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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Wednesday 8 June 2022

3 pm

Prayers—read by the Lord Bishop of Chichester.

Prime Minister: Meeting with First Ministers of the Devolved Governments

Question

3.07 pm

Asked by ***Lord Foulkes of Cumnock***

To ask Her Majesty's Government when the Prime Minister next expects to meet with the First Ministers of the devolved governments; and what subjects are expected to be on the agenda.

The Minister of State, Home Office and Department for Levelling Up, Housing & Communities (Lord Greenhalgh) (Con): My Lords, the new Prime Minister and heads of devolved Governments council commits to meeting at least annually as part of the *Review of Intergovernmental Relations* published in January. The inaugural council will meet to consider issues of strategic importance to the whole of the UK, and the Prime Minister may also engage with the First Ministers in other fora, as he did four times last year.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I am grateful to the Minister for his reply, but does he agree that devolution means that devolved authorities should be spending money only on the devolved areas and that any spending on reserved areas would be improper? Can the Government now consider monitoring the expenditure of the devolved authorities to ensure that they are not spending money on reserved areas, as the Scottish Government are? They are spending £20 million on the constitution, including employing civil servants to prepare for a referendum and for breaking up the United Kingdom. Should this not be on the agenda for the next meeting between the Prime Minister and the First Ministers?

Lord Greenhalgh (Con): I take the point that the noble Lord has made on a number of occasions. It is clearly an important issue to maintain the union. The devolution settlement set out those responsibilities that fall within devolved and reserved competence. Scottish Ministers are accountable to their own legislature and electorate for their actions, including their expenditure decisions.

Lord Forsyth of Drumlean (Con): My Lords, on the subject of ministerial responsibility and competence, my noble friend answered a Written Question yesterday indicating that the Government had decided that they would not make the QEII Centre available, should this House need to move, as part of their levelling-up agenda. Does my noble friend not realise that this is a matter for this House and not for the Government, and that £10 million of taxpayers' money has been spent on looking at the suitability of the QEII Centre? Who will pick up the tab for this PR stunt?

Lord Greenhalgh (Con): Well, I was forewarned that the written response that I gave would not exactly be popular with Members on all sides of the House. All I can say is that it is not for my right honourable friend to determine where the House sits but, as someone who is responsible for the QEII Centre, he has ruled that out. I have outlined that in my written response.

Lord Wigley (PC): My Lords, can the Minister confirm that when the Prime Minister next meets the First Minister of Wales, he will confirm the pledge that he made at the time of the Brexit referendum, that Wales will be fully reimbursed for every penny of EU regional and social funding lost as a consequence of that Brexit vote?

Lord Greenhalgh (Con): There is a commitment to invest in Wales and we have seen so far, as part of the 2021 spending review, 20% more per person for the Welsh Government. I am sure that we will continue to honour those commitments.

Lord Cormack (Con): My Lords, the Minister has not answered my noble friend Lord Forsyth's question. Some £10.9 million of public money has been spent on the Queen Elizabeth II conference centre. It is completely wrong for that money to have been spent for the Government arbitrarily to make a decision that rules it out.

Lord Greenhalgh (Con): All I can say in response is that I understand where the noble Lord is coming from. I realise there has been some expenditure, but my right honourable friend can determine whether he wishes to make the QEII available; it is for this House to decide its future. I will take away sentiments from all sides of the House.

Lord Morris of Aberavon (Lab): My Lords, the devolved Governments are consulted on the effects of international treaties but, for reasons of confidentiality, the Government refuse to disclose the results of these consultations. The noble Lord, Lord Grimstone, told the International Agreements Committee on 27 April that he could "categorically" say that the devolved Governments were not "satisfied". Will this matter be put on the agenda at any future ministerial meetings?

Lord Greenhalgh (Con): I am not sure I can specifically answer that at the Dispatch Box, but there are now mechanisms, as part of the review of intergovernmental relations, to ensure we have the structures to take these points on board in the appropriate setting.

Baroness Humphreys (LD): My Lords, I welcomed the demise of the Joint Ministerial Committee earlier this year. It was doomed to failure principally because it was rarely convened by the Prime Minister. What structures have been put in place to ensure that two of the main weaknesses of that system are addressed: so that the First Ministers meet with the PM, in the new intergovernmental forum, more regularly than once a year; and that all four nations are able to contribute issues to the agenda?

Lord Greenhalgh (Con): There are structures. There is a commitment to one meeting a year for the council, as I said in my initial response, and we have 10 interministerial groups, the Interministerial Standing Committee and the Finance: Interministerial Standing Committee. The infrastructure is there, but we have to go with the spirit of the legislation, as machinery and structures are not enough.

Lord Bellingham (Con): My Lords, when the Minister and the Prime Minister attend the council, will they remind the First Ministers of the extraordinary success of the Platinum Jubilee weekend and of the strength of the union?

Lord Greenhalgh (Con): I am sure there will be every opportunity to point to the strength of the union. I think the Platinum Jubilee celebrations were an absolute triumph; my favourite was breakfast with Paddington Bear.

Lord Khan of Burnley (Lab): My Lords, earlier this year, the UK Government published plans for the UK shared prosperity fund, which replaces the European Regional Development Fund and European Social Fund. Despite a previous pledge to match the size of former EU funding in each nation of the UK, the Government have clearly broken that promise for Wales, which is expecting a shortfall of £772 million. What discussions has the Prime Minister held with the Welsh Government over this? I believe the Welsh First Minister is here next Monday, celebrating 100 years of Welsh Labour. Maybe the Prime Minister and the First Minister can have those discussions while enjoying those celebrations.

Lord Greenhalgh (Con): I am sure they will have those discussions but, as I said in a previous answer, 20% more has been spent on the Welsh Government per person, as part of the spending review 2021. In addition, the UK shared prosperity fund is going to deliver £2.6 billion spread across the country, with £585 million earmarked for Wales. That is a significant sum of money.

Lord Selkirk of Douglas (Con): I served as an elected Member for the first eight years of the Scottish Parliament. Will the Government keep up a close working relationship with the Scottish Government? It is very much in the interests of the United Kingdom as a whole. Will he confirm that necessary relevant steps relating to security will be shared by both Governments?

Lord Greenhalgh (Con): I am sure there is a commitment to share security matters. Importantly, the intergovernmental relations review has provided the infrastructure to ensure that these matters can be discussed in the appropriate way.

Lord Soley (Lab): As the Minister will know, the Scottish Government have been unable to complete the census. People who lose out from that are usually in low-income groups, who do not complete the census there. I have a feeling that that will affect the financial settlement that the UK Government then have to give to Scotland. If he does not have the answer to that, perhaps he could let us know whether the failure to complete the census in Scotland will impact on the financial settlement for Scotland.

Lord Greenhalgh (Con): Clearly, it is important to get a census right. On a normal basis, that is completed every 10 years. I am sure there will be an opportunity to discuss these matters as part of the finance and interministerial committee. I am sure that will be at the top of the agenda.

Lord Roberts of Llandudno (LD): My Lords, are the Government aware that only 2% of the insulin used so essentially by diabetic folk in the UK is produced in the United Kingdom, in Wrexham in Wales? What are the Government doing to ensure, if there is a split in the United Kingdom, and with our foolish distancing from Europe, that we—or you—have any insulin to keep your diabetes in check?

Lord Greenhalgh (Con): I was wondering when that was going to get back to the original Question, but it is important that we maintain a strong union. We are aware that the Welsh Government have established an independent commission to look at constitutional matters. We should wait for that to report. I do not see any strong desire from the Welsh to leave our great United Kingdom.

Domestic Abuse Victims

Question

3.17 pm

Asked by ***Baroness Thornton***

To ask Her Majesty's Government how they are providing specialist support for domestic abuse victims facing multiple disadvantages.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Government are committed to supporting all victims of domestic abuse, including those facing multiple disadvantage. We understand the importance of "by and for" services, designed and delivered by and for those they serve, providing tailored support that victims need. That is why our VAWG strategy commits £1.5 million for specialist support services and our tackling domestic abuse plan invests more than £230 million of new funding, including £141 million for supporting victims.

Baroness Thornton (Lab): I thank the Minister for that. Of course, everybody would welcome the Government's plan to tackle domestic violence. This Question addresses the particular needs of the most vulnerable, facing multiple disadvantage, who are often at the sharpest end of inequality. What steps are the Government taking of direct action, set out in their domestic abuse plan, specifically to meet those needs? For example, will funding clearly set out how any training will work for these girls and women to provide care that is trauma-informed, age-sensitive and takes account of things such as the needs of care leavers and black and ethnic minority women?

Baroness Williams of Trafford (Con): The noble Baroness is absolutely right that whatever interventions are taken forward on domestic abuse need to take into account the specific circumstances of the victim. Although disadvantage does not cause domestic abuse, it can

certainly be exacerbated by the many causes of disadvantage. On specific interventions, the College of Policing has developed specialist training, including the Domestic Abuse Matters programme, which will help first responders dealing with an incident or a report and considers the needs of different victims, including those from diverse communities. The training has been delivered to the majority of forces already. The Home Office will provide £3.3 million to that end to support further delivery. The tampon tax obviously funded 100 directed grants and £75 million to disadvantaged women since 2015. DCMS has also given some direct grant funding to that end.

Lord Laming (CB): My Lords, a few weeks ago, the Government published a detailed report on child protection in England. In it are recommendations on how we can improve the safety of children caught up in domestic abuse situations. Can the Minister assure the House that these recommendations will be taken seriously and, I hope, properly implemented?

Baroness Williams of Trafford (Con): It is almost too horrific to read the detail of the cases to which the noble Lord refers, in which people do such things to such young, innocent children. We are very grateful for the work that the panel has undertaken and want to ensure that we improve our response to children in domestic abuse incidents. The noble Lord will of course recall the work we did through the Domestic Abuse Act.

Baroness Burt of Solihull (LD): I know the Minister appreciates the importance of specialist support for victims and survivors of domestic abuse who face multiple disadvantages. I hope she agrees that they could be better served through tailored support and specialist partnerships to meet their needs. In response to the victims Bill consultation, the domestic abuse commissioner recommends a ministerial lead for multiple-disadvantaged women to work across departments to help pull services together. Will we be seeing this measure in the victims Bill?

Baroness Williams of Trafford (Con): I know we will have many discussions on the victims Bill and we will certainly take the recommendations of the DA commissioner very seriously. I think we have already accepted some and are working on them.

Baroness Manzoor (Con): My Lords, I very much welcome the support the Government are putting into this vital area. Will the Minister give an update on the Forced Marriage Unit and on what additional support is being given to those referred to it, particularly young girls and boys?

Baroness Williams of Trafford (Con): My noble friend asks a very pertinent question. The Forced Marriage Unit's work is going very well and referrals to it are increasing. Some victims of forced marriage are probably some of the most vulnerable because they are so scared to leave their situation. I am pleased about the work we have done on it. I have lost my place, so I will write to my noble friend with further information on it.

Baroness Gale (Lab): My Lords, 10 years ago today the Government signed the Istanbul convention and they recently issued a Written Statement saying that they will ratify it with reservations on Articles 44 and 59. Why are there such reservations, particularly on Article 59, which deals with migrant women and requires a Government to grant residence to victims whose immigration status depends on their partners or spouses? This can mean that where perpetrators have control over victims' immigration status, they can further trap them by threatening them with being deported or separated from their children. Will the Minister agree today to do all she can to ensure that there are no reservations on Articles 44 and 59 when the Government ratify the Istanbul convention?

Baroness Williams of Trafford (Con): On the latter part of the noble Baroness's question, we certainly want to get that right. On the interface between immigration enforcement and victims of domestic violence, it is very important to get the balance right so that we can protect those victims.

While I am on my feet, I say to my noble friend Lady Manzoor that, on honour-based abuse, including FGM and force-based marriage, Ministry of Justice data shows that to date more than 3,000 forced marriage protection orders and more than 700 FGM protection orders have been issued.

The Lord Bishop of Chichester: My Lords, we know that domestic abuse can be experienced across the gender divide and in every part of society, and that includes clergy households. Can the Minister say what steps Her Majesty's Government are taking to address the needs of those who suffer domestic abuse and who, like clergy, live in accommodation tied to their post, thus making their future material well-being more perilous if and when they leave the family home?

Baroness Williams of Trafford (Con): I am very pleased to address the right reverend Prelate for the first time, and I welcome his first question to me. He is absolutely right that people who are tied to their accommodation, such as the clergy—there are other examples—may be terribly scared to leave that accommodation because of the homelessness implications. In the Domestic Abuse Act last year, we ensured that priority for accommodation, as secured by the local authority, will be given to those who are homeless as a result of being a victim of domestic abuse.

Baroness Lister of Burtersett (Lab): My Lords, further to the question on migrant workers, the domestic abuse commissioner recently called for support for all victims and survivors of domestic abuse, regardless of immigration status, following the current migrant victims' pilot for those with no recourse to public funds. Will the Minister commit to such support in future, given that she has repeatedly said that migrant abuse victims must be treated as victims first and foremost, regardless of immigration status? All too often that is not the case.

Baroness Williams of Trafford (Con): The noble Baroness is absolutely right; I have said that before and I will say it again. People should be treated first

[Baroness Williams of Trafford]
and foremost as victims. She will know that no recourse to public funds is linked to someone's link to this country. We will not change that policy, but I absolutely agree with her that if you are a victim of domestic violence, you should be treated as a victim of domestic violence first and foremost.

Baroness Deech (CB): Does the Minister agree that a contributing cause of domestic abuse is the teaching of some religions and cultures that women are inferior, and that it is time for us to focus on the perpetrators of abuse and how they are educated? If so, what can we do about it?

Baroness Williams of Trafford (Con): The causes of domestic abuse are multifactorial. There is no simple answer to why someone decides to beat someone else, deprive them of finances or coercively control them. The noble Baroness has a point in some ways, and it is incumbent on schools, through PSHE, to teach the values of respectful relationships so that our young boys will grow up into men who do not think it is acceptable to beat a woman.

Farmers

Question

3.28 pm

Asked by ***Lord Curry of Kirkharle***

To ask Her Majesty's Government what steps they are taking (1) to prepare farmers for the removal of direct support over the next decade, and (2) to equip farmers with the skills required to adapt to a competitive trading environment.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, I declare my farming interests as set out in the register. Our agricultural transition plan explains how we will prepare farmers for the phase-out of direct payments, using the money freed up to offer environmental land management schemes that will pay farmers for delivering environmental improvements. We are offering support to help farmers adapt to the transition, including through the future farming resilience fund. The Government are contributing towards the establishment of the institute for agriculture and horticulture—of which my friend, the noble Lord, Lord Curry, is the moving force—which will drive skills development in the industry.

Lord Curry of Kirkharle (CB): My Lords, I cannot remember a time when a feeling of uncertainty permeated the farming industry more than it does right now: uncertainty over the impact of trade deals, over inflation and over the future of ELMS. When might the Government make announcements about ELMS so that farmers can begin to plan ahead with some confidence? Secondly, does the Minister agree that we should use the transitional period between now and the end of the decade to ensure that farmers come out of this process in better shape than they went in and better equipped to deal with net zero, the restoration of habitats and, importantly now, the production of healthy, wholesome food to feed the nation?

Lord Benyon (Con): My Lords, I am absolutely convinced that farming is going to be a profession and a skill that will be much in demand in a hungry world. But the noble Lord is absolutely right: there is uncertainty because of commodity price spikes internationally and because of changes to farming systems. We are doing all we can to skill up farmers for a different world—a different world of support, in which they will be incentivised. We want to make sure that they do so in a way that reflects how young people want to go into an industry and to be skilled. I am happy to work with the noble Lord and other noble Lords on making sure that we understand how we can help farmers at this difficult time.

Baroness McIntosh of Pickering (Con): Can my noble friend explain to the House what specific support will be given to tenant farmers, who risk being ineligible under the new schemes?

Lord Benyon (Con): My Lords, tenant farmers can access the sustainable farming incentive, which is the entry-level scheme. Where there are difficulties between landlord and tenant, we are seeking to iron them out with the committee headed by my noble friend Lady Rock, which has representatives of the Tenant Farmers Association, the CLA and others, to make sure that tenant farmers will be a fundamental part of future British agriculture. It is the only way for many people to get into farming, and we want to see it thrive.

Baroness Jones of Whitchurch (Lab): My Lords, currently farmers are losing basic payments at a faster rate than they can claim under the new sustainable farming incentive. As a result, many of them are suffering financial hardship. When is Defra going to increase the range of environmental standards under ELMS that can be claimed so that farmers can get their finances back on an even keel?

Lord Benyon (Con): We have announced a number of the areas of the sustainable farming incentive, the soil standard and many others. We are going to make further announcements in the next few weeks on other aspects of the environmental land management schemes. We recognise that farmers have to face price spikes—for example, in the areas of fertiliser production—and we have brought forward their area payments by six months, which will give them the cash they need to purchase the inputs they need to make sure that the next season's growing crop is in the ground.

Lord Farmer (Con): My Lords, I declare my interest as a farm owner. Does the Minister agree that English farming should make every effort at this time to maximise cereal production to offset the Ukraine/Russia supply shortages? If so, what steps will the Government take to ensure that this happens?

Lord Benyon (Con): My Lords, I have already outlined one area in which we are helping. I am glad to say that the fertiliser production plants in this country that were either mothballed or operating at half-rate are producing again. We want to make sure that we are doing all we can to reflect the global issues here. The truth is that we are almost self-sufficient in wheat; we get very little from Ukraine and Russia. What is

happening is a human tragedy in those countries, but it is also a tragedy in countries that depend on them for wheat. The perverse result is a very high spot price for wheat of £318.75 in November, which will be of huge benefit to farmers as they plan for future years. But we have to understand that the Ukraine crisis is causing global uncertainty, and Britain has to be a part of resolving that.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, the removal of the CAP should be liberating, but only when farmers are sure that the replacement will not lead to drastically falling incomes, making food production uneconomic. The rush for carbon offsetting is leading to the sell-off of farms for tree plantations so that air travel can continue unhindered. Does the Minister agree that, if farmers feel it is more economic to sell off their land rather than continue to use it for agriculture, surely there is something wrong with how the Government are implementing the changeover?

Lord Benyon (Con): The Government want more trees planted, but we want the right trees planted in the right way. Many of these plantings are under the headline of environmental social governance. To me and the Government, the "S" matters as well as the "E". If an airline—the noble Baroness used this as an example—is buying land and kicking off the farmers, that may be quite "E" in terms of what they are planting, but it is not very "S". That is why we are taking action to make sure that private sector investment in our natural environment is done properly, with the proper social underpinning.

Lord Cameron of Dillington (CB): My Lords, given the current reluctance of farmers to alter their normal cropping to pick up on ELMS, would it not be a good idea for the Government to find a way to sponsor additional FWAG officers, and particularly to train those FWAG officers in the field? Those last three words are the important ones because it is all very well learning in a classroom, but FWAG officers are enormously trusted by farmers so the new trainees have to learn how to talk to farmers. If they could do this, it would be an excellent way of allowing farmers to see the opportunities for not only increased wildlife in the countryside but improving their bottom line.

Lord Benyon (Con): Farming and wildlife advisory groups are incredibly valuable because the advisers are trusted interlocutors. The noble Lord is absolutely right that they need to be skilled both technically, which they can learn in the classroom, but also in understanding the practicalities of agriculture. There are a great many courses available; more so now, as we have increased the GCSE programme to accept environmental management. But he is right that there needs to be a practical element to training and I am very happy to have further conversations with him and others about this.

Lord Clark of Windermere (Lab): My Lords, the Minister has mentioned that, in the new farming regime, farmers will be assisted and paid for environmental improvements as well. But as he knows, our record on public access to farmland is truly lamentable and one of the worst in Europe. Will the Government give the House the assurance that, when they look at the new regime, they will encourage farmers and insist that they allow much more public access?

Lord Benyon (Con): I have been absolutely determined to facilitate much more access to the countryside on my brief watch in this post, but the truth is that we could spend ELMS 20 times over on different schemes. We have a crisis of species decline and are one of the most nature-depleted countries in the world. We therefore have to use ELMS to do that. There are many other things that we could be and are doing, but I want us to focus on how people want to access the country. Some people do want to walk right round the coast of England but some just want to walk out of their town on a circular route. I want to ensure that we are working with farmers and landowners to deliver for those sorts of people as well.

Baroness Jones of Moulsecoomb (GP): My Lords, the Minister mentioned incentivising farmers. I would like to know how he thinks that the Government are incentivising farmers when they do environmentally unfriendly trade deals with places such as Australia, which come in and undercut our farmers' produce on animal welfare and environmental value?

Lord Benyon (Con): We have a firm commitment that, in all trade deals, we will not compromise on environmental and animal welfare standards. We also have to recognise that, if you are going to bring food right across from the other side of the world, there is a carbon price to pay for that. We want to make sure we are favouring local food, produced sustainably by British farmers, and that is what we are working to achieve.

Upholding Standards in Public Life

Question

3.39 pm

Asked by ***Lord Young of Cookham***

To ask Her Majesty's Government when they will respond to the recommendations made by the Committee on Standards in Public Life in its report *Upholding Standards in Public Life*, published on 1 November 2021; and in particular, the recommendations on the Ministerial Code and the Independent Adviser on Ministers' Interests.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, the Government have responded to recommendations on the code. They have made important changes to strengthen the Ministerial Code and the role of the independent adviser on ministerial interests, including an enhanced process for the independent adviser to initiate investigations and new detail on proportionate sanctions for a breach of the code.

Lord Young of Cookham (Con): I am grateful to my noble friend. Does he recall that in its report in November last year, the Committee on Standards in Public Life said that the

"government needs to take a more formal … approach to its own ethics obligations"?

Does he agree that recent events have underlined the importance of the Prime Minister securing the public trust expected of holders of that high office? Will he encourage the Prime Minister to respond constructively to the remaining 25 recommendations that have not been addressed? Will he ask the Prime Minister to reconsider his decision to have a veto on investigations launched by the independent adviser?

Lord True (Con): My Lords, in making the changes I have referred to, the Government carefully considered the recommendations made by the committee on those matters in the *Upholding Standards in Public Life* report, which was published only six months ago, alongside consulting the noble Lord, Lord Geidt. The Government are considering the other matters and will issue a response to the committee's other recommendations in due course.

Lord Evans of Weardale (CB): My Lords, I declare an interest as the chair of the Committee on Standards in Public Life. I am aware from the work we do that much of the process leading to the recommendations we are currently discussing depends on hard work by independent members of the committee. Is the Minister aware that for the last six months there has been a vacancy among the independent members that, so far, the Government have failed to even initiate the process for filling? Why are the Government seemingly reluctant to ensure that the committee has the relevant membership, and when will that process be kicked off?

Lord True (Con): My Lords, I am not aware of any reluctance, but I will certainly note the noble Lord's comments and take those to the appropriate quarter.

Viscount Stansgate (Lab): My Lords, does the Minister not agree that, in the light of recent events culminating in the vote of confidence in the Prime Minister on Monday and its outcome, the very least the Government can try to do to restore trust is to enable a debate on ministerial standards to be held in government time in this House?

Lord True (Con): My Lords, I am at the disposal of your Lordships' House but, as the noble Viscount will understand, matters on debates are for the usual channels. Should such a debate be scheduled, I will be happy to answer to your Lordships' House, as always.

Lord Wallace of Saltaire (LD): My Lords, the Ministerial Code is clearly vital to maintaining trust between the Civil Service and Ministers. The November 2021 report cited a public opinion poll which suggested

"that 85% of the Senior Civil Service and 90% of Fast Streamers had no confidence in the regulation of the Ministerial Code".

Does the Minister not think that suggests we have an underlying crisis in the relationship between the Civil Service and No. 10?

Lord True (Con): No, my Lords, I do not agree. I can speak only as I find. Having the honour to serve as a Minister in Her Majesty's Government, I have the privilege of working day by day with senior civil servants and civil servants of all levels. My experience is that there is a relationship of great trust and co-working between Ministers and civil servants. I strongly underline the respect that I and other Ministers in government have for the work of public servants.

Lord Cormack (Con): Does my noble friend agree that the most important quality that any Prime Minister can possess is integrity? Does he agree with me that Theresa May was a wonderful example of that?

Lord True (Con): My Lords, I do not wish to extend the tread into history, but certainly Margaret Thatcher was also a great example of integrity.

Baroness Smith of Basildon (Lab): My Lords, I think neither of the Prime Ministers mentioned would have behaved in the way that this Prime Minister has. The Prime Minister seems to regard the Ministerial Code as somehow his own personal property or plaything. I think many of us were disappointed by the new introduction, which has no reference to integrity, honour or truth. Given the lack of confidence in this Prime Minister, which permeates into the Government and is so damaging to government that even a majority of his own Back-Benchers have no confidence in him, does the Minister not think he should answer very positively the Question from the noble Lord, Lord Young: that the Government have to respond urgently to the recommendations of the committee and do their best to implement those, otherwise confidence is going to be lost?

