with home-educating families, rather than against them. I strongly urge the Government to open discussions between now and Committee with home education groups and bring forward changes which enhance the life chances of these children rather than damage them.

5.21 pm

**Lord Sandhurst (Con):** My Lords, I welcome this Bill and its direction of travel.

I will raise four matters today. I turn first to the adverse effect on the mental health of children and young people of the disruption to education caused by the pandemic. In this I pay tribute to the important contribution of my noble friend Lord Altrincham. I am grateful to Barnardo's for its briefing. Barnardo's conducts quarterly surveys of front-line workers, and these have shown a steady increase in concerns about the deteriorating mental health of the children with whom it works. In January this year, 76% of Barnardo's

front-line workers were supporting children who had not re-engaged in school. It identified unmet mental health and well-being needs as a primary reason for this. Only 39% of children and young people with diagnosable mental health conditions were being treated through NHS-commissioned community services in the year 2020-21. Supporting mental health in schools is critical to educational attainment. It is good news that the Government are committed to improving mental health support through the rollout of mental health support teams but it seems that, under current plans, only 36% of learners in England will be able to access such a team in their school by 2023. Can we do more? This is the opportunity.

This leads on to school absences. In March this year the Children's Commissioner estimated that, in the last autumn term, 1.7 million children were persistently absent and 124,000 were missing over 50% of sessions. I am pleased that this Bill will ensure that schools publish a clear attendance policy. Better attendance will also be helped by addressing unmet mental health and well-being needs. This strengthens my plea for mental health support teams to be expanded.

Now I turn to bullying, which is also highly relevant to attainment and attendance. Reports in the *Times* have raised an important matter. A sixth form girl spoke at a school meeting discussing gender issues. She appears to have asserted that women are defined by their biological sex, not self-identified gender. For this, it seems, she was abused as a transphobe. In parenthesis I add that it is clear that identity issues are now prevalent in a lot of schools and must be difficult for teachers to manage—and we have already heard something about that. Schools will need policy help and advice from those experienced in this, and I ask the Minister to consider that.

Although in this case the school appears initially to have supported this sixth-form girl, later on that support was withdrawn. The girl was told she would have to work in the library if she said anything “provocative” in lessons—in other words, anything that other people did not agree with. In due course she could not face that; she left the school last December. I am gratified that the *Times* reported that the Secretary of State called the incident “hugely concerning” and said:

“Schools have a responsibility to protect that student.”

If open discussion is not adequately protected, this Bill is an opportunity to introduce any necessary amendments to ensure safeguarding or, if there are existing powers, to lay appropriate regulations. I invite the Minister to review that.

Finally, I read that the Scottish Government plan to remove the current requirements for a gender recognition certificate to be granted. It seems that, in future, anyone ordinarily resident in Scotland over the age of 16 will be able, without the need for any diagnosis or medical evidence, to apply to change their registered sex and achieve this in as little as six months.

This could be important to English schools for two reasons. First, a person of male sex might seek to rely on such an ill-founded certificate without any medical backing or any physical changes to use school facilities intended for women and children—by which I mean girls. Secondly, depending on how it is interpreted,

such legislation might enable an ill-motivated person—I stress, an ill-motivated person—who has, without physical change, changed their registered sex in Scotland, and hence their identity, to later revert to their original sex under yet another new name by adopting the same procedure, with no checks. This will pose difficulties for DBS and other record checks for schools and other establishments where checks are required, because identity will have changed.

For these two reasons, I seek assurance that the United Kingdom Government will not agree to recognising such certificates elsewhere in the United Kingdom, outside Scotland, and will look carefully at the measures necessary to ensure that our children and young persons in schools are safeguarded in these respects.

5.28 pm

**Lord Mendelsohn (Lab):** My Lords, we have had some excellent speeches from the former Education Ministers present in the House, as well as from the Front-Bench spokesperson for the Liberal Democrats, the noble Lord, Lord Storey, and my noble friend Lady Chapman. They focused on tissues around governance and some of the practical issues in Part 1, which are significant. I hope the Government are willing to engage in discussion on these matters.

Like many others, I am concerned at the overwhelming lack of evidence that the Government are a better allocator, that MATs are inherently good or are governed in the right way, or that contractual arrangements will be highly beneficial. Like many in this House, I have been a governor and trustee of schools, and I find it hard to believe that the recruitment of even more trustees will be hugely beneficial, when the real challenge has been finding quality head teachers. I am also concerned by the idea that the enforcing of a contract by the Secretary of State is an attractive recruiting sergeant for those in governance for MATs. There are a lot of practical issues that we need to address in this Bill, and I hope the Government will be open to looking at these as we go through Committee.

I will now address Part 3 and Part 4. I was pleased to see the provisions to establish a register of children not in school and on new regulations for unregulated settings or unregistered independent educational establishments. I congratulate the Government on addressing this long-overlooked area, and I offer them my strong support. I admire those who home-educate, and I know that they will be able to continue to do so even if the provisions in this Bill become law; many of their concerns are simply unfounded. These provisions are utterly necessary, and they need to be fit for purpose at the beginning. We have to deal with one of the realities: the organised denial of the rights of children by groups and intuitions, whether from closed or other communities, is the challenge the Government have to meet here.

The powers needed to remedy these measures need to be extensive and Ofsted needs to be supported, as the perpetrators have become very used to using the existing legal framework—and lawyers—to protect themselves from scrutiny and any remedial action to protect children who, for example, may not even be

taught English. We should have no truck with the notion that human rights are being infringed when parents decide not to equip their children to have opportunity in the society in which they live. My concern is whether the definitions and provisions in the legislation are fully effective against a deliberate and determined attempt to evade them, and whether sufficient thought has been given to enforcement measures that can be effective in discouraging disobedience and ensuring appropriate sanctions.

I hope also that the Government will look at where other decisions that they have made may impact on these; for example, they have recently changed the planning arrangements so that now, under the class F classification, a community-use classification can be used for a church as well as a school, which means that any religious establishment, for example, can transfer to a school immediately. This opens up a huge lacuna in the law and the implementation of it to address the issues with which we are concerned.

I am particularly pleased that the balance has been struck by focusing on the role of education providers, not just on fining the parents—many of whom will never have declarable or visible means to pay. However, we should be live to wilful attempts to evade these measures, including organised efforts such as those undertaken by a few communities and groups during the periods of high restrictions during Covid. I hope that the Minister will consider helpful amendments that could assist in this effort, such as a more general anti-avoidance provision, or even, for example, a specific provision that allows for Ofsted to make a determination as to whether an attempt was made by organisers to increase or create a tapestry of providers to make it appear that the amount of hours taught would not require any of the institutions to qualify as the providers of the majority of time of educational provision.

Consideration should also be given to whether measures to deal with inappropriate classifications of institutions as informal educational settings can be used, which may include after-school clubs. Will the Government also consider more stringent measures to enforce fit and proper tests for trustees and institutions, which could include that those who are found to be organising should by default be no longer able to serve as directors or trustees in companies or charities? Further, organisations involved in this process should face swift action from the Charity Commission, by appointing managers, the revocation of charity status and significant investigations to ensure that charity status is not accorded to those involved in helping, assisting or facilitating disobedience.

I am very happy to support the Government on these measures and I hope that they are sufficiently robust to deal with any and all attempts to deny children the education that they deserve.

5.32 pm

**The Lord Bishop of Oxford:** My Lords, there is much to welcome in the new Bill, as my colleague the right reverend Prelate the Bishop of Durham and other noble Lords have indicated. In particular, it is good to know the Government's direction of travel on academisation and the continued emphasis on raising

[THE LORD BISHOP OF OXFORD]

standards. I support the comments made by other noble Lords on the need properly to resource our schools, particularly in the aftermath of the pandemic, to safeguard the morale of heads, governors and teachers and to pay much greater attention to mental health provision.

It is vital as well to continue to build on secure partnerships across the statutory, voluntary, church and faiths sector. The education of our children has never been the sole responsibility of central government—it is the responsibility of all. These vital partnerships have flourished for many decades to the mutual benefit of all and the common good. It is very good to note the Government's intention to safeguard those partnerships into the future through the Bill and the process of academisation which will follow. One of the tests of the Bill will be the strengthening of social capital and intermediate institutions.

The Diocese of Oxford where I serve has 284 Church schools and shares in the education of over 50,000 children. We have sponsored and developed two highly effective multi-academy trusts of our own, and we are active partners in a further 18 MATs across the three counties. Over the last decade, our role in education has steadily expanded, and we stand ready to play our part in the academisation programme over the next decade. Some of our schools are large, but many serve small rural communities and are cherished as a vital part of the educational provision across the three counties.

There will be particular challenges in the pace of academisation, which will be needed to meet the Government's targets, and I very much hope that the Minister will be able to give assurances in her closing remarks about the vital importance of small rural schools to their communities and about the proper resourcing of what will be very significant and rapid change for them. It would be helpful to have greater clarity on what will govern or limit the size of MATs in future. Will it be the number of schools, which may each be small, or the numbers of pupils cumulatively?

I have found in discussion with our senior school leaders that there is some ambiguity in the Bill around Clauses 19 and 20, and the requirements to make regulation about governance. We note the Government's assurance to protect governance in MATs, where the majority of schools were formerly church schools of any type, whether VA or VC. However, Clauses 19 and 20 can be read as making a distinction between VA and VC schools and as giving assurance of majority church governance only in those MATs where more than 50% of schools are VA. It would be helpful to have the Minister's assurance of intention here and an undertaking to clarify this point in Committee.

Finally, the Bill makes provision for local authorities to apply for academy trust orders for all their schools. May I ask the Minister for guidance on the ways in which the Department for Education will ensure that there are no perceived or actual conflicts of interest or preferment between these local authorities spin-off MATs and other multi-academy trusts?

5.37 pm

**Viscount Eccles (Con):** My Lords, I shall try to follow with some thoughts on the speeches of the noble Baroness, Lady Morris, and the noble Lords, Lord Baker and Lord Knight—but first a short excursion into history. My father was Secretary of State for Education twice, the first time as a result of having provided Harold Macmillan with the materials to build 300,000 houses in a year. The second time, he went to see Harold, who was of course by then Prime Minister, and said that his department was suggesting that he should put forward a Bill to do certain things. Harold Macmillan said, "Oh, I wouldn't do that, particularly not if it's an education Bill, because there's absolutely no chance that anybody will agree with anybody else." We need to recognise that there is some wisdom in that comment.

Historically, over many years, there has been a stand-off between those who see education as a means to an end and those who see it as an end in itself. I have to admit to being more in the second than in the first camp, and therefore I am in a minority—but we must carry on with whatever we are trying to do. In this Bill, for me the most important thing that is being done is the transfer of academies from contracts to a statutory system. There are many reasons for looking at that very carefully. It may or may not be the right thing to do—I am not at all certain—but there are some things about it which worry me.

The first is that the Government claim they will achieve more consistency. Well, I am not sure that consistency is a good idea if you are indulging in education. The variability of what the pupils going through their education may want to do and how they may want to come out is such a muddle and so deeply variable that I doubt very much whether consistency is a good ambition. You have to be prepared to deal with great variability and, in dealing with great variability, you will of course trouble the Civil Service, which is always in favour of tidying up and never in favour of too much exceptionalism or variability.

The second thing that bothers me is about the people who are—as the noble Lord, Lord Knight, said—the trustees and indeed, I would say, the heads of schools? It is all very well having a very tidy and consistent system, but the people who do these jobs—for reasons of public service, let us hope—like a bit of independence. They think they can contribute something by using their own judgment; they see themselves as doing things which do not imply that the divide between policy and day-to-day management will be eroded to the point where they are not in charge of anything. Ultimately, I think, if one puts too much pressure for political correctness or conformity or consistency on to the sort of people who are willing to do these jobs, it will become—as the noble Lord, Lord Knight, said—quite difficult to find them. There are quite a lot of examples in areas of our political life other than the Department for Education where we can see that that has happened.

So my plea to my noble friend on the Front Benches is that when this system—this long progression, as the right reverend Prelate said—from contracts to a statutory system gets under way, it is not too prescriptive. Yet, with 20 subjects in Clause 1 and a promise that there

will be more because they are only examples, it is quite difficult to be optimistic that the system will not be too prescriptive. But I do urge that it is not and that, as it goes forward, people are listened to very carefully and we go ahead with a light touch and without any conviction that we have exactly the right answer.

5.43 pm

**Baroness Bakewell (Lab):** My Lords, I wish to address two aspects of this Bill, both of which concern the role of religion in the education of children. I draw the attention of the House to the fact that I am the co-chair of the All-Party Parliamentary Humanist Group—although the comments I will make are my own.

Since 2014, Humanists UK has been campaigning to close down unregistered, illegal schools. In December of last year, it heard the personal testimony of pupils from such schools. They came from extremist fundamentalist sects of certain religious communities and told us how they were taught. There was very little secular education and much prayer and study of religious texts. Their writing and reading skills were poor, there was no mixing of the sexes and discipline often involved beatings. Ofsted estimates that there are at least 6,000 pupils in such schools. Local authorities—I understand this from research, as it is totally informal—have been loath to intervene, for fear of being accused of harassing minority groups.

So it is with this first-hand evidence on the record that I welcome the Bill's intention to expand registration requirements for independent educational institutions and to work with Ofsted to expand investigatory powers. I cannot emphasise too much the need to rescue children from such institutions that are outside the scrutiny that ensures their safety and well-being, and a wide-ranging secular education.

The second matter I wish to raise concerns a community in our society currently not provided for in the school religious curriculum. Families who are humanists find that, for geographical reasons, they have no option but to choose faith schools for their children to attend—schools where the curriculum includes faith teaching and collective worship. There is indeed provision for such children, but it is less than satisfactory. This needs to be challenged. Such children are given the right to withdraw from all faith observances if their parents request it. In practice, this is demeaning and discriminatory, and often results in children languishing aimlessly in empty classrooms with no indication of how to use their time profitably. I ask the Government to confront this dilemma for the increasing number of humanist families in our society.

I will just say something about humanism in general. All the world's religious faiths hold certain tenets in common: a belief in some kind of deity who created the world, the prospect of life after death and some implied divine judgment for people's behaviour. In defining their own faith and creed, people who follow a religious faith often speak of humanists as "people of no faith". Such dismissal does not do justice to the broad moral landscape that informs humanism. Humanists are people with a convinced belief in human values, who cherish both the human spirit in each one of us and the sharing of our life here on earth—they are not any kind of spiritual void.

I appreciate that most of the intentions of this Bill concern structure and the administration of educational provision, but there is also a great segment about religious provision. I ask the Government to take on board this heavy, important and significant part of children's education, and to look to be more inclusive and positive in the treatment of those who have been wrongly defined as "people of no faith". I look forward to the contribution of the arm's-length curriculum authority and hope that we will see it modify the existing regulations.

5.47 pm

**Lord Holmes of Richmond (Con):** My Lords, it is a pleasure to take part in this Second Reading, not least to follow the noble Baroness, Lady Bakewell, three previous Secretaries of State—the noble Lord, Lord Blunkett, my noble friend Lord Baker and the noble Baroness, Lady Morris—the former Minister of State, the noble Lord, Lord Knight, and indeed my noble friend the son of a Secretary of State, as we have just discovered: in fact, the son of a Secretary of State twice.

I will concentrate my remarks on the educational attainment gap for disabled young people and what this Bill does not say about that—to which my friend, the noble Lord, Lord Blunkett, has already alluded. There will be some stats, some chat and a question. I turn first to the stats. Already by key stage 2 SATs, at the age of 11, only 22% of young people with special educational needs are achieving the relevant standards in reading, writing and numeracy. At age 11, almost 80% of disabled young people and young people with special educational needs are being let down and left behind by our school system, through no fault of the teachers—41% of whom say that they do not have the necessary resources, support or training to address the issue at hand.

For GCSEs, 54.5% of non-disabled students are achieving a standard around grade 8, while just over 31% with special educational needs are achieving the same standard. The transition rate from school to higher education is 47.5% for non-disabled students, 20% for students with special educational needs and 8% for students with an EHCP. Of those going to higher-tariff universities—such as the Russell group and Oxbridge—just over 12% are non-disabled, 3.3% have special educational needs and 1.1% have an EHCP.

Those are the stats, but behind each one are young special educational needs and disabled people who are not being enabled and who are not able to thrive in our school system currently, despite significant resources being spent to supposedly address this issue.

Turning to the consequences, if you are disabled, you are far less likely to be in employment. If you are in employment, you will be very much at the wrong end of a disability employment pay gap. You are less likely to be in employment or higher education, but more likely to be financially or digitally excluded and to suffer from isolation or mental illness. Those are the stats and that is the chat.

The question is just this: what do the Government intend to do about this? The Bill may be mostly about structure, but this is an issue which runs through every

[LORD HOLMES OF RICHMOND]

element of our education system; it affects every beat point, every point where somebody with special educational needs could be enabled or empowered, yet the stats tell the story. As my friend the noble Lord, Lord Blunkett, said, what will be the linkage between the SEND Green Paper and this Bill as it progresses? I ask the Minister: why do we not take the opportunity of this Schools Bill to start to take the most important steps of all, enabling young disabled and special educational needs students to succeed in education and have fulfilled careers? For the SEN students of today and for those who will follow them tomorrow, if we do that, all of us will benefit.

5.52 pm

**Lord Hunt of Kings Heath (Lab):** My Lords, what an extraordinary Bill this is. It is silent on so many of the pressing issues facing our school system. It is silent on the financial pressures in the early years sector. It is silent on the crumbling infrastructure, to which a number of noble Lords have referred. It is silent on the workforce pressures, particularly in secondary schools, where physics, maths, chemistry and modern foreign languages are facing severe problems. It is silent too on presenting any bold vision of educational outcomes or dealing with the issue described recently by Peter Hyman, co-founder of Rethinking Assessment. As he put it,

“After 11 years of schooling students are given a set of numbers as the sum total of what they have achieved, and for a third of students those numbers indicate that they have failed. Surely young people should leave school with a profile of what they can do (head, heart and hand) and what they are like ... That is what employers are looking for and that is what matters in life.”

The Bill has nothing to say on any of these fundamental issues. On the face of it, its focus is on the governance and structure of academies, with one or two useful measures added on. However, the noble Lord, Lord Baker, put it so well when he said that, in reality, it is an extraordinary grabbing of power by the Secretary of State to essentially direct and intervene in the affairs of every school in the country. A number of noble Lords have welcomed the national formula for funding, but when you link Clause 1 with Clause 33, you are giving all the levers of power to one person, aided by an army of officials far removed from local schools.

Clause 1 is quite extraordinary. It sets out 20 examples of standards, ranging from the curriculum, to the nature and quality of education provision to be provided, governance structures, remuneration of staff and spending of money. All this is to be done via regulations with only limited parliamentary scrutiny and those are only examples; the Secretary of State can dream up any number of other standards he or she wishes to have and bung them through by another regulation. I hope we will examine this very carefully. If Ministers are insistent on going down this path, then they surely need to spell out in primary legislation exactly what standards they are going to impose on every school in the country. To leave it as vague as it is simply not acceptable.

On academisation, I am the first to acknowledge the excellent work in many of our academies. However, I wish the Government could bring themselves, just

once or twice, to acknowledge the good work in maintained schools. The noble Lord, Lord Nash, is not in his place. When he was Minister, we made very many efforts to get him to praise maintained schools. I hope the noble Baroness the Minister will do so in in her wind-up because she knows that the Government are slightly selective in the figures that they use to justify academisation, and I applaud the NEU's recent exposure of this and its vindication.

On schools and academy schools, just as we are seeing aggrandisement of power at the centre, we are also seeing local schools lose power within a multi-academy trust. This is something I am concerned about. There is no doubt that the emergence of MATs has drastically reduced democratic accountability, and once subsumed into the MAT structure the voice, autonomy and legal identity individual schools are lost. Communities are locked out of the MAT system. We now have Ministers empowered to impose academisation and switch academies between different MATs without consultation. That cannot be right.

The noble Lord, Lord Storey, mentioned the excellent research paper from the LSE by Professor Anne West and David Wolfe. They identified many of the current governance shortcomings in relation to academies within MATs. There are other shortcomings too. I refer to the work of the Public Accounts Committee on the annual accounts of academy trusts a couple of months ago. The issue of academy CEOs' pay has been well documented, but the PAC complained very recently that the noble Baroness's department does not have a handle on excessive pay within the sector. What are the Government going to do about that? The PAC also said that

“a lack of transparency in local academy financial information is harming parents' ability to hold their local academy leaders and the DfE to account, for the services they provide to pupils or for their use of public funds.”

In the work the Government are taking forward, how will they ensure that, locally, parents and other interested citizens see the financial information for local academies, even when they are part of a multi-academy trust, in order for them to be able to monitor, judge and scrutinise the performance of those trusts? I hope we will get answers to this.

5.58 pm

**The Duke of Wellington (CB):** My Lords, I declare my educational interests as detailed in the register. I am a governor of a leading independent school and was for nine years chairman of King's College London. I am also patron of King's Maths School, which I will refer to later. My wife also has various educational interests. She is a governor of another leading independent school, she was chairman of the Royal Ballet School, she is chairman of an independent prep school, and she is a trustee of a leading music academy.

I wish to talk about that part of the Bill which relates to academies, a type of school originally legislated for by the Labour Government 20 years ago. The coalition Government in 2010 embraced the concept and, indeed, enhanced it. Michael Gove, while Secretary of State for Education, asked King's College London to sponsor and run a specialist maths school, a suggestion to which we readily agreed. We already had a building,

which we were able to convert, and we asked the noble Baroness, Lady Wolf of Dulwich, to chair the board of governors. She in turn recruited an excellent headmaster.

When the school opened with 60 pupils in the first year—it now has 75 in each year group—44% of the students were from ethnic-minority backgrounds and 34% were girls. From the first-year intake, 20% were awarded places at Oxford or Cambridge and all the others went to leading universities. Today, there are still over 45% of the students from ethnic minorities, while 40% come from financially disadvantaged backgrounds and 30% from families where they will be the first to go to university. Each year about 25% of the students are awarded places at Oxford or Cambridge; indeed, already this year 40% hold Oxbridge offers, provided that they achieved their predicted grades.

In December 2021 the school was named best state sixth-form school of the decade by the *Sunday Times* school guide. In other words, the school has been an outstanding success from its inception. It has been exceptionally good value for taxpayers in terms of academic achievement and social impact. It has produced a good number of badly needed mathematicians and physicists, many coming from disadvantaged backgrounds, as I said, and many of whom go on to read engineering at university. So I suggest that we need more of this type of school.

In 2017 the Government announced that there would be more maths schools, but progress has been slow. Liverpool and Lancaster are now open but Cambridge University and Imperial College London will open only in 2023. In a briefing last week with the Minister, the noble Baroness, Lady Barran, whom I thank, I asked whether there should be something in the Bill to create more maths or other specialist schools. She told me it was not necessary as the powers already exist, so I ask the Minister to tell the House how many more maths or similar schools will be created before the end of this Parliament.

There is another element of the Bill about which I seek clarification. It is now government policy that, by 2030, as stated in the White Paper, all schools should be part of a multi-academy trust. Although that may be appropriate and indeed sensible for most taxpayer-funded secondary schools, I ask the Minister whether she believes that specialist maths schools will also be required to go into a multi-academy trust. One of the reasons why the maths schools sponsored by universities have been so dramatically successful is precisely their close association with the university academic staff and undergraduates. To tamper with that structure would be a mistake. I hope the Minister can answer my concerns.

I support the Bill but, as the Government have decided to introduce the Bill first in the Lords, I am sure that the extensive knowledge and expertise of many noble Lords will be able to improve it further as it passes through the House. I hope the Minister will have some answers to the important reservations articulated so well by the noble Baroness, Lady Morris, and the noble Lord, Lord Baker.

We all share a conviction that the standard of education in this country must continue to improve. It must therefore be right that the Government attempt to give a further lift to that endeavour.

## North East Ambulance Service Commons Urgent Question

6.04 pm

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con):** My Lords, I shall repeat an Answer to an Urgent Question given in the other place:

“Mr Speaker, I was horrified to read the concerns raised about the North East Ambulance Service in reports over the weekend. My thoughts are, first and foremost, with the families affected by the tragic events they describe. I cannot imagine the distress they are going through. They have my unreserved sympathy and support.

In healthcare, a willingness to learn from mistakes can be the difference between life and death. It is because of this that, as a Government, we place such a high value on a culture of openness and a commitment to learning across our NHS. That is why allegations raised by the *Sunday Times* are so concerning. As was made abundantly clear by the Secretary of State’s predecessor almost a decade ago, NDAs have no place in the NHS, and reputation management is never more important than the safety of patients.

The Government are wholly supportive of the right of staff working in the NHS to raise their concerns. Speaking up is vital for ensuring patient safety and improving the quality of services, and should be a routine part of business in the NHS. That is why, over the past decade, substantial measures have been introduced to support the NHS in England to reduce patient harm and improve the response to harmed patients, including legal protections for whistleblowers, along with a statutory duty of candour and the establishment of the Health Services Safety Investigations Body and medical examiners across the NHS. It is also why, in response to a recommendation of the Sir Robert Francis Freedom to Speak Up review of 2015, the Government established an independent national guardian to help drive positive cultural change across the NHS so that speaking up becomes business as usual. However, when it comes to patient safety, we cannot afford to be complacent. Patient safety remains a top priority for the Government, and we continue to place enormous emphasis on making our NHS as safe as possible for patients.

I note that the concerns raised in this weekend’s reports have been subject to thorough review at trust level, including through an external investigation, and that the trust’s coronial reporting is subject to ongoing independent external audit and quarterly review by an executive director. I also note that, as the appropriate independent regulator, the Care Quality Commission has been closely involved. However, given the seriousness of the claims reported over the weekend, we will of course be investigating more thoroughly and will not hesitate to take any action necessary and appropriate to protect patients.

The Government are also committed to supporting the ambulance service to manage the pressures it is facing, ensuring that people receive the treatment that they need when they need it. We have made significant investments in the ambulance workforce: the number of NHS ambulance and support staff has increased by

[LORD KAMALL]

38% since July 2010, and Health Education England has a mandated target to train 3,000 paramedic graduates nationally per annum from 2021 to 2024, further increasing the domestic paramedic workforce to meet future demands on the service. Furthermore, 999 call handler numbers were boosted to over 2,400 at the end of March 2022, about 500 more than September 2021, with potential for services to increase capacity further during 2022-23.

I fully appreciate the concerns of Members across this House and would be pleased to meet with those whose constituents have been affected.”

6.08 pm

**Baroness Merron (Lab):** My Lords, human tragedy permeates this scandal, which has seen up to 90 unnecessary deaths, gross negligence, cover-ups and public money buying the silence of staff. Quinn Beadle, who was just 17 when she tragically committed suicide, died because an ambulance worker failed to perform proper resuscitation. In the report that was then made to the coroner, North East Ambulance Service managers removed this detail. The Secretary of State said today that this and dozens more injustices will be investigated more fully. Will the Minister confirm that this will take the form of a formal inquiry, as it surely must? Will questions be asked of the Care Quality Commission, which, despite being tipped off two years ago, failed to flag or even spot this outrage?

**Lord Kamall (Con):** I thank the noble Baroness for raising those concerns. I completely agree with the sentiments she expressed; this is completely uncalled for. As I said previously, my honourable friend Maria Caulfield pledged that there would be an investigation into this. As to whether it will be a formal inquiry, it is too early for me to give a direct answer, but I will go back to the department and as soon as I have more information I will write to the noble Baroness. I understand that these are historic incidents and that the CQC has said that its service is improving, but as more information is still coming out—even today when I had the briefing, not all the information was there—I will of course commit to write to the noble Baroness.

**Lord Shipley (LD):** My Lords, in 2019, Matt Hancock MP, the then Secretary of State for Health and Social Care, vowed to end non-disclosure agreements in the NHS, yet earlier this year bosses at the North East Ambulance Service used non-disclosure agreements for the brave whistleblowers in return for settlement. What action will the Minister take with the North East Ambulance Service for flouting the very clear guidance and regulations relating to non-disclosure agreements?

**Lord Kamall (Con):** As was said in the other place earlier today, the fact is that non-disclosure agreements have no place in the NHS, and the Government have been absolutely clear about that. I am afraid that I cannot give exact details, because it is obviously very recent, but I know that that is one of the issues that will be looked at. We are investigating, and all aspects will be looked at thoroughly.

**Baroness Masham of Ilton (CB):** My Lords, will the Government do their best to stop cover-ups, which there have been over this matter, so that this does not happen in future?

**Lord Kamall (Con):** Absolutely. It is really important that we have a duty of candour and that people can be open. We saw this during the passage of the Health and Care Act, with HSSIB. Although there might be an initial reaction to find the culprit, or whatever the issue is, it is really important that we learn from mistakes made. It is a difficult balance, but we have to make sure that we have an open environment and culture so that people feel safe to come forward and explain what happened, and to make sure that these services learn from what went wrong. We have been absolutely clear that there is a cultural issue that has to be addressed, but also that NDAs have no place in the NHS.

**Lord Clark of Windermere (Lab):** My Lords, we really must learn the lessons, having witnessed this cover-up in one of the most deprived parts of the UK. I say to the Minister that he should not look at the case, for example, of the ambulance drivers in isolation. Will the Government announce now that they are prepared to have a proper workforce plan for the NHS?

**Lord Kamall (Con):** I take the noble Lord's point that you cannot look at things in isolation; we have to take a systemic view. Are these issues confined to the ambulance service or is it the wider NHS or the wider trust? These are all issues that have to be looked at. On the workforce plan, I assure the noble Lord that I have tried, but clearly there are issues. Health Education England has been mandated to come forward with workforce strategies, and there are workforce strategies at trust level as well.

**Lord Berkeley of Knighton (CB):** My Lords, does the Minister agree that we have to be much more proactive in encouraging people to have the courage to be whistleblowers? It is the only way we are going to learn. Secondly, should we not outlaw NDAs of this sort, so that they cannot suppress information that is vital to the well-being of society? I agree with the previous speaker who said that we need to change the culture around this, not just small points.

**Lord Kamall (Con):** Noble Lords are absolutely right to talk about the culture. Years ago, during my academic career, I looked at organisational change; one of the very difficult issues is that while you can change structures and processes, it is about how you address the culture. Quite often in organisational change, or any change, there is a cultural lag. Sometimes the lag is due to individual values and sometimes it is much more widespread than that, and there are questions about how the culture grew in the first place and how to address those roots. Sometimes it is about personnel change and sometimes it is about retraining. There are a number of issues when it comes to changing culture, which is quite often more difficult than structural change.

The Government have been clear, as has the NHS, that there are clear guidelines around the use of NDAs by the NHS, including that it should not prevent staff

speaking up about concerns relating to the quality or safety of care. It will be important for us to discuss all the issues further with the trust, the CQC and others, to determine the appropriate steps to take from here, including on NDAs.

**Lord Hunt of Kings Heath (Lab):** My Lords, the Minister makes a very interesting point about culture but does he not think that, whatever review is undertaken, it needs to look further? If this is proven to be so, what are the reasons why management would seek to take the action that it did, and to what extent is pressure on managers from higher up the system causing them to cover up because of punitive action? In other words, does he agree that the culture is set by Ministers at the top? If they deal with the health service in a punitive way, as they have often done over many years, they should not be surprised if the system responds by seeking to cover up what has been happening.

**Lord Kamall (Con):** I recognise that the noble Lord was a Health Minister but I must say that, in my time as a Health Minister, I have never found it to be an adversarial relationship but always quite co-operative. In conversations that I have had with individuals I have met in the NHS, they have been quite clear that I have no power over them, as it were, but that we can discuss concerns—although, clearly, the Secretary of State does exercise certain powers. However, the culture goes deeper than this and the noble Lord is absolutely right to suggest that we have to understand the roots of that culture and the incentives and disincentives to certain behaviour. I am sure that this will all be looked at as we try to learn what went wrong in this case.

**The Lord Bishop of Durham:** My Lords, I should declare that NEAS serves the area that I live in; indeed, I shall be in Shildon on other business later this week. Will the Minister take the opportunity to applaud the work—on the ground and in the vehicles—of members of the ambulance service? They seek to do their best under incredible pressure, day in and day out. This is an opportunity to thank them, I think, even in the face of such tragedy.

**Lord Kamall (Con):** I completely agree with the sentiment expressed. We should be grateful to all public service workers. They were put under immense strain during the early days of Covid and beyond, and still face some of those issues. There is no doubt that the extra pressure that people face in the workforce can have an impact on their behaviour. Going back to the point made about culture by the noble Lord, Lord Hunt, we have to look at incentives and disincentives, and why people behave in a certain way. We have to not only question that but ask what we can do better in the future. That is the point of learning. We want people to be as transparent as possible, and to feel free to come forward and explain where things have gone wrong.

**Baroness Foster of Oxtton (Con):** My Lords, this is not just about the ambulance service; it is about a culture that is endemic throughout the NHS. I have spent most of my life dealing with the aviation industry, which learned decades ago that if you cover things up,

whether deliberately or not, you will never get to the source of the problem. This is why we have such high standards in that industry. Does my noble friend agree that, until and unless we take a fresh look at this and have a no-blame culture, which will then encourage people to come forward if they see things that are not working, we will not get past where we are today?

**Lord Kamall (Con):** I begin by paying respect to my noble friend's experience in the aviation sector. Noble Lords who took part in the debate on the Health and Care Bill will know that, when we spoke about HSSIB and safe space, that concept came from learning from the air transport industry and—I hope I get this right—the air transport accidents board, with respect to transparency. When that industry was able to have a frank, open culture and people felt free to step forward without fear of prosecution, it was found that people were frank and could learn from mistakes. This is what we are hoping to do with HSSIB, in the same way—to let people come forward, have a frank and open discussion about what went wrong, and make sure we learn from our mistakes. This is the important thing that we want to learn from the air transport industry; we hope that it will help us to improve the culture for health and care workers.

## Schools Bill [HL]

### *Second Reading (Continued)*

6.20 pm

**Lord Lexden (Con):** My Lords, I declare my interests as a former general secretary of the Independent Schools Council, which accredits and represents some 1,400 schools, and as the current president of the Independent Schools Association, one of the council's constituent bodies, which has some 580 of those schools in its membership.

The association's members are for the most part small in size, often having no more than 200 pupils, with deep roots in their local communities. Striving always to keep fees down and providing as much in the way of bursaries as they can, these schools are far removed from the stereotyped image of Britain's independent education sector, packed with grand, expensive institutions, which dwells so stubbornly and unfairly in the public mind. The members of this association are far more representative of the true state of the independent sector today than the comparatively small number of well-known schools which exert so much fascination over the media.

What all the diverse members of the Independent Schools Council have in common is a commitment to high standards, and to working in partnership with colleagues in the maintained sector in a whole host of ways, from academic teaching to orchestral concerts, drama and sport. Much is being done; much more is needed. Many independent schools continue to hope that a Government will one day have the wisdom to back a scheme which would enable even more families to gain access to them. It is now more than 20 years since I published proposals for places at all levels of ability co-funded by the Government and the schools themselves.

[LORD LEXDEN]

The schools' own efforts to make places more widely available continue to expand. They now provide fee assistance, including scholarships and bursaries worth £964 million, to 150,000 pupils. The resources devoted to these programmes absorb—indeed, exceed—the benefit derived from charitable status, which the Labour Party wishes to abolish. Does it really wish to set back the progress that has been made in making independent schools more open and inclusive? It has put forward a deeply regressive measure.

It was good to hear the Secretary of State for Education say recently that he is “very proud” of the work that independent schools are undertaking in conjunction with partners in the maintained sector. Collaboration brings marked benefits to both. As he rightly noted, their combined resources can help overcome the difficulties facing disadvantaged children in Britain today.

Part 4 of the Bill directly affects the interests of independent schools. New measures relating to registration and inspection are to be introduced. Some have the welcome objective—widely commended in this debate—of making certain independent educational institutions outside the Independent Schools Council which have for years evaded any effective checks subject to proper regulation at last.

For their part, independent schools have always accepted that it is the Government's right—indeed, duty—to determine the basic legal standards and requirements that they must meet to be registered and play their part in the education system. They accept without reservation or complaint that registration requirements will need to be revised and updated from time to time. The guiding principle in making changes should be the strengthening of public confidence. Judged against that principle, the council and its members have no quarrel with those clauses in Part 4 which have a direct bearing on them.

Most significant is Clause 60, which will give Ministers new powers to suspend the registration of an independent school for a specific period in circumstances where pupils are judged to be at risk of harm. At present, the Department for Education's only option is to get a magistrate's order to close down the school. At a time of widespread concerns over safeguarding issues, the proposed change is surely to be seen as an entirely appropriate step.

I have just one specific point to raise about Part 4. Clause 59 introduces a new test under which the Secretary of State will determine whether the proprietors of independent schools are “fit and proper persons”. Perhaps my noble friend the Minister would let me know during the Bill's passage what exactly this test will involve.

This is a Government who understand the value of independent schools. They must continue to give them the encouragement they deserve to contribute even more fully to our country's education system.

6.25 pm

**Baroness Blower (Lab):** My Lords, it is a pleasure to speak in this debate, with education being such a central and critical service to a well-functioning society.

Before I continue with my remarks, perhaps I may say that I agree entirely—unusually for me—with the noble Lord, Lord Baker. Less unusually, I also agree with everything that my noble friend Lord Hunt said.

It is a reasonable hope and expectation that an education system will result in people who are critical thinkers and able to present arguments on a clear and reliable evidence base, yet for the third time since 6 April this year, I find myself having to challenge the so-called evidence-led case for a fully trust-led system. I do not in any way impugn the integrity of the Minister, but I hope that on this occasion she will recognise and acknowledge that the UK Statistics Authority and the Office for Statistics Regulation have agreed with the challenge to the government document made by the National Education Union. On transparency, they say:

“It is not always possible to identify the exact data that have been used to produce analysis in the document. Where data are referred to in the text, links to the sources of data should be clearly set out and enable users to easily find the specific data referenced. Our expectations are outlined in our transparency guidance.”

On quality, they say:

“Insufficient information has been included on the methodologies used to produce the novel statistics presented in the document. In addition, the limitations of these methodologies and the implications that these would have on the fairness of the comparisons being drawn have not been fully explained to users. The Department for Education should include clear information on the methodologies and associated caveats so that users can draw reliable conclusions.”

Finally, on replicability, they say:

“The limited transparency around the data sources and methods means that it is difficult for users to replicate the figures presented and to draw their own conclusions. The Department for Education should ensure that sufficient information is included in the document so that users are able to easily replicate the statistics.”

That is a damning position to have taken, and I hope that the Government will have learned from it.

Much has already been said about what is missing from the Bill, but even where there are specifics, as in relation to the expectation that all schools will be in MATs, the talk of the minimum of 7,500 pupils or of MATs running at least 10 schools is a significant problem. Given that only 20% of schools are currently in a MAT of that scale, it is clear that what is proposed would involve large-scale consolidation, mergers and expansion without sufficient evidence to support the value of such disruptive change.

There is, of course, the democratic deficit in the MAT system on both governance and admissions. On admissions, this Bill could be the opportunity to ensure that place planning and admissions are administered and delivered in a fairer and more inclusive manner. The local authority would be the appropriate body to deal with this.

On governance, while the Government have said that all trusts should have local governance arrangements, the fact sheet accompanying the Bill says that

“regulations may introduce some new standards for the benefit of schools and pupils for example, in relation to the handling of complaints and local governance arrangements.”

There is no mention of parents or of the wider school community. Clearly, the best and fairest way to ensure local governance and accountability in MATs is to

reinstate local governing bodies for individual academies to include parents, staff and the community—and, I would say, students too—in order to ensure involvement in representation.

I will say just a brief word about funding, which remains a significant problem for the majority of schools. The Education Policy Institute said:

“Through the NFF and subsequent initiatives such as ‘levelling-up’ school funding, the government has weakened the link between funding and need.”

Surely that is a critical link. While there have been large differences in funding across schools and local authorities, recent policies have meant that pupils from more affluent areas are attracting larger increases in funding rates compared with those from more disadvantaged backgrounds. Where is the social justice in that?

Finally, I shall say just a word about faith schools and grammar schools, which will have their characteristics protected, as I understand it, in this Bill. But what about stand-alone academies if they are forced to move from a secular ethos to a faith ethos in order to be involved in a MAT? That seems to me to be a completely unreasonable position.