Lord True (Con): My Lords, the Government have a responsibility to respond, to consider, and to bring to Parliament the considered results of their reflections on the advice that they are given. As I told the House earlier, the important report that we are discussing was presented last November; we have made some responses and more will follow shortly.

Lord Butler of Brockwell (CB): My Lords, the Minister says that it is only six months since the committee's report was published. Why is it taking so long for these recommendations to be considered and what processes are being undertaken to consider them?

Lord True (Con): My Lords, far be it from me to advise a former Cabinet Secretary on what processes take place within government. There are matters to consider, which are considered by appropriate departments that may be affected. It is not unusual for a period of six months to pass—even in relation to a report from this particular committee. I could cite other cases, but the important thing is that we come forward with a considered response, which is precisely what I have undertaken to do.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, is the Minister surprised that, so far, no Conservative Peer has risen in support of the Prime Minister?

Lord True (Con): My Lords, I am waiting in eager anticipation.

Noble Lords: Oh!

Lord Dobbs (Con): My Lords, the other day my doctor prescribed me drugs that she said might cause confusion, depression and panic attacks. I said, "But I am a Tory Back-Bench Peer—how will I know?" Will the Minister cast aside my depression and agree with me that this is not a matter of trust in one individual, one personality; it is not even a matter of trust in one political party, it is a matter of trust in our entire system? Those politicians who regularly use vicious terms of abuse, publicly calling their opponents "liars" or "political scum" simply pour acid over our entire system. We should all condemn the use of such language.

Lord True (Con): I strongly agree with what my noble friend has said. Of course, the issue of trust runs much wider, as he says, than individuals. We in your Lordships' House were given a great trust by the British people in the referendum in 2016; can we all answer that we held to that trust promptly and fully?

Lord Griffiths of Burry Port (Lab): My Lords, I have never used the language that has just been adduced in the previous speaker's question, but I have used the language that was used by the Prime Minister in the reading that he gave in St Paul's Cathedral, and would hold all people to account by the standards implicit in the words that he read. Does the Minister agree?

Lord True (Con): My Lords, I refer the noble Lord to the exchange of correspondence between the noble Lord, Lord Geidt, and the Prime Minister. In his letter to the noble Lord, Lord Geidt, the Prime Minister set out his own sense of his actions—I refer noble Lords to that letter and the way that he has held himself accountable publicly for those actions.

Baroness McIntosh of Hudnall (Lab): My Lords, the Minister clearly thinks that six months is not enough time to consider the recommendations. He may well be right, but would he like to hazard a guess as to how much more time will be needed before they have been considered?

Lord True (Con): My Lords, it is always dangerous to specify any date in your Lordships' House. What I will say is that I personally—as do many people across the Government; in fact, the whole Government—view the recommendations and the advice that we receive from independent bodies as of great significance and importance. I hope before too long to come forward with responses on other recommendations. They will not all be in line with the recommendations; for example, the Labour Party has rejected the view that a single ethics commission should not be set up, and is calling for one.

Social Housing (Regulation) Bill [HL]

First Reading

3.49 pm

A Bill to make provision about the regulation of social housing; about the terms of approved schemes for the investigation of housing complaints; and for connected purposes.

The Bill was introduced by Lord Greenhalgh, read a first time and ordered to be printed.

Women, Peace and Security Bill [HL]

First Reading

3.50 pm

A Bill to support women in UK sponsored and supported conflict prevention, peace processes, mediation and diplomatic delegations; to ensure systematic gender consideration and responsiveness in UK foreign and defence policy; and for connected purposes.

Baroness Hodgson of Abinger (Con): My Lords, I declare an interest as a member of the steering board for the Preventing Sexual Violence in Conflict Initiative.

The Bill was introduced by Baroness Hodgson of Abinger, read a first time and ordered to be printed.

Genocide Determination Bill [HL]

First Reading

3.50 pm

A Bill to provide for the High Court in England, Wales and Northern Ireland and the Court of Session in Scotland to make preliminary determinations concerning the undertakings made by the United Kingdom as a Contracting Party to the Convention on the Prevention and Punishment of the Crime of Genocide ("Genocide Convention") under international law; for the referral of such determinations to relevant international courts or organisations; for response to reports on genocide; and for connected purposes.

Lord Alton of Liverpool (CB): My Lords, I declare a non-pecuniary interest as a patron of the Coalition for Genocide Response.

The Bill was introduced by Lord Alton of Liverpool, read a first time and ordered to be printed.

Schools Bill [HL]

Committee (1st Day)

3.51 pm

Relevant documents: 2nd Report from the Delegated Powers Committee, 1st Report from the Constitution Committee

Clause 1: Academy standards

Amendment 1

Moved by ***Baroness Chapman of Darlington***

1: Clause 1, page 1, line 5, leave out "may" and insert "must"

Member's explanatory statement

This amendment explicitly lists the academy standards the Secretary of State must regulate for, namely those set out in section 94 of the Education and Skills Act 2008 for independent schools.

Baroness Chapman of Darlington (Lab): My Lords, given the speeches we heard at Second Reading, and the conversations which have been had subsequently, I would be very surprised if Clause 1 leaves this House intact or perhaps is even included in the Bill at all.

We feel that the Government have not explained the approach that they have been taking to this clause. On the one hand, the Government say that they want all schools to be academies by 2030, which I would have thought was about decentralisation, innovation, flexibility and freedom to respond to local circumstances—this is the essence of what an academy was originally designed to do. I accept that, over recent years, things have moved on, and that the Government may wish to rethink the way they manage their relationship with academies.

On the other hand, we see in Clause 1, line 1:

"The Secretary of State may by regulations set standards in relation to Academies".

We think this is the wildest imaginable power grab by the Secretary of State. Is this the end for academies as we have known them? If that is the intention, the Government need to be much clearer about that. So what are they doing, and what is the right balance between centralisation on the one hand and freedom for our schools on the other? That is what I hope we will be able to tease out this afternoon.

In the White Paper, the Secretary of State says that the Government do not have or claim to have all the answers, yet it seems that he wants to have all the powers all the same. If the Government want a fully trust-led system within a single regulatory approach, they need to set out what this approach should look like. In a government press release issued on 25 May, the department said:

"The Schools Bill will bring the new regulatory standards developed through the review on to a statutory footing, provide a range of new powers to drive up standards, including the possibility for the Secretary of State to intervene in the very rare case of a failing academy trust, and support the 2030 goal, including allowing local authorities to request their schools move into strong trusts."

But the Bill itself at the moment does not do this: it does not define new standards to be brought on to a statutory footing, because they have not been developed. So, we feel that, in a way, the Government are flying blind here—or asking us to.

The Delegated Powers and Regulatory Reform Committee, in its second report of this Session, makes exactly this point very powerfully:

"Although clause 1 is entitled 'academy standards', the clause contains neither academy standards nor the principles on which the standards will be based."

It says that this power "is excessively wide" and that the Government have not provided

"draft regulations that would illustrate how the power might be exercised."

We are concerned about this. The committee says that

"the delegated power in clause 1 is excessively wide"

and should be removed from the Bill. It says that the Government's reasons for dealing with academy standards in regulations are both "predictable and formulaic", which I think is a polite way of telling the Government that they really should not be taking this approach.

Another Select Committee, the Constitution Committee, in its first report of this Session, is similarly concerned. It makes an important point about Clause 1 when it says:

"Clause 1 is unclear on whether the power is designed to facilitate the making of regulations for all academies or may … be used to set distinct requirements for a specific academy"—

or MAT. We do not think there is a need to rush this. We accept that there may be a desire, or even a need, to standardise the framework for schools, given the Government's intention to fully academise by 2030, and we would not necessarily disagree with the Government in their desire to do that and have a standard framework for all schools, but there is absolutely no need to approach it in the way Ministers are at the moment. Clause 3, which we will discuss later, goes further still, as it gives Ministers unlimited power to amend legislation as they see fit.

We have had these debates many times in recent years, on various Bills, but I had hoped that the Government would not attempt to take this kind of approach to a Bill about schools, or any public service, because it really is not needed. I urge noble Lords on the Benches opposite to just think for a minute about what they would think about a Labour Government attempting to take such freedoms from scrutiny and accountability for ourselves. This Government's "fill in the blanks later" approach means that Parliament just cannot fulfil its proper role, so the Government need to be much more upfront about what they are really seeking to do and, if they do not know what they want to do yet, they should withdraw these clauses and come back when they have decided how they intend to proceed. They may find that there is cross-Bench support for some of the things they want to do.

4 pm

Our Amendment 3 changes Clause 1; we have tried in our amendments to tease out what the Government intend to do, but if all else fails then, if we need to, we are prepared to suggest that this clause is removed from the Bill. Amendment 3 attempts to clarify the situation. It says the Secretary of State "must set standards" on the matters listed and changes the list of examples to a list of matters which the Secretary of State must determine—in doing so, limiting their power to those matters listed. It is a long list, so I do not think we are being unreasonable in trying to do this. We think this is a much better approach than the one the Government are taking; it is very similar to the approach in Amendment 4 from the noble Lord, Lord Addington.

We are interested in the Government's response to our amendments from Amendment 5 onwards, which remove some of the examples from Clause 1. To be absolutely clear, we are not opposed to the Secretary of State being able to set standards or regulate schools within a common framework or by law, but we are deeply concerned by the way the Government are seeking to do this through Clauses 1 and 3 and the way they are using examples, which we do not think is helpful. Consequently, our Amendment 6 suggests another way forward in listing the standards the Government must regulate for. Again, this is about asking the Government to be clear what they will and will not set standards on.

Aside from the serious democratic and constitutional concerns outlined so well by the two Select Committees, which we are worried about, there are real-world issues with the approach the Government are taking. I used to have an office next door to Jacob Rees-Mogg, so this is not intended as a personal slight against him at all, but, as a thought experiment, imagine that the newly appointed Secretary of State for Education, Mr Jacob Rees-Mogg, gets up one morning and decides he wants to set a new standard on the curriculum—perhaps on religious education or history, knowing him as we all do, and maybe in response to a vocal populist campaign. In the Bill as drafted—never mind what the Government say they intend or what they say in their White Paper; we are here to consider this legislation—there would be minimal consultation, checks or balances, because he would have inherited the power to decide for almost every school in England, or perhaps for one specific one, as a consequence of this Bill. Is this necessarily in the best interests of schools or children?

The power to the Secretary of State is just too broad and not justifiable. Listing examples in the Bill does not help, either; it is open-ended and not necessary to achieve the Government's stated aims. We have therefore tabled amendments removing examples from the Bill, not because we believe the Government should not be able to set standards on such matters but because we object to the way they have included this list in an almost casual manner. Have they really thought about what they want to do? They need to be explicit about what powers they need and why.

There will be strong views across the House on Clause 1 and, I anticipate, Clause 3 in particular. I am afraid the Minister, much as we all respect her, will have her work cut out if she is going to try to get agreement from the House on the approach as currently set out.

Lord Shipley (LD): My Lords, I think I support everything that the noble Baroness, Lady Chapman of Darlington, said. I am not a signatory to any of the amendments in this group, but I am fully supportive and have other, broadly similar, amendments in other places.

I agreed with the noble Baroness when she said that she expects that Clause 1 will not leave this House intact. She must be right. Clause 1 is very poorly drafted and requires amendments. It may be that it should be removed entirely from the Bill. I find it very strange to have primary legislation that gives such widespread and unnecessary powers to the Secretary of State. As the noble Baroness, Lady Chapman, said, Clause 1 suggests examples of matters about which standards "may" be set. Those words are far too loose. What is to happen, for example, if the Secretary of State decides not to set any standards at all, given the use of the word "may"? Surely standards must be set. After all, independent schools have standards to meet, which are those set out in Section 94 of the Education and Skills Act 2008.

Unless the Minister can show good reason, it would seem wise for the Government to support the principles underlying the amendments in this group. Surely the Government should accept that intervention by a Secretary of State on everyday matters would be centralist, divisive and quite impossible to manage. Defining standards is one thing; permitting interference by the Secretary of State is quite another. The job of Ministers is to give the legislation that the Government are proposing clarity of intent. This clause fails on that count because it places in the Bill unnecessary powers, unnecessary doubt and unnecessary interference in day-to-day matters in schools right across the country by a single person.

Lord Knight of Weymouth (Lab): My Lords, first, I remind the Committee of my interests in respect of education in the register; in particular, I chair the trust board of the E-ACT multi-academy trust. This group is clearly about the open-ended powers that the Secretary of State is seeking to take in the Bill. I fully support what has already been said by both speakers, particularly from my Front Bench. In the end, this group goes to the heart of the conundrum of the Bill.

I have just come back from a glorious week in Orkney, basking in the glorious biodiversity of that part of our country. To go back to how we are to deal with this, if the Government's policy, as set out in the White Paper, is for all schools to become part of a multi-academy trust—I think "strong multi-academy trust" is the phrase—first, do I agree with that? That is the direction of travel and I shall not argue with it. I then turn to how we will make that work. I also agree with what I think is the outcome that the Government are trying to achieve, which is a rationalisation away from a multiplicity of legal agreements with different academy proprietors, and something much easier than having to then have officials go around and try to renegotiate individual agreements one by one every time we want a change of policy. We therefore have to put something in statute that overrides those agreements; I think that is what Clause 2 is all about.

Incidentally, I would be interested if the Minister could circulate to us any advice she has had about why the Bill is not hybrid. Of course, the private interests of those academy proprietors are different from each other because of all those different sorts of legal agreements, and we are seeking through a public Bill to be able to interfere with various sorts of private interests. That might make the Bill hybrid and it would help the Committee if any advice that the Minister has had on hybridity was circulated for us.

However, when I think about those legal agreements, I then think about a culture of stable-horse regulation, which those of us who have been Ministers are all familiar with: there is an outcry about something that

[Lord Knight of Weymouth]
has gone wrong in an academy somewhere, or in some schools, so you then have quickly to try to fix it so that every subsequent legal agreement does not allow that thing to happen again. That is one reason why the legal agreements keep changing. However, I think that then means that the Government have said, "Okay, what are all the things covered in all the legal agreements that we currently have with all the various academy trusts? We'll put them all into Clause 1(2) and that kind of covers everything." They should, rather, have taken a breath and said, "Okay. What do we really need to regulate in the form of standards for these academies?" and not just to gold-plate all that stable-horse regulation. Any approach to good regulation and re-regulation would avoid repeating and gold-plating the mission creep that we have seen, which is now resulting in these highly draconian powers that the Secretary of State proposes to take in the Bill.

I come to my first recommendation to the Government, mindful of the letter that we have all had from the Chief Whips and Convenor to remind us that Committee is a conversation. We are having a conversation and this is also the closest thing we have to pre-legislative scrutiny, because the Bill is a Lords starter. In listening to the conversation, I suggest politely to the Minister and to the department that they listen to the debate that we have had and, in particular, listen to the noble Lords, Lord Nash, Lord Baker and Lord Agnew. We have not heard from them yet, but their amendments make it look as though they are saying, "Just scrap it all and start again." My first choice would be for the Government to listen to this effective pre-legislative scrutiny—it is the closest thing we have to it—say, "Maybe we've got this kind of wrong", take the summer, think about it and come back in the autumn on Report with a whole new set of clauses to achieve what the Government are trying to achieve, which I kind of agree with in terms of outcome. However, if they do not want to do that, we have all these other amendments with really good ideas that we can have a conversation about now.

When I think about what I want to say in the context of those amendments, I go back to what I was thinking about in Orkney and what I would do if we wanted every school to be an academy. I want to hang on to the independence that was there when my noble friend Lord Adonis first started the academies movement back in the day, particularly around curriculum. It is fair to say that we have not seen that much use of curriculum freedoms, but we have seen a bit. I would like to see more use of curriculum freedoms to get a better balance around the social, emotional and physical development of children, as well as their cognitive development, just as an example. However, I am happy to have a system where we build trust in school leaders and in teachers to make decisions about their local context and local community and the pupils and the parents they serve, to find the right curriculum mix for their own community.

There is independence and then a limited number of standards. I have put my name to Amendment 6 in the name of my noble friend, which repeats the standards set for independent schools. That is a logical and rational approach to setting standards that has a read-across to other independent schools. Those standards should then be inspected. We have an Office for Standards in Education—Ofsted—which should inspect against those standards at a MAT level. I am interested in ideas about whether we stop routine inspection at a school level and just inspect at a MAT level unless parents trigger an inspection at an individual school level. There is something interesting there to have a conversation about.

Then, of course, because we are spending a lot of public money, schools must be accountable. It is not just about the money but about setting children up to succeed in life. That accountability should be local to local authorities and parents, regional—I have tabled an amendment with some ideas about holding regional schools commissioners to account for the work that they are going to do under the Bill—and national. We have some systems here for the Secretary of State, but Parliament does not have a big enough role in the Bill as it is currently set up, which is why I support the use in some cases of the super-affirmative procedure that some of my noble friends are suggesting.

Fundamentally, we must build this on the basis of trust in teachers. That is why I have tabled amendments on teachers' pay and conditions applying to teachers in academies, and on removing some of the academies' independence in how they employ teachers. I do not expect anyone to agree with me on all of that, but that is my starter for 10 in trying to approach and think about this. In the end, this is my encouragement to the Government: take this opportunity to listen to what people around the House, with our expertise and experience, are saying. Do not come back on Report before the Summer Recess; take the time and grab that opportunity to get this right, because if the direction of travel is for every school to be in a multi-academy trust, we must get it right. At the moment, the Government have got it horribly wrong and I do not think they will get the agreement of this House.

4.15 pm

Baroness Morris of Yardley (Lab): My Lords, I have not yet heard anything I disagree with, so I shall try to make some different points. This is an odd, strange Bill. On the face of it, there is not a lot in it; however, the issues it addresses are of prime importance. There is nothing more important than the future structure of our school system. Otherwise, we keep revisiting it and do not do the things we really want to.

A lot of us here, especially those of us who have had the honour of having ministerial responsibility, would like to take this opportunity to put the structures behind us and get on with what really makes the difference: what happens in the classroom and outside the school, and the relationship with a whole range of children's services. On one level, I welcome this opportunity and the Government's intention to sort out the structures, because I do not like the fragmented, dual system: it is a waste and builds up bureaucracy. There is so much good will to sort it out that I am not quite sure how the Government have managed to mess it up as much as they have.

I find two things odd about the Bill. One is the broad range of powers the Government are taking—the way they are trying to solve this problem. The second

is that it is really difficult to table amendments to it. I had a discussion with my Front-Bench colleagues yesterday about the detail of some of the amendments tabled. I asked, "Why have you put that down?" They explained very clearly that that was the only way we could get the debate going. The Bill is not written with a sensible structure—a clear vision, objectives and a means to achieve them: the Government's clear thinking—which, as my noble friend Lord Knight said, we could amend. All it says is that the Government will take powers on anything they want. It is really tough to amend that, because it does not give the criteria against which they will judge whether to take powers, or what they will do with the powers they take. There is nothing to amend because it is all about the future. That is why the report from the Delegated Powers Committee is critical. There is nothing to discuss because the Government are not saying what they will do.

Therefore, I come to the conclusion—I do not often say this, and I say it in a very mellow tone—that they really ought to withdraw the Bill and think again. That is not to score a political point. The Government's wish to make this coherent is laudable, and I should like to be with them on that and to have a really good debate on the things we disagree on and on which we agree, but we cannot, given the structure of the Bill.

There is a risk that we will miss the enormity of the changes because of the breadth of the Bill and because it does not spell out what it is doing. I am not saying that that is deliberate—it may be, but I am giving the Government the benefit of the doubt. It talks about academies, but in reality we are talking about every single school in our country. If the proposals in the White Paper are enacted and every school becomes an academy, the Bill will make changes not just to the 47% or 48% of schools that are academies; it is a blueprint for every school in our country.

If you look at the White Paper, there seems to be a wish to have every school as an academy by 2030. I want something better than that. I want to know whether the Government are going to do anything if that does not happen naturally by 2030, because it is important that we know whether that is what we are talking about. I do not want anyone to have to revisit this legal structure in five or six years' time; that would be a waste of effort.

We are not really talking about academies because, if you look at some of the examples given, the powers that are going to go the Secretary of State are absolutely with academies currently, not the Secretary of State. Although the Bill talks about

"powers in relation to Academies"

and it is claimed that all the Government are doing is putting in law what is in the agreement, with respect, that is not the case. Looking down the list—I had only a quick look; I did not do any checking—I spotted five things. I would suggest that the curriculum, the length of the school day, the appointment of staff, the remuneration of staff and the admissions code are all freedoms that were given to academies but are not available to maintained schools. I am not saying whether I think that is right or wrong, but this clause takes all those freedoms away from academies and gives them to the Secretary of State. So this is no longer about academies. You can use that word but it will not mean an academy in the way we have known it if this Bill becomes law.

The Bill will also affect maintained schools, but they will not be maintained schools in the way we have understood them if it becomes law. At the moment, maintained schools have a relationship with the local authority. They will not have that relationship if the Bill becomes law, but it does not say anything about what the local authority's relationship with any of these schools will be. That is what I find confusing because, essentially, the Bill sets up a structure for a school system that is neither an academy nor a maintained school in the way we understand them, but a new type of school that is part of a nationalised school system, with all direction, powers and control coming from the Secretary of State, with the local authority having some involvement in special needs and the interests of children, and with the freedoms that were formerly given to academies no longer there.

I am not saying whether that is good or bad—in my view, some of it is good and some of it bad, and I want a debate—but this is no way to change the school system. These changes are enormous. They overturn the work of Michael Gove and other previous Conservative Ministers, as well as that of my noble friend Lord Adonis and other previous Labour Ministers. One of them is sitting behind me; I suspect that others will join in. So I say to the Minister on this set of amendments —my noble friend Lord Knight put it very well—that we want the debate as well. It would be better for our country and the system if the Minister took this Bill back, as we need pre-legislative scrutiny of it, and came back in due course with a structure that will enable us to debate all these things.

If we were to set up a school structure that is neither an academy nor maintained, I would be very happy about that. I would like to put those old rows and debates behind me. If we have not learned something from both those things over the past 20 years, we need our heads examining. We could spend two years thinking up a name for it—I do not mind—but I cannot do that with this Bill. It is not written in a way that makes it possible to amend it in that form. Yet it is no more and no less than an attempt to set up a blueprint for a brand new structure of schools in this country. I really do hope that the Minister will volunteer to do this in a different way.

Lord Hunt of Kings Heath (Lab): My Lords, it is with some trepidation that I follow two such experts in education on these Benches. However, I see an uncanny parallel with what has happened in the health service, which I know a little about, and education. At about the same time that my noble friend Lord Adonis was proposing academies, in the then Department of Health we were proposing the creation of foundation trusts. The idea of NHS foundation trusts was to get out of the kind of micromanagement that the report today on the NHS talks about, and to give much more control locally, making those foundation trusts which were going to be the best performers much more accountable to local membership and to the population.

[Lord Hunt of Kings Heath]

However, after the initial enthusiasm of my good friend Alan Milburn and the team of Ministers then, the normal centralising powers of the Department of Heath took over. Gradually, it has assumed more and more control again over those individual trusts. Now there is virtually no difference between a foundation trust and a non-foundation trust. Listening to my noble friends, I think that there is an uncanny parallel where essentially the Secretary of State for Education is giving himself the tools to have direct responsibility for each school within the system.

My ministerial experience of trying to run the NHS, where we had 300 bodies accountable to us, is that this will not end happily. Do Ministers realise that they will have to answer here for the performance of each individual school? Do they realise the enormity of that task? It then brings us to the problem that we have: that this Bill is ill timed because the department have not thought it through. Whatever our view on academies—there is a somewhat mixed view, on these Benches at least—there is general agreement that it is right for the Secretary of State to set some standards for our school system, and that there must be much more coherence in the system.

I was very struck by the pretty dispassionate report by the Institute for Government three or four months ago on academies, in which it makes the point that, with academies now making up almost 50% of all schools, we have a very inefficient dual system. Local authorities must still support a diminishing number of schools with declining resources, and the regulatory system for academies is incoherent, with financial regulations split from performance management and no single person or office in the system able to hold multi-academy trusts accountable for poor educational performance. The institute then says it is no wonder that far too many multi-academy trusts do not add value to the schools within their control.

The Minister referred at Second Reading to the accountability system and the ability of her department and its officials to hold the system to account. She said that Ministers were launching a review to establish the appropriate model and options for how best to regulate the English school system. Why on earth does she not do the review, see what the outcomes are, then bring legislation to your Lordships' House and let us properly debate and seek to amend it? I urge her to listen to my noble friends and take this Bill back, or at least to pause it to allow for more work to be done and for us to have proper scrutiny of this vital legislation.