6.31 pm

**Lord Lingfield (Con):** My Lords, I remind your Lordships of my registered interests, including as chairman of the Chartered Institution for Further Education, chairman of the Centre for Education & Finance Management and several other charitable bodies concerned with education. I have been conscious for a long while that there have been lacunae in the 2010 and 2011 academies legislation, and I am glad to see that some of the concerns that many of us have had are to be addressed.

Just before the last Recess, I was grateful for the opportunity to move in Grand Committee a Motion to Take Note on academy schools. On that occasion, I was able to call to mind that they began, in fact, with the Education Reform Act 1988, from my noble friend Lord Baker of Dorking, which created grant-maintained schools, which I had the privilege of leading for some six years. These morphed into city academies and thence in 2010 to converter and other academies as we know them today. In my view, it is vital that any new regulations that affect academies ought to take into account their founding philosophy, which can be summed up in one word—autonomy.

In 2010, heads and governors told us that they wanted to be as free as possible from local and central government restrictions. Their conviction that they could raise the standards in their schools if decisions were taken by governors, heads and professionals on the spot and not in Whitehall or the town hall has largely proved to be correct, and my noble friend Lord Eccles alluded to this. Autonomy is also clearly still what schools want today, some 12 years later, in order to serve their pupils as best they can.

Research published by the Department for Education last November shows this definitively. It revealed that 90% of stand-alone academies—that is, those not in multi-academy trusts—reported that their reason for converting had been to gain a greater degree of autonomy. They had looked for

“greater freedom over decisions”  
and

“more autonomy over their budgets”  
to give

“improved outcomes for pupils”.

Their reasons for not joining a multi-academy trust were fear of a loss of autonomy, loss of control over their spending and the loss of the school’s individual identity.

Multi-academy trusts were originally conceived of not as an end in themselves necessarily but as staging posts for many schools towards the autonomy of which stand-alone academies today make such great use to raise standards. I accept entirely that some schools entering academy status would find it very difficult to go it alone without the support of a multi-academy trust and could need some years of back-up support before they could survive adequately. I accept also that many primary schools would be more comfortable grouped around a secondary school in a small local trust which could provide shared resources, certain central functions and good financial management.

Autonomous schools can swiftly adjust themselves to local needs, including employment requirements. The larger the multi-academy trust, the less that is possible, especially as some have schools in them, as the noble Lord, Lord Storey, reminded us, that are spaced many miles apart and no longer have individual governing bodies.

I asked a Written Question of my noble friend in December, and that was to inquire

“whether it is possible for a school in a multi-academy trust ... by resolution of its governing body to”

opt out of the trust. The answer was no. But last month, she indicated, I believe, that a consultation on that issue would take place. I hope we shall head towards the point where schools that have, in family terms, grown up enough to do well by themselves will be able to do so and via an uncomplicated process.

It seems quite proper that among the freedoms that academies and multi-academy trusts have should be the right to decide salaries. Given that there are a number of trustees who earn between a quarter and half a million pounds each year—which, as the noble Baroness, Lady Chapman, reminded us earlier, has been very controversial—in my view, those governing bodies that wish to award salaries over a certain sum, possibly £150,000 or £160,000, should make out a case to an independent panel of the funding agency. I believe my noble friend is to look into this matter. If so, that is welcome, as the optics are not good.

Our long-term aim should not be, as was implied by the recent White Paper, the conversion of all schools into membership of multi-academy trusts with a minimum of 10 schools in each. In my view, the larger the trust, the less likely it will be responsive to local needs and the more susceptible it will be in the long term to mediocre standards and even failure. The maximum number of schools in any trust should be about 10 as the system matures.

However, I welcome the framework changes, which will introduce powers to intervene where academies are likely to fail, as long as they bear down only on

[LORD LINGFIELD]

those that are doing badly and do not unnecessarily constrict those schools, such as the majority of our stand-alone academies, that are doing so very well.

6.37 pm

**Baroness Fox of Buckley (Non-Aff):** My Lords, we have heard a lot today about the Bill being a missed opportunity, and certainly, as legislation often signals government priorities, it does seem a random mix of parts. But something this Bill definitely does not prioritise is freedom or choice in education. Instead, it promises hyper-centralisation, more regulation, more bureaucracy and more state control. For now, I want to concentrate on Part 3 and the new statutory “Children not in school” registration and changes to the school attendance legislation.

These proposals are not just technical or pragmatic. We must acknowledge that this means a significant increase in the amount of sensitive, personal, confidential data that is being collated and held about children and their families by the state. Counting Children, a non-partisan coalition, warned about intrusive monitoring, risk to privacy and a lack of safeguards. Whatever the worthy intentions, civil libertarians are right to raise the concern that any legislative normalising of the collecting and processing of non-anonymised data about law-abiding citizens should give us pause. The Government’s purpose, we are told, is to tackle an increasing number of pupils who are disengaging from schools and higher non-attendance. But does this need a legislative solution that includes surveillance along with punitive measures for non-compliance?

I remember when Michael Gove, back in 2008, argued against large state databases of children’s data in relation to ContactPoint. He argued:

“We need to invest in people. Strengthening relationships, not building another Big Brother system.”

I say “Hear, hear” to that. This approach was echoed by the Commons Education Committee chair Robert Halfon, who noted that a register is not going to bring back the 124,000 ghost children who have not returned to school post the pandemic. Instead, Mr Halfon has suggested using catch-up funding to recruit more truancy staff to specifically engage with parents of non-attending pupils.

I definitely prefer this human-centred, not data-centred, approach, but even this misses the mark and the elephant in the room. The Education Committee rightly notes that Covid school closures were nothing but a national disaster for children and young people. This is often understood in terms of educational development and attainment, but the real disaster was that when politicians rushed to lock down schools, they taught the young that school is not crucial. What did we expect the lesson would be for pupils and their parents when the Government folded under pressure from teaching unions, media commentators or opposition parties that loudly demanded, to quote Keir Starmer, post vaccine, that all schools must close immediately?

I warned this House then that this was a green light for future truancy and that it sent the message that face-to-face teaching was dispensable, second-order, non-essential. We abandoned children. We left them in limbo for months. We outsourced the job of educating

to parents at home. The measures in this legislation, which is panicky, disproportionate and sometimes illiberal, will force-feed the message that schooling matters and that anyone who does not comply will be punished. That will not work to restore trust.

Inevitably, establishing a register of children not in school will also upset home-educating families, as we have heard today. According to Education Otherwise, those families are horrified by the implications of the Bill. Noble Lords have sort to reassure them, suggesting that they might be paranoid, but the new duty of local authorities to provide support to home educators sounds ominous when combined with talk of identifying suitable education at home and an expanded remit of Ofsted. Does this open the door to intrusive inspections of people’s homes that will undermine the legal rights of parents to educate their children at home as they see fit? Is this an attempt at interfering in the “how and what is taught”, in defiance of the legal right to educate at home, according to parents’ values and philosophies, as the noble Baroness, Lady Jones, has already discussed, without state meddling?

Regardless of one’s personal views about home education, these are important principles to defend in a free society, and I worry that the Bill threatens that historically light touch that has worked perfectly well to date in relation to local authorities and home educators. Even more concerning is how EHE registration is helping to identify children who are not receiving safe education, implying a link between home education and the safety of children, yet the DfE’s assessment is that there is no correlation between home education and safeguarding risk. Is this proposed regulatory regime for a small percentage of pupils involved in home education necessary? Home educators find this approach insulting and ironic. Many would argue that they choose to educate their offspring at home because they are not safe at school.

Some opponents of home education suggest that because home-educated children are invisible or unseen by authorities, there is a particular safeguarding risk. This is perverse when we know that many children who are visible and seen daily at school are not guaranteed safety. Think of those contentious culture-war issues in the classroom. We have already heard from the noble Lord, Lord Altrincham, about the chaos that gender politics is causing in schools, when teachers are affirming the use of puberty blockers, breast binding and even mutilating double mastectomies as reasonable aspirations when discussing changing gender with year 7 and year 8 pupils.

There are also the safeguarding issues that we know about with regard to group intolerance or viewpoint diversity. We have all read the story of the 18 year-old who expressed doubts about accepting gender identity over biological sex. The noble Lord, Lord Sandhurst, spelled it out for us. That young woman was driven out of school and when her teacher, who had whistleblown her story, inquired why she was no longer there, he was told that she was no longer in the system, and that was deemed a satisfactory outcome. It seems that some children not in school matter more than others, and so I worry that the focus of this Bill on the safeguarding of pupils out of school is misplaced. It is a lot more complicated than that, and is to be discussed.

6.45 pm

**Baroness Brinton (LD) [V]:** My Lords, I declare my interests as a vice-president of the Local Government Association and as a founding chair of the APPG on Bullying. It has been a pleasure to listen to excellent contributions from across your Lordships' House this afternoon.

I want to focus my contributions on Part 3, and I have a couple of brief questions on Part 4. I pay tribute to my noble friend Lord Storey for his long-term campaign for a register of children not in school. There is a place for such a register, but the nature and tone of this part of the Bill is based on penalties and problems and ignores the excellent standards and commitments that many home educators have. But I am also concerned about the holes in the current system, and I ask whether the new system will prevent these problems. I fear, I have to say, that they will not.

I support the points made by the noble Baroness, Lady Meacher, about children with special educational needs not being harmed by being directed to compulsory attendance at an institution that does not serve their needs. The noble Baroness, Lady McIntosh, spoke movingly about her family's experience of a child with autism. During the passage of the Children and Families Act 2014, I worked with charities for children with medical conditions to ensure that schools had to take account of a pupil's medical condition, so we did not have a repeat of the child who died—he died—in his classroom because his asthma inhaler had been locked in a drawer in another classroom, or the pupil with the crippling disease junior inflammatory arthritis whose head teacher did not believe that children got arthritis and insisted that they should do PE.

The statutory guidance for supporting children at school with medical conditions, published in 2015, made it clear that a head teacher must have due regard for the advice of a healthcare professional. Sadly, this guidance was substantially watered down in 2017 and now says that a school can challenge medical advice. The result is that an increasing number of parents are being fined because the school has recorded their child's absence as unauthorised, despite hospital consultants writing to schools saying that the child should not be in school.

The pandemic has brought this into sharp focus. Schools are saying that immuno-compromised pupils—for example, those on chemotherapy—should be in schools because Covid is now over. The children's consultants disagree: they want to see HEPA air filters to make a classroom safe for such pupils, or even for a teacher in a similar position. Also, children with long Covid who have severe respiratory problems—some have heart problems—are told by some head teachers that long Covid does not exist. There is no alternative provision for them, and their parents are being fined.

Schools are beginning to off-roll these difficult pupils, as they have done and still do with severely bullied pupils who are perhaps awaiting mental health therapy. The provisions in Part 3 appear to make no distinction between a pupil with a medical need that is not being met and a child who is truanting and regularly absconding and whose parents are not co-operative. I ask the Minister: how will these pupils be helped? The statutory

guidance is currently failing them, and I propose to lay amendments to ensure that schools must not disregard the clinical advice of healthcare professionals. The same should be true of those on the not-in-school register.

I turn now to the data elements of the register, which really worry me, and I echo many of the points made by the noble Baroness, Lady Fox. Will the data, in addition to a pupil's name and address, for example—as suggested in the Delegated Powers Committee's memorandum—their ethnicity or whether they have an SEN plan, be published? Under new Section 436F(2), the regulations prescribing persons to whom local authorities may provide information may also do so “to other persons in certain circumstances”.

That is very broad. Might it include companies such as Palantir, which had a Department of Health and Social Care NHS data grab contract, which was ended, but entitled it not just to analyse data, as per the contract, but to do what it wanted with that data later? The problem is that pseudonymised data is pretty easy to track back to individual families if only a small number of the total pupil cohort are on the register.

I turn to Part 4, on independent educational institutions. The detail here seems to put independent schools on a standards system closer to that of publicly funded schools. I agree with the noble Lord, Lord Baker of Dorking, that poor or unsafe schools need to be dealt with, but should it be the Secretary of State who makes that decision? In Clause 60, new Section 118A(1) says that the Secretary of State needs to be

“satisfied that one or more of the ... standards is or are not being met”

and to have

“reasonable cause to believe that ... one or more students at the institution will or may be exposed to the risk of harm.”

On 19 May, it was reported that Ofsted had issued an updated version of its December 2021 inspection report on Ampleforth College, which is still rated inadequate on safeguarding and leadership. The DfE issued its first warning notice to the school in 2018, so DfE has known that it has now been in an unsafe position for four years. This is the fourth Ofsted inspection that the school has failed in just over a year, having also failed three ISI inspections in the years before that. What is delaying the Secretary of State taking action, and if the powers for decisions reside solely with the Secretary of State, and they choose not to take action, who will?

In Clause 60, new section 118E proposes that a requirement to stop boarding be put in place. Surely, if any school has safeguarding issues so severe that a stop boarding requirement is necessary, continuing the school itself must be in question. Safeguarding is paramount, and the precautionary principle must be in place. Perhaps the Minister can explain this.

6.51 pm

**Baroness Bennett of Manor Castle (GP):** I declare my position as vice-president of the Local Government Association. It is a pleasure to follow the noble Baroness, Lady Brinton, and to speak after my noble friend Baroness Jones of Moulsecoomb, who covered particularly the issues that home educators have with this Bill. I

[BARONESS BENNETT OF MANOR CASTLE] will cover in our division of labour all other aspects of the Bill, but there are two in particular that I want to focus on today.

When I looked at the Bill, and particularly its provisions on multi-academy trusts, a Denis Healey principle came to mind. It has been labelled “the first law of holes”: when you are in one, stop digging.

The noble Lord, Lord Blunkett, reflecting a view shared by many other noble Lords, said that this is a “mouse of a Bill”, one that fails comprehensively to offer new ideas, new approaches, to tackle the enormous, seemingly overwhelming challenges faced by young people today in a society that is so failing them. Rather, I would say that it is a mole of a Bill. The Government are blindly digging in deeper on a failed policy, a policy that demonstrably does not even deliver what seems to be the one thing the Government are focused on: better exam results in a narrow handful of subjects. It also seems weirdly out of step with what you might think of as Conservative philosophies: more bureaucracy, lack of local control and lack of local democracy.

It is also a policy that you would think, given the problems of corruption in government spending that the noble Lord, Lord Agnew, has so strongly spoken out on in other contexts, the Government might be having second thoughts about. The controls handed to the Secretary of State mean that he will have extreme oversight over what multi-academy trusts do. I note that the extremely valuable briefing from the LSE points out that “related party transactions”—business arrangements between a MAT and a body that is associated with its governance—were worth £120 million in 2015. I know that the Minister may say that steps have been taken to crack down on that, but what if these powers are all handed to the Secretary of State?

But the issues here are bigger, much bigger, than merely money. They are about what schools are. They are not, or they should not be, sausage machines to shove out identikit pupils all around the country with the best possible exam results. They should be integral parts of communities, not just contributing to the education of the young but building strong ties across all ages. MATs do not require local governance, oversight and involvement at any level, but even if they do have some kind of community involvement in governance, they may well be spread across the country, hundreds of kilometres apart. How will local parents and citizens want to contribute, want to get involved and feel it is their school when they have no say?

One phrase in Clause 53 of the Bill that really struck me is where it talks about a

“proprietor of a school in England”.

“Proprietor”, the dictionary tells me, is the owner of a business or the holder of a property. That is a legal definition, but what does it say about the Government’s idea of what a MAT is? We have seen so many sweeping privatisations, and we have failed to recognise that schools are another area where we have lost so much public control and ownership.

Another aspect of the MAT model is striking. I go to an unsigned Department for Education blog, dated 14 October 2021, which, in justifying the government stance, says that MATs

“enable the strongest leaders to take responsibility for supporting more schools”.

So, again, we encounter a profoundly “un-Green” but, more importantly, a profoundly unsuccessful model of leadership. One person blazes the trail and shows the way, and everyone else trudges along behind following the directions of that one person. Instead, why not draw on the talents, abilities, skills and energy of the many—teachers, parents, communities and indeed pupils—to collectively shape their local school? As the LSE suggests, why not restore each school as an individual entity and, if you really want to keep MATs, allow schools to opt in and out as they like. That is not to decry the power of networks, but it would mean schools voluntarily—ideally groups of local schools—joining together and working together. A forced model is not a community; it is a bureaucratic, top-down imposition.

My second point is about mental health. The lack of provisions in this Bill, given our epidemic of mental ill-health, is striking. On 29 March, I asked the Minister about the UK having the unhappiest children in Europe. Her answer was entirely about exam results allegedly delivering better chances for children. Does she really think that deeply unhappy children, or children with mental illness, anxiety or depression or who are self-harming, can really be expected to attain the exam results that she and the Government crave?

I want to ask the Minister two direct questions. Is she prepared to consult two excellent organisations addressing issues around the push in this Bill to focus on attendance and force pupils into school despite the challenges it may present to their health and well-being? These organisations are Square Peg and Not Fine in School; I ask the Minister whether she will listen to what they have to say: that attendance and attainment cannot be at the expense of a child’s mental health and emotional well-being.

My second question is: what have the Government done to listen to pupils in drawing up this Bill? What consultation with young people has there been on its provisions?

6.58 pm

**Lord Davies of Brixton (Lab):** My Lords, we have reached that stage in the debate where there is little more to do than emphasise points made by earlier speakers, in my case particularly by my noble friends. I have to start, however, by pointing out the absence from the Bill of any acknowledgement of, let alone practical steps to deal with, the most pressing educational issue of our time; namely, addressing the aftermath of the Covid pandemic on our schoolchildren.

I will focus on the main theme of the Bill, which is the further centralisation of power over the school system, over individual schools, into the hands of the Secretary of State. The Bill gives the department greater powers in the four areas covered by it: academies, school funding allocations, home education and attendance, and illegal schools. I welcome some of the

proposals but, regrettably, the key changes reflect the arrogant approach to schools that characterises the Department for Education. For example, there is a power to determine when fines for non-attendance should be given, but this overweening approach reaches its apogee in it taking the power to determine the funding allocation for every individual school in England.

Of course, the DfE has run a national formula for allocating school budgets for many years. LEAs receive the total entitlement for their schools but can allocate money to schools in line with a local formula—within strict limits and with the agreement of the schools forum. This approach is now to be scrapped and the DfE will determine the funding allocation for every single school. Given the record of the department, it seems unlikely that these further attempts to micromanage the system will lead to any improvement.

The answer is, of course, that allocating funding requires sensitivity to the circumstances of individual schools. Local circumstances matter: most schools are inherently local institutions. That is why we need to keep and improve a tripartite approach—with a role for the department, of course. But individual schools and, not least, the local education authorities have a key role as well. At present, schools have a say through schools forums in how local funding formulae are constructed, working with the community representatives, the local education authority. They will lose that influence entirely as it appears, in the Bill, that decisions will be made exclusively by the department. When problems arise with the funding available to an individual school—as they surely will—few schools will have the capacity to resolve them in discussions with the department.

There has been much discussion here of the section on academies. As previous speakers have made clear, this represents a notable change from the current arrangements; it means a complete reversal of the original academy vision. The original focus was on school autonomy and, in itself, the proposed about-turn is hardly an endorsement of that idea of academies.

However, I do welcome the recognition of the value of families of schools. It is just that this is what was and still should be provided by local education authorities. Education has to be a partnership between devolving and democratising decisions to local educators, parents and the community more widely. Transferring power to the centre has demonstrably failed, not least during the pandemic.

Finally, I have to say something about faith schools. The issue was raised by the right reverend Prelate the Bishop of Durham—who is not in his place—who took us through 200 years of history, emphasising the role of the church in the development of our education system. He has every right to do so. But now we are discussing an education system for the 21st century and it is safe to say, speaking as a committed atheist, that views differ on faith schools and that history, in itself, is a poor justification for any policy. So I welcome the opportunity presented to us to discuss the role of faith schools during the passage of this Bill. I think it is going to be an interesting Committee stage.