Lord Baker of Dorking (Con): My Lords, I am not suggesting that we debate whether Clauses 2 and 4 stand part of the Bill at this moment; they are out of sync. We cannot discuss them until we discuss Clause 1 under the next group of amendments.

As has already been mentioned, I and my noble friends Lord Agnew and Lord Nash—both Ministers who have had direct responsibility for failing schools, my noble friend Lord Agnew for two years—have concluded that all the clauses from Clause 1 to Clause 18 should not stand part. We consider that this is a constitutional Bill and an enormous grab for power by Whitehall. It is quite amazing. Some people in the Department for Education have wanted this for years but have now given in to their worst voices. We think that the powers that they have are totally unacceptable in dealing with the problems.

4.30 pm

We will not be voting on it here in Committee, of course, but I hope that, when we get to our arguments that Clause 1 not stand part of the Bill, the Minister listens to our sweet reasonings and fundamentally changes the whole tenor of the Bill. Constitutionally, it is an abomination. We should have had consultation on it, but there has been none on it at all. This is a serious Bill, which gives Secretaries of State powers that they have never had—that I never had and that the present Secretary of State does not have—to intervene in running schools around the country. That is unacceptable and I am amazed that a Conservative Government have done it.

Lord Nash (Con): My Lords, I have listened carefully to what everyone has said and do not disagree with much. I only ask what is wrong with the independent school standards, which all academies must follow. Surely this is a matter for Ofsted, not the DfE.

Lord Young of Norwood Green (Lab): My Lords, I regret missing Second Reading, which, according to some noble Lords we heard today, was the DfE version of "Apocalypse Now". Even the noble Lord, Lord Baker—I am an admirer of UTCs—joined the doomsayers then, as he reminded us again today. I am an admirer of Robert Louis Stevenson, whose advice is that

"to travel hopefully is a better thing than to arrive, and the true success is to labour."

He is probably right about that.

I am an admirer of this House when it is at its best—for example, the debates on Ukraine or on the jubilee. However, as referred to by my noble friend—he is still my friend at the moment, but might not be at the end of this contribution—the debate on the then Health and Care Bill, which was an overcomplex and lengthy Bill, brought out the House of Lords at its worst. Every hobby-horse noble Lords could ride was ridden for hours, whether on modern slavery or organ transplants, but the real challenges facing the health service seemed a sideshow, in my opinion.

Before I contribute on this Bill, I want to give your Lordships a quotation. I am always indebted to my noble friend Lord Bragg, who continues to educate me in my quest for lifelong learning. A recent programme of his was about a philosopher of whom, I must admit, I had never heard—that is probably my ignorance—a man called John Amos Comenius. He was a

"philosopher, pedagogue and theologian who is considered the father of modern education".

What he proposed was fascinating—and bear in mind that we are talking about the 17th century:

"Comenius introduced a number of educational concepts and innovations including pictorial textbooks written in native languages instead of Latin, teaching based in gradual development from simple to more comprehensive concepts, lifelong learning with a focus on logical thinking over dull memorization, equal opportunity for impoverished children, education for women, and universal and practical instruction."

If that had been written today, we might think it a modern prescription for education, but he arrived at it in the 17th century and travelled around advising a number of countries, so Comenius has a lot to recommend him to us and others.

I turn to my noble friend Lady Chapman's amendment. Perversely, if we remove "may" and insert "must", the Bill will give the Government the power grab that noble Lords are concerned about. To me, "may" means exactly that. I ask noble Lords if you really believe that the DfE has the desire or capacity to intervene in every school in the UK. Come on—even if it wanted to, it could not. That is my view, and people are free to disagree. Is this a perfect Bill? Of course it is not; that is the purpose of our debating it today.

I will just say this to the Committee. I hope this will not be a debate that says, "Academies bad, maintained schools good", or vice versa. Actually, we have not mentioned free schools, which have made a contribution. My view about schools is that variety is not only the spice of life but makes an enormous contribution to education. Indeed, as my noble friend Lord Knight reminded us, it was a Labour Government who, having seen the appalling record of maintained schools in London that were failing, introduced academies. They did a good job of changing that environment. Let us remember how important that is, because children get only that one chance. If these schools are failing, then that chance is denied them.

I was also interested when my noble friend said to trust in teachers. I do, but I will tell your Lordships who I put a bigger trust in, who I regard as the key component of any successful school: the head teacher. If you have not got the head teacher right, that school will not flourish. I will give as an example a good friend of mine, Liz Wolverson. She has recently retired, but she was the diocesan director of Church of England academy primary schools in London, in really challenging areas such as Newham, et cetera. They have rescued 10 failing schools. I asked her what her prescription was for dealing with failing schools. She said, "I go into the school, I look around, I talk to the head, to parents, to teachers and to pupils. Then I go back to the head and I say, 'You've got six months to turn the school around, and if you don't succeed, goodbye. That's it'." That is a tough prescription, but it is a necessary one if we care about that one main chance for our children. I believe we should.

I looked at the report from the committee referred to by my noble friend Lady Chapman, which talked about the terrible Henry VIII powers. I took that into account. It is right that the committee should draw that to our attention, but I also looked at what the Minister said to us in her reply to the debate at Second Reading, where these concerns were expressed. She said:

"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."—[*Official Report*, 23/5/22; col. 740.]

I saw that as a serious statement from the Minister. I hope she will confirm that today.

For me, that is an important pledge by the Government. I welcome the coverage, investigation and analysis of the Bill, of course I do. I am sure there are parts of this Bill that can be improved, like any Bill, but I ask the Committee to consider carefully what it is trying to do with Amendment 1. Time is not on our side. I do not accept the argument that we should throw it all out, take our summer break and then come back again. I have never seen anything that appears in front of this House that we are completely satisfied with. If there is such a thing as a perfect Bill, no doubt it exists in some other version of the universe that we have not yet encountered.

I rarely give advice, because it is freely given and freely ignored, but I participate in the Lords outreach service. It is a great institution. This Friday, I am going to speak to a Catholic academy in East Finchley. I am looking forward to this. I will get an opportunity to talk to the pupils. I like to say to them "If you were Minister for Education, tell me where you would put the money." That always gets them going because I remind them that politics is about the language of priorities.

The other interesting thing about it is that it is a Catholic school. When I spoke to it and we got to the end of our discussion, I said, "By the way, what is your admissions policy?", and I was told, "Anybody can come to our school. They do not have to attend a church service or anything else." We will go on to debate faith schools, an area where I suspect there will be further disagreements. All I can say on that subject is that a large percentage of the public have faith in faith schools because they believe they deliver good education with good discipline, so they participate in them.

I hope I have not lost all my noble friends with this contribution. I seem to be the only person who has contributed so far who has given the Government the benefit of the doubt. I believe that what they are trying to do is in the interests of every Member of this House, which is to improve the quality of the education that we deliver to our children.

Lord Lucas (Con): My Lords, I am puzzled about how the system proposed in the Bill produces good schools. I have spent the past 30 years involved with the *Good Schools Guide*. Schools die mostly because their governance goes wrong. Anything else you can put right, but the governors can take a school down irretrievably. To have a good governing body, you require motivation. You require people with real determination that the school will succeed, that it will get better. They have not got all the answers and they will look outside for them, they will listen and learn, talk to parents and work with outside experts to make things better.

In most cases, things turn out that way, but what we are producing here is a completely motiveless environment, and why is anyone going to want to run a MAT under those circumstances? What freedoms do they have left? What is left to them in terms of jurisdiction over the school? Why would anyone of any quality get involved with running a multi-academy trust? Would you really hang around just waiting to be beaten up by the Department for Education—or Ofsted, if it is allowed a part in multi-academy trusts? You have no

[LORD LUCAS]
ability to steer things, no ability to innovate, no ability to make things better or to show how good your pupils and your schemes can be. I remember this thing coming in. It was all about producing a system which would innovate and make itself better and which we could learn from; people would try new ideas. Things have not been perfect, but there have been a lot of good examples, and now we are going back to a system where none of this can happen. I am very puzzled.

Lord Grocott (Lab): My Lords, unusually for me—and, I think, for most Members—I came here simply to listen, not to speak. Most of us tend to be the other way around, I think. Really, it is not necessary to speak because, certainly from my perspective, my noble friend Lady Morris just said everything that needs to be said, and I shall follow her on this Bill wherever she decides to go. I thought she encapsulated the Bill when she said it is about building an entirely new school system—almost by accident, certainly not through deliberate, considered intent.

I have never been a fan of the academy system—I might as well put my cards on the table—and a key reason for this is that one of the many things I treasured as a local MP was the accountability of what we now call maintained schools. If parents whose children were at academies were not satisfied with what was happening at the academy there was very little that I could do or could advise them to do, whereas it was simple in the case of the ultimate democratic control which you had with what we now call maintained schools.

So far as it has any clear objectives—I agree with most of what has been said about that not being at all clear—the Bill seems to be trying to make it so that somehow or other we will now have accountability for every school in the country, and the accountability will consist of the Secretary of State for Education. That is accountability in name only; I would like to know the acronym for that. It is not accountability, for the reasons my noble friend gave. What would be the cost of the section within the Department for Education which had the responsibility for addressing complaints from any parent in any school in the country and making sure they got a speedy reply? It is a ridiculous concept.

4.45 pm

The only accountability I understand, unashamedly—it may be old fashioned, but I am not afraid of that—is local accountability that looks at schools as responsible not simply for their own education but for the education of the whole community and the interrelationship between schools. To me, that was at the heart of it. We are not discussing those arguments today, and I will certainly not try to develop them, but my noble friend put her finger on it, and I hope the Minister responds. This is a new school system, and it is one without accountability because the accountability offered—the Secretary of State—can be only fictitious accountability.

The Lord Bishop of Durham: My Lords, I have to declare my interest as chair of the National Society, which oversees Church of England schools, although obviously they are all devolved around each diocesan board. I also apologise that I cannot be here for days two and three in Committee. I have a long-standing family holiday booked, and my marriage and parenthood are more important. I assure noble Lords that things will be covered by other Members on these Benches.

I have been told clearly by Members of this House that I should be very concerned about Clause 1, and indeed Clauses 2, 3, 4, 5, 6, 7, 8 and so on. Because of the nature of the people who have expressed those concerns, I listened very carefully. However, in principle I am persuaded that the move towards full academisation warrants the Secretary of State being given some additional powers. I disagree with a large number here: I think the direction of travel is abundantly clear. It is full academisation. If that is the direction of travel, we need to ensure that system is appropriately covered.

The Secretary of State has always had some powers. For example, because of the new Diocesan Boards of Education Measure, all dioceses have recently had to produce a new diocesan board of education scheme. Every single one of those has had to be submitted to the Secretary of State to sign off. Not in one instance has the Secretary of State asked any questions back of any diocese because, with the process that has been gone through, the schemes never landed on the Secretary of State's desk until we knew that they would be happily signed off. So some powers already exist, and there is an argument that some need to exist in what is the emerging new system. We have to move away from the contract-by-contract basis that we are currently operating with academies. To put them all on a statutory basis makes complete sense.

That said, along with everyone else, I express deep concern about the way the clause is drafted. Oddly, it is both too loose—what are "examples" in legislation?—and too prescriptive and interfering. Somewhere, that balance has gone completely skew-whiff in the way it is worded.

Clear boundaries need to be established. I have looked and thought very carefully and, contrary to the noble Lord, Lord Young, I think that the Amendment 1 is correct in saying "must", but it has to then go with Amendments 3, 6, 9 and 13—and possibly Amendment 11, which is in a different group. We need it clearly stated, and these seem very clear around what standards should be set—and then they will leave academies free in all the ways in which we have said that they need to be free to set a lot of their policies.

I hope that the Minister and the whole team will be open to taking these amendments and the concerns raised seriously and that they will return on Report with a very different Clause 1. I hear what was said about not returning to Report until the autumn, and I think that is very wise advice.

Baroness Bennett of Manor Castle (GP): I rise towards what I imagine is the end of a very rich and telling debate. We have seen huge expressions of concern about this Bill, and particularly the initial stages of it, from all sides of your Lordships' House. I agree with the noble Baroness, Lady Morris, about the difficulty of amending the Bill. I am working with a number of campaign groups and parent groups, trying to work

out how to deal with the lack of clarity, the incoherence and contradictoriness of so much of the Bill, and it is proving very difficult. I apologise in advance that, normally, I try to put down all my amendments before the first day in Committee, but I have not managed it this time, because there is so much—and so much concern out there.

I shall try not to repeat what has already been said by others, but I have to begin the debate on this Bill by reflecting back on my 10 year-old self. When I was 10 years old, I was absolutely fascinated by and loved lungfish. They are absolutely amazing and fascinating creatures, and I remain amazed and fascinated by them, but I do not believe that every child in this country should be made to learn about lungfish. That picks up the point made by the noble Baroness, Lady Chapman. Many of us have things that we think that everybody should know, but the person who should help children to discover the things that they are interested in—the teacher in the classroom with them—is the person who can best help every child to learn what fascinates them, what interests them and what will be of use to them and their community. Clause 1, in particular, is heading in the opposite direction.

I attached my name to Amendment 13, in the names of the noble Baronesses, Lady Chapman of Darlington and Lady Wilcox of Newport, as a bit of a sample and a case study. This is where the Secretary of State is given the power to direct the amount of teaching across the school year. Let us think about the very different situations in which schools find themselves at this moment—although it could be at any time—at the tail-end of a hugely destructive and damaging pandemic. Let us think about a small rural school to which pupils have to travel very long distances from a very young age, with long travel times and difficult travel. How can a Secretary of State sitting here in Westminster say, "You have to do this many hours", even when the head teacher and the other teachers know that their pupils are exhausted, worn out and struggling? There needs to be a balance in people's lives and a balance in the way of teaching.

I am thinking about the idea that you can apply one rule to something as simple as the number of hours of teaching in a year. How do you classify what teaching is? Of a day spent going out walking through a national park and exploring it without any particular formal curriculum elements, but giving pupils the chance really to experience and be in nature, is a Secretary of State going to say that it does not count in their hours? How can that possibly work?

I want to pick up on one interesting point that the noble Lord, Lord Knight of Weymouth, made about Ofsted. He suggested that it could just inspect multi-academy trusts under the Government's proposal. Now, the Green Party wants to abolish Ofsted but what the noble Lord proposed might be a really interesting step along the way, given that we know how immensely damaging Ofsted's visits to individual schools are. I do not agree with making every school become an academy or part of a multi-academy trust, but that is a really interesting example of the way that this whole debate has run, and of how the Bill is half-baked and not thought through. There are so many possibilities and different ways in which it might develop.

I want to say one final thing. Perhaps to the surprise of the House, I am going to bring up Brexit—not because education ever had anything to do with the European Union but because the slogan that essentially decided the result of the Brexit referendum was "Take back control". I do not think people were really thinking then, or think now, that the right thing is to have taking back control mean that the Secretary of State for Education has control, at a fine, detailed level, of the education of every child in this country.

Lord Davies of Brixton (Lab): My Lords, I want to add one thought to the debate. As my noble friend Lady Morris said, the Bill is setting out a brand-new structure for schools in this country. What is unclear is what that structure will be. What is the dynamic or philosophy, or even the structure that lies behind this proposed new system of school education? It has been nominated as academies—it has their name attached to it. I am a doubter about academies. We could have an interesting debate, probably more on this side, about their role and what they have achieved. Because it was raised by my noble friend Lord Young, I have to say that I find his reference to failing schools in London, with the implication that there was a mass failure of schools there, offensive. However, I am not going to debate that today.

What is before us today on the structure is not about academies at all. Multi-academy trusts are, in fact, the antithesis of academies as originally envisaged. These are large, bureaucratic, non-local, geographically distributed organisations, with no local involvement other than as a toothless add-on. We will try to do our best later on to build in local and teacher involvement. I would argue for school-student involvement in the way that they are run, but these will be big organisations and the dynamic will be for them to become even bigger. They will be big, bureaucratic organisations which are effectively under the thumb of the Secretary of State. Is that the schools system that we want? I certainly do not think it is.

As a final thought, we saw research this week from the Institute of Education showing that the one thing multi-academy trusts do not do is to rescue failing schools. Its evidence showed that they had no impact on rescuing failing primary schools and very little on rescuing secondary schools. So I am incensed, in part, by the failure to recognise the role that local authorities should still play in governing our education system.

Lord Knight of Weymouth (Lab): My Lords, I did not want to stand up again, but I need to respond quickly to my noble friend, just to defend the record of some multi-academy trusts. In doing so, I do not want to attack any local authorities. Local authorities do and have done a great job. Some individual schools were being failed when the first academies were set up by my noble friend Lord Adonis, and it was the right thing to do to intervene after generations of failure. But just within the multi-academy trust that I am so lucky to chair, I refer my noble friend to an Ofsted report that has just been published about DSLV, which is an all-through school in Daventry. It has gone from being in a very poor state to having an excellent report

[LORD KNIGHT OF WEYMOUTH]
that we received this week. I could point to a number, just to say that there is a balance to the argument. I hope that he is willing to listen to it, in the same way that I am willing to listen to the argument around local authorities in London and elsewhere.

5 pm

Lord Nash (Con): My Lords, I apologise; I should have declared my interests earlier as a chair of a multi-academy trust and a trustee of the Education Policy Institute. It is not particularly helpful—I agree with a number of points that have been made—for us to argue in this Chamber about the success or failure of one type of school, but I support the noble Lord, Lord Knight. Other research I have seen recently says that MATs have done an excellent job at turning around schools that were previously failing. More than seven out of 10 academies, which had taken over schools that were formerly failing and underperforming as local authority-maintained schools, were rated by Ofsted as good or outstanding at their next inspection.

Lord Lexden (Con): My Lords, very briefly, when my noble friend replies, could she explain to us how the matters that have been discussed proceed from the last Conservative Party manifesto and how they emanate from Conservatism, which abhors nationalisation and delights in diversity?

Baroness Blower (Lab): My Lords, I will add to the question of "academies or maintained schools". During the coalition Government, when Secretaries of State, often from the party opposite, talked about visiting schools and praised schools, they were always academies. I would like to find an example where they praised a maintained school, but I cannot remember a Secretary of State praising a maintained school. That is a problem because, while we may all accept at this stage that there is a rather unfortunate arrangement of different types of governance, contracts, and so on, if all we ever hear is that academies have saved everything and are brilliant, then it does not do anything at all for schools which have been and are successful and which have chosen in good faith with their community, parents and student body, to remain with their local authority and with democratic oversight.

I am not engaging in this argument by saying "Everything on this side is good; everything on this side is bad". But I do say that I never once, for example, heard Michael Gove when he was at the DfE, in public or private conversation, praise a maintained school. That is a problem because clearly lots of young people are being educated in academies now, but equally there are still a lot of young people being educated in maintained schools. In fact, all young people in Wales are being educated in maintained schools—obviously not the ones in the private sector; I mean those who are being educated by the state. My noble friend Lord Knight talked about having been in Orkney and reflecting on this legislation. In Scotland, there are no academies, so we are an outlier in England, and it is regrettable.

I want us to think about this and, when we come to this debate, try not to always bring a particular prejudice about a particular style of school. Of course, we all want every school to be successful for every single child, but we have always wanted that, whether they were academies or maintained schools. I hope that, as this debate progresses, we will not hear any more about "This is always good" and "That is always bad". It does not do us any favours in this Committee, and it certainly does not do any favours for our colleagues who are teachers and other education professionals—or indeed for young people being educated.

Lord Addington (LD): My Lords, I intervene in what has been a wide-ranging debate. I must admit that I have felt increasing sympathy for the Minister. I do not think I have seen anybody quite so surrounded in this Chamber, with the only possible line of vague hope coming from the Opposition Benches. This is an odd Bill that we have got ourselves into.

The discussion about the philosophy of schools and how they are organised is one that will colour this debate, but the noble Lord, Lord Baker, put his finger on the essential thing here: we have a Government who have given themselves the capacity to change how things operate at the drop of a hat. That is it—"We can tell you how it should be." The noble Baroness, Lady Chapman, started on that. It is worth remembering —I hope those on the Conservative Benches will remember—that nobody is guaranteed to be in power for ever. Some appalling person in the Labour Party or some evil Liberal Democrat may one day be making these regulations. It could happen. We can argue about when it will happen or whether it will happen, but the tide of history is that eventually everybody changes. Therefore, we should have some capacity here for checking what goes on.

Taking out the first 18 clauses was the radical surgery proposed by the noble Lord, Lord Baker—cutting out the rotten bit. It looks increasingly attractive to me and, I suspect, to quite a lot of Members on his Benches. Two major reports from this House have come out and said that this is bad. They are Henry VIII clauses. Henry VIII may have inspired a very good musical recently but, in parliamentary terms, he is not seen as an example of good governance. He is stamped all over this from start to finish. If we are going to allow this to happen, a lot of us might as well pack up and go home. If any Secretary of State in any department—it starts with Education—gets away with it here, it will happen somewhere else. We might as well not be here. The amendment that I have put forward is one answer to this, but it would not be a complete answer; it is merely a way of saying that there are limits—that is, what is put down here must be what we are talking about. If it comes back to this, I would still, shall we say, judiciously prune that list, but that is what we are talking about in this Bill.

The educational merits of various types of school system are interesting and important, but let us concentrate on this bit first. A Secretary of State can wake up in the morning and change a system. I am not sure how we are going to get down to this—there is a lot of Clause 1 to go through—but this is the backdrop to it all. I hope that the Minister can say, as she has told me in meetings before, that the Government are in listening mode; I know she is trying to make things work. My challenge to the Minister on this occasion is: how

good is her hearing? How much capacity does she have to tell people that they should change, should put some limitations on this and should allow discussion in Parliament and elsewhere to get at this. If we do not, I am afraid we are going to a very strange and unpleasant place.

Lord Adonis (Lab): My Lords, I intervene briefly. In listening to and reflecting on this debate, the bad news is that this Bill gives excessive powers to the Secretary of State. There seems to be consensus on that across the Committee. The good news is that there is no indication that the Secretary of State has any idea what he wants to do with the powers—for good or bad. There is no philosophy of education set out either in the White Paper or by Ministers—I read the Minister's speech at Second Reading. It looks to me, as is the case with most legislation in my experience, that this is displacement activity. Governments who do not actually have a policy they want to take forward use displacement activity to introduce legislation. I should say that the Government of which I was a part was as guilty of that as any; I was responsible for piloting three huge education Bills through this House, none of which made the education system better. None of the big changes we made to education, which were extremely radical, required legislation. This includes academies, which I spent most of my time with my colleagues in the department trying to keep legislation out of, because I was sure that it would make it worse if we started seeking to regulate academies—and I just about succeeded.

Very unwisely, the Government who followed started putting academies in statute and regulating them closely, beginning with the first Academies Act after the 2010 election and reaching the point of this Bill. The legislation on which we depended for introducing academies was an Act which, from memory, had two sections, which had been passed by the noble Lord, Lord Baker, which simply gave the very limited power to the Secretary of State to set up a city technology college provided—this is a key point I stress to my noble colleagues—it did not have selective admissions. That was the key proviso put in statute: this could not be used as a mechanism for setting up new grammar schools. There was then a consensus between the two sides of the House that the future of education lay in establishing highly successful, all-ability schools in all parts of the country—although, obviously, there is an issue about the remaining grammar schools. From memory, I was advised by the department's lawyers that we needed to amend the Act of the noble Lord, Lord Baker, because it referred to city technology colleges and I wished to set some up outside cities. I remember saying to him that I was very happy to have the argument in the courts when it comes to what constitutes a city. However, as I am not proposing to go into the heart of Sussex or Surrey at the moment, I do not think that is a particular issue.

Essentially, the Bill is a massive piece of displacement activity. The friends I still have in the Department for Education say this quite openly; they are not particularly worried about it. This will take up huge amounts of officials' time, going to Bill Committees and doing all the drafting—which always happens with Bills—but it will not make any difference.

However, the big thing that has made a difference—which we should be debating and on which I would welcome legislation—is what has happened to state school funding over the last 12 years. This is the big thing that has led to a significant step back in the quality of state education in the period since the consensus set up by Tony Blair's Government. Do noble Lords remember "Education, education, education"? He was as true as his word: capital spending on schools under the last Labour Government increased tenfold; real-terms spending on education, including revenue, doubled; and per-pupil funding went up by 50%. That was a revolutionary change. I was always very clear on this, because the biggest battles I had in that Government were not to do with legislative changes; they were huge battles about the funding level for education. I had some noble friends, including my noble friend Lord Hunt, who wanted everything to go to health—indeed, we trebled real-terms spending on health, too. The two great priorities of the Government in reconstituting public services were education and health, and education needed this, which it had never historically got. That is part of the reason why the 1944 Act never happened, technical schools were never set up, the raising of the school leaving age had been delayed by 20 years and the comprehensive school movement never really got a fighting chance—because their establishment was so underfunded at the beginning. Putting all that right was the great mission of the Government. The reason we were able to introduce academies as transformational schools is that, in schools which had the lowest standards, the weakest leadership and the worst inherited capital stock, we put all three of those issues right and massively invested in schools in the most deprived areas, replacing the worst failing schools. This is why I did not at all begrudge spending £25 million, £30 million or £35 million on purpose-built, modern education establishments in some of the most deprived parts of the country; I could not think of a better legacy for any Government—particularly a Labour Government—than that.

Of course, what went alongside them was the founding of entirely new institutions, with new leadership and new governance, and entrusting the schools with sponsors—I see some of them on the Benches opposite, including the noble Lord, Lord Nash, whose wife is also a sponsor—who were absolutely committed to the highest standards of education and knew how to govern successful institutions. That was the philosophy of the academy movement, and it did not require a single piece of legislation. It would not be affected in any way by this Bill: it might make it better; it might make it worse; it would entirely depend on what the Secretary of State chose to do with the powers in the Bill.

5.15 pm

There is one thing we need, following King Lear's "Nothing will come of nothing": if we are going to have a high-quality state education system, it has to have a decent level of funding. In the modern world, where the demands on education are so great, that must be funding which at least keeps pace with inflation and, in terms of the capital stock, which has been massively underinvested in in our education system, it should go beyond that. The great missed opportunity at the moment is of a Government committed to

[Lord Adonis]
investing in education and taking successful and proven models and spreading them more widely. The Bill will not do anything to achieve that goal. Hopefully, it will not make anything worse, but it simply postpones the moment when we have to have a new reckoning about the investment we are prepared to make, as a society, in our state education system. It must be significantly more than we are making at the moment.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I shall begin by speaking to the first group of amendments, which are mostly amendments to Clause 1 tabled by the noble Baronesses, Lady Chapman and Lady Wilcox. Clause 1 enables the Secretary of State to make academy standards regulations, subject to the affirmative procedure. I have heard concerns from almost every noble Lord who has spoken this afternoon about the breadth of the power in Clause 1 and the potential for the centralisation of power over academies with the Secretary of State. I genuinely look forward, after today's debate, to reflecting on the points that have been raised, and I hope I will be able to meet and discuss them further ahead of Report.

If I may, I will just set a little of the context of the Bill and why it should not be seen in isolation. My noble friend Lord Lucas asked how this makes schools better. The Bill needs to be seen in the context also of what was covered in the schools White Paper, with the Government aiming to improve further the quality of education. We plan to do this through our commissioning approach, by creating a system that incentivises school improvement, and by a coherent inspection and regulatory approach. Much of this work to raise standards will be done in the coming months and will involve extensive engagement with the sector. However, we are clear that we need to ensure that no school or trust falls below a clearly articulated minimum standard. The Bill sets out what these standards could include and, in later clauses, how we propose to enforce them. I recognise concerns from noble Lords about the proportionality of our enforcement approach, and I hope to address those concerns in future debates.

The current regulatory regime has enabled the growth of the academy sector over the last decade, and I pay tribute to noble Lords in the Chamber who were instrumental in making that happen, but it was designed for a school system comprising hundreds of academies, rather than a trust-led system comprising all schools. The academy standards regulations will set out the requirements on academy trusts clearly, consistently and subject to parliamentary scrutiny. On the point made by the noble Lord, Lord Addington, that the Secretary of State can jump out of bed in the morning and change things, that really is not accurate, and I will try to clarify further. They will create a common rulebook for academy trusts that is capable of applying equally to all trusts and types of academy. This is an important step that will provide a level playing field for multi-academy trusts and more effective and proportionate options for enforcement if a trust does not meet those obligations.

We are introducing the new regulatory framework in a phased way to minimise disruption to the sector. To this end, we do not intend to use these regulations to place significant new burdens on academies that would restrict the freedoms that enable them to collaborate, innovate and organise themselves to deliver the best outcomes for their pupils. We will formally consult on every iteration of the academy standards regulations. We expect the first set of regulations will largely consolidate the existing requirements on academy trusts that are found in their funding agreements, the independent school standards regulations and the *Academy Trust Handbook*.

I reiterate that I recognise the strength of feeling across the Chamber on Clause 1 and fully intend to take whatever time is needed to reflect on the concerns, views and suggestions of noble Lords today.

The noble Baronesses, Lady Chapman and Lady Wilcox, have tabled a number of amendments relating to what the academy standards regulations may or may not cover. To be clear to the House about the Government's intentions, we had provided examples of what the academy standards regulations may cover in Clause 1(2). However, I accept that the list of examples is lengthy, albeit they describe requirements that largely already apply to academies.

The noble Baronesses, my noble friend Lord Nash and others have suggested that the regulations must set out standards equivalent to those applied to independent schools. I think your Lordships will appreciate, however, the need for additional requirements on matters such as the appropriate management of public funding, fair admissions and other matters covered not by the independent school standards but by, for example, funding agreements. As previously mentioned, we want to consolidate as much as possible the existing requirements into a single set of regulations. We could not achieve that if most requirements were to remain in funding agreements and the *Academy Trust Handbook*.

The noble Baronesses are also seeking that examples listed in Clause 1(2) be removed, such as curriculum, admissions, governance, teacher pay and pupil assessment, among others. The Government have no desire to intervene in the day-to-day management of individual academies other than in cases of failure, but we must get the basics right. To take only one example, we believe it is important that parents can continue to rely on a fair admissions system when they apply for a school place.

Clause 2 will make void any provisions in existing academy funding agreements that deal with the same matters that will be in the academy standards regulations. I recognise from conversations with my noble friends Lord Baker, Lord Agnew and Lord Nash that they have concerns about existing contracts being overridden. This was also raised by the noble Lord, Lord Knight of Weymouth. Of course, this is something that Governments would wish to do only very rarely, but the only alternative in this context, as the noble Lord, Lord Knight, pointed out, would be to seek to renegotiate individual contracts with individual trusts, which would be a far more complicated, expensive and time-consuming approach.

There is precedent for this approach. For example, the Children and Families Act 2014 made provision requiring academies to provide free school meals to

pupils, bringing them into line with requirements on maintained schools. Those provisions overrode funding agreements; as here, that was deemed appropriate in order to enable us to make essential changes and regulate and support schools better. This is an important clause for enabling the current contract-based regulatory regime to move to a simpler, single overarching statutory framework, which will ensure that academy trusts are all subject to the same requirements that will be in the regulations.

Finally, Clause 4 will require academy trusts to have regard to guidance that the department will issue. The guidance will provide a clear and accessible articulation of the requirements in the academy standards, providing greater clarity for the benefit of both academy trusts and wider stakeholders.

The noble Lord, Lord Knight, questioned whether the Bill should be a hybrid one. The legal advice we have taken suggests that this is not a hybrid Bill, but I am happy to return to this point in the letter providing more detail.

In closing, I would like to pick up on just two points; one was raised by the noble Baroness, Lady Blower, about acknowledging the strengths both in academies and in local authority maintained schools. I think it was the noble Lord, Lord Hunt, who challenged me on that at the Dispatch Box in an earlier debate, but the noble Baroness will know that it is absolutely clear in the schools White Paper and in our move to encourage local authority maintained schools to create their own MATs that we recognise absolutely the strengths in the maintained sector and hope to use that for the benefit of more schools and more pupils in future.

I genuinely thank your Lordships for the very constructive tone of this debate and for the spirit in which you have shared your expertise, experience and advice. As I have said, we will reflect on that with great care. On that basis, I ask noble Lords not to press their amendments.

Baroness Chapman of Darlington (Lab): I think it is only right that I recognise the tone that the Minister has just struck and welcome the fact that she has acknowledged the concerns from across the House—although I do not think she had much choice. She said that she will listen and that there will be consultation on standards. I gently suggest that this should take place before the Bill goes through its future stages. The Minister is managing to unite the noble Lords, Lord Baker and Lord Adonis, and the noble Baronesses, Lady Bennett and Lady Morris, which is quite something to achieve. It would be far better for school leaders, parents and students to see us proceed with something which, although perhaps not consensus, is short of the level of concern we have heard expressed today. Obviously we will return to this issue at later stages, but I thank the Minister for the way she has engaged with the discussions so far. I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2

Moved by ***Lord Addington***

2: Clause 1, page 1, line 6, at end insert—

"(1A) The Secretary of State may not lay a draft statutory instrument before Parliament containing regulations under subsection (1) (see section 32(3)) unless the Secretary of State has—

(a) at least 26 weeks prior, published the draft statutory instrument with a description of the justification for the proposed regulations,

(b) consulted for a period of at least 13 weeks after that publication, and

(c) published a detailed response to that consultation."

Lord Addington (LD): My Lords, the inspiration for this amendment, I am afraid, is much of what we have already heard about, which is the idea that the Government are basically going to change standards by statutory instrument, possibly with the affirmative procedure. Although the Minister has said that there will be structures and other things in place, nothing in the Bill says how this is going to take place and what will go on.

The Government should regard this as a helpful suggestion about where they could start from. Anybody looking on from the outside will know what these changes are going to be; there will be a consultation period when the Government bring something forward. Let us face it: we are talking about schools, and they happen to work in something called the school year. There is a certain amount of time before you can get regulations and changes in place, and I would have thought that a six-month period within a school year was a reasonable amount of time to try to undertake the discussion. The 13-week chunks are taken from the most recent example of something which I hope will bring positive examples to the Department for Education: the consultation on special educational needs. I remind the House of my interests in that field. Could the Minister tell us why we would not have a compulsory period in which we will discuss a new idea—in which the Government will publish what they have, take on board what is said about it and then give us a response?

5.30 pm

It will be quicker than a Bill—apparently, speed matters here, if we follow the Government's logic—but it will not be that long. However, we would know what was going on. I do not particularly like that approach, but it would make it slightly more palatable. You would know what is going on and why it is happening. You would get an answer back and know what you are disagreeing with. To an opposition Member of Parliament, that is about as good as it gets, is it not? You know why you are disagreeing with someone. I would therefore hope that the Minister when she replies will be able to tell us, if this is not the right way forward, why not? If this is being done somewhere else, can she tell us where—where is it written down that guarantees that it will happen?

If you are going down the secondary legislation route, there is one little thing here about the use of the affirmative procedure: we are not exactly encouraged to vote against it, are we? We are not exactly told, "Yes, of course, reject it and send it back." Something is presented to Parliament which we can vote on but there is a cry of shock and horror if you challenge it.

Lord Hunt of Kings Heath (Lab): Does the noble Lord recall that the last time this House intervened on a statutory instrument was in relation to working families' tax credits? We moved an amendment to delay its introduction, which was passed, and of course that led to the Government withdrawing their proposal, but this House was threatened with abolition by the Government of the time.

Lord Addington (LD): I do remember that, but as a hereditary Peer I am probably more familiar than the noble Lord with the threat of abolition. That whetted axe been swinging around my head for a good few years; I dodged it once.

There is this idea that Parliament should not interfere in this process because that is naughty and bad. I hope that the Government will at least allow us to have some process where this is discussed or to at least point out how this process of shining a little light—and indeed pouring a little water, if we may take a plant analogy—on these things will work. How will we know what we are getting?

On the other amendments in this group, I am learning not to prejudge the noble Lord, Lord Baker. The interesting thing about certain schools and establishments set up outside the system is why they are brought in. The noble Lord nods at me; I will take that as a win.

On the final clause stand part notice in this group and the reports of the Delegated Powers and Regulatory Reform Committee and the Constitution Committee, I hope we can get a little further into those. I do not think I have ever been involved with a Bill which has had this type of reception. It is pretty appalling that the Government have done this. I therefore hope that the Minister will take this opportunity to tell us how the Government will make sure they know what is coming. If there is regulation and stuff that I have not seen where we can learn what is coming—it is not in the Bill—let us know where and point us in the right direction. Show us how it will be easily accessible and how we can have an informed debate that starts here and goes outside, and how it feeds in too. That, at the very least, is required if we continue to change the way the system works by regulation. I beg to move.

Lord Baker of Dorking (Con): My Lords, I will speak to Amendment 27A. This speech will be very short. The amendment is defensive because, if Clause 1 continues to be part of the Bill when it comes back on Report, I will have to move it again, but of course if it disappears this amendment will fall. The Government realised half way through preparing the Bill that by giving such powers to the Secretary of State which have no checks or balances in them and no requirements for consultation, a maverick Secretary of State could abolish grammar schools and selection and could intervene with religious schools with regard to the amount of worship that they have. I am shocked by that. The noble Baroness, Lady Chapman, raised what would happen if we had Jacob Rees-Mogg as the Secretary of State for Education. I shudder at the prospect. Similarly, what would happen if you had a Corbynite Secretary of State? I shudder at that prospect as well, because the powers of direction are absolutely overwhelming.

Protections were introduced for grammar schools and faith schools because they were so different, and I think the schools I have been promoting are sufficiently different as well. University technical colleges are totally different from a normal school. Take, for example, their curriculum for 14 to 16. Our youngsters—the girls as well as the boys—will spend two days a week making things with their hands, designing things on computers, making projects which local employers bring in or visiting companies. That is totally different. A Secretary of State with these untrammelled powers could simply stop them doing that and therefore destroy the distinction of the school, so this is only a defensive amendment if the Government do not see sense.

I must congratulate the Minister on her reply. As she recognised, no one has spoken in full-hearted support of the Bill. The right reverend Prelate came close: he gave it a sort of half-blessing, but not a full one. Everyone else who has spoken was highly critical of it, so I hope this amendment will not be necessary when Clause 1 is withdrawn.

Lord Hunt of Kings Heath (Lab): My Lords, I have two clause stand part amendments, but also added my name to the amendments from the noble Lord, Lord Addington, and the noble Baroness, Lady Meacher. Fleetingly, when I heard the noble Lord, Lord Baker, suggest that a Minister could, at the stroke of a pen, abolish grammar schools, I warmed towards Clauses 1 and 3, but, as he suggested earlier, leaving aside the educational issues and the future governance and oversight of academies, some constitutional issues are involved.

As the noble Lord, Lord Addington, said, we cannot ignore the reports of our own Select Committees. The Delegated Powers Committee was clear that it issued new guidance to departments following its report where it said that it

"expected that bills introduced in the current session would reflect the principles set out in our report and revised guidance".

This was a Select Committee of Parliament informing departments how legislation needed to be drafted in future. It was not a suggestion; it was a report of a distinguished Select Committee setting out how departments needed to legislate in future. It said that the principles were,

"first, that primary legislation, and the powers conferred by it, should be drafted on the basis of the principles of parliamentary democracy (namely parliamentary sovereignty, the rule of law and the accountability of the executive to Parliament); and, second, that the threshold between primary and delegated legislation should be founded on the principle that the principal aspects of policy should be on the face of a bill and only its detailed implementation left to delegation"—

through secondary legislation. This appears to have been totally ignored by the Minister and her department. Why is that, and what factors did her department take into account when sending instructions to parliamentary counsel? Had it even looked at the new guidance set by your Lordships' Select Committee? I very much doubt it.

In its recent report, the Delegated Powers Committee said that

"it would be possible for the Bill to set out the standards that apply to academies coupled with a power to amend them where speed and necessity really did require this to be done by regulations".

In its note to the committee, the department essentially said, first, that it might need to act quickly and therefore Parliament could not adapt if standards needed to be

changed and, secondly, that it was all too technical and detailed for Parliament to consider. Frankly, as the committee says, those are ridiculous arguments, because there are any number of ways in which Parliament can deal with urgent matters quickly. The idea that we cannot deal with technical matters in legislation is shown to be ludicrous given the technical details that we have in Bills day after day. I refer the Minister to the Procurement Bill, which is going through your Lordships' House at the moment. It is extremely technical in detail, but I have great confidence that your Lordships' House will be up to dealing with it.

The Minister said in relation to Clause 1 that the Government are not aiming to restrict freedoms, but they cannot speak for future Secretaries of State. The other thing she said was, "Don't worry, this is all going to be sorted out through regulations, of which Parliament has oversight". However, as the noble Lord, Lord Addington, asked, what can we do when we have regulations? We can have a debate for a maximum of two hours. We can make our points. We can pass a regret Motion, which has absolutely no effect. So I am afraid that that offer does not amount to very much.

Clause 3, which we have not yet discussed—I realise that there are amendments to it—is in a sense the most extraordinary use of a Henry VIII power. It allows a Minister to disapply any educational legislation from any school or other educational institution. It is the most remarkable, open-ended Henry VIII clause I have ever seen. As the Delegated Powers Committee said:

> "It is not good enough to say that ministers, rather than Parliament, should be able to make law because ministers can be responsive to the needs of the academy trust system. So can Parliament."

That ought to be Parliament's role.

As noble Lords said in the debate on the previous group, this is a major structural educational reform. The noble Lord, Lord Adonis, is right: it is displacement activity because clearly the Government have not thought out what standards they want. They certainly do not know what structure of accountability they require in relation to academy trusts. That work has got to be done. Presumably, the department pulled something out. Departments always have legislative requirements. Every department always has a Bill up its sleeve—in the case of the Department of Health, in my experience, it always has three or four Bills up its sleeve—but it really is not good enough to say, "Everything will be all right. A lot of the standards are already there, we can bring a regulation and we are doing a review on the structure of governance". We really cannot let this go.

I see that the noble and learned Lord, Lord Judge, is here. He made a very telling intervention in the debate on the Queen's Speech when he referred to the growing imbalance between Parliament and the Executive. He referred to the two Select Committees' reports and concluded—I am at risk of quoting Judge to Judge—by asking

> "what is the point of us being here if … we never do anything … except talk?"—[*Official Report*, 12/5/22; col. 130.]

He hinted that, the next time a Bill comes along with a Henry VIII clause, such as Clause 3, that has not been given careful explanation in advance, we should "chuck it out". I do not think he expected such a Bill to come along three weeks after he made those remarks but, my goodness, the argument for chucking Clauses 1 and 3 out of the Bill is very persuasive.

5.45 pm

Viscount Eccles (Con): My Lords, the noble and learned Lord, Lord Judge, may not be in the slightest bit surprised by this Bill. The argument can go rather wider. It has been said that the Bill has not been carefully thought out. I am not so sure. I think it has been thought out. We know that we have an Administration who wish to take more power, as has just been said, and wish to be free to do things whenever they want to do them without very much scrutiny.

It has also been said that the Bill lacks any educational philosophy. I am sure that is right. The noble Lord, Lord Adonis, made that point. We are up against the fact that you believe that education is either some sort of mechanical means to an end, which can be controlled by a Secretary of State assuming some sort of godlike position, or an end in itself. None of us knows how to get it completely right; hardly any of us knows how to get it even partially right. Therefore, the best thing is to decentralise it and, as many noble Lords have said, to recruit the best people you can into the teaching profession and the governance of schools and let them get on with it.

My father was Secretary of State twice. He used to come home and say, "My problem is that I can't recruit enough good people to be teachers." Therefore, maybe the noble Lord, Lord Adonis, is also right: we should put more resources into education.

Baroness Morris of Yardley (Lab): My Lords, I have a specific question about Clause 1(6). It is odd to say that a standard may not be set about determining whether academy grammar schools should retain selective admission arrangements. When I first read that, I understood it as an assurance to grammar schools with selective admission arrangements that this was not an intention to change them, in the same way that there is an assurance to faith schools in the same clause. However, I want reassurance that this would not prevent any future Government changing the law if they wished to abolish selective education.

The Lord Bishop of Durham: My Lords, I thank the noble Lord, Lord Baker, for something he said in his speech that helped me understand why I am more half-hearted in my support than others. I hope he will forgive me if I misquote him, but he implied that there had been no thought about areas that could be badly affected, including faith schools, until later. Actually, the Secretary of State and the Minister have been incredibly helpful and supportive in discussions with us about some of the later clauses. The department recognised that there are growing issues connected with voluntary-aided and voluntary-controlled schools and the move to MATs, which need to be dealt with and must be dealt with by legislation. Our experience has been of working behind the scenes with Ministers and officials in a very positive and helpful manner. That perhaps explains why we approach it more positively.

[The Lord Bishop of Durham]
Therefore, I say thank you and completely support the noble Lord's Amendment 27A on the same basis—that these schools should have the protections.

However, picking up the concerns I expressed earlier about the overreach of the Secretary of State's powers proposed here, I support the thrust and purpose of Amendment 2. The period is possibly too long but that is debatable. It is a proposal that helps to protect. It enables others from the sector to engage with us and for us all to express our opinions about proposed regulations, so that those regulations can be properly debated, the report can come back and the regulations can be amended. Amendment 2 is a really helpful proposal in principle, to assist with the restriction of the Secretary of State's power.

Baroness Meacher (CB): My Lords, I support the intention of the noble Lord, Lord Hunt of Kings Heath, to oppose the question that Clause 1 stand part of the Bill. I declare an interest as a member of the Delegated Powers and Regulatory Reform Committee, which has produced a highly critical report on the Bill. The noble Lord, Lord Hunt, alluded to this in many ways and I will try to avoid replicating what he said. However, I need to say that this report was exceptionally critical and that the committee sees the Bill very much as an outlier, and one we hope and expect that the Government will revisit.

I draw to the attention of the Committee and of the Minister an important 30-year review of delegated powers undertaken by the Delegated Powers Committee, which reported on 24 November last year. It was the first time such a review had ever been done and that report showed a steady diminution of democracy and of the powers of Parliament, and an ever-greater accretion of power to Ministers. Quite interestingly, the report is called *Democracy Denied?* This is an important issue and not a minor matter. We are talking about our democracy and we are losing it: that is the reality set out in that 30-year review. I hope the Minister and the Bill team read that, if they have not already.

The report points out the urgency of the need to redress this balance and shift power back towards Parliament and away from Ministers. Yet here we are, six months after its publication, with Clause 1(1)—an extreme and deeply concerning example of the skeleton Bill approach. One of the main criticisms in that 30-year review is the growing use of all sorts of delegated powers, but skeleton Bills in particular. Clause 1 provides no indication of what academy standards will look like or the principles upon which they will be based. In my view, and other noble Lords have said this clearly, Clause 1 should not stand part of the Bill.

The noble Lord, Lord Hunt, referred to the department's memorandum attempting to explain why these delegations of powers are necessary. I want to spell out in more detail one of the two points the memorandum makes: there is a need for haste and to adjust as changes in educational needs evolve. Its real point is that you need principles and key standards in the Bill, then regulations are used to amend those standards—but not the principles; I hope the principles remain. It would be a big step forward from this, if we had a set of principles within which amendments might be laid. The speed issue, which is the department's excuse for this level of delegation, is entirely unacceptable. The Delegated Powers Committee was clear on that point.

I think we have said enough about that, so I will move on to my Amendment 32 in this group. Again, I support the noble Lord, Lord Hunt, in his opposition to Clause 3 standing part. Amendment 32 is very important because it focuses on the Henry VIII powers in the Bill. The 30-year review focused strongly on the unacceptable nature of Henry VIII powers. Basically, the Secretary of State is saying that the Government do not want Parliament involved in wholesale reform, such as changes to Acts of Parliament over the years, but to get on and do that sort of stuff themselves. That is unacceptable, as noble Lords know and as the noble Lord, Lord Hunt, alluded to.

Statutory instruments have very little scrutiny; we are not allowed to amend them, but we can reject them, as my amendment on tax credits did. We rejected the statutory instrument. As the noble Lord, Lord Hunt, suggested, we were threatened with abolition; we had the Strathclyde review and were going to lose all our powers. The whole earth seemed to have been turned upside down, simply because we had deferred acceptance of those regulations. We know the scope for reviewing statutory instruments is incredibly limited compared with the detailed scrutiny that we can give to Bills. The idea of these Henry VIII powers within the context of a skeleton Bill is really quite shocking.

The Delegated Powers Committee is not the first committee to have drawn attention to the appalling nature of Henry VIII powers and the unacceptability of them, and here we have rafts of Henry VIII powers. The Donoughmore committee said that a Minister had to justify a Henry VIII power "up to the hilt" and that such powers should not be used "unless demonstrably essential"—not useful, but essential. As already alluded to by the noble Lord, Lord Hunt, the department's memorandum utterly and completely failed to argue successfully that these Henry VIII powers are essential, as they simply are not. That is why we cannot accept what is going on here. The department argues the need to act swiftly, but I have already made the point that this can be done perfectly well by including the basic material in the Bill. There is an absence of policy development and the deferral of its creation, with it being left to Ministers. Clause 3 has to be completely rewritten and cannot be left as it stands. I therefore support the plan of the noble Lord, Lord Hunt, for it not to stand part of the Bill.