7.03 pm

**Lord Lucas (Con):** My Lords, I declare my interest as the editor of *The Good Schools Guide*. I follow the noble Lord, Lord Davies, in saying that we are going to have an interesting time in all sorts of extra discussions on aspects of schooling: we are pretty good at being inventive as to how to fit them within the title of the Bill. I look forward to discussions on comparable outcomes, doubtless with the noble Lord, Lord Hunt of Kings Heath, and admissions data, tutor regulation, and mental health with my noble friend Lord Altrincham. I note that the Government have recently endorsed Govox as a solution to mental health in schools. It is a very reassuring name—the voice of Gove. None the less, I think we should be careful in how we go around using apps which are unsupported by teacher training and our mental health services.

Employment skills, too, obviously need to be covered, as well as toilets for women, gender and exclusions. I think that there is a real case for revisiting the argument that, if you exclude a pupil, they stay in your performance tables—you cannot lose responsibility. It is up to you how well you place them, and you should take responsibility for that.

My main interests in this Bill are going to be on academies and home education. On academies, I very much follow the noble Baroness, Lady Chapman of Darlington, and the noble Lord, Lord Knight of Weymouth—two friends now, although doubtless they will soon be arguing about which of their towns the House of Lords should move to. But we agree that this is an astonishing end to the founding freedoms of academies: they have been reduced to something less than maintained schools, being looked after by a ministry that has never proved itself able to do that sort of thing. I shall, with my noble friend Lord Baker of Dorking, be pushing back on this and asking, “What’s the vision, how is it supposed to work? Why should multi-academy trusts flourish in this environment? What is their role, why would it work, and what are the human dynamics of the system that the Government appear interested in creating?” I shall ask, too, how we can reconnect academy schools with parents. As others have noted, they have drifted away, and it is really very difficult for parents to have a relationship with or indeed an understanding of an academy school and the MAT that goes behind it.

On home education, I am very grateful to my noble friend for acknowledging the value and supporting the freedom, as she said. I hope that the Government do recognise that, in many cases, the resort to home education is due to a failure of the state—the school, the local authority or the other support services. It is because a parent cares about their child and is not prepared to let them be failed by the state. I am not unhappy with the register, but it should be universal; every child should be on it. At the moment, children in independent schools are not; as soon as a child gets into an independent school, they are off the data. We ought to be able to follow every child in the UK so that we can really understand where children go before and after home education and before and after exclusion, and really understand what our schooling system as a whole is doing. We might also look at having a universal

[LORD LUCAS]

register of providers. Why should we not know who is providing tutoring services, or indeed any other educational services? It need not come with obligations, but we should know who they are.

This Bill gives a lot of powers to local authorities. Some of them are wonderful: I will name Gloucestershire, Sandwell and Lancashire as three that really do well in looking after their home education communities. They step back, look at the big picture and innovate when it is needed; and they employ people who really know the law and understand how to use it and the wide extent of their existing powers, who want to help home educators, and who are open, responsive and collaborative in their approach. They create an environment of trust, where the community of home educators is open to working with the local authority, and they work with them to help resolve individual problems that occur with individual home educators. But this is not universal; other local authorities are repressive and oppositional, and this Bill, which should be constructed to drive local authorities towards best practice, instead enables bad practice.

There are far too many ways in which this Bill makes home educators vulnerable to bad local authorities—and there is, as yet, no money to support home educators. There is a promise, but nothing in the impact statement. We should ask that registration is not commenced until support is in place, and we should really look at the way in which penalties have been increased and have become very punitive in an area that should be about encouraging discussion, understanding and collaboration. It has made it far too easy for local authorities to resort to the stick. Time limits have become far too short—10 days to respond to a set of complicated questions is not reasonable if you are in the middle of it, living a life and educating children. No local authority will comply with a time limit like that.

The mandatory information to be provided should be basic; otherwise, you will get into all sorts of safeguarding problems when local authorities start telling people who a child's father is and where they live, and enabling people to find out what is going on in cases where abuse is taking place.

The Bill must make good behaviour by local authorities the default, rather than bad behaviour.

7.10 pm

**Lord Nash (Con):** My Lords, I declare my interests as a sponsor and chair of Future Academies and a trustee of the Education Policy Institute. Unsurprisingly, I am delighted that the Government are promoting multi-academy trusts, with all the benefits of schools working together in groups. I am grateful to the noble Baroness, Lady Morris, who is not in her place, for her kind words in this regard.

The benefits are not just the obvious ones of economies of scale, efficiencies and an ability to standardise procedures; I believe that the biggest benefit is in improving the career development opportunities of teachers. MAT leaders who formerly ran one school consistently tell me that, when they did so, they used to lose all of their good people. Now, they can offer them clear career development pathways and promote

them, and help develop teachers' careers in this way. They can offer them evidence-informed CPD and, increasingly, we are seeing MATs providing their teachers with excellent teaching resources that greatly reduce their workload and enable them to focus on delivery and the very difficult task of differentiation between pupils of different abilities. I say to the noble Baroness, Lady Garden, that I have taught, and I found it absolutely terrifying at times.

Much in the Bill is good. However, while I agree that the Government need powers to intervene in the event of what my noble friend the Minister describes as the "serious failure" of MATs, the Bill purports to go far further than that. The academy and MATs sector is very concerned about the far-reaching, vague and potentially draconian provisions that the Government appear to be seeking in the Bill in relation to intervention powers. They are effectively seeking to tear up many of the existing funding agreements, which are clear contractual arrangements, and to give themselves the power to tear up the rest of them for any breach whatever, apparently, and replace them with vague and draconian powers, and to give the Secretary of State very wide powers indeed to set standards.

This appears to be an attempt by the department to micromanage schools, which it is ill equipped to do and which should be left to education professionals. It is an attempt to drive a coach and horses through academies' fundamental freedoms. This is a long way from intervention powers for "serious failure", and I share the concerns of my noble friend Lord Baker and the noble Lord, Lord Knight, about this. Will the Minister confirm that academies' fundamental freedoms will not, in fact, be tampered with? Will she agree to meet me to discuss how the Bill can be amended to achieve this and to remove the potential micromanaging of schools?

The Bill gives the facility for local authorities to academise some or all of their schools. I urge caution here. We have been here before when, in a rush to academise, the department allowed some groups that were not well constructed to develop. I hope the Government will ensure that there is thorough scrutiny of the record and construction of these groups, the balance between good and bad schools and their geographic focus, and that sufficient independent directors are appointed to their boards.

Turning to elective home education, I am delighted to see that the Bill proposes a register. It has been estimated that the number of children in home education has risen over the last 10 years from 20,000 or 30,000 to 80,000 or, in some estimates, 100,000. The home education lobby is very powerful and consists of some extremely able and articulate people. They will have concerns about the register, as the noble Lord, Lord Storey, said—I pay tribute to him and the noble Lord, Lord Soley, for their work in this regard. However, I invite them to see the bigger picture. Although I have little doubt that the members of this lobby are perfectly capable of educating their children at home, I suspect that, quite possibly, 70,000 or more of that 100,000—if that is the number—are not receiving a suitable education at home, if they are receiving any education at all. I invite the home education lobby to see the bigger picture. The Government are not concerned with them—

they have nothing to fear from the register. They have a right in legislation to educate their children at home, but I believe there is a fundamental human right for a child to receive a good education, and that trumps a parents' right where they are not able to provide it.

If I am anything like right in my view as to how many children are not receiving a suitable education at home, this is not doing the reputation of home education any favours at all. Of course, many parents elect for home education because they are concerned about the reputation of alternative provision and the particular PRU that the local authority will send their children to. This is why I believe we need clear accountability standards for PRUs. I am delighted to see that in the SEND Green Paper the plan is for all AP providers to be in MATs and for MATs to open new ones. However, under the initial existing arrangements the initiative to create new AP provision rests with local authorities. I urge the Government to look again at this, as I believe that some local authorities do not recognise the low quality of their existing AP provision, and the system would benefit from more competition and more AP free schools. I am pleased that the Government are encouraging MATs to set up their own AP provision but, with the exception of very large MATs, most MATs will not have enough students of their own to make this provision viable without pupils from third-party schools. We know that the local authorities control the funding in this regard, which is why it is important to involve them in this.

On primary schools, I am delighted to see that the Government are seeking to raise standards here. There is a tendency for people to focus on secondary education because of the importance of GCSEs and A-levels, for parents to believe that primary is all about happy days, and for people to believe that pupils can catch up in secondary—which of course they can. However, the fact is that, on average, if a child does not do well in primary, they have very little chance of doing so in secondary. During the five years when I was a Minister, if a child did not receive what we regarded as a pass coming out of primary—a level 4B—depending on which year it was, they had only a 6% or 7% chance of getting five good GCSE. I hope that Ofsted's focus on a coherent and sequenced curriculum in primary—I have to say that a lot of primary curriculums are not well constructed—will help in that regard.

7.17 pm

**Lord Triesman (Lab):** My Lords, there may be few times in recent history when new thinking on schools was more important. I share the overview and analysis of the gaps here from the noble Lords, Lord Hunt and Lord Knight, and the noble Baroness, Lady Morris, and the analysis of state centrism from the noble Lord, Lord Baker; I shall not repeat those points, because I simply agree with them. I will focus on Part 2, on how to optimise learning outcomes and remove impediments through modest changes to growing challenges.

I am unimpressed by the Government's Pollyannaish narrative about sunny uplands and government levels of investment. It is not entirely the Government's fault that we are in a deep shadow—quite possibly the deepest social and economic crisis in 75 years. Living

standards are close to freefall. Covid has caused deep stresses, and Covid has not gone away. Health and social care is struggling with normal demands and a huge backlog of accumulated demands; half a million are on the social care waiting lists, and one in nine of us is waiting for routine surgery. Quite aside from the growth in demand for food banks and fear of heating bills, an average 2 million adults daily go a whole day without food, most often to try to feed their kids. That is the UK in 2022.

If anybody does not think that all this impacts kids and households very acutely, they must live on another planet. These kids do not inhabit sunny uplands. They are the kids who suffered most during lockdown and they are suffering most through economic recession, which is set to get worse, so please, let us have no platitudes or complacency today about government support. Nearly three-quarters of primary school heads say that catch-up funding barely scratches the surface of the problems that kids face. Head teachers are already diverting the pupil premiums from the most disadvantaged kids to general funds. This is a long-term blight which needs long-term investment or it will hobble our country.

UNICEF research shows that Covid impacted learning everywhere: the acquisition of foundational and socio-economic skills, mental health, and the safety and well-being of children. Here, we know that it spotlighted inequalities in our society, hurting the most vulnerable the most: the poorest and those from ethnic minorities. However, our problems predate the pandemic. A study in 2015 in England showed that, for every pound invested in school mental resilience programmes, England generated a net return on invest of £5.08. Research started in Finland and continued in this country estimates that every pound invested in preventing bullying in UK schools returned £7.52. Initiatives for pupils and teachers in mental health literacy have similar benefits. I am very grateful to the exceptional Sarah Kline, the CEO of United for Global Mental Health, for careful analysis of these data.

To be clear, I am talking not only about the struggles of kids with diagnosed mental illnesses, or those on the rapidly expanding list of spectrums, or kids who routinely see their SENCO at schools, or those with special challenges but without specialist help. These are significant cohorts on their own. I am talking about all kids, parents and a fair proportion of their teachers who are all impacting each other and amplifying major stress. Reliable research in the United States and the United Kingdom—on which Members of this House are experts, including my noble friend Lord Layard—conclusively demonstrates that these stresses subsequently hamper attainment across the curriculum. Put simply, children who are not provided with personal tools in their tool kit to be resilient enough to reach their potential do not reach it. The points made by the noble and right reverend Lord, Lord Harries, and the noble Lords, Lord Sandhurst and Lord Altrincham, go very much to that point. These children's parents and teachers do not have the training or tools to make enough of a difference. Of course, this is not the case for everyone, but a high proportion of kids are held back this way and a high proportion of teachers and parents cannot really help.

[LORD TRIESMAN]

I declare my interest as a member of the board of a charity, Bounce Forward, originally started to respond to United States research on programmes to equip teachers and pupils with greater resilience. It is a small charity which reaches out to UK schools and local authorities, with real success. As you would predict, greater resilience has led to improvements right across the curriculum, in confidence and in reductions in bullying, as well as a hunger to catch up lost education time. Its methods could be embedded in school routines, timetables and teacher practice. The spread of good practice is too slow; mandated time is needed in timetables and modest sums need to be spent specifically on resilience through inset day slots and places in teacher education. It all seems so obvious, and Part 2 of the Bill needs to garner this information. I would like to hear whether the Minister can confirm that there are ways of transforming resilience and, roughly speaking, whether we can organise timetables to make that possible.

I know that I am short of time, but I ask the House's indulgence for one brief note of real distress that I have about this Bill. The noble Lord, Lord Russell of Liverpool, my noble friend Lord Watson and the noble Baroness, Lady Walmsley, and I have sought and received government assurances from the noble Lord, Lord Agnew, that the full range of remedial steps provided to children adopted from care in the UK will be extended to children adopted from care abroad. I was always told—including by noble Lords here—that exclusion of this latter group had been an oversight and not a matter of policy. We all agreed that it was necessary to correct it. The House was repeatedly promised in writing that the anomaly would be corrected at the first available piece of primary legislation. This is that piece of primary legislation. However, the change is not in the Bill so we must amend it. These kids have one chance, not multiple chances. Every time that we neglect to make this correction, a small group of children suffers disproportionately—but we can stop that.

7.25 pm

**Lord Watson of Invergowrie (Lab):** My Lords, the graveyard slot on the Back Benches inevitably leaves next to nothing new to say, and I do not think I am going to break that mould this evening. As almost every noble Lord has said, the overriding theme of the Bill is to further centralise control over the school system and give the DfE greater powers in relation to academies, school funding allocations, home education and attendance and illegal schools. I have few concerns about the latter two subjects, but on the first two I have many.

Part 1 of the Bill highlights the Government's enduring obsession with academies and the aim of making all schools academies by 2030, despite the absence of independent evidence to support such an aim. There are many good academy schools and I am not anti-academy, although I do not believe they should have the right to set their own curriculum; I have always believed that a national curriculum should be just that. However, Ofsted ratings of local authority maintained schools and those in MATs show that

schools that join MATs are less likely to improve their next Ofsted rating, and in fact are more likely to see a regression in that rating.

That is supported by research published by the Local Government Association as recently as this month, which showed that as of January 92% of maintained schools were regarded as outstanding by Ofsted, compared to 85% of academies graded since they converted. That research, which looked at school ratings between 2018 and this year, found that only 45% of academies were able to improve from inadequate or "requires improvement" to good or outstanding during that period, compared to 56% of maintained schools. What does that prove? You may say that statistics can prove anything, but it shows that there is no reason to think that whatever the problem is, academies are the answer; they simply are not. If the Minister has not already done so, she would do well to study that Local Government Association report closely because it will challenge the department's mistaken view that one size fits all. Evidence rather than ideology should surely underpin legislation.

As my noble friends Lord Blunkett and Lady Morris said, the Bill's proposals on academies represent a dramatic shift from the current arrangements and are a far cry from the days when academies were introduced with the promise of less regulation and more freedom to innovate. I listened closely, as I always do, to the noble Lord, Lord Nash, and although he was a bit more sanguine than I had expected regarding the proposals in Part 1, we could tell that he is certainly not happy with them.

On that point, my noble friend Lady Chapman mentioned that the Bill gives local authorities the power to request an academy order for any or all of their maintained schools. Although it is not entirely clear, it seems that they can do so even if a school objects. Can the Minister provide clarity on this important matter? The Bill also gives regional schools commissioners the task of allocating to MATs schools converted in this way via local authorities, and it appears that this could lead to schools being allocated to a MAT outwith their local authority. I hope the Minister will confirm that this will not be allowed to happen.

Part 2, on national funding allocations, represents another power grab by the Secretary of State. The national funding formula, which I believe was introduced in 2018, sees local authorities receive a total entitlement for their schools but they can allocate money in line with the local formula, with strict limits and the agreement of the local schools forum. According to the Bill, the local authority stage is to be scrapped and the DfE will determine the funding allocation for every one of the—according to the DfE website—24,413 state schools in England. What could possibly go wrong?

In her opening remarks, the Minister stated that these changes are being proposed specifically because local authorities were deciding on their own funding priorities. Well, quite. That is quite appropriate because allocating funding requires sensitivity to the circumstances of individual schools. Local factors matter. When problems arise, as they surely will, schools will not have local officers to help to resolve them and every appeal will have to go to the DfE, which will be judge

and jury. That is a seriously retrograde proposal and, I hope, one that will not survive the consultation that we have been told will take place, as I have read, before summer 2022—which according to my calendar leaves about eight days.

Part 3, on school attendance, is overdue and to be welcomed. I join many noble Lords in paying tribute to my noble friend Lord Soley and the noble Lord, Lord Storey. My noble friend's 2017 Private Member's Bill called for the establishment of a register of children not in school, and I am pleased to say his tireless efforts now have their reward in Clause 48 of the Bill.

As the noble Lord, Lord Nash, said, elective home education is a right established by the Education Act 1996. For two years, he and I faced each other at the Dispatch Box on education matters and rarely agreed—I hope we disagreed in relatively good terms—but I absolutely agreed with what he said on this important matter. When supported by parents who have an understanding of the educational needs of their children and the ability to ensure that these needs are met, home schooling is appropriate and usually beneficial. Such out-of-school settings do not present a problem, as he said; it is the others which are a problem. The problem which has to be addressed is that children either never presented to school or subsequently withdrawn do not enjoy such a benign experience.

Some parents are ideologically opposed to formal education and to providing the authorities information about their children—some of them were in the Public Gallery today. I acknowledge their right to hold those views, but it is not realistic to expect that the wishes of a minority of parents should be permitted to override issues of child safety and protection. The issue of most concern is that nobody—certainly not the DfE—knows how many children in England are being home educated, because no records are kept. Thus, children not in school can be entirely invisible to the authorities. That must end; the rights of the child are more important than the rights of the parent.

In conclusion, I shall say something on the gaps in the Bill, some of which my noble friend Lord Triesman has just forcefully outlined; I am thoroughly in agreement with him. There is nothing on careers or skills. How will the Bill link with the Skills and Post-16 Education Act? There is nothing on a number of issues included in the White Paper, such as organising and closing schools, schools changing MATs, admissions, exclusions, and responses to well-being and mental health issues regarding pupils. How will the Bill link with what emerges from the SEND Green Paper or the proposals set out today in the independent review of children's social care? As with most legislation drafted by this Government, the Bill contains many more questions than answers. Noble Lords made significant improvements to the then skills Bill; it will be necessary to repeat that with the Schools Bill.

7.32 pm

**Lord Addington (LD):** My Lords, the noble Lord, Lord Watson, said that the graveyard slot for Back-Bench speakers is a difficult one because everybody has already said everything. If I cast my mind back, I thought I had an original point, but at speaker 13 it was basically shot to pieces. The noble Lord, Lord Baker, pointed

out that the Government are seizing incredible amounts of power. That is quite right. There are 20 examples of it, but that is not exhaustive, and we all know the old adage about lists. What do you stick on and what do you take out? You can carry on sticking on for ever. We are sticking on powers for ever for the Secretary of State to tell our schools about their structure. That is worrying. How we go about this will be fundamental to whether it stands any chance of working.

Making these regulations is going to be an affirmative process. That has been established. The affirmative process is an odd one, because we will debate the statutory instrument and have the possibility to vote against it, but if we dare vote against it, it will be a case of, "How dare you attack the constitutional system of government? How dare you say you are voting down regulations? It is just not on." Effectively, we can have a debate about saying that we disagree with it.

If we are going to do this, I feel we should know the background for how each decision is made. What consultation took place every time one of these decisions was made? We should have it published somewhere. I will certainly be moving amendments to this end when the Bill gets to Committee. If the Government are taking on this responsibility and this power, we should know what it is based on. If they have consulted certain interest groups, let us hear that and see that. At least let us know what we are disagreeing with—if we are disagreeing. That would be a reasonable thing to have in this Bill. I hope we can proceed along those lines. If not, as the noble Lord, Lord Knight, said, what happens next? What happens to the next person going down with another set speech? I am not worried about this Secretary of State, but what about the next one? Who knows? Basically, he could have horns, a tail and cloven hooves coming in—and you always find somebody beside you who says, "He already has."