Exceptionally, the Delegated Powers Committee forwarded its report to the Secretary of State for Education personally. To my knowledge, we have never done that before. We do not do it, actually, but we felt that this case was extraordinary, in the skeletal nature of the central part of the Bill, combined with its Henry VIII clauses.

The Secretary of State replied to the committee's report and said that he is taking note of our concerns. I find that helpful and I warmly welcome the approach of our Minister and of the Secretary of State. I, for one, as I am sure do all noble Lords, want to work

with Ministers to ensure the yawning and total gaps in Clause 1(1) can be filled before Report. Deferring Report to the autumn is an interesting idea as, by this time, I hope there would be substance in the Bill that we could all debate as we should—by holding Ministers to account.

Lord Baker of Dorking (Con): May I now formally move that Clause 1 should not stand part of the Bill? If I cannot do that yet, I will speak to it anyway. First, you cannot just abolish Clause 1 or Clause 3 by themselves. You need to go the whole hog and get rid of them all, as they are interdependent. I like what was done by the committee of the noble Baroness, Lady Meacher, but it was not quite strong enough. I am going to quote from the report and say how good it is, but it could be better.

Clause 1 is important because it creates the framework for the Bill. As I am sure colleagues will know, every school, maintained or academy, has to have an agreement with the Department for Education, which it signs. They will all be voided; that is what Clause 2 says. The schools will then have to accept a new agreement that has been drawn up entirely by the Secretary of State, as far as I can see without any widespread consultation at all. He has powers to vary the agreement at will under Clause 4. It is really quite extraordinary.

6 pm

What is more, to make quite sure that schools follow that agreement, in Clause 4 academies

"must have regard to any guidance".

That is not the position today. Ministers and Secretaries of State can give guidance to schools, but schools can ignore it completely if they do—and they did ignore some of my advice, and that of other Secretaries of State. With this, the Secretary of State can actually issue a direction for a school to follow what they say. That is not a power any Secretary of State has ever had in controlling education in our country. There are no checks and balances to it at all in the Bill.

In Clause 7, the Secretary of State takes the power to appoint a director or a governor of a failing school. In its history, since 1870, the department has never appointed a head teacher or a head of governors, approved the board of governors or actually run a school, yet it is going to. I think I mentioned this earlier; if the department found a failing school in Darlington—I hope it will not—and decided to sack the board, how would it know from the people in Darlington who to appoint? It is not familiar with the community. We have to realise that a school is not just an educational institution; it is a very important part of the social community in which it is based. That is very important, and there is none of this in the Bill.

The Secretary of State then has a power to give a direction, as I said. He can do so on a wide number of things. Clauses 12 to 16 talk about terminating a school altogether. That is another word for school closure. Of course, school closure is very reluctantly done by a Secretary of State. In fact, it is a very rare power. The Secretary of State can close a school only if Ofsted has found that there is moral turpitude, financial fraud or that it is a completely failing school that is utterly incompetent, but Secretaries of State close only about two a decade. I do not think that I closed any at all. In the past, school closures were always done by local authorities, which had checks and balances. They had to listen to the parents, to the councillors and to the effect on the community if a school was closed. None of this is in the Bill at all. There are absolutely no checks and balances.

When I asked the Minister whether the department would actually close a school, she said, "We wouldn't actually close it; we would put it into a MAT and they would have to cope with it in some way—or first we would make it an academy". I am a strong supporter of academies because I started them back in the 1980s as technology colleges, as the noble Lord, Lord Adonis, said. I recognise that in many cases they have been highly successful, but they have been rather less successful in dealing with schools that are called "stuck schools". A stuck school is one that gets either "requires improvement" or "inadequate" again and again. I came across this when I was Secretary of State. They have not been improved very much by going into either an academy or a MAT. Once again, the Secretary of State has the power to close the school if he requires it. That is unacceptable.

I come to the report that my noble friend Lady Meacher raised. It is a wonderful report. The chairman of her committee wrote to the Secretary of State and said very clearly:

> "There could be no clearer example, so early in the first Bill of the session, of Government taking wide delegated powers to make changes to important areas of social policy rather than set out the details in primary legislation."

This is a constitutional Bill, at the end of the day, and the committee says quite specifically in another part of the report:

> "The delegated power in clause 1 is considerably too wide and should be removed from the face of the Bill."

It goes on to Clause 3:

> "The Henry VIII power in clause 3(1) is too wide and should be removed from the face of the Bill."

I agree entirely, but you have also to suspend all the other clauses.

The Minister is a listening Minister. My noble friends Lord Agnew and Lord Nash and I met her and her officials last week. She was certainly prepared to listen. We asked, "Why are you doing this? What is the situation you are trying to get at in helping failing schools?" The officials said, "We're worried about certain MATs." They are bodies that have never been debated in this House, by the way, but there are amendments down in the name of the noble Lord, Lord Hunt, and others where we can actually discuss them. These bodies have been created by the Government because they do not actually want to run each school; they want an intermediary agency to do it for them. But MATs have never been debated in this House ever, as far as I can find.

The officials then said, "The real problem we have is with 'renegade MATs'". These are not good, mediocre or quite good MATs; they are villains engaged in financial jiggery-pokery. They hold the Government to account and say, "Bail us out". I said, "How many of these are there?" The answer was 1% of MATs. So this whole extraordinary structure for the power of the Secretary

[LORD BAKER OF DORKING]
of State is geared to dealing with renegade MATs, principally, because they do not want to put failing schools into renegade MATs.

I hope the Minister will reflect on this, discuss it with her colleagues and redraft this completely. Some powers may be needed to deal with failing schools, but not in the way they are in the Bill at the moment. It really is too powerful and too unnecessary. Noble Lords will hear from my two colleagues who had to deal with failing schools. They did a very good job. For two years, my noble friend Lord Agnew established a means of controlling and holding failing schools to account that was very successful. With his business experience and his experience of running a MAT, he was able to introduce very effective controls to deal with failing schools. The same can be said of my noble friend Lord Nash. They should be listened to very carefully by the Committee, but particularly by the Government.

I hope that the Government will reflect. We do not have much time. We rise on 21 July. That is really soon. There is little more than four weeks to do this and the Government want to get Committee through in June. It will be very difficult for them to refashion a completely new set of proposals and plans to amend the Bill so fundamentally. It might be a good idea to put off Report until the autumn so that they can reflect and focus on what is really needed to help failing schools. I hope the Minister will listen and that your Lordships will support these amendments.

Lord Nash (Con): Although I share some of the noble Lord's concerns about simplifying the regulatory system, as a lawyer—and, I admit, an academy sponsor—I struggle with the concept of producing legislation that overrides contracts that have been negotiated between the Government, proprietors and trusts unless absolutely necessary. The officials might say that they do not understand them because there are so many of them. Frankly, I think that they should. They are not that different. The trusts certainly understand their own individual contracts.

Before the Government seek to overturn these agreements and add a vast array of powers to them, they need to explain precisely why that is necessary, as a number of noble Lords have said. I believe that the DfE already has sufficient and substantial intervention powers and that these clauses are therefore unnecessary. As we go through the Bill clause by clause, I will articulate why I think the Government already have the powers and they need just to use them where necessary.

The MAT sector is in good shape. As my noble friend Lord Baker said, the number of cases where the DfE feels it now needs to intervene is extremely small, and the kitchen sink approach in the Bill seems like a sledgehammer/nut situation. However, if we can be satisfied that any of these clauses or something like them are necessary—it is clear that there is consensus for this across the House—we are prepared to work with the Government to craft them appropriately, but we need time to do so.

The Minister mentioned that when I took the Children and Families Bill through your Lordships' House in 2014, we added free school meals. We had to do that because they were not covered by funding agreements. Much of what is in the Bill is already covered by funding agreements, so the Government need to explain why they need to bring in a lot of these clauses.

Baroness Blower (Lab): My Lords, I find myself following the noble Lord, Lord Nash. I wanted to say that it was a pleasure to follow the noble Lord, Lord Baker, but it is equally a pleasure to follow the noble Lord, Lord Nash. I have very little to say on the report since it has been covered fully by the noble Baroness, Lady Meacher. I say in passing that the wisdom and clarity of the speech of the noble Viscount, Lord Eccles, was a very good contribution to the debate.

As we have heard from all sides of the Committee, the extremely long, but apparently inexhaustive, list in Clause 1 appears to be overreach at an extraordinary level. As was said at Second Reading and earlier today, it is really a power grab by the DfE without any real understanding of what the purpose of all these things then residing with the Secretary of State would be. As the noble Lord, Lord Baker, said, they are things that have never been seen. It is remarkable. It would be remarkable for school governors and staff to think that head teachers were going to be appointed in Sanctuary Buildings. It seems so remarkable as to beggar belief. These are unacceptable propositions.

As I thought about speaking today, I reflected that when I started teaching in the early 1970s, we thought of and talked about education as a national service locally delivered. That is what I would like to continue to see it as. I think all noble Lords would agree that the aspiration of the education service in England should be a good local school for every child. That seems to chime both with the title of the White Paper, *Opportunity for All: Strong Schools with Great Teachers for your Child*, and with the *SEND Review: Right Support Right Place Right Time*—it does not say local, but it has that sense of local.

Where is the local dimension in Clause 1? It is absent. It resides with the Secretary of State. Some matters are best dealt with at national level—my noble friend Lord Knight referred to one—such as remuneration, salaries, conditions of service, pensions and so on. That means that there would be coherence across teaching and education staff nationally, which has massive advantages because it means that teachers are free to move around the country and take their expertise from one place to another. In particular, when thinking about women teachers, it means that they do not have to worry when they move from one school to another about what their situation might be with, for example, access to maternity leave and maternity pay. However, if all these things are different, as they are at the moment, that is a significant problem. Clearly there are things which would be better done at national level, although it is my contention that salaries, pensions and conditions of service would be much better done through a framework of sectoral collective bargaining rather than by being imposed by the Secretary of State.

6.15 pm

It would be appropriate for the Minister to listen attentively, as I am sure she always does and she has certainly been doing today, to everyone in your Lordships' House who sees problems with Clause 1 and Clause 3

and to consider discussions with Ministers on the wisdom of withdrawing this clause and taking the advice that has come from different parts of your Lordships' House about putting off Report until the autumn. That would mean that everyone could have calm and sober reflection about all the things that could and should be in the Bill and those things that are, frankly, entirely misplaced. It would give us an opportunity to have discussions with education professionals, local communities and all the stakeholders in education rather than moving forward in the way Clause 1 would have us move, into diktat by the Secretary of State. Time taken to review these clauses and possibly others, to consult on them and to come back with an approach that recognises the appropriate role of the school workforce, local communities, local authorities, parents and students in planning and decision-making would lead to much better outcomes from the Bill, and ultimately better outcomes from the Bill mean better outcomes for the education of our young people and of course—a not insignificant consideration—much better conditions for our teaching staff and other staff in schools.

I hope the Minister can agree, particularly in the light of the references made by the noble Baroness, Lady Meacher, to the report by the Delegated Powers Committee, that Clause 1 and Clause 3 are singularly inappropriate and should be removed from the Bill. I know that she cannot agree that today, but I would like to have some time reflecting and to come back on Report in the autumn.

Lord Judge (CB): My Lords, first, I owe an apology to the Committee because I did not speak at Second Reading as I had other commitments here. I hope the Committee will forgive me. I will therefore be brief.

I have never yet had the power, standing in this Chamber, to decide a dispute between the noble Lord, Lord Hunt of Kings Heath, and the noble Viscount, Lord Eccles, both of whom were trying to predict what I would think about this Bill. As is the way in court, the party who is about to lose has a compliment paid to him. I congratulate the noble Lord, Lord Hunt of Kings Heath, on his wonderful political naivety, his innocence and his willingness to take everything at face value, but the noble Viscount, Lord Eccles, was right that it does not surprise me at all that we have a Bill like this before us, and that it came as our first piece of legislation, because it is symptomatic of the habitual way in which the Executive produce Bills. I totally support the view that Clauses 1 and 3 should not stand part of the Bill. If we believe in the sovereignty of Parliament, this Bill is constitutionally flawed.

I will not quote from the various reports, but just ask noble Lords to look at the heading of Clause 1: "Academy Standards". There is not a word in the whole of that clause that is about standards. The real heading of the clause should be "Executive Authority Over Education". That is what it is. It contains a list of examples of powers that may or may not be exercised and so on and so forth, but it is not a limitation. It does not say, "Once we have got to all 18—or is it 19 or 20?—of them, that is it." No, it states that they are

"examples of matters about which standards may be set".

That is why Clause 1 should fail: it simply does not say what is on the package. It is a complete assumption of authority by the Executive. As if that is not enough, having assumed powers they then take on a Henry VIII power. Clause 3 starts off with "by regulations". Heavens, we are still at the beginning of the Bill and we get to a Henry VIII clause in Clause 3. Noble Lords all know what a Henry VIII clause is; they have all heard me rabbit on about it. At this time of the evening I will not start again, but I could give your Lordships a wonderfully exciting time on how difficult Henry VIII found it to get his Bill through, and how in the end that Parliament, defying Henry VIII, did not give him the power to overrule statute. But here—good old modern Government and modern Executive: do what you like.

I just want to add a footnote about Clause 4. As the noble Lord, Lord Hodgson, has just arrived in his place—he cannot speak now, poor chap—perhaps the secondary legislation committee may have a word or two to say about Clause 4 and the issuing of guidance based on the regulations the Secretary of State has created in accordance with the powers in Clause 3. We will wait.

I would like to take longer, but for the time being these clauses should not stand part of the Bill. We should not overlook—I am considering the point made by the noble Lord, Lord Hunt of Kings Heath, quoting me—that the Bill has started in this House. It cannot be said that any of these proposals has already had the assent of the other place.

Baroness Brinton (LD): My Lords, I intervene briefly and echo the support for all those who have spoken about the problems with the powers of the Secretary of State. I come back to a point made slightly earlier about the lack of detail in the Bill, which does not provide a framework for what should follow in regulation. Some of us who have followed the health brief throughout the Covid era know this all too well.

I will just give noble Lords one example of where things went wrong. Nothing gave any guidance to the Health and Safety Executive about how its responsibilities would be carried out. There were Covid enforcement powers for local authorities, Covid enforcement rules for the police and everything else, but whenever anyone went to the HSE to ask it what they should be doing, there was no role for it at all. In fact, on at least two occasions Ministers brought back regulations because they were not working in the field. One might say that in a pandemic mistakes will happen, but because there had not been a framework in the Coronavirus Act it was not clear what the Government were trying to achieve by those objectives.

The worry is that Bills keep coming to your Lordships' House with so little detail in them—this may be the most recent and most egregious example—that it will be impossible to safeguard everything, and even for this House to do its job should we get to scrutinise them properly, because we just do not have the framework that the front of the Bill sets out for us.

Lord Agnew of Oulton (Con): My Lords, I draw to your Lordships' attention my relevant interest in the register as the deputy chairman of the Inspiration academy trust.

[Lord Agnew of Oulton]

Although I have been here for nearly five years, this is my first experience of dealing with legislation as a Back-Bencher and I am completely flummoxed by the process. The Bill has been introduced with no consultation with the sector and there has been a promise of a regulatory review that has not even begun, so it has landed like a lump of kryptonite among all of us who are trying to educate children in the system. That is why I have asked my noble friend the Minister to just step back and kill off these 18 clauses so that there can be some proper reflection.

When we have such a backlog of legislation, I find it extraordinary that we are going to waste days and days grinding through pointless clauses. I defer to the noble and learned Lord, Lord Judge, and so on about all the constitutional stuff, but I know how much this country needs to legislate on important things, and I am going to have to go through the 20 paragraphs of Clause 1(2) and explain why none of that stuff is necessary. In the education system we all know that it is not necessary. If it needs to be clarified, fair enough, but in my two years as Academies Minister I used the *Academies Financial Handbook*. Every year I amended it; I consulted the sector and we basically squeezed out the mavericks that my noble friend Lord Baker refers to.

A few days ago we had a bizarre conversation with our noble friend the Minister and her officials. I asked how many there are left—I knew there were problems. They said 1%. We are going to spend days going through this for 1%, without having had any consultation and without any regulatory framework in place. I do not understand that, so I urge the Minister, however uncomfortable it might be in the short term, to back off and reconsider. I understand that it might need a write-round, but take the hit early because this is going to be very messy. I think there is enormous consensus across the Chamber today. We have at least three previous Academies Ministers and a previous Secretary of State for Education. We all come at it from different perspectives, but we share one overriding objective: to improve the quality of education. I hope the Minister will listen.

There are really only four things that the Government, sitting in their ivory tower, should worry about: good governance, sound financial management, good educational outcome and the highest level of safeguarding. That is where they should start. The Government have four organs to achieve those things: bureaucrats sitting here in Whitehall; the regional school directors—although they have just been renamed—out in the field; the ESFA, which is the financial organisation that oversees the financial capacity of the academies; and Ofsted. We have to mesh those together and show the sector how they should work. That should be the starting point.

Lord Knight of Weymouth (Lab): Given the noble Lord's relatively recent experience as Academies Minister, can he clarify, using those four things, how he would have gone about dealing with the 1% that is the basis of our having to legislate, as the Government would put it?

Lord Agnew of Oulton (Con): That is a very good question. I can tell the noble Lord candidly that when I arrived in that post in September 2017 it was more than 1%. In my first few weeks in office, I was probably getting three or four cases a month of maverick trusts on the brink of failure financially and basically, as my noble friend Lord Baker said, putting a gun to my head for a financial bailout. By the time I left, we had virtually eliminated that. I did it through what was then called the *Academies Financial Handbook*—it is now the *Academy Trust Handbook*—by absolutely binding the ESFA tightly together with the RSCs, so that whenever they met a MAT or a single-academy trust, the two people were in the room. I bang on about the money because if you get the money right, you have the resources to educate properly. That is how I have always managed the process, and we achieved it.

I accept that there are different views of Ofsted and that Ofsted is not perfect, but one thing about Ofsted is that the brand value across the sector is very strong. People respect it—they might resent it—but there is a mechanism to appeal if you get a report you do not agree with. Everyone in the sector largely accepts that it is the arbiter of good education.

When I left, the ESFA was an extremely effective organisation; it knew where the money was. I know that noble Lords opposite me do not all agree with academies, but the financial reporting and transparency of the academy programme is infinitely greater than those of local authority schools. An academy trust closes its books on 31 August. It has to file audited accounts in four months, by 31 December; ordinary companies have nine months to do that. That is not a requirement in the local authority schools and it provides huge scrutiny. You pick up the warning signals. If those accounts are not filed on 31 December, I used to get a weekly report on who was late and how late they were, and went after them. If they were late filing their accounts, you knew there were problems. By the time I left, we had got that down to a very small number.

I do not want to bang on about all this detail in this Chamber—it is not fair on noble Lords. I just want the Government to back off on this. There are some important things in this Bill—the homework and home schooling stuff—which are absolutely vital. I saw that agony when I was here, in my noble friend's place, when we had a Private Member's Bill and it was suffocated. This is a huge problem, getting worse all the time. Let us get that sorted out. This is a crucial problem, not to be sorted out in a rush. My noble friend has been bounced; the Bill Office has just said, "You're the first cab in the rank in this new Session, get on with it," and she has not had the time to do the job properly.

I am going to stop here, but I want to thank my noble friend the Minister. I think that she has been given an impossible job; she is bending over backwards to listen to everybody here, and I want to extend my courtesy to her and say that I will do anything I can to help.

6.30 pm

Baroness Berridge (Con): My Lords, I am struggling to think of the collective noun for former Cabinet Ministers that are going to address the Committee—probably a "clutter" of them, behind my noble friend.

I shall speak briefly. I pay tribute—and noble Lords can imagine what I stepped into in the department following my noble friend Lord Agnew. We were left with a hard rump of cases. One thing that I do not think has been mentioned so far—and I approach this mainly as a lawyer—is the nature of the vehicle that is the multi-academy trust. It is a charitable company, but of course there were so many of them that the regulation from the Charity Commission in 2014 was passed to the Department for Education to make the Secretary of State the chief regulator.

In terms of the hard rump that is left and the issues that we need to deal with, it is because of the nature of the legal vehicle that there is a very high bar for intervening, as the Charity Commission sometimes does, in a company or charitable company, when one of the issues that you may need to sort out is that the governance has gone wrong. I hope that my noble friend the Minister can answer that point. Is there something here that we have not discussed—it might be the nature of the legal vehicle that we are using—that has actually led to some of these issues and leaves you with a hard rump that you cannot get at? The *Academy Trust Handbook* was renamed because it covers not just money—it covers essentially governance and safeguarding, and health and safety was also put into it, so it was clear to the sector that these were the rules and framework that it needed to work to.

The second point that I want to reiterate—it was made by my noble friend Lord Nash—is that it is a very important move to move fundamentally from a bilateral arrangement, where both parties have to consent, to any type of unilateral arrangement. I know that the issues have been well addressed by other noble Lords about the nature of those powers. When you have that consenting arrangement of the contract between two parties, it is also talking to the value of the service that the other contracting party is delivering. Overwhelmingly, these single academy trusts and MATs are doing a great job; they are abiding by the contract. However, with that hard rump, you need to intervene. As I often used to say in the department, why do I seem to have more power if the computer I bought from John Lewis goes wrong than I do if the education of children is being failed by them not delivering in accordance with the contract?

My final point—and I have not had the privilege of meeting my noble friend yet about the Bill—is, faced with this situation, if the Government are considering pausing, what is the view of the MATs sector? It is now sitting there with the prospect of this legislation and a unilateral situation. There are MATs on very old contracts that need changing. What would they choose, if they were given that choice—progressing with this legislation or agreeing to a new form of contract? Most of these issues to do with articles of association and new forms of contract have been dealt with, due to the noble Lords who preceded me. Is there now an issue that now needs addressing? If those MATs will agree to new contracts and go on to new terms and conditions, is that not also a way that my noble friend the Minister can look at, now that the sector is seeing what an alternative would be for them, if they insist on not having proper separation in their governance or not having the new agreement? That may be a pragmatic consultation that we could have with the sector at this stage of the Bill.

Baroness Wilcox of Newport (Lab): We have had an excellent debate from so many noble Lords. I shall try to be concise, because so much has already been said. This group of amendments again seeks to put safeguards around the power that the Secretary of State has to make on standards for academies, and seeks information from the Government about what lies behind this taking of broad powers. Colleagues have spoken to the damning Delegated Powers and Regulatory Reform Committee report, which takes such issue with powers in this Bill. I shall not tread over old ground, but I wanted to note what other noble Lords have said, such as the comments of the noble Baroness, Lady Meacher on the Henry VIII powers. "We don't want Parliament involved"—what a blow to democracy that is. My noble friend Lord Hunt spoke eloquently on the unacceptability of these matters in relation to the report, and the noble Baroness, Lady Meacher, reminded us that this report was personally forwarded to the Secretary of State.

The noble Lord, Lord Baker, took us back to the 1870s, and how the department has never done these things before, and the glaring omission in the proposals of the social context of a school. My noble friend Lady Blower reiterated the nature of the power grab, and reminded us that a national service, locally delivered, was the aspiration at the beginning of our teaching careers, but the local dimension is no more. It speaks to a worrying trend across government, denying Parliament the opportunity to deal with matters in the Bill in favour of shoving something through via statutory instrument later down the line, once they have worked out what they want to do. It is not even the cart before the horse—it is the cart before the cart.

I ask the Minister with sincerity, in trying to understand the rationale behind this power grab, what is the reason for this approach? Has the detail of the specific measures the Secretary of State would like to take not been fleshed out? Perhaps it has been. If so, is it controversial, at an increasingly controversial time for the governing party? Is it meant to give some wriggle room in response to political or media pressure to act in an unforeseen area, so it buys the ubiquitous "get out of jail" card, if the public reaction—like so much public reaction to the Government these days—is hostile?

I struggle to understand why Parliament and parliamentary scrutiny will not be given the chance to debate the rights and wrongs of what the DfE intends to do. I understand that the White Paper is meant to give colour to some of these questions, but its offering is limited on many of the concrete measures that the Secretary of State may or may not be looking to impose. It hardly needs me to remind the House that this Government will not be in power for ever, as has been noted by the noble Lord, Lord Addington—and some may say the sooner the better, in the light of the current state of our countries. But these powers will be there for others to wield in future, or indeed repeal, if the Government are determined to push this through despite the strong voices that we have heard today to the contrary.

Baroness Barran (Con): My Lords, I move on to the second group of amendments. As I have spoken at length on the first group on the intention and rationale behind Clause 1, I hope that your Lordships will understand if I do not repeat those arguments. I want to underline that I have noted the very strongly held concerns, particularly from the Delegated Powers and Regulatory Reform Committee, as expressed by the noble Baroness, Lady Meacher, and the noble and learned Lord, Lord Judge, and underlined by the noble Lord, Lord Hunt. We are considering closely the reports from that committee and from the Constitution Committee, which came out on Monday, and we will look forward to working with all your Lordships to address these issues.