It does not really matter what is said about this; we have to make sure we know where it is coming from at the very least. The Government should have a good enough case to present to us and say, "Here, we have taken information; this is our argument", and at least they can stand by it. I hope that we get a better idea about this list of incredibly sweeping powers.

The funding of schools is something that virtually every second person has spoken about. We now have one funding system for an incredibly varied educational need, which is going to need challenge and examination.

We have got other bits of legislation going through and it is at this time I should remind the House of my interests in special educational needs: I am chairman of the British Dyslexia Association and of Microlink, which deals with assistive technology, particularly in the education and employment sector.

We are looking at this now, but then we also have funding going on and an arbitrary set of regulations going through. Can we make sure that the funding represents—or at least has some mechanism in it somewhere to represent—high need? It does not matter how you define it. It can be rural schools—indeed, rural schools will need something, unless you are going to invest a great deal more money in school transport. How we get school transport into this Bill I am not sure, but making sure it goes up to age 18—we are supposed to be in education until 18 now—might

[LORD ADDINGTON]  
not be a bad idea. How are we going to get these things coming together? How it all comes together is probably the most important structure.

How are we going to bring in the work we are doing and the consultation about special educational needs? Somebody said that there is one correct way of teaching. How do we do it? I have already identified in my own little pet bit of that field that many people with dyslexia do not think the way English is taught, with systematic synthetic phonics—it has taken me about 40 times saying that to get it right—is correct. How are we going to ensure that we have enough exemptions so that other ways of teaching fit in? They are not the only show in town.

How do we fit these all together? It is important, and a degree of flexibility will be needed to make this work. On every occasion, arbitrary rules are set down, but you need flexibility to make them work. This is recognised in other bits of law, so how are we going to change that? How are we going to work it through? I look forward to hearing from the Government about this. It will be a challenge, but I am sure we are up to it.

Oh! The flashing clocks are slightly off-putting, but I am in the wind-up spot.

We then get towards the back of the Bill and the idea of the independent sector. Apparently, my noble friend Lord Storey has already had electronically some sort of expression of total hatred for what he has just said about certain religious schools. We should have done this long ago, so I congratulate the Government on that. If we are going to deal with this and make sure we go on, we need, again, an indication of the thinking that will go with it. We should recognise more publicly the idea that you are regulated and cannot just teach a narrow religious focus. It is mainly Abrahamic religions in these schools; I am sure we can find a few more if we look hard enough. Certainly, that type of thing is about not a philosophical basis but equipping people to go forward.

We then come to the idea of a school register and home schooling. I am afraid that I am with the noble Lord, Lord Nash, on this: it is the child's right to an education that comes first; that is the important thing. I am also on the side of the noble Baroness, Lady McIntosh, because that right education may well be provided at home, but we should know what it is because the schools have got it wrong in the past.

The noble Baroness, Lady Berridge, said that there were examples of people who say "Let's push it away". I too have heard those examples. Looking at this in the round and making sure that the child is the centre of what is going on is the way forward. If the school has failed or does not have examples or if—let us put it this way—the cock-up school history has applied, if a child who does not have normal educational needs or has been badly bullied does not want to go back into that school and you cannot find another place, home would be the right place. The state should give some support there. It requires us once again not to have an arbitrary look at this. There will be people who will go forward who will not be doing it properly. We must make sure that we realise that there are two patterns of behaviour there. If we do not, we will be letting people

down. But if we take on the idea of what education is appropriate for that child, we probably will not go too far wrong.

That requires getting people who understand the individual needs to have a look, especially if we are dealing with special educational needs. If you do not understand autism, you will not know about teaching autistic children. If you do not know about attention deficit disorder or dyslexia, you cannot make that judgment. You are just not capable of doing it because you will not understand the context.

I hope that, as we go through the Bill, we will be able to bring out of the Government where they think the flexibility and give in this approach are, because, at the moment, we seem to have a Secretary of State who will decide and we will comply. It is a guarantee that we will get it wrong periodically, and sometimes classically badly, if we do not build flexibility into this approach—because, basically, the education requirements of individuals and areas are not the same as each other.

7.42 pm

**Baroness Wilcox of Newport (Lab):** My Lords, this has been a high-quality debate with insightful contributions from all sides of the House and a wealth of experience and expertise displayed. Schools and universities across the UK have been profoundly impacted by the pandemic. It is well documented that there is a disparity in the impact between schools in deprived areas and those in the most affluent areas.

I will begin by remarking on the excellent points made by my noble friend Lady Chapman, where she noted the essence of this Bill. There is more to say about what is missing than about what is there. We wanted to see an ambitious, substantiated plan to support our children's pandemic recovery, but sadly it just is not there. Where are the proposals to improve teaching standards or to tackle the absolute exodus of burnt-out school staff? Where are the measures to equip our students with the skills they will need in the industries of the future, in an ever-more globalised and technologically advanced economy? This Bill does nothing for these crucial aspects of our children's learning and is a huge missed opportunity. Education and skills will be a critical pillar if the Government are serious about their latest slogan of levelling up, and from the Bill before us, I am not sure that they are. The Bill focuses on structures, not standards. Right now, struggling schools do not need new regulation and new responsibilities: they need more teachers, better mental health support and buildings that are not falling down.

Many points were raised by your Lordships. There were concerns about the opaque nature of the governance of academies, in particular the idea of an all-powerful centre and satellite schools noted by the noble Lord, Lord Storey. There was an interesting idea that young people clearly consider the environment as part of their rights and values, as indicated by the noble and right reverend Lord, Lord Harries of Pentregarth, in the amendment he proposed, and the right reverend Prelate the Bishop of Durham was absolutely right to assert that we should not sell our children short, as seems to be the case throughout the Bill.

I agree with my noble friend Lord Blunkett when he says with experience and eloquence that the crisis in teacher recruitment and retention is nothing short of scandalous. The Bill is a lost opportunity, with the missing element of accountability. The noble Baronesses, Lady Meacher and Lady Berridge, both alluded to the importance of legislating for children who are home educated.

My noble friend Lady Morris of Yardley—who, incidentally, gave me the largest pay rise I ever had as a teacher—wisely noted that the Bill is trying to redress the coalition agreement, and that academies are no more successful than any other type of school. She asked how the Government and Civil Service are best placed to determine these matters—where is the evidence? Ofsted does not inspect them, and they do not follow the national curriculum. She noted that we need to determine what makes a good school and replicate that.

The noble Lord, Lord Baker of Dorking, is a former Tory Education Secretary of State who did not give me a pay rise but did give me Baker days, which was a welcome addition when we could stop, think, renew and learn as we went along in a sometimes frantic career. His comments were frankly astounding. He said that, since 1870, previous Secretaries of State for Education have never had such sweeping powers as the current Secretary of State is looking to assume in this Bill. It is worth repeating his words:

“We have to be very aware that this is ... a real grab for power by the Department for Education”,  
which

“has never run a school ... but now it is going to take complete control”.

My noble friend Lord Knight of Weymouth raised the important possibility of what future Secretaries of State might do with the powers that they grab in the Schools Bill of 2022.

My noble friend Lady Bakewell raised some extremely concerning matters regarding approximately 6,000 students in the education system who attend unregulated schools, where little attention is given to secular education and LEAs seem reluctant to intervene. These matters must be clearly addressed by this Bill.

My noble friend Lord Hunt also commented on the power grab idea put forward by the noble Lord, Lord Baker. He further reminded us that we should acknowledge the excellent work that goes on in our maintained schools across the country. He was quite right to point out the financial concerns regarding academies, notwithstanding parents being unable to review the financial status of such schools and the increasingly excessive payments to head teachers of these establishments.

My noble friend Lady Blower was as detailed and incisive as ever with her points on the Government's casual use of data and the complete reversal of social justice in funding terms.

The noble Baroness, Lady Brinton, made some extremely concerning and important points regarding data and its unregulated use.

My noble friend Lord Watson gave a really detailed and insightful speech. He helped me greatly during the passage of the skills Bill in understanding the process of your Lordships' House. He too noted the Government's

obsession with academies, which appears to be driven by ideology rather than evidence. In terms of home education, he also noted that child safety and the rights of the child must be paramount.

I will reiterate what Labour's children's recovery plan would deliver: small-group tutoring for all who need it; breakfast clubs and after-school activities for every child, as we have in Wales; quality mental health support for children in every school; continued professional development for teachers to improve teaching and learning; and targeted extra investment from crucial early years to further education to support children and young people at risk of falling behind.

I conclude that there are some welcome proposals in the Bill, but it has completely the wrong priorities. As the Bill progresses through your Lordships' House, Her Majesty's Opposition will be looking to work with the Minister and colleagues across the House to address our real concerns throughout the scrutiny process and will aim to ensure that the Bill can be the best it can be. Our children and young people deserve nothing less.

7.49 pm

**Baroness Barran (Con):** I thank all noble Lords for their contributions today. I am deeply grateful for the knowledge and expertise that have been brought to bear on the debate, and I am pleased to hear from so many with great experience in the sector. I echo the remarks of the noble Baroness, Lady Chapman, about the noble Lord, Lord Watson, although I would like her to put herself in my shoes: she has him behind her; I have both of them across the aisle.

Among the many comments offering support, I have also heard the phrases “limited ambition” and “missed opportunity” on a number of occasions, so I would like to clarify our approach a bit better. In developing this Bill, we have looked carefully at the evidence. We have considered what works, and we are putting that into practice. To paraphrase my right honourable friend the Secretary of State for Education: arguably, the most ambitious thing a Government can try to do is replicate what is working in some places and scale it across the country. That is what we are trying to do.

The noble Baroness, Lady Chapman, referred to a lack of ambition in supporting children, empowering teachers and supporting parents. I would point her to our schools White Paper, where we have set out all those things in detail, supported by a broad range of programmes, including a “Parent Pledge”, which is a promise to every family that

“any child that falls behind in English or maths should receive timely and evidence-based support to enable them to reach their potential.”

I would also point your Lordships who challenged the Government's position in relation to careers advice and forward-looking qualifications to the achievements in the skills Act and our work on T-levels.

The right reverend Prelate the Bishop of Durham suggested that we might be selling our children short if we focus so much on numeracy and literacy. My noble friend Lord Nash put it brilliantly as to why this is so important. Without the fundamental skills of literacy

[BARONESS BARRAN]

and numeracy, all the other subjects and areas of the curriculum that noble Lords have rightly raised this evening cannot be accessed, so I think we are selling them even shorter if we do not focus on those.

We are supporting teachers by providing 500,000 new teacher training opportunities by 2024. We are making sure that teachers have access to evidence-based and world-class training. We are introducing our new professional qualifications, including in relation to early years leadership, which I know is an area that this House rightly cares a great deal about.

Several noble Lords, including the noble Baroness, Lady Watkins, and the noble Lord, Lord Triesman, asked about funding to address the most entrenched areas of educational underperformance, and I would point your Lordships again to the education investment areas. I really hope the noble Lord does not feel that the Government have a sense of complacency about this. If this was an easy thing to turn around, other Governments would have done it already. We are in no way complacent; we absolutely see the scale of the challenge.

The noble Lord, Lord Hunt of Kings Heath, invited me to acknowledge the excellence among some maintained schools. I am more than happy to do that, but I would ask noble Lords on all sides of the House to be equally generous and equally honest in acknowledging the remarkable work of some multi-academy trusts in turning around schools that have been failing ever since inspections were introduced.

In relation to the challenge from the noble Lord, Lord Watson, and the noble Baroness, Lady Blower, about the statistics that we published recently, I hope they are both aware that we have already updated the relevant document to ensure greater clarity and transparency. I hope they are also aware that the findings and conclusions were completely unchanged as a result of that; it was purely a point of clarity and transparency. I would not want the House to have any confusion about that.

A number of noble Lords, including the noble Baroness, Lady Chapman, the noble Lords, Lord Shipley and Lord Blunkett, and my noble friend Lady Berridge, referred to the importance of school capital funding. Well maintained and safe school buildings are an absolute priority for the department; that is why we have allocated over £13 billion since 2015 for keeping schools safe and operational, including £1.8 billion committed this year, informed by consistent data on the school estate. In addition, our school rebuilding programme will transform 500 schools over the next decade, prioritising those in poor condition and with potential safety issues.

The noble Lords, Lord Blunkett and Lord Addington, my noble friend Lord Holmes, and the noble Baroness, Lady McIntosh, all talked about the importance of having ambition and the needs of children with special educational needs and disabilities at the heart of our strategy. To enable them to thrive, we want to build an education system where they can get the right support in a timely way and close to where they are. The SEND and alternative provision Green Paper published on 29 March sets out our ambitions in this regard. We are currently engaging in a very broad public consultation

on our proposals. That consultation closes on 22 July, and we will then publish a delivery plan setting out how change will be implemented. I hope that the consultation will give an opportunity to the noble Baroness, Lady Watkins, to input her questions, views and recommendations in relation to alternative provision and excluded pupils. There are also clear opportunities in that consultation to input on issues around autism, about which the noble Baroness, Lady McIntosh, spoke so movingly in relation to the experience within her own family.

Turning to the Bill, many of your Lordships talked about the centralising move and questioned whether this was a power grab, including the noble Baronesses, Lady Chapman and Lady Morris, the noble Lords, Lord Blunkett, Lord Davies, Lord Addington and Lord Watson, my noble friends Lord Baker, Lord Eccles and Lord Lingfield, and other noble Lords; I hope your Lordships will forgive me if I have not referred to them all. I really would like to reassure your Lordships about the breadth of matters that could be covered by the academy standards. The examples provided in the standards clauses reflect matters already covered in existing funding agreements, legislation and the *Academy Trust Handbook*. For example, the model funding agreement includes a clause on the curriculum which states that it must include English, maths and science; the intention is to replicate this freedom in the standards regulations.

My noble friend Lord Eccles talked about a concern around consistency. We are keen on consistency of ambition but very keen not to be prescriptive in how those results and outcomes are to be achieved. Our proposals for a new set of statutory academy standards will provide much more parliamentary and public scrutiny of the requirements placed on academy trusts and the existing regime. We will shortly be publishing expanded fact sheets, setting out significantly more detail on our delegated powers.

My noble friends Lord Nash and Lord Lucas, the noble Baroness, Lady Morris, and the noble Lord, Lord Knight of Weymouth, also were concerned about the impact on the fundamental freedoms of academies. These reforms will maintain the central freedoms and autonomy of the academy programme. Our “strong trust” definition and standards will set out clearly what we expect all academy trusts to deliver, but trusts remain free to design, innovate and implement operating models that they believe will deliver the best outcomes for their pupils. I would be delighted to meet my noble friend Lord Nash to discuss this further and benefit from his experience and insight on the matter.

A number of noble Lords questioned the capacity of the department to deliver regulation. It is precisely to ensure that we are properly equipped to oversee a system where all schools are in trusts that we are launching a formal regulatory review. That review will establish the appropriate model and options for how best to regulate the English schools system when all schools are part of a family of schools in strong trusts. The noble Baroness asked if I had looked at clusters and federations. I absolutely have and I am happy to share more detail on those conversations with her if she has time.

Many of your Lordships challenged the sense of a local feel of multi-academy trusts, including the noble Lord, Lord Storey, and the noble Baronesses, Lady Garden and Lady Bennett. We recognise absolutely that local schools are at the heart of the communities that they serve and that local governance arrangements also play an important role in enabling trusts to be responsive to parents and local communities. As we set out in the schools White Paper, we want to see all trusts having such arrangements to ensure that they are connected to all their schools and the communities they serve and to make sure that the trusts can make decisions that are well informed by the local context.

The right reverend Prelate the Bishop of Oxford asked specifically about our consideration for small, rural schools. It is an issue of which we are acutely aware and I am very happy again to pick that up in more detail with him if that would be helpful.

The vast majority of trusts already choose to have local governing bodies. We will discuss with the sector the best way to implement these arrangements. The noble Lord, Lord Storey, in particular, I think, cited a sense of dissatisfaction about this. If the noble Lord can share specific examples with me, I would be very happy to explore those further.

Your Lordships also asked a number of questions on admissions. In particular, we are planning to consult on a new statutory framework for pupil movement which ensures that a decision to move a child in year is always in the best interests of that child. As a final safety net there will be a new backstop power for local authorities to direct trusts to admit children, with the right for the trust to appeal to the Schools Adjudicator.

My noble friend Lord Blackwell and the noble Duke, the Duke of Wellington—who I should congratulate on King’s Maths School being school of the decade—asked about schools in areas of deprivation offering the maximum opportunity to talented local children. We announced in the levelling-up White Paper that we will be looking at opening new free schools for children aged 16 to 19, targeted in areas where they are most needed.

As my noble friend Lord Blackwell said, grammar schools are among the best-performing schools in the country. They also have an important role to play in a future schools system, but we are committed to supporting all disadvantaged pupils in England to realise their potential.

I thank the right reverend Prelate the Bishop of Durham for his kind words in relation to the work that my colleagues in the department have done with his colleagues in relation to faith protection. We are working on the land and other issues and are happy to continue to explore those.

The noble Baroness, Lady Bakewell, raised the issues argued by the Humanist Society and others, but she will know that many faith schools have a really strong track record in delivering excellent education and our experience is that they are popular with parents, whether they belong to that faith or not. Again, I am happy to follow up the points that she raised.

On the attendance measures in the Bill, the right reverend Prelate the Bishop of Durham and the noble Lord, Lord Shipley, suggested that some of the measures on attendance could appear punitive. My noble friend Lord Lucas also spoke on these issues. Our attendance measures are underpinned by the principle of “support first”. The measures will help school absence from becoming persistent or severe by improving, at a national level, the consistency of support offered to pupils and their parents through an earlier and more targeted approach. I urge noble Lords to look at the evidence in this area, which shows a great inconsistency across the country. We hope that the measures will reduce the need for legal intervention overall, so that the existing legal interventions are primarily used where support has not been successful or families have not engaged with that support.

On the points raised by the noble Baroness, Lady Brinton, of course the intention here is not to punish children with long-term health conditions. Again, I would be happy to follow up with her on some of the examples that she raised. That also applies to the comments from the noble Baroness, Lady McIntosh, regarding autism.

The noble Baronesses, Lady Fox and Lady Jones, and my noble friend Lord Lucas expressed concerns about bringing in a register for children not in school. I just reiterate that the Government respect the right of all families to home-educate, where it is done in the best interests of the child. We want parents and local authorities to be supported in ensuring that that education is suitable. The move to require local authority registration is not intended to undermine privacy, nor will it interfere with a parent’s right to educate their child in a way and with the methods that they think are best. Notification to the local authority that a child is receiving home education will help it to plan and target resources at children who are truly missing education. It will help local authorities to plan their resources for complying with their duties under existing guidance and the new duty to provide support where it is requested. It will also support them in identifying children who would otherwise be considered as children missing education, who could be at a safeguarding risk due to not receiving a suitable education, or indeed any education at all, and at risk of harm.

The consultation response did not feature any proposals for additional powers for local authorities, such as to explicitly monitor education or enforce entry into the home. Our view remains that local authorities’ existing powers are sufficient to determine whether the provision offered is suitable. The noble Baroness, Lady Jones of Moulsecoomb, invited me to talk to home-educating parents, and I would be happy to hear their concerns.

Turning to the regulatory regime for independent educational institutions, the regulatory regime that we are proposing is tailored to settings that are intended to provide the whole or the majority of a student’s education. Our view is that it would not be proportionate to apply this regime to part-time or supplementary educational settings. We are going to launch a call for evidence regarding part-time settings shortly, but we have worked hard to try to address the questions raised by both the noble Baroness, Lady Meacher, and the noble Lord, Lord Mendelsohn, about institutions

[BARONESS BARRAN]

that try to evade the spirit of these regulations. Again, I would be glad to explore that in more detail with noble Lords.

As ever, we are preparing an increasingly long letter, and I know I have not done justice to all the points raised. In closing, I know that the noble and right reverend Lord, Lord Harries, talked about his amendment on fundamental British values, and I am looking forward to meeting tomorrow to discuss that further. Similarly, I will follow up on my noble friend Lady Berridge's points on data regarding children on free school meals and with special educational needs, and with the right reverend Prelate the Bishop of Oxford on clarifying points around governance and conflicts of interests for local authorities when they have their own MATs. I will also follow up with my noble friend Lord Lexden in relation to the fit and proper persons test, and with the noble Lord, Lord Triesman, on adoption from abroad.