Turning to Amendment 2 from the noble Lord, Lord Addington, I remind the House that our intention is for the initial regulations largely to consolidate and reflect existing requirements on academies. The Government recognise the importance of consulting representatives from the sector on the regulations and I am willing to make a commitment on the Floor of the House to your Lordships that this Government will always undertake a consultation on the regulations, prior to them being laid. I hope that reassures your Lordships, including my noble friend Lord Baker, who suggested otherwise.

I also remind your Lordships that under the current regulatory regime for academies, the Secretary of State can add any new requirements into the model funding agreements or *Academy Trust Handbook* without any parliamentary oversight. Moving to a statutory set of regulations will provide Parliament with the opportunity to scrutinise, debate and vote upon the exercise of power in Clause 1.

Moving on to Clause 3, we are at the beginning of the process of consolidating existing requirements on academy trusts into a single set of academy standards regulations. Over time, we envisage amending or repealing primary legislation which applies directly to academy trusts and, where necessary or appropriate, moving such provision into a single set of regulations. This clause provides the Secretary of State with the necessary power, subject to the affirmative procedure, to amend primary legislation by regulations, leading to a simpler and more transparent regulatory framework suitable for a system that is fully trust-led.

As the academy system evolves, it also allows the Secretary of State to make necessary changes that will strengthen the regulatory framework in future. The power in this clause is restricted and cannot make provision about the designation of selective academy grammar schools or alter their selective admission arrangements. The noble Baroness, Lady Morris, asked for clarification in relation to Clause 1(6). Although the clause as drafted prevents the Secretary of State removing admission arrangements from grammar schools via secondary legislation, it would of course be open to a future Government to change the law on selection via primary legislation; nor can it amend the provisions of this Bill which relate to governance, collective worship and religious education in those academies that have a religious character. I thank the right reverend Prelate the Bishop of Durham for his very kind remarks about working with the department and the Secretary of State.

Clause 3 also introduces Schedule 1, which sets out the primary legislation that is being extended or disapplied in relation to academies through the Bill. This reflects the fact that we wish these requirements to be statutory, rather than in individual funding agreements.

I turn to Amendment 32 from the noble Lord, Lord Hunt, and the noble Baroness, Lady Meacher. I have heard the concerns expressed about the power conferred on the Secretary of State in Clause 3 and am carefully reflecting on what your Lordships have said on this matter. The noble Lord asked for the basis on which we took the powers as drafted in the Bill. My officials studied the reports in great detail and took great care with the delegated powers in the Bill. The noble Lord may be aware that 47 of the 49 powers taken received no comment from the committee.

It is our view that establishing academy trust standards creates improved scrutiny for Parliament, not less, and that was the rationale behind the way in which the measure was drawn together. But that in no way diminishes my earlier comments regarding listening carefully to the House on this point, and I underline that we take the recommendations of the committee seriously. I will be reading the 30-year review, as recommended by the noble Baroness, Lady Meacher. I also understand and will take away the points that she made regarding our need to bring clarity about the principles which underpin any delegated powers and how they would be used in future. I look forward to working with her and other noble Lords on that.

6.45 pm

We will want to ensure that the legal framework in future is fit for purpose, including by removing requirements should they prove excessively onerous or unnecessary. It will be a gradual process and we will want to work with academy trusts on the implementation of the standards at a pace which is right for them. Clause 3 enables the Secretary of State to make these adjustments, subject to the affirmative procedure, and be responsive to the changing needs of the school system.

Finally, on Amendment 27A from my noble friend Lord Baker, regarding the designation of university technical colleges and the curriculum they follow, the Government are committed to supporting and protecting UTCs and the technical curriculum that they offer. We set this out in our memorandum of understanding between the Baker Dearing Educational Trust and the Department for Education, as well as through references to the curriculum in funding agreements. The provisions in Clause 1(6) are about ensuring parity between maintained schools and academies in relation to selection and religious designation or ethos. This amendment would be out of line with this intention to ensure parity between those two groups of schools, but we look forward to continuing to engage with my noble friend and the Baker Dearing trust on how we can continue to preserve the important role that UTCs perform.

On my noble friend Lady Berridge's questions regarding the legal framework, I will write to her in response, if I may. I also thank my noble friend Lord Agnew for his very generous comments. On that basis, I ask that Amendment 2 be withdrawn.

Lord Addington (LD): My Lords, that was an interesting and full answer, but one that did not in any way allay my fears. The Minister said that this Government have no intention of doing it. Let me put it like this: if the noble Baroness said that she had no intention, I would be very confident for as long as she is in her post. I take her word for it that the ministerial team does not have any plans at the moment, but she cannot speak for the next ministerial team or the next Government. If some of these things can be done already, which is what the Minister implied, we need something in there to bring some light on them right now. I will withdraw this amendment but I am afraid that this subject is not over.

Amendment 2 withdrawn.

Amendments 3 to 6 not moved.

Amendment 7

Moved by ***Lord Lucas***

7: Clause 1, page 1, line 8, leave out ", and the curriculum followed"

Member's explanatory statement

This and the other amendments tabled to this Clause, Clause 2 and Clause 3 in the name of Lord Lucas are intended to protect some of the freedoms currently enjoyed by academies.

Lord Lucas (Con): My Lords, in moving this amendment I will speak also to the other amendments in this group. We have been speaking of large and fundamental questions, and I find myself entirely in agreement with those who are concerned at what the Government have been saying. I therefore wish to take my noble friend Lord Agnew's advice and try to avoid getting too deep into the weeds that we should be in. If the Bill were—as the noble Baroness, Lady Morris, wished it to be—a real exposition of what the plans were, we should be debating whether, as Amendment 7 says, academies should still enjoy freedom over the curriculum, or to what extent and how that should be expressed. That is what our role should be, not just handing that power over to the Government.

I think these amendments were drafted before I had begun to focus on the constitutional enormities being attempted in the Bill. So, yes, academies should have some freedom of curriculum; yes, they should have control over the school day; yes, they should have freedom when it comes to staff remuneration and admissions numbers. We should also be really careful about preserving existing contracts.

Another Bill before this House asks that the Government be allowed to tear up the contracts that landowners have with the providers of telecom masts. Security of contract—the belief that a contract entered into cannot just be rolled over—is a very important part of a successful constitution in a free country. To have two Bills in front of us which both try to act as though that were not the case is deeply concerning. Therefore, my noble friend Lord Baker, in his offhand remarks about Darlington, should realise that there is a DfE office in Darlington; this is probably part of the plan. We must get back to where we should be. All the concerns I have raised in this group are valid, but not particularly in the context we find ourselves in now. I hope we will move on to other big questions. I beg to move Amendment 7.

Baroness Brinton (LD): My Lords, I want briefly to respond to the point made by the noble Lord, Lord Lucas, about his amendments being detailed and therefore not echoing the feeling of the debate we have had so far. On the contrary, it absolutely gets to the heart of the problem. We heard from the noble Lord, Lord Agnew, in the last group, about the detailed work he had to fulfil as Minister in his role of managing academies as a whole and failing and problematic academies specifically.

The amendments of the noble Lord, Lord Lucas, go in the other direction and say that academies should be able to retain their personal freedoms. The difficulty is that the Bill does not give us any sense of the Government's direction on academies. It is absolutely summed up by those two contradictions. It is important and this is the place in the Bill. I may not agree with all the amendments tabled by the noble Lord, Lord Lucas, but I am very grateful that he has laid them because it makes something very clear to me: the Government do not understand what they are trying to achieve.

Lord Knight of Weymouth (Lab): My Lords, I follow those welcome comments from the noble Baroness. This conversation—the closest thing we get to pre-legislative scrutiny—ought to give us the opportunity to guide Ministers in their reflections, which we all urge them to have and hope they will have, on what we think is important and less important; what there must be standards about, if we are to agree that; and what we should leave to academies. That is what the amendments tabled by the noble Lord, Lord Lucas, and the next group are helping to do. They are opportunities for noble Lords to flag things they think are sufficiently important that the Secretary of State should have a view on them on behalf of the country.

I too will not get into the whys and wherefores of curriculum freedoms, leadership and management or the length of the school day. I happen to broadly agree with the noble Lord, Lord Lucas, and it is not unusual that we find ourselves in broadly the same place on such things. However, I echo what the noble Baroness, Lady Brinton, said. It is awkward, unsatisfactory and goes back to what my noble friend Lady Morris said earlier; this is a difficult Bill for us to deal with at this stage.

The substantive point I want to make to the Minister at this stage is for when the Government are thinking about time for Report and how we deal with it. It will be quite Committee-ish in how we deal with things—assuming they come back with something substantive and different which shows that they have listened to us. We are going to have to have the opportunity to properly debate what we hope will be much more of an educational vision that they will set out for us. We can then put down amendments on it and discuss in the normal way on Report.

Baroness Brinton (LD): May I very briefly add to that? This is not just a matter for the Government; it is also a matter for the Chief Whip in the timetabling of Report. We had exactly this problem with the Health

[Baroness Brinton]
and Care Bill. We suddenly discovered a lot of detail on Report which should have been visible to us in Committee. As a result, Report took much longer, and the House sat until 1 am or 2 am on certain days. I hope the usual channels are looking at the detail of this because it will affect Report stage.

Lord Lucas (Con): We do, of course, have the ability to recommit a Bill to Committee if there are substantial changes to it.

Lord Agnew of Oulton (Con): My Lords, I rise briefly to support my noble friend Lord Lucas on protecting these freedoms and to try to cross the bridge between the noble Baroness, Lady Brinton, and the noble Lord, Lord Knight. I managed those interventions with the powers that already exist. The freedoms that my noble friend Lord Lucas proposes go to the heart of what academisation is about. I will give noble Lords one tiny example. In Norwich we have two primary schools four miles apart. In one school they speak 25 different languages and the other is in an old-fashioned 1950s council estate—a totally different dynamic where a totally different approach to education is needed. Is that to be decided here in an ivory tower in Whitehall?

Baroness Fox of Buckley (Non-Afl): My Lords, I apologise for missing some of the earlier speeches; the ones I heard were very helpful. I support this group of amendments because it emphasises the question of freedoms. The one thing I had agreed with the Government on in the past—there has not been very much—was the emphasis on the kind of freedoms schools would have, which is why I am completely bemused by what has happened with this Bill.

The other very important thing has been raised in other comments, which I would like the Minister to take away. If you tell anyone outside this place that there is a Schools Bill and you are talking about schools, interestingly enough they say, "What are the Government proposing for schools? What is the educational vision?" I have talked to teachers, parents and sixth-formers and they say, "What's the vision?" I have read it all and I say, "There is none, other than that the Secretary of State will decide that later on." Because there is no vision, these amendments really matter as they give a certain amount of freedom to people who might have some vision, even if I am not convinced that the Bill has it. I was glad to see these amendments.

Baroness Morris of Yardley (Lab): My Lords, I will make a very brief intervention. I struggle with the whole issue of the curriculum. I basically agree with the noble Lord, Lord Lucas. When I look at many schools, there is not the time in the week for them to do the things that—as the noble Lord, Lord Agnew, just said—might need to be done in the school and community context. The school week is overcrowded and does not leave sufficient flexibility for teachers to use their professional judgment about what needs to be covered. I understand that.

I suppose it is my age—I do not know—but I have always welcomed the entitlement of the child that the national curriculum brought about in the day of the noble Lord, Lord Baker. I was teaching when the noble Lord, Lord Baker, introduced the national curriculum. My kids in an inner-city school got a better deal because we, as teachers, were made to teach them things that, to be honest, we had assumed they were not able to learn. That is a whole history of education to go into.

I find it quite difficult still to balance the entitlement the national curriculum gave to children to learn a broad and balanced curriculum, and still would. I worry that freedom on the curriculum means that a school will choose not to teach music, science or Shakespeare. When you have the relationship of all schools to the Secretary of State, I struggle to be really confident that the DfE, Ministers or civil servants could intervene if a child was being denied that access to a broad and balanced curriculum.

I have never quite worked out how it resolves. It is always the same; in most schools it works well, and they get it right, but we need to protect the right of every child to all the subjects in the national curriculum and all those experiences we think they need. I am asking the noble Lord, Lord Lucas, in his response, to reflect on how his amendment would ensure that balance and that the protection of the child's entitlement will be kept.

Baroness Chapman of Darlington (Lab): I think that we are at risk of having a really interesting debate about the substance of what a child should learn in school, which the Bill does not actually allow us very easily to do. The benefit of what the noble Lord, Lord Lucas, is proposing is that he is very clear where he is coming from, why he is doing it and what he is seeking to achieve. There is a philosophical underpinning of the amendments that he is proposing, so at least we have something to hold on to when we either agree or disagree with him.

7 pm

The noble Lord wants to protect the freedoms of academies to innovate, to be creative and to respond to local needs. There is a really interesting debate about whether the entitlement of a child crosses over with that. It would be great to have some thoughts from the Government on where they stand, so that we can engage with this in a more meaningful way to people who may, possibly, be watching our proceedings, as the noble Baroness, Lady Fox, said.

Many who are leading schools at the moment will agree with the noble Lord, Lord Lucas. They have been in touch to tell us that this was a bit of a bolt from the blue for them. They are very concerned about what this means for the way that they will be able to lead their MATs and individual schools in the future. That worries me because, when making these kinds of changes, it may not be possible to get everybody to agree with you as you move forward—people have deeply held and very different views on these issues from time to time—but you at least need to make an attempt to engage, to explain and to grow understanding of why you are doing what it is that you are doing.

It has been great to have the focus on Darlington in our discussions this evening; it is appreciated. A leader of a MAT, whom I will not name because I have not asked her if I can, called me when the Bill was published.

She said that it looked as though it had been drafted by a primary school class that just wanted to be in charge but did not really know what it wanted to do about it. She was being quite flippant, but serious too. She runs an outstanding group of schools; I am in danger of giving away her identity. The point is that this is something unexpected that is resented by many leaders of MATs who care deeply about the quality of education and experience of the children who attend their schools. They may agree to a greater or lesser extent with the amendments from the noble Lord, Lord Lucas, but they have not been taken on a journey along with the Government to a place where they can proceed with confidence in what the Government are about to do, and support it or otherwise.

I understand that you cannot always get everyone to agree with you. My noble friend Lady Morris gave her example, but the example that I can remember is when the Labour Government introduced the literacy and numeracy hour. Not everyone was thrilled about this; it was seen as a bit too interfering and too prescriptive, but the Government at the time were clear why they thought it was the right thing. They had to go out and justify it, look for evidence and say that it was about addressing a very fundamental problem that we had with standards of numeracy and literacy at the time in our primary schools. They went ahead and, in the end, those measures got broad support from teachers and parents. That would be a much better approach.

Lord Knight of Weymouth (Lab): Reflecting on the debate that we have had, it occurs to me that, effectively, in announcing that all schools will become academies, it is an announcement of the end of the national curriculum. What my noble friend has just described in respect of the literacy and numeracy hour was an up-front policy and up-front announcement—it was something about which there could be a consultation, discussion and debate. There has been no press release saying that the Government's wish is to abolish the national curriculum, yet that is what we must have in mind as we debate this Bill.

Baroness Chapman of Darlington (Lab): Is it? I would like to know the answer to that question, because it is not clear whether that is the Government's intention or not. Were the Government to come forward to say that it is what they plan to do and that they want freedom such that there is no national curriculum as we would recognise it now, then we could have a really big argument about that. We would involve school leaders and parents and look back over the successes and failings of the national curriculum; I very much agree with what my noble friend Lady Morris said about an entitlement to education, particularly around music and literature.

The fact is that we do not know. The Government's intention is not being shared with us. We may be imagining and fearing the worst, and fearing intentions that do not exist, but the Government are asking a hell of a lot for us to accept on trust an assurance from the Dispatch Box here that there is no current intention to do certain things. Really, what we ought to expect, and what families expect, is much more information about is going to happen on the ground and in the classroom. That is what people are really interested in.

I take it that the noble Lord, Lord Lucas, will not press his amendments, so we do not need to get into whether we would support them individually, but I just flag this issue about the lack of effort that the Government have made to engage with leaders in the sector. It is really damaging and is destroying some of the confidence that leaders have in the department at this point.

Baroness Penn (Con): My Lords, it is probably worth my reiterating my noble friend the Minister's comments that we have heard and understood noble Lords' concerns about the breadth of the power we are discussing and the fears about the centralisation of power over academies with the Secretary of State, and I know that we have heard other concerns about the nature of the power. It is worth reflecting on what the noble Lord, Lord Knight, said in terms of how we use this Committee stage. While we have heard those overall concerns, it is useful to have a discussion on specific elements within those clauses where noble Lords have issues that they wish to raise or questions that they wish to discuss so that we can make the best use of the time that we have in Committee.

I shall deal directly with the amendments tabled by my noble friend. We share his desire in these amendments to protect academy freedoms. The first set of regulations made under these powers are intended to consolidate and reflect existing requirements on academies. They will not represent a change of requirements on academies. This includes those areas referenced in my noble friend's amendments: curriculum, length of school day, leadership and admissions. It is important to bear in mind that some requirements exist in these areas for academies, such as the requirement to teach a broad and balanced curriculum, including English, maths and science, and the requirements of the *Academy Trust Handbook* in relation to management and governance. The Secretary of State needs to be able to set standards in these areas. As my noble friend the Minister previously said, it is important that there is a clear set of minimum standards for academies to ensure that we get the basics right. At this point, it is also worth repeating that the Government have no desire to intervene in the day-to-day management of individual academies other than in cases of failure.

I turn specifically to Amendment 29, which seeks to protect the provisions within existing funding agreements. My noble friend Lord Nash touched on this, as did others. As we move to a fully trust-led school system, it will become increasingly unwieldy and difficult to regulate thousands of schools on the basis of individual funding agreements with no consistent set of minimum standards that apply equally to all academies. That is why, alongside a more proportionate compliance regime, we want to move away from a largely contract-based regulatory regime to a simpler and more transparent statutory framework—one fit for a system where every school is an academy.

I just touch on the debate and scrutiny that we might need in that circumstance. Some of the requirements are in a handbook that is amended by Academies Ministers; in bringing what is currently in a handbook into a form of regulation, with consultation with the sector in advance, there was the intention of having an increased level of parliamentary involvement and scrutiny

[Baroness Penn]
in that process compared with the status quo, reflecting the fact that we are aiming to move towards a system where every school is part of a multi-academy trust. I hope that helps to reinforce the Government's intention behind what we are seeking to do here. It also ensures, as I have said, that academy trusts are subject to a set of requirements over which Parliament has oversight and to which they can be held to account by parents. My noble friend's amendment would enable funding agreement provisions and academy standards to co-exist and potentially conflict, if the former are not rendered void where there is a corresponding academy standard.

Finally, I turn to Amendment 34, which seeks to prevent primary legislation relating to the curriculum being amended by regulation unless it relates specifically to the curriculum in academies. Academy trusts are already subject to many of the same requirements as maintained schools, as set out in numerous pieces of primary legislation. As I have said, the intention here is to consolidate these requirements on academy trusts as much as possible into the academy standards regulations. This will be a gradual process; we want to work with academy trusts on the implementation of the academy standards at a pace which is right for them. As my noble friend reassured the Committee in her previous contribution, for each and every change of those regulations, there would be consultation in advance.

As we move towards a school system in which all schools are academies within strong trusts, we will want to ensure that the legal framework is fit for purpose, including by removing requirements that should prove excessively onerous or unnecessary. Clause 3 enables the Secretary of State to make these adjustments, subject to the affirmative procedure, and to be responsive to the changing needs of the school system.

I recognise that the autonomy to decide on key aspects of running a school, including the curriculum it chooses to teach, enables academy trusts to deliver the best outcomes for their pupils, and we have no intention to undermine those freedoms. This Government and I share my noble friend's commitments to the principles of academy freedom, and, with this reassurance, I hope that he will therefore withdraw his amendment at this stage.

Lord Lucas (Con): My Lords, I am grateful to my noble friend the Minister for her response. I think that it merely illustrates how far apart we are on the appropriateness of the structure of this Bill that we cannot have a serious discussion about what the curriculum freedoms should be. It is entirely undefined, and the Government say, "We'll just make it up as we go along in the next few months, and that is what you are allowing us to do if you pass this Bill". That is where the serious discussions lie; we ought to be having discussions about how the curriculum works. That is the level of responsibility we ought to be taking in this House, and this Bill seeks to take that away from us and place it with the Executive. I am delighted that we have had such unanimity around the Committee on what we think of that as a process.

So far as these individual amendments are concerned, yes, I applaud the diversity, innovation and freedom which the academy structure has had. It will be a problem to move that into a national system, but it will not be impossible. We ought to look at it, because this Bill gives the Government the power to introduce a totally prescriptive national curriculum. They could say what every school was going to do at every moment of every day, and we would have no more right to intervene on that—

Lord Hunt of Kings Heath (Lab): My Lords, I am grateful to the noble Lord for giving way. He has really illustrated the puzzle I have: the handbook is clearly working at the moment—we have heard from the noble Lord, Lord Agnew, that interventions can take place in the case of maverick trusts—so why on earth not let that continue, allow the consultation with the sector on the future governance and accountability arrangements, and then bring a Bill in a year's time when we can actually go through it in detail and scrutinise it effectively? We could also have a statement at the front saying, "This Bill is about the academisation of all schools". Why not be explicit and say this up front in the legislation, if that is what the Government want to do? Why does it have to be done in this sort of underhand way, and before they have properly worked out with the sector how it is best done? I just do not get it.

7.15 pm

Lord Lucas (Con): No, my Lords, nor do I; I think it would work much better in that sort of way. The Government are good at making declaratory statements such as, "We're going to do this: we're going to abolish the sale of petrol engine cars in 2030". We all know how effective that sort of statement can be. What is the difficulty if the Government were to say, "We are going for this sort of process; we're going to have a period of consultation; it will end on this date; it'll be in a Bill in Parliament in a year's time, and that's how it's going to be worked out"? They would get exactly the same process as is envisaged by my noble friend Lady Penn—

Baroness Blower (Lab): I intervene briefly to say that an enormous amount of work could and should be done on the curriculum. The fact is that we are into the 21st century, and fantastic work is being done by educators all over the place about how we best educate our young people for the best possible outcomes. Yet, we have this odd divide between the schools that have to do the national curriculum and those that do not.

As my noble friend Lady Morris said, we should look at what the entitlements and requirements of an educated society are in order to rise to the challenges we obviously face as we move forward. Those should be things that are available to all young people. There might well be an argument for saying that those schools that are currently maintained schools but are required to do every last detail of the national curriculum might flourish more if they had some of those curriculum freedoms. So there is a big advantage to being able to talk in the round about our vision for what educated young people would be when they leave our education system. After all, there is common agreement now that young people will stay in school until they are 18 or 19. Gone are the days when they would leave at 16.

There is such a lot to gain from having a much broader discussion about what an entitlement to a broad and balanced curriculum actually looks like, not just for the good of the individual but for the good of society at large.

Lord Lucas (Con): Yes, my Lords, and I imagine that we will have it as a part of the process of deciding how to turn maintained schools into academies. There is a really important debate to be had on where we should be resting, and I look forward to it. I beg leave to withdraw the amendment.

Amendment 7 withdrawn.

7.17 pm

Sitting suspended. Committee to begin again not before 7.50 pm.

7.50 pm

Amendment 8

Moved by ***Baroness Brinton***

8: Clause 1, page 1, line 10, after "health" insert "(including mental health)"

Member's explanatory statement

This amendment ensures that the mental health of pupils is considered in any standards set relating to health.

Baroness Brinton (LD): My Lords, I start by saying that my noble friend Lord Storey is unable to be in his place today, so, as a co-signatory to his Amendment 8, I will introduce it on his behalf. Why is it important to have mental health specified in Clause 1(2)(b) in relation to standards? In parentheses, we have just discussed three groups using the telescope to look up to the night sky, trying to see the strategic issues related to the Bill, and I am going to follow the opposite route of the noble Lord, Lord Lucas, and look down the microscope at one very particular issue that I think needs to be in the Bill, despite all our concerns about these clauses on academies.

Why should standards need to specify mental health? It is very straightforward. It is because, in the pyramid of support for children and young people with mental health problems, schools are absolutely on the front line of a universal service, and teachers and staff are often the first to be able to identify worries. They are also the non-specialist primary care workers. Over the last 10 years, we have seen a substantial series of policy announcements—at least 19—which cover or include mental health, starting in 2011 with the strategy paper *No Health Without Mental Health*, which recognised the importance of early intervention and pledged to improve access to psychological therapies for children and young people.