I want to spend one moment on a point to which I cannot do justice. Many noble Lords, including my noble friends Lord Altrincham and Lord Sandhurst, the noble Lord, Lord Triesman, and the noble Baronesses, Lady Meacher and Lady Watkins, talked about children's mental health. I am hoping we will have a chance to talk about this more in Committee. We remain absolutely committed, as are all your Lordships, to promoting and supporting children and young people's mental health and well-being in schools and listening to what more can be done. Counselling is obviously an important part of that.

On the specific points raised by my noble friends on guidance for schools about trans pupils, we recognise that this is a complex and sensitive area for schools to navigate. We believe they are well placed to work with parents, pupils and public services to help decide what is best for individual children and others in the school. We are working with the Equality and Human Rights Commission to make sure that we give the clearest possible guidance to schools on these important issues.

In closing, I echo other noble Lords in thanking teachers, teaching assistants, MAT leaders and all who are involved in our school system for the incredibly

important and valuable work that they do. As noble Lords have heard me say several times, I am very committed, as are my colleagues in the department, to meeting your Lordships to discuss the issues raised this evening. I also commit to going through the data that we have put together and the evidence base for the choices that we are making for the school system to make sure that we can reinforce your Lordships' confidence in how we have arrived at those conclusions.

I invite your Lordships to perhaps meet some of the multi-academy trust leaders in your areas, if you have time—we would also be happy to put together a round table—because the picture painted in many of the speeches tonight is not one that I recognise from the many schools that I have visited and leaders whom I have spoken to. Us all having the clearest and broadest possible understanding will be helpful for making the Bill the best that it can be.

In conclusion, I thank noble Lords for their contributions to the debate and look forward to even more detailed scrutiny and challenge as we move to Committee. I beg to move.

*Bill read a second time and committed to a Committee of the Whole House.*

## Schools Bill [HL]

### *Order of Consideration Motion*

8.15 pm

*Moved by Baroness Barran*

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

Clauses 1 to 3, Schedule 1, Clauses 4 to 7, Schedule 2, Clauses 8 to 44, Schedule 3, Clauses 45 to 51, Schedule 4, Clause 52 to 62, Schedule 5, Clauses 63 to 69, Title.

*Motion agreed.*

*House adjourned at 8.15 pm.*

# Grand Committee

Monday 23 May 2022

## Arrangement of Business

*Announcement*

3.45 pm

**The Deputy Chairman of Committees (Lord Geddes) (Con):** My Lords, I start with the usual, albeit academic, notice that if there is a Division in the Chamber—which is singularly unlikely—the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

### Russia (Sanctions) (EU Exit) (Amendment) (No. 9) Regulations 2022

*Considered in Grand Committee*

3.45 pm

*Moved by Lord Ahmad of Wimbledon*

That the Grand Committee do consider the Russia (Sanctions) (EU Exit) (Amendment) (No. 9) Regulations 2022.

**The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con):** My Lords, a copy of these regulations were laid before this House on 27 April. They were laid under the powers provided by the Sanctions and Anti-Money Laundering Act 2018, and they came into effect under the “made affirmative” procedure. I say from the outset that this instrument has been considered and not reported by both the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

In lock-step with our allies, we continue to develop the largest and most severe package of economic sanctions that Russia has ever faced. These measures are already helping to cripple Mr Putin’s war machine through restricting finance access, targeting his corrupt cronies and cutting them off from the international community, and indeed paralysing the Russian military-industrial complex for years to come.

This new legislation introduces trade sanctions relating to internet services and online media services. Put simply, this allows us to cut off propagandists and organisations spreading the Russian regime’s vicious lies and disinformation online. The Russian Government are conducting an aggressive set of online information operations against Ukraine at times in a transparent but clearly shameful attempt to justify their illegal war on Ukraine. This must be stopped.

Ofcom has already removed the broadcast licence of “Russia Today” on the basis that it is not fit and proper to hold it. However, until the regulations now being debated in your Lordships’ House entered into force, no powers existed in the UK to block access to the same disinformation being spread by way of the website, social media accounts and applications of “Russia Today”. This instrument will ensure that social media services, internet services and app stores will have to take reasonable steps to prevent UK users

encountering content produced or uploaded by a person designated for this purpose. Indeed, it will be for Ofcom to enforce this new legislation, and it has been given the power to impose fines on those who fail to comply.

ANO TV-Novosti, the parent organisation for RT, and Rossiya Segodnya, the parent organisation for Sputnik, were designated for the purpose of these measures by my right honourable friend the Foreign Secretary on 4 May 2022. These puppet organisations are demonstrably part of Russia’s global disinformation campaign, as RT’s own editor-in-chief has made clear in the past when she called the network an “information weapon” of the Russian state. These organisations are propaganda arms of the Russian state—as a consequence of both their ownership and of Russian law, which prevents the war being reported objectively and truthfully. Now that third parties are required to restrict access to content pumped out by these designated organisations, this will limit their audience and blunt the effect of their Russian state message of aggression against Ukraine.

To conclude, we will not cease in delivering further sanctions while Mr Putin’s illegal and egregious invasion continues. The ultimate objective is to ensure that Ukraine succeeds. The whole of the UK Government—I also fully acknowledge the support in your Lordships’ House and across all parties—together with our international allies are working to ensure that this happens. Our fight against disinformation and harmful propaganda forms a key component of this. Mr Putin’s war on Ukraine is based on lies. Britain has helped to lead the way in tackling disinformation, and this new legislation enables us to blunt Mr Putin’s weapons of war and hit the shameless propagandists who push out his fake news and narratives. I beg to move.

**Lord Purvis of Tweed (LD):** My Lords, the Liberal Democrats support this instrument, having consistently maintained views the Minister has indicated. This is the ninth sets of such regulations that we have scrutinised and supported. The Minister is absolutely right that, as this illegal aggression continues, depressingly, we continue to see horrors inflicted on the people of Ukraine. Therefore, the Government’s response, supported by the Opposition—to use every mechanism to seek to impact on the decision-making of the Putin regime—is to be supported.

There are early signs that the collective imposition of the sanctions from the United Kingdom and our allies is impacting on the Russian economy. We are mindful that many people in Russia are in receipt of the lies and misinformation of the Putin regime, in addition to those around the world, and they are likely to be victims of this. That is why, as President Zelensky has indicated, it adds to the pressure on the Putin regime to come to a diplomatic solution and to cease the violence.

I want to probe just a couple of areas, and then ask the Minister a couple of questions on aspects related to these sanctions, rather than the sanctions themselves. First, we have been aware of the European Union sanctions on social media on 2 March, and then the reciprocal decisions by Russia on Instagram determining Meta as an extremist organisation on 11 March and

[LORD PURVIS OF TWEED]  
 blocking Euronews on 21 March. On 14 April, it registered as foreign agents under its laws 79 NGOs and 131 media outlets. The Putin regime is not only waging war on the people of Ukraine, but it is waging war on free media around the world. It is right, therefore, that the European Union, the United States, Canada and the UK, as the Minister said, work in lock-step.

Will the Minister demonstrate how robust these measures will be, given that there has been a gap between the EU operating its sanctions and the measures before us, and that there is some indication that RT and Sputnik have been successful in working around some of the EU regulations? The Minister has highlighted the designated persons measure, which I support, but we have already seen in respect of the equivalent for those indicated by the European Union the use of proxy sites and other social media platforms to disseminate information. The use of visual content bearing RT logos but not originating from RT, uploaded by users, has been co-ordinated and has an absolute purpose to work around the sanctions. How robust does the Minister consider these measures will be, in the light of what we have seen of RT-hosted material on other platforms around the world? How easy is it for those to be used in the United Kingdom?

Will the Minister confirm that these measures will cover virtual private networks? Use of VPNs and RT content through other countries has increased by 50%. If someone is seeking to access RT, Sputnik or other material from designated persons via a VPN, is that an offence under UK law?

My second question regards the extraterritorial jurisdiction nature. It is right that the designated persons are overseas entities, but can the designated persons be operating across all groups seeking to use the disinformation tactics of the Putin regime? I mention specifically Wagner Group, one of the arms of which has been sanctioned by the UK as named individuals. That is correct, and the Minister knows I am on record as wanting the Government to go beyond that and have it proscribed as a terrorist organisation. It is active, as are other mercenary groups, as the disseminator of disinformation and misinformation.

Can mercenary groups be designated persons under these matters? I know that the Minister will say that they keep the list of designated persons under review, but I should like him to go beyond that and say that there are no limits under the terms of the legislation on who designated persons could be. It would be regrettable if there were those seeking actively, with resource from the Putin regime working in many countries, to work around sanctions such as these, but they were not included. Can Ofcom police them if they are designated persons who are groups outside the UK? What legislative powers does Ofcom have to work with international partners on policing?

Finally, I ask the Prime Minister—the Minister, although I see I had a Freudian slip into a dream world I have, even if the Conservatives are in power, that someone might be doing a better job than the Prime Minister. Now that I have emphasised that point, *Hansard* will not be able to correct me.

The Prime Minister's spokesman is now on record as indicating why we are not in lock-step with one of our allies, Canada, on the sanctioning of Alexander Lebedev. As the Minister will well know, the Canadians have been working extremely closely with the UK and others and the Minister said that we are working in lock-step, but when it comes to the judgment of the Canadians that Alexander Lebedev should be sanctioned, the Prime Minister's spokesman said,

"it's not for me to comment on the judgment of a different country".

What do we believe the Canadian judgment to be and why do we not share it? Alexander Lebedev has been singled out by the Canadians as worthy of being sanctioned. What mechanisms do we have in the United Kingdom to ensure that this individual, sanctioned by one of our closest allies, or any of his family members will not be able to use the United Kingdom to circumvent Canadian sanctions? With those questions, I support the regulations overall.

**Lord Rooker (Lab):** My Lords, briefly, I support what was just asked about Canada. Canada is not just some other country; it is part of Five Eyes. If Putin sees Five Eyes as split, it is just as bad as the EU being split—even worse, in some ways. There has to be a better argument than Ministers have so far given as to why we have not joined Canada.

It is a long time ago since I spoke on the first sanctions. I praise the Government, because what they have done on sanctions overall has been very good. I have sometimes been surprised about the extent to which they have gone and I want to give praise where praise is due. We can always do more, but it has been a good job so far.

I note that this has been raised before, but I cannot remember the answer. The regulations talk about the UK. Where is the Isle of Man in this? People are using the Isle of Man to get around all kinds of financial things—we have had this with Brexit. For that matter, there are the Channel Islands, but the Isle of Man is in a different geographical situation. Can the Isle of Man be used to subvert sanctions such as these?

My final point is a question that I suspect the Minister cannot answer. I assume Ofcom is being fully supported by GCHQ. To have such a facility as that and not be able to use it would be a complete and utter waste. He does not have to confirm it or not, but I assume it goes without saying that Ofcom has the ability to call on GCHQ for issues relating to the edge of the sanctions.

4 pm

**Viscount Waverley (CB):** My Lords, the noble Lord, Lord Rooker, has just raised an interesting point. Adding to the Channel Islands and the Isle of Man, it is conceivable that maybe the overseas territories ought to be in someone's sights as well. That may be a point for consideration by the Minister.

The noble Lord, Lord Purvis, made a very good point about VPNs. In Russia they use them as a means to get information about what is going on around and about, so that is also helpful. For the record, I have

ensured that the global website I have, covering every country in the world, has no content in relation to Russia.

**Lord Collins of Highbury (Lab):** My Lords, I start by saying once again that we are absolutely at one with the Government on their sanctions in relation to holding Putin and his Government to account for their outrageous violation of international law. It breaks multiple treaties and commitments, including the fundamental principles of the UN charter, and it is rightly condemned by all nations. I do not think there can be any space for equivocation when we are faced with this evil that Putin has unleashed.

In relation to these specific sanctions, at lunchtime I had the opportunity to hear from Dame Barbara Woodward, the UK's representative in New York, in the UN APPG. She highlighted a number of things, and of course the briefing somewhat followed Chatham House rules, but she is absolutely clear on the threat posed by Russia's campaign of misinformation. It is not only the usual propaganda stuff but things such as this accusation that there are chemical weapons in Ukraine, holding the UN down and deliberately spreading those sorts of stories. That sort of misinformation campaign goes well beyond the propaganda we have seen.

Putin is desperate to silence the truth about his invasion from his own people and the world and is pushing that information out. It is absolutely right that the international community considers how best to curtail this, and therefore the regulations before us are very much a welcome tool. The exact sanctions in relation to online services include blocking certain URLs, ensuring that platforms take precautions over the content they publish and taking steps so that the application stores do not allow certain software to be downloaded. They also allow the Secretary of State to designate persons to whom these online restrictions will apply and give new powers for Ofcom to impose penalties. Each of these provisions is a welcome step in the right direction.

I just want to pick up a couple of points, particularly the point made by my noble friend Lord Rooker on the role of Ofcom. Can the Minister explain whether any further resources have been allocated for it to carry out these new responsibilities? Have any fines yet been issued? Liaising with other departments, such as GCHQ, will be vital to its ability to carry out these responsibilities.

As the noble Lord, Lord Purvis, said, co-ordination with international allies is vital on these issues as well as others. I would be grateful if the Minister told us what engagement there has been with counterparts on these new powers to ensure that such action is replicated everywhere. Also, what steps are the Foreign Office and other departments taking to work with platforms to ensure the closure of any loopholes that may emerge in respect of disinformation campaigns which may seek to work around these new regulations?

A number of noble Lords have asked about Crown dependencies and overseas territories. Every time we have dealt with such statutory instruments, the Minister has assured us that they do and will apply, and that the department is liaising with both the British Overseas

Territories and the Crown dependencies to ensure that. However, we need not only that reassurance but to know that there is constant contact with those territories to ensure that, where difficulties emerge, we can respond to them properly.

The noble Lord, Lord Purvis, raised an issue that I was going to raise: the Minister's assertion that we are in lock-step with our allies. Sadly, that does not always seem to be the case. As the noble Lord said, the latest example of that is our failure to follow Ottawa's lead, which is extremely worrying, particularly when it comes to the individual the noble Lord mentioned. Alexander Lebedev not only is a former KGB agent but has business interests in the media, particularly the UK media. Of course, he bought the UK's *Evening Standard* and *Independent* newspapers. Ottawa announced these sanctions on Friday, and there was no response. I know the Minister will repeat the mantra that he will not comment on future designations, but that is not the issue here. We need to hear from the Government that they will seek to work in lock-step with our allies. The questions that noble Lords have raised concern not only making effective the sanctions that we impose, and therefore want allies to replicate, but allies imposing sanctions and us becoming the loophole or escape route for some of these individuals. Apart from the mantra that he will not comment on future designations, I want to hear from the Minister that we will ensure that, where our allies impose sanctions, they are effective and that we will do nothing to undermine their ability to hold Putin to account.

**Viscount Waverley (CB):** On loopholes, in June the St Petersburg International Economic Forum will take place, and it will involve many organisations from around the world. I understand that its mantra will be, "New markets, new opportunities". I also understand that some 60 or 70 organisations can in one part or another be semi-designated as associated with the United Kingdom, and the intention is that that be used to show that the UK is in play in matters relating to internal Russian trading issues.

**Lord Collins of Highbury (Lab):** The noble Viscount is absolutely right. The real issue here, on our policy of ensuring that Putin cannot act with impunity, is that this Government act with one voice and that all departments—be it the FCDO, the Home Office or the Department for International Trade—act in concert. I hope the Minister can respond to that point.

**Lord Ahmad of Wimbledon (Con):** My Lords, I thank all noble Lords who have contributed to today's short but insightful and timely discussion. I will address the important questions that been raised. If there are questions that I do not cover specifically, I will flag them and write to noble Lords in the usual way.

First and foremost, on that final point, the Government work across government but also with key sectors. We also work with British companies so that they fully understand the impact of the sanctions being imposed, because challenges are being felt far and wide because of them.

Equally, I say from the outset to the noble Lords, Lord Collins, Lord Purvis and Lord Rooker, that we absolutely have to work in lock-step. The noble Lord,

[LORD AHMAD OF WIMBLEDON]

Lord Collins, is fully aware of my view as the FCDO Minister responsible for sanctions that the most effective sanctions are those where we work in absolute lock-step with our key partners—the likes of Canada, the US and the European Union. I assure all noble Lords that we have regular and frequent conversations about the designations we will make, but equally about the designations that other jurisdictions are making, to ensure that any semblance of difference can be addressed quickly and in an expedited form. Indeed, the measures we have had to introduce over the last few months reflect the Government's desire to ensure that our own regime and framework reflect our ability to act, and quickly. I thank the noble Lord, Lord Rooker, for recognising that. As all noble Lords will recognise, there is a need for agility to act very quickly.

While I cannot give assurance beyond what I normally state about future designations, I say to the noble Lord, Lord Purvis, that nothing, or no one, is out of our consideration for any designations of individuals or organisations. It would be speculative to go into any further detail, but we are looking at this in terms of ensuring that our sanctions team is extensively resourced and of working very closely with our allies in this respect. We have directly sanctioned more than 1,000 individuals and more than 100 businesses since Mr Putin's invasion of Ukraine. This is constant. I assure the noble Lord, Lord Rooker, that the number of designations and the information I see, and the fact that we are having our ninth or 10th debate on specific issues in this respect, reflect the Government really focusing on the priorities.

The noble Lord, Lord Rooker, asked about the Crown dependencies, as did the noble Viscount, Lord Waverley, about the OTs. In all instances, our legislation has direct impact in the Crown dependencies and the OTs. There is an exception in two OTs—Bermuda and Gibraltar—where an Order in Council cannot be issued and they legislate for themselves, but they have been legislating to effect anything introduced in the UK jurisdictions elsewhere. In answer to the noble Lord, Lord Collins, we are working very closely with all our Crown dependency Governments, as well as the OT Administrations and Governments, to ensure they follow the UK Government's lead. The Order in Council allows us to act decisively when it comes to the OTs.

I thank noble Lords again for their strong support of the Government's position. As I acknowledged in my opening remarks, I am grateful in particular to the noble Lords, Lord Purvis and Lord Collins, for their strong support for the Government's position, both in and outside the Chamber. As I have done previously, I will continue to update them as required and appropriate to ensure that they are fully up to speed with the Government's position and the future actions that we will take.

The noble Lord, Lord Purvis, raised the important issue of VPNs and asked whether this was an offence under UK law. It is not as it applies in the UK and the EU. The issue is cutting off the information at the source of spread—that is, the ISPs and social media companies. The measures we and our partners have been taking act on the providers, not the individual

users, of the internet. In our view, it is not appropriate to place the offence on individuals who may be using VPNs. That said, VPNs have been used as a tool to circumvent, as the noble Lord mentioned, but our position is that this is not unique to the UK; we are talking to our partners to see how, as Russia continues with its approach on misinformation, we can work in a more co-ordinated fashion.

4.15 pm

A question was asked about how robust the sanctions that are being applied are—that is, whether they are being bypassed or applied. We are confident that our regime is robust. One of the key reasons why we designated parent companies in these regulations is to prevent RT and Russian agencies bypassing the restrictions by changing the name of the company that owns a particular entity. We have acted at the parent level rather than towards any organisation.

The noble Lord, Lord Rooker, asked about Ofcom's resourcing and support. Noble Lords also asked whether there have been any fines. As far as my understanding goes, no fines have been issued as yet but our colleagues in DCMS have engaged extensively with Ofcom in taking on this responsibility and ensuring that it has all the resources it requires and the necessary capability. I am sure that noble Lords recognise that Ofcom is an outstanding independent regulator and will be able to work with other agencies and institutions where necessary. It is also important, when we look at other jurisdictions, that we look at how regulators talk to each other about the various steps they are taking.

The noble Lord, Lord Purvis, asked about the Wagner Group. As I have said previously in debates in your Lordships' House, we are fully aware of its activities, particularly its mercenary activities in various parts of the world. I am keen to meet the noble Lord to see how we can work more closely on these issues. As I said, without speculating, it is important that we work in a much more co-ordinated fashion. Where gaps have been identified, because we have moved quicker than our allies or vice versa, we must look to address them.

I assure noble Lords that we also engage with the platforms directly. DCMS and Ofcom have been in regular contact with the organisations and associations to which the regulations apply.

I believe that I have covered the questions that were raised with me directly. I acknowledge and thank the noble Lord, Lord Collins. When we passed similar regulations in the Chamber—last week, I believe—he raised ensuring that designated bodies scrutinise the legislation in advance of regulations being passed or brought forward. I followed up on that specifically, which is why I mentioned it right at the head of my introduction.

**Lord Purvis of Tweed (LD):** I am grateful to the Minister for responding. I question two aspects. One regards VPNs. I understand entirely the point the Minister made, which is sensible, but he will be aware that, as I mentioned, although we do not seek to extend the criminalisation to users, there seems to be evidence, with the increase in traffic, that designated persons under our law will be able legally to upload

information to providers in another country where a VPN user would be able to designate and have free access to anything from RT or Sputnik. My question was about the companies that offer VPN services, not the users; I would be happy for the Minister to write to me on that point.

My second point regards working with Canada. The points that the noble Lord, Lord Collins, and I raised are significant. Alexander Lebedev is now a Schedule 1 person under the Canadian Special Economic Measures Act. This means that, under Canadian law, it is an offence for anybody to provide financial or related services to, or for the benefit of, that designated person. I want to know whether this means that any family member of Alexander Lebedev who provides any financial interactions with him will not be breaking UK law but will be against the spirit of the Canadian law. That is of great significance for our relationship with Canada.

**Viscount Waverley (CB):** My Lords, I will just take this opportunity briefly to address VPNs. VPNs are a two-way street: a VPN can also enable information from outside Russia to get into Russia to enable those Russians who wish to understand what on earth is going on better to do so. That may be somewhere in the mix, but this is a rhetorical question; the Minister does not need to respond.

**Lord Ahmad of Wimbledon (Con):** The noble Viscount partly answered my point on VPNs. He is quite right that they are used as an important tool and we are working with key organisations on this. What is very different with the BBC World Service, for example, is that it reports independently of government and autonomously. However, the use of VPNs has a benefit. That is why I suggested to the noble Lord, Lord Purvis, that we could perhaps meet to address some of these issues.

As to the noble Lord's other question, I have gone as far as I can at this time. Our responsibility is for what applies in the United Kingdom. In the designations we have made we have acted to ensure that, where we identify family members who may be involved—in this case we looked directly at the family members of Mr Putin, for example—they are individuals who we look at very closely and designate as appropriate. As I said, we continue to look at all situations concerning individuals and organisations, and will keep this under review. We are also mindful of the actions our allies are taking. With that, I once again thank noble Lords for their contributions and their continued support of the Government's position.

*Motion agreed.*

## **Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022**

*Considered in Grand Committee*

4.23 pm

*Moved by Lord Callanan*

That the Grand Committee do consider the Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022.

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con):** My Lords, the Pollution Prevention and Control (Fees) (Miscellaneous Amendments) Regulations 2022 were laid before the House on 25 April 2022. I will refer to these regulations as the fees regulations.

As the environmental regulator of the offshore oil and gas sector, which I shall refer to as the offshore hydrocarbons sector, BEIS's Offshore Petroleum Regulator for Environment and Decommissioning, which I shall refer to as OPRED, recoups the cost of its regulatory functions from the offshore hydrocarbons sector rather than the taxpayer footing the bill. OPRED minimises the impact of the offshore hydrocarbons sector on the environment by, for example, controlling air emissions and discharges to sea and minimising disturbance over the life cycle of operations, from seismic surveys to post-decommissioning monitoring.

Regulatory activities for which OPRED can recover costs are covered in two ways: within a suite of regulations that are covered by the fees regulations, and by five fees schemes which are not, as they do not require legislative change and will be amended administratively. OPRED's annual fees income is on average £6.2 million, which is recovered from around 120 companies, which are billed quarterly. OPRED recovers its costs via fees based on hourly rates.

The fees regulations will revise the hourly rates used to calculate fees payable by the offshore hydrocarbons sector. The fees relate to the provision of regulatory functions in relation to the environmental management of offshore operations. Currently, the fees that OPRED charges for providing regulatory services are based on hourly rates of £197 for environmental specialists and £108 for non-specialists. Environmental specialists are qualified technical staff who carry out the legislative functions of the Secretary of State, and non-specialists are administrative staff who support them.

The current hourly rates have been in force since June 2021. OPRED reviewed the cost base and concluded that the existing hourly rates need revising to reflect the present costs to OPRED of providing specific regulatory services. The fees regulations will therefore amend the charging provisions by increasing the existing hourly rate for environmental specialists to £201 and decreasing the current hourly rate for non-specialists to £104. As the changes relate to cost recovery, they do not represent monetary changes linked to inflation.

OPRED's fees are determined by adding together the recorded number of hours worked by environmental specialists and non-specialists on cost-recoverable activities, multiplied by the hourly rates. The new hourly rates were approved by Her Majesty's Treasury in March 2022 and were calculated in line with the Treasury's *Managing Public Money* guidance. They cover the expenditure on all resources used by OPRED to support cost-recoverable activities—for example, staff salaries, accommodation, IT and office services, and corporate services such as human resources, senior management, legal, finance and learning and development.

Guidance on OPRED's fee-charging regimes is published and clearly explains the scope of the cost-recoverable functions undertaken by OPRED and how the costs are to be calculated and recovered. The cost-recoverable functions undertaken by OPRED include,

[LORD CALLANAN]

for example: the evaluation of applications and issuing of consents for seismic surveys, and the conducting of appropriate assessments of the likely significant environmental effects of proposed projects; assessing and approving operators' oil pollution emergency plans; and compliance monitoring activities, including offshore environmental inspections.

The fees to be paid will be revised by a small amount, sufficient only to allow OPRED to recover its eligible costs. OPRED's guidance on its fee-charging regime will be revised to reflect the new hourly rates. Those who OPRED charge are aware that the hourly rates are reviewed annually. Although there was no statutory requirement to consult on the fees regulations, in April 2022 OPRED informed the offshore hydrocarbons sector of the planned revisions to the hourly rates, and no representations were received.

Therefore, I conclude by emphasising the importance of the revisions to the hourly rates being introduced by the fees regulations. The revisions will enable OPRED to recover the costs of providing regulatory services from those who benefit from them, instead of these costs being passed on to the taxpayer. The fees regulations will be debated by the House of Commons tomorrow, 24 May. I therefore commend the draft fees regulations to the House.

**Baroness McIntosh of Pickering (Con):** My Lords, I congratulate my noble friend on bringing forward these regulations, which seem perfectly reasonable. I thank the environmental specialists and non-specialists for the crucial work they do in this sector.

I have just one small question to ask my noble friend, if I may. If you look at the same regulations from last year, we seem to be reversing the rate that was agreed for the non-specialist workforce. I think the rate was increased from £101 to £108 last year, so I would like to understand why the Government have decided to cut that back to £104.

My noble friend has just told us that there were no responses to the consultation, so one has to accept that no alarm was expressed by the non-specialist sector. For my greater understanding, can he explain what proportion of the workforce are environmental specialists, as opposed to non-specialists? Paragraph 7.3 of the Explanatory Memorandum states that "the total amount to be recovered by OPRED in FY 2022/2023 will be broadly similar to the average received in previous years". On what assumption is that based? Is the increase in environmental specialists being covered by the reduction in the non-specialist sector in order to keep it within that envelope?

With those few remarks, I welcome the regulations before us.

4.30 pm

**Lord Redesdale (LD):** My Lords, I will speak to the regulations very briefly. This is one of the briefest SIs I have ever had to speak to, and it seems utterly bizarre that we are having this discussion about a very minor matter. This is an area I have interest in because I was on the Science and Technology Committee in 1996, looking at the decommissioning of oil and gas rigs. I even went out to one of the rigs at the time.

I want to raise two questions. When we conducted the original committee report and it was debated, it was assumed that metal pipework that was to be laid would be left in the ground and forgotten about. I declare my interest as chairman of the UK Metals Expo. I went to an interesting presentation on the value of the metal in the pipework in the North Sea. Of course, if it has value it is quite likely to be dredged up again, but that will have environmental issues associated with it. Is this being taken into account by OPRED? Is the value of that metalwork being assessed?

The second question concerns the Government's long-term views on removing large structures. The very large gas rigs still in place are surrounded by drilling offsets, which was a normal aspect, but of course a lot of oil and pollution is then tied up around the base of these structures. If they are to be removed from the seabed, there will be a great deal of localised pollution in that operation. Have the Government looked at a recent report? No report had been carried out on that issue at that point.

I will finish there because it is so brief a report. On that basis I actually read the whole report, and I was quite amused by a slight error in paragraph 8.1 of the Explanatory Memorandum.

**Lord Lennie (Lab):** I thank the Minister for putting forward these proposals, which are, as we have heard, rather inconsequential and unremarkable. There is nothing I want to add by way of commentary, but I have a few questions.

First, as the noble Baroness, Lady McIntosh, asked, can the Minister explain why the fee for specialists has risen at the same time as the fee for non-specialists has fallen? If it is to do with numbers, can he explain the reason for this change in the balance between specialists and non-specialists?

Secondly, the fees received have remained the same as the previous average, £6.2 million. In the Government's assessment, is this likely to remain the case for the foreseeable future, bearing in mind what the noble Lord has said?

Thirdly, while I understand that no formal representations were made by the industry regarding OPRED's plans, can the Minister say whether any informal opinions were given and whether the industry as a whole is satisfied by the proposals? I look forward to his response.

**Lord Callanan (Con):** I thank noble Lords for their brief contributions to this debate, which reflect the relatively uncontroversial nature of the regulations. As I said in my introduction, the regulations will enable OPRED to recover its costs for the provision of regulatory services under the offshore oil and gas environmental legislative regime, as opposed to the alternative—those costs being borne by the taxpayer.

The annual fees income is, on average, £6.2 million, which represents around 65% of the cost of running OPRED's environmental operations unit. The total running cost of around £10 million per year includes the cost of the office in Aberdeen and corporate support provided from London.

In terms of chargeable activities, OPRED considers the environmental implications of all offshore oil and gas operations before issuing permits and consents covering areas as diverse as seismic surveys, marine licences, oil pollution emergency plans, chemical permits, oil discharge permits and consents to locate permissions for offshore installations. OPRED reviews around 3,000 applications for permits and consents annually. In addition, there is a regular programme of monitoring and inspections to ensure compliance with environmental regulations.

As I said in my introduction, in line with the Treasury's *Managing Public Money* guidance, OPRED does not charge for policy work—for example, the enacting of new or revisions to existing offshore environmental legislation—and nor is OPRED able to charge for enforcement activity, such as prosecutions. OPRED is proposing the fees regulations pursuant to a power that requires an affirmative procedure. This is because the changes allowing OPRED to recoup the costs for the provision of regulatory services are not alterations to reflect changes in the value of money.

Questions were asked by both my noble friend Lady McIntosh and the noble Lord, Lord Lennie, about what proportion of the workforce are specialists, compared with non-specialists. Both also asked for an explanation of the fee rise for specialists and the reasons for the change. The revisions to the hourly rates reflect changes to OPRED's staffing levels and associated costs, plus corporate costs such as IT, accommodation, human resources and finance, which are allocated on a per-head basis. There are 53 staff who work in the offshore environmental unit, of whom 40 are environmental specialists and 13 are non-specialists. The reduction for non-specialists is largely due to a reduction in London corporate costs; the increase for specialists relates to an increase in the cost for advice from statutory nature conservation bodies.

The question from the noble Lord, Lord Redesdale, was nothing to do with these regulations, but I am happy to take it back to the department and send the noble Lord a reply in writing. As I said in my introduction, about 45% of the cost of running OPRED is currently recovered from the offshore hydrocarbons sector through these fees.

With the exception of the noble Lord, Lord Redesdale, to whom I will write, I hope I have answered the questions raised by noble Lords—the noble Lord, Lord Lennie, and my noble friend Lady McIntosh. Therefore, I commend the draft fees regulations to the Committee.

*Motion agreed.*

### **Pharmacy (Preparation and Dispensing Errors—Hospital and Other Pharmacy Services) Order 2022**

*Considered in Grand Committee*

4.40 pm

*Moved by Lord Kamall*

That the Grand Committee do consider the Pharmacy (Preparation and Dispensing Errors—Hospital and Other Pharmacy Services) Order 2022.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con):** My Lords, the Pharmacy (Preparation and Dispensing Errors—Hospitals and Other Pharmacy Services) Order 2022 was laid before Parliament on 28 April. This draft order extends to the United Kingdom. I note that the noble Lord, Lord Hunt, has submitted a Motion to Regret in relation to the draft Pharmacy (Responsible Pharmacists, Superintendent Pharmacists etc.) Order 2022. This will now be subject to a separate debate.

The draft order before your Lordships has been in development for a long time under the auspices of the Rebalancing Medicines Legislation and Pharmacy Regulation Programme Board, whose members include representatives from across the pharmacy sector and professional and regulatory bodies. The draft order is welcomed by pharmacy professionals working in hospitals and relevant pharmacy services, and has the support of the four Chief Pharmaceutical Officers of the UK.

I apologise for the parliamentary time taken to progress this order. The Government had to make some difficult decisions to deprioritise non-urgent legislation following the general election in 2019, EU exit and the Covid-19 pandemic. We are now returning to more business-as-usual matters.

The purpose of the order is to extend the defences already available to pharmacy workers in community pharmacy premises made under the Pharmacy (Preparation and Dispensing Errors—Registered Pharmacies) Order 2018 to ensure that registered pharmacy professionals working in hospitals and other settings, such as prisons and care homes, have access to the same defences. This would provide them with access to the defences to the criminal offences set out in Sections 63 and 64 of the Medicines Act 1968, which concern the adulteration of medicinal products in Section 63 and the sale of any medicinal product which is not of the nature or quality demanded by the purchaser in Section 64. The order makes these defences available in defined circumstances and, importantly, incentivises the reporting of errors where pharmacy professionals make genuine dispensing errors, improving learning to prevent such errors occurring.

In summary, the order will support improved patient safety by encouraging a culture of candid and fulsome contributions from those involved when things go wrong. This is a culture we want to see right across the NHS. Within this culture, pharmacy professionals can increase their learning from dispensing errors and identify mitigating action to make recurrence less likely in the future. I therefore commend the draft order to the Committee.

**Baroness Walmsley (LD):** My Lords, I have always thought that the purpose of highlighting errors in the health service should be to learn and to avoid repeats, rather than to lay blame. That is why I supported the HSSIB, which was made mandatory in the recent Health and Care Act 2022. For that reason, I also support this order, which can contribute to patient safety by extending the removal of the threat of criminal sanctions for inadvertent dispensing errors beyond current community pharmacies and into other places where medicines are legitimately dispensed. These will include hospitals, care homes, prisons and detention

[BARONESS WALMSLEY]

centres. Anything which deters people shining a light on errors is a bad thing and should be addressed; anything which enables learning from them is welcome. However, although the order is welcome, I ask the Minister whether there has been evidence that staff have been deterred from exposing or informing patients about a mistake that has been made.

It is vital that the duty of candour that applies to all health professionals is upheld. I welcome the news from the General Pharmaceutical Council that it plans to develop new learning resources to help pharmacists understand how to fulfil this duty and, crucially, why they should do so. Of course, the duty already appears in the *Standards for Pharmacy Professionals*. This is where actual offences come into the picture. It is right that pharmacists could still be prosecuted if they can be shown to have had deliberate disregard for patient safety, as such a person would not be acting in the course of his profession, so patient protection still applies.

Identifying such a situation would probably rely on whistleblowers, who need protection and confidence that they would not be penalised for revealing information. Will the Minister say who would be responsible for making this judgment? Would it be the General Pharmaceutical Council or a magistrate with professional advice?

4.45 pm

May I also ask about the introduction of the statutory term of “chief pharmacist” with professional standards set by the GPhC? As I read the order, a defence for inadvertent dispensing errors cannot be called in aid if the service where it happened did not have a chief pharmacist responsible for the safe running of that service. Does that mean that if a service did not identify a chief pharmacist, or if he or she were not on the spot, the staff would be more exposed to discipline over errors than those working at a site where the work was supervised by a chief pharmacist? Will the Minister please explain?

**Baroness Merron (Lab):** My Lords, I welcome the Minister’s helpful introduction and his acknowledgment of the delay in bringing this statutory instrument before us. These Benches welcomed the initial preparation and dispensing errors instrument when it came before Parliament in 2017. That welcome was in line with that of a number of organisations, including the National Pharmacy Association, the Pharmaceutical Services Negotiating Committee and the Royal Pharmaceutical Society. Today, we are very happy again to give that welcome to this statutory instrument, not least because it is entirely focused on patient safety and on improving safety for patients. It also brings parity across the pharmacy profession, something that has been much called for.

There were some 1 billion prescriptions dispensed last year. At this volume, it is, of course, impossible to avoid all errors, and it is certainly a credit to the pharmacy profession that they are statistically very few and far between. Most professional groups in the health service do not face criminal conviction and potential imprisonment for an inadvertent dispensing

error, and therefore it would be quite wrong for pharmacists to be the only ones who do. It is therefore very welcome that this SI extends legal protections to pharmacists working in a range of locations, such as prisons, hospitals and care homes.

Those working in these settings are often under increased stress, and this has been exacerbated by the challenges of the pandemic. The *Pharmaceutical Journal* has found an approximate doubling of pharmacists reporting that they feel extremely stressed compared with recent years. In often very pressured circumstances, it is right that we, in the way we are discussing today, protect pharmacists—who are often people’s first point of contact with the healthcare system and too often victims of abuse—from unintended mistakes. Ensuring the right to legal defence against prosecution in cases relating to inadvertent error will undoubtedly remove some of the fear these clinicians feel when it comes to admitting errors. It will help to prevent and reduce patient harm through taking the wrong medication or dosage.

It will also assist in promoting a culture of transparency, as has been referred to already. That will help to inform future learning and improve protocols for the dispensing and preparation of medicines. I agree that this is very much a helpful step towards cultural change and towards a more positive and candid workforce, which, as we have already referred to, can only serve to make patients safer.

Of course, again, it is right that this SI extends only to inadvertent errors. Where they are wilfully negligent or intent on causing deliberate harm, those who are responsible will continue to face criminal prosecution. This is critically important and we certainly support that.

I move on to my outstanding questions on the SI. I am concerned that, of the 523,000 dispensing errors that occur each year, only 5% are reported. Does this not suggest that the 2017 legislation increasing protection for inadvertent errors has been largely unsuccessful in encouraging honesty? What more are the Government doing to increase that number? How will the Government further encourage individual pharmacists to feel safe to come forward if they have dispensed the wrong medication? I should like to understand further how the professionals affected by this legislation, especially those who are more isolated than those who have the benefit of a network of pharmacists easily accessible to them, are informed about these changes.

There is always so much more to do when it comes to patient safety, but this is a very welcome step forward. I look forward to the Minister bringing forward further improvements in due course.

**Lord Kamall (Con):** I begin by thanking noble Lords for their questions. I shall try to answer as many as I can and, in the usual way, if I have missed any of them, I will go through *Hansard* and make sure I respond in more detail. The noble Baroness, Lady Walmsley, asked about deterrence. I have some statistics here. In 2021, a survey of community pharmacists found that 95% of pharmacists said that they report errors to improve practice and 80% to learn from mistakes. In response to her specific question about fear of prosecution as a reason not to report an error, it dropped from 40% in 2016 to 18% in 2021, largely

attributed to the 2018 change in law. Therefore, we expect a similar drop in the fear of being prosecuted for the pharmacists covered by this order.

The noble Baroness also asked about the chief pharmacist. This is a statutory role that mirrors the statutory role of the superintendent pharmacist in registered retail pharmacies. This aims to strengthen the governance of pharmacy services by incentivising the creation of this role, if a hospital, prison or care home does not already have one, in order to benefit from these defences. However, to reflect the diverse arrangements in different health settings, organisations do not necessarily need a specific chief pharmacist role, but should ensure that the statutory functions of a chief pharmacist are included in the relevant individual's job responsibilities if they want to benefit from the defences.