A year later, the *No Health Without Mental Health* implementation framework was published, describing how different bodies, including schools, should work together to support mental health. In 2014, there were four further policy actions; there were five in 2015, including early intervention funding. In 2017, the Green Paper on children's and young people's mental health was published and included incentivising schools to identify and train a designated senior lead for mental health, funding for new mental health teams and a pilot for a four-week waiting time for access to specialist CAMHS teams.

That Green Paper was a start, but most people agreed with the Education and Health and Social Care Committees, which published a joint report saying that it was going to fail a generation. So, before Covid even struck, we already had a very public recognition that various parts of the public sector were not serving our children and young people with mental health issues well, including schools, principally because they were not getting the financial support or formal guidance they needed.

In a YoungMinds survey, three-quarters of parents said their child's mental health had deteriorated while waiting for support from child and adolescent mental health services. In total, less than 1% of the NHS budget is spent on children's and young people's mental health services. The number of A&E attendances by young people aged 18 or under with a recorded diagnosis of a psychiatric condition has almost trebled since 2010. So, even before Covid started, many children and young people struggled with mental health problems. It is not that they were not there before Covid, but now lockdown and the various other pressures that children have had to face have exacerbated those underlying problems and they are now very evident to schools, to parents and, above all, to children and young people themselves. In fact, 83% of children and young people in a survey by YoungMinds reported that the pandemic has made their mental health condition worse.

I come back to this pyramid of support for children and young people. Its absolute firm, solid base is the role of our educators and associated staff in schools. The long litany of government papers shows that there needs to be action. Just subsuming mental health into a general health standard will go exactly the same way as all the other papers—strong on words, very light on action. My noble friend Lord Storey and I are arguing that we need to specify mental health here; otherwise, it will not be the priority it should be, not just for schools but for our local authorities, for local NHS bodies—whether they are CCGs or not—and, above all, for government to provide grants to make sure that it can happen.

I also support Amendment 37, which strengthens our amendment by referring to guidance by the Secretary of State to schools, and strongly support Amendments 9 and 11 in the names of my noble friends Lord Storey and Lord Addington. I beg to move.

Baroness Bennett of Manor Castle (GP): My Lords, I will speak chiefly to Amendment 21A in my name. We are again addressing Clause 1; I will put to one side the whole question of whether it should be there at all. We had a discussion earlier about what schools should be—that we should be talking about not just structures but what they should be doing and how they should fit into our broader social framework. This amendment is an attempt—a preliminary one, I stress—to look at how we might see schools as part of a community, not just as institutions turning out pupils to go into the workforce at the end of their time in them. With that in mind, there are three elements to my attempted draft.

[Baroness Bennett of Manor Castle]

First, proposed new paragraph (u) suggests

"consultation, engagement, and co-production with pupils, parents and the wider community"

on what the school is. As many noble Lords have said, with multi-academy trusts potentially scattered all around the country, as some of them already are, how do they get embedded in the community and how does the community contribute to the trust? This is an attempt to write the setting of standards into Clause 1 to say that the school must be part of a community.

I went through the Bill and analysed the appearances of the words "pupil", "parent" and "community". Interestingly, "pupil" appears 58 times, quite often when the Bill talks about safeguarding and welfare, both things we could not possibly disagree with. There is also quite a lot about attendance at schools, which I will get to later. However, nowhere does the Bill talk about what role pupils might have in deciding their own education and having a democratic role in the structure of their own school. My representation to your Lordships' Committee is that, if we want to be a democratic country, we want democracy to start in schools. Those most expert in the experience of being a pupil at a school are the pupils.

The word "parent" appears seven times. Two are in the context of the rights of parents with children at religious schools. There is a duty to explain the attendance policies of schools and a duty on parents to provide info to schools. However, again, there is nothing about the role of parents in running, deciding, guiding or acting in schools. I know that amendments to other sections of the Bill will try to ensure that there are parent governors; that is one way of doing it, but it is by definition only a very small number of people. This is an attempt to say that parents should have a much bigger, broader role. I have been a governor and seen parent governors facing huge wodges of paperwork; not every parent will be able to engage as a governor, but they should be involved.

Particularly interesting is that "community" appears only a few times in the Bill and that every reference is to the category of "community schools". There is no reference to the actual community in which a school is placed.

That is what this amendment is seeking to do. Proposed new paragraph (u) looks at seeing a school as a co-production of all the parts of a community. Proposed new paragraph (v) looks at academies and proprietors reflecting the needs of the community, so it is dealing with the structures and what the multi-academy trust and trust governorship are doing. Proposed new paragraph (w) looks at the contribution the school makes to the whole life of the community. The school at which I was a governor served a very poor, disadvantaged and diverse community, and as a practical example of the kind of thing that a school can do on a very small scale, it organised a number of events where parents got together and shared their different craft skills. Many of these parents had no language in common, but this was a way for people to make friendships within a community across different language groups and backgrounds, so the activities of the school were helping to build a community. That is the sort of thing a school needs to be doing.

8 pm

That is just me making assertions on this issue, but I want to go back to a few examples of how there has been much discussion about it in civil society, and indeed in the activities of the Government. The Royal Society of Arts has recently been running a whole "rethinking education" series of events. One of the key arguments or theses behind them was that schools are civic organisations essential to wider community well-being. The 2004 *National Standards for Headteachers* said:

"Schools exist in a distinctive social context, which has a direct impact on what happens inside the school."

That seems an obvious statement, but I do not think we see evidence in the Bill as written which acknowledges that. At the risk of quoting a Member of your Lordships' House not currently in her place, the noble Baroness, Lady Morris—when she was not Lady Morris—said that we have to have "community in the school and the school in the community". The National College for School Leadership said that school leaders need what it called "contextual intelligence": they need to be sensitive without being patronising or condescending, and they need to focus on the strengths of the local community rather than looking at the weaknesses, which is the kind of approach we often get. I will not claim that this amendment is the right place or the right way of doing things, but I hope we can open up a debate about seeing schools as civic institutions, not just as machines to produce pupils who go through exams and come out as workers at the other end.

I also want very briefly to comment on and offer support for Amendments 8 and 37, which address the issues of mental ill health. The noble Baroness, Lady Brinton, has already covered the urgent need for this. I suspect that the Minister will say in response that of course "health" includes mental health, but we all know that we do not have parity of esteem. That is crucial. We have not yet heard from the noble Baroness, Lady Chapman, on Amendment 37, so I am slightly pre-empting her, but I think it is in the classic legal language of "to have due regard to". Given the state of our young people's mental health and the state of mental disorders—in a few years, the number of six to 16 year-olds thought to be suffering from a mental disorder has gone from one in nine to one in six—"have due regard to" really is not strong enough language. I do not know what the legal wording should be, but it should be at the heart of every school to care for and improve the mental well-being of all its pupils. That is the kind of language we should have.

Lord Hunt of Kings Heath (Lab): My Lords, I lend my support to the noble Baroness, Lady Brinton, on Amendment 8 and to my noble friend on Amendment 37. This issue about the mental health of students and pupils is very important. I have no doubt that the Minister will argue that mental health is subsumed within "health", and therefore that there is no need for this, but sometimes you do need to give absolute clarity to parts of society that mental health must be a greater priority than before, and this is a very useful way of doing it.

The Minister was involved in the passage of the Health and Care Act of blessed memory, which some of us were involved in. It struck me that when we were talking about the membership of ICPs and ICBs—integrated care partnerships and integrated care boards—I do not think we explicitly discussed whether the education sector would be around the table. Could the Minister look into whether there is some way of encouraging that the education sector is listened to? It seems rather like the police service in that it is being asked to pick up a lot of the issues that arise partly because our mental health services are so fragile at the moment, particularly for young people and adolescents, as we know. I do not wish to add more burden to heads and schools but this will bear thinking about. I hope there will be some collaboration between the Minister's department and the Department of Health.

Lord Addington (LD): My Lords, I will speak to the two amendments in this group that have my name on them, Amendments 9 and 11. Both deal with smaller aspects of this, although we have a big report coming through on special educational needs, in which I know the noble Baroness is active.

I would like to know where and how, in this envisaged system—or perhaps let us call it a wished-for system; let us not give it that degree of solidity—special educational needs will fit in. At the moment, if there is a priority that comes above them, they tend to get squashed going down. For instance, there is an ongoing row about systematic synthetic phonics, which is the preferred way to teach English but does not work that well for many dyslexics. In addition, people with attention deficit disorder do not like it; it is a different way of working. You therefore have to work smarter, or in a different way, to get the best results out of those groups in a basic interaction. There will be other examples; for instance, mathematics is also covered by this, because you have to have different learning patterns. Dyslexics like me have different learning processes in our heads, which work slightly differently from those of the majority of people.

That is not insurmountable; there are ways around it and lots have been found, but you have to do it. If you have one way of doing this, there will be problems for those groups who do not have those learning patterns. I was speaking only about small numbers there but maybe half of those with identified special educational needs would probably be covered by these groups already. There are others with more complex patterns. The Government will need to work differently. How will the recommendations of the review work through and counter other considerations? If the noble Baroness can give us some idea of the Government's thinking at the moment, I will be grateful.

On extracurricular activity—I would say this, would I not?—the fact of the matter is that sport is one of the best ways of improving mental health. It releases all the right chemicals in your body. Basically, it is a chemical treatment for mental health—end of. It reduces stress and tension, as does the correct use of special educational needs support. If you have less to worry about, you are less stressed and less likely to experience a trigger point for a mental health condition. How will these things be worked in? What safeguards do activities have in these areas—and others, if the noble Baroness wishes to expand on that? Is Committee a discussion? We need an idea of how, when you have to work differently to get the best out of the system, you will do it to get to the positions and the approach coming through in the rest of the Bill. How is it working and how will you make those small changes? Some will be big structural ones.

Talking about extracurricular activities such as sport, music and drama, one of the big things the Government should do to make sure that people carry on doing those things is to link the activities within the school with those who do them outside on an amateur basis. There are very well-established models, some of which have worked and some of which have been removed but which worked quite well. How is this all working and how is it going forward? If the Minister could give us a little idea of the Government's thinking on that, that would be helpful, if not for this Bill then certainly for future debates.

Lord Aberdare (CB): My Lords, I shall say just a few words in support of Amendment 22, in the names of the noble Baronesses, Lady Chapman and Lady Wilcox—assuming I am not jumping the gun, because they have not introduced yet; I assume they will do so during the wind-up. I would have put my name to it had I spotted it when I went through the Marshalled List, but I missed it.

I share the widespread bafflement and uncertainty about what the Bill means for what happens inside schools, not least in relation to the curriculum. One of those things needs to be careers information, advice and guidance, which hardly figures in the Bill, other than as one of the 20 rapidly becoming notorious examples listed in Clause 1, whose future seems somewhat uncertain. Work experience is a key element of the Gatsby benchmarks for best practice in careers education, and it needs to be more than just a week or two at a local employer, making coffee, running errands or just sitting idly about wondering how to pass the time—which I know has been the experience of some young people.

Standards for work experience are certainly needed, which is why I welcome that amendment, although from the debate so far I am far from clear how such standards should be set, let alone enforced, within the system being created by the Bill. I hope the Minister will be able to say something about how the Government will ensure, even if not in the Bill, that all schoolchildren receive work experience of a sufficient standard.

Baroness Fox of Buckley (Non-Afl): My Lords, I will speak to Amendment 8, proposed by the noble Baroness, Lady Brinton, and talked about by many noble Lords. I have some reservations and concerns about putting mental health in the Bill, but there are some caveats. I absolutely agree that the lockdowns created problems for many young people: I was concerned about the closure of schools, and many young people were certainly discombobulated by that. I am also very concerned about the state of child and adolescent mental health services and want them improved; there is no disputing that.

My concern is that, if anything, too much of a therapeutic ethos has entered schools in a way that I do not think is that helpful. Look at the language that

[Baroness Fox of Buckley]
many primary schoolchildren use: they talk about anxiety, trauma, depression and stress. You might think that that counters what I am saying, but I think it implies that the preoccupations of adults have been adopted by very young children, who are adopting the language of mental health to describe the problems they are going through.

As the children get older, deadlines, exams and so on are now described as creating mental health episodes, stress and so on. The language of PTSD has also entered many sixth forms, with sixth-formers saying they are having post-traumatic stress disorder, of all things, triggered by a curriculum that they find offensive—very much aping the language of safe space and cancel culture activism in universities. It is entering schools as well.

When I talk to teachers I know, they say that there are well-being rooms which are packed all the time. I do not think that is necessarily because everybody has mental health problems but because everything is seen through the prism of well-being. We are talking about schools where therapists are replacing the pastoral care that should come straightforwardly through teachers. The concern is that this can become a self-fulfilling prophecy whereby every problem—the problems ordinarily associated with puberty, for example—is seen through the prism of mental health.

Many people who work in CAMHS worry that this means that young people now see themselves as vulnerable and become less resilient as a consequence. The elastic and ever-expanding definition of mental ill-health can also have serious implications for people who are young and mentally ill. Where you have an elastic definition, serious incidents involving people with mental health problems can be overlooked in a tidal wave of self-diagnosis and young people seeing themselves in that way. I ask us at least to pause to consider whether the mental health crisis is all that it seems on the surface, and I would certainly not want mental health written into the Bill by this House.

8.15 pm

Baroness Blower (Lab): My Lords, it is interesting to follow the noble Baroness, Lady Fox, because I do not entirely agree with her characterisation of what is going on in schools. I believe that there is a level of mental distress among our children and young people. I am sure it was exacerbated by the pandemic but I think it has been there for a very long time.

I was originally going to stand up only to say that there are lots of things schools can do in response to this issue without pathologising it, which is of course not desirable; I absolutely would not want that to happen. I do not really see that characterisation of schools becoming full of therapists. Frankly, all of our teachers' time is taken up with doing the stuff that Ofsted tells them they must do, without also being therapists.

However, it is really important that we have extremely well-staffed CAMHS available to all our schools because it is perfectly clear that teachers cannot diagnose actual mental illness. Nor should they—that is not their role at all—but nor can they necessarily decide what level of intervention needs to be made by either them or anybody else if they think that a child has some kind of mental health difficulty. I would be happy for CAMHS to be not just a place to which children go—incidentally, if they are late for their first meeting, they sometimes do not get a second one because CAMHS are so busy—but a facility available to teachers not to deal with their own mental health but to make a proper, professional decision about whether a child is in some kind of mental health distress. The fact is that teachers are not trained or equipped to deal with this, but we are seeing quite a lot of it.

So I do not disagree with everything the noble Baroness said, but I do think there is a pronounced role for CAMHS and that, in most of the areas with which I am familiar, they are not sufficiently well staffed and resourced to ensure that they can respond to teachers' issues and directly, face to face, to young people's issues.

Baroness Wilcox of Newport (Lab): My Lords, I will speak to Amendments 22 and 37 in my name and that of my noble friend Lady Chapman.

This group of amendments covers the other side of the argument—the matters for which the Secretary of State should be compelled to set standards to ensure the highest possible educational experiences for our children and young people. We have heard admirable intent from the noble Baroness, Lady Brinton, and others around mental health, SEND and extracurricular activities. Education should not and cannot be just about grades; the whole needs of the child must be considered.

I spent the vast majority of my teaching career working in areas that were not central to the dictates of the national curriculum: the performing arts and creative subjects that gave a wealth of support and experience to children's learning. Above all, the pupils enjoyed what they were doing, which enhanced their learning and their overall mental and physical health. I have former pupils who have graced West End stages, both front and back of house, and I am very proud of them; but I have hundreds who are not in the entertainment business and who always remind me of their enjoyment of drama lessons and their roles in school productions when they see me in person or via social media.

At lunchtime today, I spent half an hour in our education centre with a group of year 12 pupils from a school in Edgeware. One of the many interesting and searching questions they asked me was, what drives me as a politician and what do I stand for? I was able to say to them, very honestly, that my public service has always been about them—children and young people—and ensuring that they get the best possible start in life with the highest-quality teaching and learning across the whole of the UK, in all our nations and regions.

It was good to be back in a room full of engaging and inquisitive minds on a Wednesday afternoon. I would not want to do it every Wednesday, but it was very good to be back with year 12 again. The teacher texted me afterwards to say how much they had enjoyed it and how much they had revised their view of what the Lords is—so I hope that I did some good for us

all—and that they saw that politics can be a force for good, despite the current world view of us here in Westminster.

Our proposal of powers to set standards for work experience and mental health, at the same time as us tabling limits on the Secretary of State's powers, speaks to the inherent contradiction in this Bill that we are working around. The Government have not put in the Bill the outcomes that they are looking for, whether benign or otherwise. If they settle on imposing standards on academies, that is one thing, but if so they should include these on work experience and health. The Government have given us a vague list of standards which the Secretary of State "may" regulate for. We are flying blind and attempting today to fill in the gaps as best we can. If the Government are intent on this sweeping approach, it is imperative that these issues are included, but we would prefer a strong list of standards that the Secretary of State must regulate around, and using a narrow list already identified in existing education legislation would be helpful to teachers and the Secretary of State alike.

To reiterate, we want the best for our children and young people. That is why we say in Labour's *Children's Recovery Plan* that we would deliver breakfast clubs and new activities for every child, quality mental health support in every school, small-group tutoring for all who need it—not just 1%—continued development for teachers, an education recovery premium and, as we have already done with a Labour Government in Wales, we would ensure that no child goes hungry, by extending free school meals over the holidays, including the summer break. That is a definite set of policies, not a vague list as identified in the Bill.

Baroness Penn (Con): My Lords, as the noble Baroness, Lady Brinton, has said, we have exchanged our telescopes for microscopes and got on to a discussion about the indicative list provided in Clause 1(2). These amendments seek to expand the academy standards regulations, including what those regulations may cover.

As we have debated before, a key part of what this Bill seeks to do is taking existing academy standards set out not in regulation but elsewhere, bringing them together and subjecting them to parliamentary scrutiny. I assure noble Lords that, in each of the areas that they have raised, it is not necessary to amend the Bill for those standards to be included in the future regulations; this is already provided for. However, we also have the other side of the balance to strike in protecting those freedoms that academy trusts have to innovate and make decisions about how they best deliver education for their pupils. Through existing legislation, statutory guidance and their present funding agreements, academy trusts must already meet requirements in each of the areas that noble Lords have proposed. We will seek to replicate those in the standards regulations but that is not the end of the Government's commitment or work in those areas. It can be delivered in multiple ways, as I will try to set out in my response.

First, Amendments 8 and 37 both raise the important topic of mental health. I agree that schools play a vital role in safeguarding pupil mental health and well-being, which is captured principally by how they carry out their wider duties on the curriculum, behaviour, SEND and safeguarding. Our statutory guidance on these issues sets out how mental health should be factored into what needs to be taught in health education, through to identification of social, emotional and mental health needs as part of the SEND code of practice and information on supporting mental health as part of the *Keeping Children Safe in Education* guidance.

We have also issued non-statutory guidance to support all schools, including academies, to take effective action, including on whole-school approaches to mental health, behaviour and the effective use of school-based counselling. The noble Baroness, Lady Blower, talked about the importance of access to CAMHS for schools and the pupils within them, and the noble Lord, Lord Hunt, placed this discussion in the context of some of the health reforms in the Bill that we took through in the last Session. They are both absolutely right, and I undertake to write to him on the involvement of educational institutions in areas' ICBs and ICPs.

This goes to the heart of saying that setting the academy standards is not the sole route to or the end of the conversation about the importance that the Government place on an issue or the effective intervention we can put in place to support it. A big part of mental health is about investing more money into NHS children's mental health services, as we have done. We have announced an additional £79 million towards that and have invested an additional £70 million to build on existing mental health support in education settings.

Several noble Lords talked about pupils' mental health during the pandemic and its effect on them. Our recent *State of the Nation* report shows that children and young people's well-being is gradually improving from the impacts of the pandemic. That highlights the link between regular school attendance and positive well-being, in demonstrating how critical face-to-face learning is.

Another specific action we are taking is a commitment that was part of the NHS long-term plan to increase the number of mental health support teams in schools and colleges to cover approximately 35% of pupils in England. I believe we are ahead of target on that. This is just to say that we can make standards in this area under the legislation as it is written. We will seek to replicate the standards that exist for academies as they are, but we completely understand the importance of mental health as an issue and this is not the only way in which we will address it.

Amendment 9 brings the welcome opportunity to focus on special educational needs and disability. The Government are just as ambitious for children and young people with SEND as for every other child. Again, I reassure the noble Lord, Lord Addington, that the academy standards regulations will reflect existing requirements on academy trusts, including those on SEND. For example, the Children and Families Act 2014 already requires mainstream schools to use their best endeavours to secure the special educational provision required by a child or young person, and there are provisions in funding agreements that require academy trusts to ensure that their academies meet the needs of individual pupils, including those with special

[Baroness Penn]
educational needs and disability. Academy trusts must also have regard to the special educational needs and disability code of practice, which requires there to be a qualified teacher designated as the special needs co-ordinator in each academy. All these requirements will be reflected in the academy standards regulations.

The Government recently published our SEND and alternative provision Green Paper, which includes a proposal to introduce national standards for the support that should be available for children and young people with SEND. As the noble Lord, Lord Addington, knows, that proposal is currently out for consultation, and responding to that is the best vehicle to progress policy on these important matters. Should the outcome of the consultation determine that new national standards on SEND are required, we would consider including them in the academy standards regulations, as the Bill is drafted.

8.30 pm

Lord Addington (LD): I am trying to get an assurance that there is a way to make sure that, if a new regulation is put forward, it cannot override. It is a pity that the noble Lord, Lord Agnew, is not here, because he helped me deal with an example of this, where a family said, "You don't need to worry about dyslexia because I've got a way that teaches you to read wonderfully." I took a delegation to the noble Lord, Lord Agnew. He put the pressure on Warwickshire and Staffordshire councils, on this occasion, saying, "No, stop it", and it was dropped. If something like that comes in from somewhere, what is the mechanism by which the Bill will make sure that it is still there in law, and that you have at least to go through some hoops and bumps to change it? I am afraid there are small-scale examples of this happening. I do not like having to remind noble Lords of this, because I am sure most people here would not want it to happen, but it has in the past.

Baroness Penn (Con): I hope to assure the noble Lord that those requirements will be written into the academy trust standards. If academy trusts do not meet those standards there will be enforcement mechanisms that they will need to comply with. If there is non-compliance on a specific standard where the trust is otherwise meeting requirements, it is likely that the Secretary of State would issue a compliance direction, which sounds like it might emulate some of the interventions the noble Lord took with my noble friend when he was previously Minister. If a trust failed to comply with a number of standards, or the Secretary of State was satisfied that non-compliance indicated a weakness in the governance or management of the trust, he might issue a notice to improve. The requirement on academies when it comes to special educational needs that is in place at the moment will be replicated in these standards. There will be a mechanism by which to enforce the meeting of those standards.

That takes me on to Amendment 22 on the inclusion of work experience. Again, we do not intend to use the regulations to place any significant new burdens on academies but we will replicate existing requirements in this area. For example, academy trusts must secure independent careers guidance for year 8 to year 13 pupils and have regard to the underpinning statutory guidance, which makes it clear that secondary schools and colleges should follow the Gatsby benchmarks of good career guidance and offer work experience placements as part of their careers strategy for all pupils. As the noble Lord will know, the Education (Careers Guidance in Schools) Act 2022, due to be commenced in September, will extend the duty to secure independent careers guidance to all academy schools and alternative provision academies, and bring year 7 pupils into scope for the first time. That will be replicated and, as I explained to the noble Lord, Lord Addington, there is also a mechanism to ensure that those standards are met and enforced.

Finally, I completely agree with the noble Lord, Lord Addington, on the importance of extracurricular activities. It is not our intention to go beyond the existing requirements on schools. For many of those activities, the school is best placed to design activities that meet the needs of its pupils and, to address the amendment from the noble Baroness, Lady Bennett, situate them in its community. On the noble Baroness's Amendment 21A, there is already provision in the funding agreement that requires academy trusts to ensure that each of its academies is at the heart of its community, promoting community cohesion and sharing facilities with other schools, other educational institutions and the wider community. It is our intention to reflect that in the academy standards when they are developed.

Baroness Bennett of Manor Castle (GP): Could the Minister address the point I made about democracy within schools and pupils having a say about their own education? If she is not able to do so now, will she do so later?

Baroness Penn (Con): Again, I think that would be something that would not be set out in the academy standards but would be best developed by schools themselves. I think I have covered all the points raised in this group, and I hope the noble Baroness will feel able to withdraw Amendment 8.