There was a specific question about where there is no chief pharmacist officer. I understand that, at the moment, existing pharmacists can have that duty extended to them, but I shall have to write to the noble Baroness with more detail. What is really important, as she acknowledged, is the duty of candour. We want to encourage an environment where people do not feel afraid to come forward in order to learn. Of course, there is always the right balance between those who have acted maliciously compared to those who have made a mistake. As the noble Baroness, Lady Merron, rightly said, when you are dispensing this number of prescriptions, statistically and probability-wise, there is probably bound to be some error.

To go back to the point about the chief pharmacist officer, given the flexibility, people do not need to adopt the statutory term of chief pharmacist as a job title; they can have the role of chief pharmacist assigned them. I just wanted to clarify that; if I have not been clear, I shall write to the noble Baroness.

I just want quickly to give a bit of a flavour of the errors to show how something might not necessarily be malicious but could be an error. A medicine intended for another patient could be dispensed to the wrong patient. The wrong medicine could be dispensed. An ingredient could have inadvertently been omitted or added when making up a medicine. A medicine could be dispensed at the wrong strength or in the wrong dosage form. These things happen, not intentionally but unintentionally, which is why we want to make sure that we learn from such mistakes.

Given that we have already introduced these offences for the majority of pharmacy professionals in the retail sector, it is right that we extend them to colleagues working in hospitals. By introducing this order, we are not only removing the fear factor for pharmacy professionals but helping to protect the patient under their care. We know from patients that it is important for them to know that, when an error is made, responsibility is taken and the service learns lessons. This legislation supports and incentivises that principle.

I am not clear whether I have answered every question, but I will check and write to the noble Baronesses as appropriate. I thank noble Lords for their interest and the positive debate today. I commend this draft order to the Committee.

*Motion agreed.*

## Passport (Fees) Regulations 2022

*Considered in Grand Committee*

4.56 pm

*Moved by Baroness Williams of Trafford*

That the Grand Committee do consider the Passport (Fees) Regulations 2022.

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, these regulations set the fees payable for products and services offered by Her Majesty's Passport Office, as well as providing for fee waivers in a number of circumstances.

The regulations we are discussing today replace the 2018 regulations. They make minor changes that simplify and make the regulations more transparent, and specify that priority service fees include a booking fee that will not be refunded in certain circumstances. I want to make clear at the outset that no fee levels are being changed and the cost of applying for a passport is not increasing through these regulations.

For customers requiring their passport sooner than can be provided under the standard service, HMPO offers optional priority services that are available for an additional fee. These are the fast-track service and the premium service. Between 6 February 2022 and 8 May 2022, there have been on average 9,000 fast-track applications submitted in person and 4,000 digital premium appointments booked online per week. However, since April 2021, around 5% of customers have not attended their priority service appointment.

When a customer does not attend their appointment and fails to notify HMPO, that appointment slot cannot be used. This has a knock-on effect for others seeking to use the priority services. It is for this reason that the priority service fees will include a booking fee, which will not be refunded where a customer cancels their appointment with less than 48 hours' notice. The fee will be £30 and reflects the costs incurred by HMPO up to the point of the appointment and as a result of not being able to reuse the appointment.

As stated just now, this will not result in an increase to the total fee; it forms part of the existing priority service fee and will not lead to customers being charged more for their appointment. We think that this will incentivise customers to ensure that HMPO is notified when they are not able to attend an appointment and helps to provide a service that is cost-efficient for the taxpayer.

We are also making minor drafting changes to the descriptions of our priority services. These changes will not have an impact on the services provided to customers nor the cost. Any future change to a priority service provision will require an equality impact assessment to be completed.

We have made a number of amendments to the regulations to make them simpler, more concise and transparent for customers. They now clearly set out what actions are taken as part of the administration of an application, when an application is deemed to have been made and when a fee will be retained by HMPO. The schedule of fees has been reduced in length and

[BARONESS WILLIAMS OF TRAFFORD]

we have made the cost of priority services clearer by setting the fee separately. Previously, the fee set in the regulations included the cost of administering a passport and the priority service. I beg to move.

5 pm

**Baroness McIntosh of Pickering (Con):** My Lords, I thank and congratulate my noble friend on bringing these regulations forward. I have just one or two points of clarification. The government website states that

“There is no backlog in passport processing as a result of the coronavirus ... pandemic. However, we are now seeing unprecedented demand as more than 5 million people delayed applying for passports”.

First, presumably the Home Office would have been aware that, as there were no flights, people were not travelling and a lot of cruises had also been paused, travel would resume at some time and there would be the fluctuation we are seeing. At the end of 2021-22, say, what measures did the Home Office put in place to speed things along?

I have been corresponding on my second point through Written Questions to my noble friend. I will take this moment to explain the problem. My husband and I took our first trip abroad since coronavirus at the end of March to the beginning of April. My husband has one of the new passports—I think this is called the Brexit dividend—which is blue-faced as opposed to beetroot-faced and, sadly, is not made in this country. On our return, he was delayed by half an hour because the e-gate would not accept his passport. A host of others were in the same category, in addition to those who cannot go through if their young children do not have their own passport. The border guard informed my husband that they are aware of the problem; the passport page is simply too glossy and is not being read by the e-gates. I compared it to my passport and I could see why; the former passports have stuff over the photo that prevent it from being glossy.

There are two ways around this: ask whoever is making the passport to put something on it to make it the same as the old passports; or introduce, presumably at some considerable cost, a new machine to read these passports at existing e-gates. If, when our current passports expire, we all have to replace them with the new ones, that would be a good investment, because the existing gates do not work with the new passports. I understand the chip is working perfectly well—that is not the issue. The issue is simply that the photo page is too glossy. It is driving passengers and border guards to distraction, because it is causing queues. This was a quiet day and there was a 30-minute delay.

Is my noble friend aware of this problem? I do not believe she is, but border guards and passengers are. Could we find a compromise to make sure this is speeded up? With those two points, I support the regulations before us.

**Baroness Foster of Oxton (Con):** My Lords, I echo some of those points. I used the blue passport through an e-gate in Brussels, and it was fine. It depends on the type of technology and the gates they are using at individual places. This is just to clarify that point.

My second point is also for clarification. We were told that a lot of the backlog was due to people who could have applied online but did not—they applied physically and there was an overload—but I am not sure about that and would like some clarification. There clearly has to be a presence. While a certain amount of work can be done online, such as processing, security is a huge element of sending out a passport to somebody, whether a new applicant or somebody who has changed their name, as they will need hard-copy documents. Is my noble friend satisfied that there are enough people working in the Passport Office, not from home, who are present to facilitate all this?

The backlog is now becoming quite appalling. People are missing business trips, losing money on holidays and various other things. Often, that will not be covered by insurance whereas Covid may have been. Something may have been put in the insurance for that, but you will not get travel insurance to cover your passport not being returned to you, particularly when you have put it in for replacement in advance.

**Lord Paddick (LD):** My Lords, I thank the Minister for introducing these regulations, and I note that the fee amounts are the same as those prescribed by the 2018 regulations. Overall, we welcome these regulations. I start by declaring an interest in so far as my husband lives in Norway, which involves me in frequent foreign travel to the extent that I will—if I can get an appointment—have to use the Passport Office premium service when my passport comes up for renewal next year.

Secondly, in case anyone uses the *Official Report* as a reliable source of information, in answers on an Urgent Question from the other place on 12 May, a number of noble Lords, including the Minister, stated that EU/Schengen area countries required there to be six months unexpired on a UK passport for entry. This is not the case. There must be three months left on a UK passport from the anticipated date of exit from the EU/Schengen area, in addition to the UK passport being no more than 10 years old. I am very grateful to the BBC’s “Morning Live” for confirming this. I looked online as well, and the passport must be valid for three months from when you intend to leave the EU/Schengen area, rather than three months from when you enter. So, you should be questioned at the border about how long you are going to stay, and they will then check that you still have three months left from when you intend to leave.

**Baroness McIntosh of Pickering (Con):** If the noble Lord will permit, is he also aware that in any Schengen area country, for example in Denmark, if a British passport is not stamped at the point of entry, you are deemed potentially to have overstayed your welcome and gone above the 90 days that were permitted, purely by the fact that you have not had your passport stamped? This is clearly stated on the Foreign Office website—I commend the Government for that—but I think that many British people are potentially falling foul of this.

**Lord Paddick (LD):** I have the converse problem, in that I am running out of pages in my passport, because every time I go to Oslo, I get a stamp when I arrive and

a stamp when I leave, even though, because I have applied for a residence permit—which I have yet to receive—I am not bound by the 90 days. However, we digress slightly.

Can the Minister explain what the cost of the Passport Office is overall compared with the amount of money that it generates? How much profit does the Passport Office generate, and how does the last financial year compare with previous years?

Following up on the questions raised by the noble Baronesses, Lady McIntosh of Pickering and Lady Foster of Oxtou, again in answers on an Urgent Question from the other place, the Minister was asked whether the 1,200 extra staff at the Passport Office employed to deal with the unprecedented surge in demand for passports following the end of Covid restrictions on travel were agency or permanent staff. Does the Minister have an answer to that question now? Conversely, how many permanent staff were furloughed in 2020 and 2021, when there were 3 million and 2 million fewer applications respectively than predicted?

We need to know whether the Passport Office is providing value for money for both applicants and the taxpayer. What staff cost savings were made in 2020 and 2021 when demand was low? How flexible is the Passport Office workforce in the face of fluctuating demand? Presumably, demand is higher in spring and summer and lower in autumn and winter. Are additional temporary staff employed at peak times or are permanent staff sitting around for six months of the year not doing very much?

How much more than the cost of producing a passport are applicants charged? If applicants pay for a premium service that the Passport Office cannot deliver within the advertised timeframe, is the premium fee refunded?

I very much welcome the introduction of a booking fee for a priority service that is not refundable if the scheduled appointment is not cancelled by the applicant 48 hours or more in advance. Slots are limited—or, at the moment, non-existent—and applicants need to be incentivised to keep their appointments. However, I question whether the whole fee should be forfeited if a prospective passport holder fails to attend an appointment for their application to be administered under the priority services without giving prior notice. I understand that the Passport Office could have made a considerable profit were the applicant to have attended the appointment but surely the cost of producing the passport should be refunded to the applicant—that is, the profit element should be retained but the cost element that is no longer incurred by the Passport Office should not. In other words, if the person does not turn up, they will not be issued with a passport, therefore the cost of producing that passport is not incurred by the Passport Office. The additional fee for a premium service should therefore be forfeited but surely the cost of producing the passport should be returned to the applicant. Can the Minister say what the fixed and marginal costs are in the case of a missed appointment for a priority service?

We acknowledge the various fee waiver and fee reduction aspects of these regulations for specified groups, as well as the discretion to retain deposits and

fees dependent on individual circumstances, but, as with all Home Office services in relation to the UK border, the question remains as to why the Home Office uniquely must be self-funding. With so many more people who require a passport other than our Armed Forces, diplomats and government Ministers having to travel abroad, whether on business or to support vulnerable relatives, for example, why is almost everyone charged a much higher price for a passport than it costs to produce it? I look forward to the Minister's response, either now or subsequently in writing.

**Lord Coaker (Lab):** My Lords, I thank the Minister for introducing the regulations. We look forward to her response to the various questions and comments.

I very much agree with the remarks from the noble Baronesses, Lady McIntosh and Lady Foster, and, frankly, all the remarks that the noble Lord, Lord Paddick, made. Before I start my remarks in support of them, the regulations raise a number of questions and comments for us all, not least that we are debating passport fees as set out in the schedule while, as we have heard, people are waiting months for their applications to be handled. They are often unable to access help and many are missing holidays, weddings and job opportunities because the passport system simply is not working, as the noble Baroness, Lady Foster, pointed out. Slowing down the fast track, as these regulations do, is almost an admission of failure. Why do Ministers not believe that the system can get back on track and meet existing targets in the longer term?

We have no concerns over the purely technical changes that set out passport fees more simply. We agree that, as the noble Lord, Lord Paddick, pointed out, it is fair to look at keeping the booking fee where a person books a priority appointment but fails to turn up. However, we have a few questions to raise on this and other aspects of the regulations. Can the Minister update us on the current backlog? The latest reported figure was half a million but the Home Office has not provided updated figures when asked.

Over the weekend, the *Times* reported that staff have warned that the systems they are being asked to use are not fit for purpose. How will the existing regulations be made fit for purpose when the existing system is said by staff not to be fit for purpose? The article reported that the existing pressures are only going to get “heavier” and that people are being given “poor, misleading advice” by the advice line provider. As I said, this SI will slow down the fast-track process by one day. Is that a proportionate response to all the problems being faced?

5.15 pm

What urgent work are the Government and the Home Office doing ahead of the summer to prevent further millions of families being put through chaos before their summer holidays? Staff are reporting problems with the processing system and the digital rollout. How are those concerns being responded to? Case studies show that people are phoning repeatedly for days without answer or being put on hold for hours only to be disconnected. What urgent action is being taken to address that?

[LORD COAKER]

Questions have already been asked about staffing levels. We are told that the Government intend to hire another 700 members of staff. When do we expect those staff to be in place, and how does this square with the Government's intention to reduce the number of staff serving in the Civil Service? What support is being offered to the hard-working staff dealing with these various problems?

On slowing down the fast track from seven days to eight days, how many applications are currently missing the seven-day deadline? Why is the aim not to improve the situation so as to allow the existing seven-day timeline to be achieved, rather than extending the timeframe? When do Ministers expect that the existing backlog of applications will be cleared?

As I said, we have no concerns over the technical changes made to the schedule of fees. However, on reading them, I do have one detailed question. The new schedule shows that a higher fee is added for children aged under 16 to use priority services—£73 for the fast track and £102 for the premium service—than for adults, who correspondingly pay £66.50 for the fast track and £101.50 for the premium service. Why is there a difference between children and adults?

We are in agreement that it is fair not to refund a booking fee or the priority fees paid where a person books a priority appointment and then fails to turn up without good reason. This wastes time in the system—even when it has not been allowed to reach breaking point—and is disrespectful to staff and other users. It is fairly standard practice for an organisation not to refund a booking fee where an appointment is not used.

However, I have a question on the detail. My understanding is that, if you miss an appointment—sometimes people make an innocent mistake—the regulations provide, as the noble Lord, Lord Paddick, said, not only for the booking fee and priority fee to be non-refundable but for the standard application fee also to be kept. Does this mean that if a person misses their appointment they will lose not only the fees for that appointment but their application altogether? Will they have to find the money for the standard fee to start the whole process again?

As I am sure the Minister will understand, that raises a number of important questions during a cost of living crisis—particularly when, for many people, it is the system that is in chaos and failing them. I am interested to know what happens when the failure is the system's fault rather than the applicant's. What happens to a person's priority fees if the system fails to deliver their passport within the appropriate deadline?

The Explanatory Memorandum states that, where a person misses an appointment with good reason:

“The fee will be refunded if the customer meets the compassionate ground policy.”

As the noble Lord, Lord Paddick, said, people read these exchanges so this is important. Can we have more information on that policy? It is not mentioned in the regulations themselves and there is no information about it in the Explanatory Memorandum we have been given. What will count as compassionate grounds and who decides that?

There are a number of important questions about these regulations, which, as I said, we generally support. There is also the more general problem of the passport system, which the Government need to sort out urgently. With that, I look forward to the Minister's response.

**Baroness Williams of Trafford (Con):** My Lords, I thank all noble Lords for their contributions. There were quite a few questions, so I may not be able to cover absolutely every single detail, but I will start with the points made by my noble friend Lady McIntosh of Pickering. She and my noble friend Lady Foster spoke about people delaying—for obvious reasons due to Covid—their applications throughout 2020 and 2021. We did prepare extensively for elevated demand with no restrictions upon international travel, and those preparations have ensured that passport applications can be processed in higher numbers than ever before. In preparation for the demand for international travel returning, we have been advising customers since April 2021 to allow up to 10 weeks when applying for their passport, and this remains the case.

The noble Lords, Lord Coaker and Lord Paddick, asked about our anticipated forecast. It is 9.5 million applications in 2022, and we are on target to deliver those. We have employed 500 staff since last April, and there will be a further 700 this summer. They will be a mixture of agency and permanent staff, because we clearly do not need 1,200 permanent staff for ever to deal with quite a short-term issue. Moreover, 90% of passports in the 10-week timeframe are being processed within six weeks.

Turning to the blue passports, I also have a blue passport and I have not had a problem with it. I have not heard of the glossy-photo issue, but I will certainly take that away and inquire about it. It is possible, as my noble friend Lady Foster said, that the technology might have been faulty, but I shall not make any inference of what the issue was.

I was asked how many passports have been issued so far this calendar year. The answer is 3.3 million, and I understand that in March and April alone 2 million were processed, which is quite a number. I will need to write on the fixed and marginal costs regarding missed priority appointments, but clearly there is a cost for someone making an appointment and not turning up. On the question of staffing, no staff were furloughed during Covid; staff were redeployed to other priority government work in the Home Office—for example, dealing with the EU settlement scheme and asylum—and to DWP, working on universal credit.

Sopra Steria has doubled its workforce in supporting HMPO since the start of 2022, alongside opening up a number of new processing centres. Its efforts have enabled the registration of applications and supporting documents on our system and the return of supporting documents to keep pace with this unprecedented demand. We raised concerns with the provider of the passport advice line, Teleperformance, about its delivery and, in response, it is urgently working to add additional staff, with 500 due to be added by mid-June.

On the argument about three months versus six months, it varies, apparently. Not to recuse myself from the information that I gave on the Floor of the House—and I will look into it more thoroughly—I

actually thought a letter might be on its way to the noble Lord by now. Apparently, it is six months for Turkey and three months for Spain, but I will give the noble Lord a proper answer on that, because I, too, looked at the GOV.UK website, but I was not entirely sure whether I was right, or the noble Lord was, at the end of it.

**Lord Paddick (LD):** Obviously, Turkey is not a member of the European Union and is not in Schengen. There is one rule for all EU or Schengen countries, including places such as Norway and Iceland, which is three months from departure.

**Baroness Williams of Trafford (Con):** I am not going to disagree with the noble Lord. I would just like to give him a comprehensive picture, including on whether it is different if you are going into or coming out of the EU.

The noble Lord, Lord Paddick, often goes on about the costs versus the profit that the Home Office makes. We do not make a profit. The cost of the passport goes towards our border system; it is not to make a profit. As I said, I will get back to him on costs. I can confirm that if you have paid a premium, you get your money back if your passport does not arrive in time. I will have to get back to him on children, because I do not know the answer. On what is not refunded on missing an appointment, it is not the costs of the application but the booking fee, which is £30—as I understand it from the officials behind me.

**Lord Paddick (LD):** My understanding is that if you cancel within 48 hours, you give up the booking fee. If you do not cancel and do not turn up, you forfeit the whole amount: the standard application fee and the premium. In that case, the Passport Office will not be involved in the cost of producing a passport; should that not be refunded?

**Baroness Williams of Trafford (Con):** I did not think that was the case, but I am not going to contradict the noble Lord; I will check. I thought it was just the booking fee that you did not get back; I will double check.

I think I have answered all the questions. I have just one last point on what we did back last year. We started notifying customers by text—I think I said that on the Floor of the House a couple of weeks ago—that their passport was approaching its expiry date. We have sent some 5 million text messages to customers who hold or are about to hold an expired passport.

**Lord Paddick (LD):** I have one further question as a result of what the Minister just said. I renewed my passport early because I had to change details in it, so my passport is valid for 13 years, but it is valid for only 10 years for entry to the European Union—you cannot have a passport valid for more than 10 years. Is the Passport Office sending text messages when a passport is approaching 10 years from date of issue or when it is due to expire?

**Baroness Williams of Trafford (Con):** That is a very good question. I would have thought it would be at the 10-year point, but the noble Lord is absolutely right. If there are 13 years on the passport, would it send it after 13 years, and therefore your passport will be three years out of date? I will find out.

**Lord Coaker (Lab):** I was waiting for the Minister to inform the Committee of the current figure for the backlog. She gave us the application numbers. The application number now is 3.2 million or something, but that is a different way of answering the question. Can she update us on the current backlog figure? We had half a million, but can she update it?

**Baroness Williams of Trafford (Con):** Our applications forecast is 9.5 million; I said that the current number was 3.2 million. On the current status, we anticipate that we will be on target to deliver those 9.5 million. I do not know the number of people awaiting passports at this point, but I will find out.

*Motion agreed.*

*Committee adjourned at 5.29 pm.*