Baroness Brinton (LD): I am very grateful to noble Lords for their very helpful interventions in this short debate. Rather than go through and respond to each of the contributions made, I want to pick up on what the Minister said earlier: that it is not necessary to put these things—particularly my interest, mental health—into the standard. The problem is that without a framework you are entirely reliant on what happens in regulations or statutory guidance. The noble Lord, Lord Nash, may well remember that during the passage of the Children and Families Bill we negotiated for some considerable time over the statutory guidance for children with medical conditions. Many schools said to me afterwards that they were very grateful for that, but, even more, parents of children with long-term medical conditions and the charities that supported them were delighted that for the first time the law said that a head teacher could not gainsay a medical professional. Unfortunately, three years ago the Government rewrote that statutory guidance and all the points have now become advice for a head teacher to consider. The power that is still in the Act—there is a section that says "must follow the health guidance"—has now gone in

the statutory guidance, and Parliament was completely unaware of it. I warn the Minister that I will be tabling an amendment because it also affects the out-of-school attendance register and various other issues that we will come to later on.

We are back to the big strategic debate about what the Bill is about. To say that we do not need to worry and that it is not necessary to put it in because we will fill that in later places us in exactly the same debate as in the health Bill. On the SEND stuff, we should be waiting until the SEND consultation is back and the Government decide what they want to do because we should not have a new education system left blank for filling in on things as important as SEND and mental health.

On mental health, I take issue with the noble Baroness, Lady Fox. It is not just an issue about Covid. The stats I cited were all from before Covid. That is why various Governments over the past decade said that something needed to be done, including providing support for teachers in the way that the noble Baroness, Lady Blower, outlined, because what schools need to do—teachers do it brilliantly—is to build resilience, but they now also start to recognise when there are problems, and then the pyramid works to get the few children who need it into specialist support.

Baroness Fox of Buckley (Non-Afl): By way of clarification, I certainly do not think it is a consequence of Covid or lockdown. I was making the point that I assume that they have added to it, but I have been writing about the pathologisation of childhood for decades, since I was a teacher. My concern is about a broader trend toward pathologising childhood and young people's experiences.

Baroness Brinton (LD): I am very grateful to the noble Baroness for that explanation. One of the reasons we need this is to ensure that front-line professionals are able to recognise, understand and support rather than just pathologise, and I think teachers do that excellently, but they need the right framework.

I am also grateful the noble Baroness, Lady Bennett, for her amendment and to the noble Lord, Lord Addington, for his amendment on SEND.

My concerns remain. I hope that I can discuss matters with the Minister between Committee and Report. I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Amendments 9 to 22 not moved.

Amendment 23

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

23: Clause 1, page 2, line 18, at end insert—

"(2A) In setting standards in relation to Academies in respect of subsection (2)(k), the Secretary of State must require that each Academy Trust, and Multi Academy Trust, has at least two parent trustees."

Member's explanatory statement

This is to make mandatory a requirement that all Academy trusts have a minimum of two parent trustees.

Lord Hunt of Kings Heath (Lab): My Lords, in moving my first amendment in this group, I must say that I agreed with the analysis of the noble Baroness, Lady Brinton, of some of the problems we are having in laying amendments to the Bill because of the lack of coherence. In a sense, we could sometimes be accused of being inconsistent, because we are concerned about the Secretary of State having these overweening powers but none the less there are areas in which we think there should be central direction. If only we had a structure that enabled us to put down proper amendments, we would know what the standards were and be able to see whether our ideas would be better in guidance or in a standard.

My series of amendments is about parental involvement; I argue that it ought to be one of the foundations on which all schools operate. I see it as part of a governance structure; you need requirements on all schools to operate in a certain way. I do not think this can just be left to multi-academy trusts to decide. I have no doubt whatever that the more parents who are involved in a school's life, the better it is for the school and the outcomes for the children taught there.

The great organisation Parentkind, which is very much involved in encouraging parental involvement, feels that too often parents are left at the school gate and really not invited by schools to meaningfully participate in their children's education. It has produced a wonderful blueprint for how parents can be more involved in their child's school—attending consultation evenings, responding to surveys, volunteering their time and talents, including on the PTA, and helping in the classroom or becoming a governor or trustee. My amendments seek to introduce some of these elements to see whether I can get a positive response from the Government.

The first, Amendment 23, would ensure that in each academy trust and multi-academy trust there is a minimum of two parent trustees. They clearly play a vital role, and the governing body of every maintained school must be constituted with at least two parent governors. For academies—except those designated as religious—the position is more fluid. The department's model articles of association give academy trusts almost complete flexibility to design the constitution of their board of trustees as they see fit. It has specified that the board must include at least two elected parent trustees. However, a MAT may alternatively include two elected parents on each local governing body. I fail to see why MATs should have that choice. Surely it should be a minimum requirement for parent trustees to be on the board of both the MAT and the local governing body, where there is one.

My Amendment 24 is more strategic. It aims to ensure that

"each Academy Trust, Multi Academy Trust, and each Academy within a Multi Academy Trust, prepares and revises a strategic policy on parental and community engagement at least once every three years."

The importance of effective communication with parents and staff cannot be overestimated. Asking each trust and each academy within a MAT to prepare and revise

"a strategic policy on parental and community engagement at least once every three years"

would be very useful. As a starting point, Parentkind's blueprint would be a very effective template.

[LORD HUNT OF KINGS HEATH]

My Amendment 25 puts forward the important principle that there should be a local governing body for every school within a MAT, on which at least two elected parents must sit, and with a clear scheme of delegation to ensure the local governing body is in the driving seat. At the moment, the MAT board can choose to delegate governance functions to LGBs or other committees that may relate to one or more than one academy.

Work published by the National Governance Association last September showed that only 87% of MAT trustees overall report having a local tier of governance for schools within the MAT. An LSE research paper points out that academies within MATs have no legal identity of their own. It is interesting to reflect on the situation that we now have with those academies within a MAT, when, in the original concept of academies, the stress was all on the freedom of that individual academy. It is almost as if we have moved the whole philosophy without there being any real parliamentary debate or scrutiny, and certainly no legislation.

8.45 pm

I believe that the more power there is within a school itself, the more effective that school is likely to be. It is the same argument that we used for foundation trusts a long time ago, which I believe was absolutely the right argument, although not all my friends did. I think it should be the local governing body that is responsible for ensuring that there is a clear vision for the strategic direction of a school. I pray in aid a report on academies published in February this year by the Institute for Government, which I thought was very balanced. It called for greater clarity about what happens at the centre, and it wanted there to be one system not two, but it also said that there would be real benefit in introducing bottom-up pressure on the system by giving limited legal status back to individual schools. Amendment 39 follows on from that, suggesting that there should be an independent disputes arbitration scheme to

"resolve disputes between a Multi Academy Trust and the local governing bodies of individual Academies within the Multi Academy Trust".

My final amendment, Amendment 26, would further enhance parent involvement by establishing a parent council for each school. Certain local authority-maintained foundation schools already have to establish a parent council, and the board must consult the parent council about its conduct and the carrying out of its powers. The arrangements for the composition, role and support of those parent councils are set out in regulations. In fact, those regulations are perfectly formed, because they were signed off by the then Minister of State in 2007—none other than my noble friend Lord Knight—and very fine regulations they were too.

Setting up a parents council could play a key role in bringing home and school together, ensuring that parents' voices are heard. We know that, when parents are engaged in their child's education, the outcomes for children are better. I think that every school should have one, and restoring power to individual schools, better parental participation and effective parental consultation in local, regional and national decision-making would improve educational outcomes for our children. I beg to move.

Lord Shipley (LD): My Lords, I agree very strongly with the case made by the noble Lord, Lord Hunt of Kings Heath, for a governing body in each academy. I want to speak specifically to Amendment 38, which stands in my name and the name of my noble friend Lord Storey. It proposes a new clause after Clause 4 to ensure that there is a governing body for each individual academy, with a clearly defined role for parents and the local authority—and I remind the Committee that I am a vice-president of the Local Government Association—on each governing body.

Members would be, as a minimum,

"the headteacher … at least one person appointed by the proprietor of the Academy … at least one person employed by the proprietor to work at the Academy … elected by those persons employed … to work at that Academy … at least one parent or guardian of a pupil registered at the Academy, elected by the parents and guardians"

and

"at least one person appointed by the local authority in England in which the Academy is located."

That would not be an exhaustive list and it would certainly be essential to ensure that at least one governor was a local employer. We also draw out the need for specific powers to be given to the governing body to apply to the Secretary of State to transfer the academy to a different proprietor, if it was felt necessary to do this in the interests of the school.

As we heard from the noble Lord, Lord Hunt of Kings Heath, other amendments in this group relate to similar matters, such as trustees for each academy trust or multi-academy trust, parental and community engagement, parents' councils and delegated powers for each local governing body to enable them to undertake their duties fully. There is scope for bringing all these separate amendments together on Report because they all share a common objective: of an academy being an effective and important part of a neighbourhood or community.

There is a great danger of a multi-academy trust removing a highly skilled governing body. There is also a danger that such a trust, to cover its own costs, would end up top-slicing schools' budgets and making successful, smaller schools a little less viable. There is another danger: of increasing bureaucracy by preventing senior leaders in a school taking decisions, particularly on the curriculum.

We have heard a difference of opinion about whether multi-academy trusts may be effective in supporting struggling schools to improve. It is my personal view from an anecdotal impression, not having read any of the specific research, that multi-academy trusts have certainly helped struggling schools to improve. But I have not yet worked out why, if all schools in an area which might become a multi-academy trust are already good or outstanding, what the point is of forcing them into such a trust. What is the purpose of that? There are all kinds of examples of trusts operating which are not multi-academy trusts; other forms of trust can operate. I just want to be convinced that there is an advantage in forcing schools which are already successful into a multi-academy trust which could take power and resource from them, and run the risk of turning them into a less effective school.

Baroness Blower (Lab): My Lords, I wish to speak briefly to Amendments 23, 24, 25 and 27, to which I have added my name, and Amendment 26, which, alas, I overlooked but with which I absolutely agree. I declare an interest as a vice-chair of the APPG for Parental Participation in Education. The bulk of these amendments are obviously about the role that parents could and should have in their children's schooling. It simply cannot be right that the voice of parents is absent from the fora in which important decisions are made. These amendments provide the opportunity to fill what I hope the Minister will acknowledge is a gap in the Bill.

Amendment 24 sets out the requirement for community engagement to make sure that it is not overlooked but is indeed strategic and effective, supported by the requirement in Amendment 26 for a parental council, for which I am sure all noble Lords would like to thank my noble friend Lord Knight.

Amendment 25 deals with local governance in the round to ensure that each constituent academy of a MAT has a local governing body, to which at least two parent governors should be elected. This seems to me an absolutely basic and essential requirement because if these things are done without parents, then when we want their help they will feel on the outside rather than being part of what is going on in those schools.

Amendment 27 is crucial to the local dimension of academies in a MAT. I am bound to say—I have some experience of this because it is going on at the moment—that it is all too easy when an individual school or academy is in the process, with a representative of a MAT, of their school possibly being absorbed into that MAT for it to be told in response to a variety of questions: "Yes, of course, that is an individual school decision." That comes in response to a range of things that might be asked by parents or indeed staff. The fact is, however, that it is not clear that it necessarily will be an individual school decision, unless there is some requirement for it to be so.

Amendment 27 sets out the requirement that a multi-academy trust must devolve some responsibilities to the governing bodies of individual academies within the trust. That seems only sensible. We heard earlier from the noble Lord, Lord Agnew, that there was a trust with two schools in Norwich, one with presumably a relatively white demographic and one not too far away that was completely different. The noble Lord said that 25 languages were represented, which suggests a slightly different demographic. So of course, it has to be that some of those things are school-level decisions because the constituent schools are different institutions. It is central that local decision-making and engagement should be carried out by that local governing body.

The responsibilities suggested are all specific and ensure that each school within the MAT has the authority to determine, within its own local context, its strategic direction. The parties involved in a particular school would see these responsibilities as entirely appropriate and better held at the individual institution level. One example in particular is

"the professional autonomy of teachers over curriculum and content".

This is not to say that each individual teacher goes in and does whatever they like; it is about developing curriculum content within the particular context of the school and with other teachers. In a primary school, it would be likely to be the whole school. In a secondary school, it might be at department level. It is logical to protect the professional autonomy of teachers so that they can make choices about curriculum content and, in particular, that they can make some decisions about pedagogy.

Most schools—obviously, I cannot speak for them all—would say that they are proud of their distinctive ethos. It is something all schools say. It is why it was quite appalling that someone once said "bog-standard comprehensive". There is no such thing; there are schools that have differing ethoses. This amendment would ensure that the enhancement of that ethos would be with the local governing body and would be its responsibility—a local governing body, where all the voices of all the stakeholders would be able to be heard. Taken together, the amendments in this group could provide a significant improvement to what we have heard this evening is not, as it stands, a particularly good Bill.

Lord Nash (Con): My Lords, I will comment on the point made by the noble Lord, Lord Shipley, about the benefits for an outstanding school of moving into a multi-academy trust, given that it is already outstanding. One of the biggest benefits for schools in multi-academy trusts is the career development opportunities for teachers. Lots of multi-academy trusts are now run by people who used to run one school and now run a group of schools. They consistently tell me that, although it did not necessarily occur to them when they got involved in MATs, the best benefit was career development opportunities for teachers. They used to lose all their best staff when they ran one school because they had no career pathway for them. Now they can give them career pathways. They can identify their rising stars and move them around. That is a major benefit.

Baroness Blower (Lab): I am very grateful to the noble Lord for giving way. I had the experience of being a teacher from the early 1970s and what the noble Lord describes in a multi-academy trust is exactly what happened in many local authorities. There were many teachers—for example, primary teachers—who did not particularly want to go into management but had a particularly useful skill to spread around. They could be seconded from their school to the local authority to work in lots of different schools, enhance the skills base of their colleagues and perhaps enhance their own leadership skills. I recognise exactly what the noble Lord is saying, but that was entirely possible in local authorities prior to the MAT arrangements.

9 pm

Lord Nash (Con): I do not doubt that, but it is unlikely that in a local authority you would have a person working in one organisation who could be developed thoroughly by that one organisation. You may have people in the local authority who know who their stars are, but they are all in different schools, so I would say that this method is even better.

[Lord Nash]

The other area where multi-academy trusts can greatly help teachers is in their workload, by developing curriculum and teaching resources that teachers can use in the workplace. I am sure that in schools that the noble Baroness, Lady Blower, was involved in there was not a question of everybody doing what they liked but, sadly, if we go back in the school system many years, that was exactly what did happen all too often when every school—if not every classroom—was a little island. There was too much freedom and too many teachers were, frankly, having to develop their curriculum resources from scratch. That is a real challenge for young teachers. One great advantage is teacher development. There are the other advantages, but I would say, therefore, that a school that is outstanding may well have a greater chance of staying outstanding working in a multi-academy trust.

The Marshalled List says that this group has been marshalled additionally in relation to Clauses 5, 6 and 7, so I will now briefly talk about those clauses. I said earlier that I would comment on why a number of individual clauses were unnecessary. Clause 5—

Lord Hunt of Kings Heath (Lab): My Lords, I am sorry to intervene, but is that right? I thought that the Questions that Clauses 5, 6 and 7 stand part were in a further group.

Baroness Penn (Con): I believe that is currently group 9, which we would reach on a future day. Of course, future days' groupings are finalised, before they take place, with those involved.

Lord Nash (Con): Perhaps my noble friend can help me with the fact that Amendments 39A, 39B and 39C are not on this Marshalled List at all.

Baroness Penn (Con): I believe that may be because they have been submitted later in the process. They will go through the grouping process through the usual channels and will be reached for debate in Committee, just not now.

Lord Nash (Con): Then I will defer to the noble Lord, Lord Knight.

Lord Knight of Weymouth (Lab): Only if the noble Lord has finished; I do not mean to interrupt.

This is a really important debate on a very important set of amendments. They are essentially about two issues: parental involvement in the running of schools at a local level and whether every academy should have a local governing body. I see the two as being slightly different issues.

I support Amendment 23, and I probably support Amendments 24 and 26 as well. In thinking about this, I thought it might be worth telling the story of two multi-academy trusts. I know about one only through an article in *Schools Week*, so I therefore do not claim to really know anything about it at all and can only repeat what I have read. The other is the academy trust that I chair.

The Anglian Learning academy trust won the National Governance Association award for outstanding governance this year. I understand that it has 14 schools and its CEO, Jon Culpin, talks about empowering local governing bodies, not fearing them. His approach is that every academy in the trust has a local governing body, and it works very well. My understanding from reading about it is that the MAT board very much looks after the core operational side of the business—the finances and the schools' capital—to take that burden away from the school business managers and heads. The heads then lead the teaching and learning on a school-by-school basis in conjunction with their local governing body. That works very successfully for them, by and large.

In one or two cases, they have had to essentially impose interim executive bodies as a MAT board because they have not been able to appoint local governing bodies, they have struggled to recruit, or there has been a problem. By and large, that has worked very well for them, and that sense of being really clear about where the MAT board adds value, and where a local governing body adds value, is important when thinking about this relationship and this issue around local governing bodies. Of course, parents would have been represented on every one of those 14 local governing bodies.

Long before I was involved in E-ACT, the previous CEO but one inherited the situation where a significant majority of our 28 schools were failing and were in low Ofsted categories—I think that maybe 25% were not. It was in a pretty poor state, academically as well as financially. I am sure that it was bleeping very largely on the radar of the noble Lord, Lord Nash, when he was the Academies Minister at the time. At that point, it had local governing bodies in each of the schools. However, the decision was made by the then CEO to remove all those local governing bodies because he had to make a lot of difficult decisions very quickly to turn around the finances of the organisation and the educational performance of the schools. As a result, we currently have no local governing bodies and I am effectively—in legal terms—the chair of governors of 28 schools. That is quite a considerable pro bono burden on my time, as counsel any Members of your Lordships' House who are thinking of doing this. I get all sorts of letters from Ofsted and the department on all sorts of things about which, frankly, it is very difficult for me to know exactly what is going on, because they are about individual schools. I do not think that this situation is ideal either.

We have local ambassador groups in each of the 28 schools. The latest version of the academies handbook is encouraging us further around parental involvement and hearing from every one of those local ambassador groups if we do not have parental trustees on the trust board. I perceive quite an encouragement from the department for us to do that. In the next round of recruiting trustees, I am very keen that we should recruit parental trustees. This is why, in the end, I support Amendment 23 and have put my name to it. This is probably an issue for the articles of association—the department can then advise us on how they should be updated—rather than standards in the Bill. Nevertheless, that is a technicality, and it has allowed us to have this debate.

One of the other problems that exists when you have a large, geographically dispersed MAT, like this one, is that the trust board cannot possibly know all the details about what is happening in all 28 of those schools and communities. Therefore, it must delegate quite a lot of governance function to the executive leadership team, and there is a danger that they are then marking their own homework on some of the decisions they are making. That is another difficulty and tension within the system as it is currently constructed.

One of the things we are doing in my particular MAT is commissioning an independent external review of governance to see how we can resolve some of these tensions. I hope that we can do this. I do not want to anticipate how that will end up, but I want to ensure that we end up with better local intelligence at a board level about what is going on, so that we are cognisant of the culture and the views of parents. When I last visited our two academies in Sheffield, I had a great meeting with our ambassador groups; they are all parents, and I had great feedback and input from them around what was going on in those two schools. In the end, however, I do not think it is quite enough.

Does that mean that I think that we should impose local governing bodies on every single school, even though I agree that it is perfectly reasonable to have two trustees who are parents on the main trust board? If they were local governing bodies, they would have to have two parental trustees on each one, so to aggregate that up to two out of 28 does not seem unreasonable. However, I do not, in the end, agree that we should impose local governing bodies in every case. There are circumstances, such as the one that happened at E-ACT some time ago, where we might want to be able to impose things while we turn things around and sort problems out, and then, hopefully, have the maturity and the reflection to decide, "Okay, we now have everything running well"—as, by and large, we do at E-ACT—"and now might be the time for us to re-empower schools and re-empower governance at a local level." However, I am not sure that a blanket approach is appropriate. It is appropriate for the MAT board and the central MAT team, particularly around the educational activity in schools, to have more of an attitude that they are servants of the schools and not the masters of the schools—culturally, that is better—but there are other operational aspects where we want to be the masters, because in the end we can move resources around and sort things out. It is going to be different on a case-by-case basis.

So, in the end, my counsel to your Lordships is not to go with the imposition of every academy having to have a local governing body, but to ensure that we have better parental representation across the piece than we might have at the moment.

Lord Davies of Brixton (Lab): My Lords, I support these amendments. I have just one narrow point I wish to add. One thing that is lacking and to me seems essential is some reference to school students and their participation in the governance of their schools. To me, the case for those over voting age is unanswerable: they can vote in a national election, but they have no right to participate in the governance of the institution to which they belong. Given that the Labour Party's policy is, I think, votes at 16, I would make the case that school students from age 16 should have a statutory right to participate in governance. I would even suggest that there is some scope for clear guidance to involve even younger children. I believe that there is some interesting work done in many primary schools now where the children are involved. Unfortunately, I missed the boat on making this specific point in an amendment, but I am sure that this issue that will return on Report and I hope that, at that stage, some reference to school students could be included.

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to follow the noble Lord, Lord Davies of Brixton—indeed, he picked up on a point that was in my Amendment 21A about the involvement of pupils, and the follow-up question I asked the Minister. Perhaps we can work on that amendment on Report, because it is crucial and I do not think we have to keep it to voting age, or even 16. At some level, pupils should have a say in their education if we operate in a democracy.

I am aware that the noble Lord, Lord Nash, is not currently in his place, but I feel strongly that I need to respond to what he said about stars in education and star teachers. Underlying that is a real concern about importing traditional private sector approaches that have seen some executive head teachers receiving extremely high levels of pay. What we have to acknowledge, particularly in an educational setting, is that, ultimately, we are talking about a teacher who should be part of a team of teachers working together. Every teacher has something to offer and the idea that we hold up some people as stars and everyone else just has to follow what they do is a deeply damaging approach to education.

I also note the point the noble Lord made about curriculum resources. Of course we do not want every teacher to have to start from scratch, but there is also grave concern that this Bill talks about multi-academy trusts as proprietors. By law, they are not for profit, but if they are very large institutions buying curriculum resources and other supplies from commercial suppliers, we really have some questions to ask about where value for money and the right approach to public service are in that kind of structure.

9.15 pm

To respond to the noble Lord, Lord Knight, it is great to have parent governors on multi-academy trusts, but I suggest that the same problem you might have as a head of a multi-academy trust also applies to a couple of parent governors. With its geographical diversity, how on earth do those parent governors really represent every school and part of that broader trust? That is why I attached my name to Amendment 25 in the name of the noble Lord, Lord Hunt of Kings Heath, also backed by the noble Baroness, Lady Blower.

This debate has really convinced me that Amendments 24 to 27 inclusive are a complete set that we need in the Bill. While I do not agree with everything about the structure, Amendment 38 and its inclusion of the local authority is crucial. My Amendment 21A would have been better in this group; I will not repeat all the arguments I made on it about schools being civic institutions and part of their communities, but I set out in that amendment that that should be the general standard. How that standard is delivered is in these amendments.

Baroness Chapman of Darlington (Lab): This set of amendments is quite close to my heart. I think most of us here will have served as parent or community governors or on governing bodies in some form or another. I do not think any of us has rose-tinted glasses about the experience; it is not always a fulcrum of democratic engagement enabling parents to make change. That is not quite my experience, anyway. However, it is a formalised way of enshrining the power of parents in decision-making. Echoing what my noble friend Lord Hunt said about Parentkind and the initiatives it proposes, which I absolutely support, we need both: a way of having the formalised power of parents alongside the broader engagement initiatives. I agree with what the noble Baroness, Lady Bennett, just said about her Amendment 21A being entirely complementary to these amendments. This is worthy of the Government giving it some thought and coming back with their own suggestions of how it ought to be done. I have a lot of time for what my noble friend Lord Knight said about avoiding being too prescriptive, but perhaps there ought to be some mechanism whereby schools can decide how they want to go about this task of ensuring that parents are properly represented, empowered, engaged and involved in their children's education.

There is much evidence that parental engagement is better for all children, not just the children of the parents taking part. It is vital for community confidence in schools. When a school has been through a difficult time—perhaps it has been forced to academise or change its name—community confidence is often the first thing to go. That affects admissions and many different things. The more we can encourage schools, and in some cases compel them, to take steps to improve relationships with the wider community, specifically through parents, the better.

We support the idea of parent councils. We are very warm to that idea. Reflecting on what my noble friend Lord Hunt said about trusts in the NHS, I remember an old friend of mine, Alan Milburn, talking to me about this at the time. I thought it sounded fantastic, but now I question just how effective those mechanisms are on a day-to-day basis. They are important to have, but they work well only alongside a raft of other measures around patient involvement, effective complaints procedures and networks in the local community around specific conditions. The two need to go hand in hand.

So we do not look at this with a backward-facing "Let's recreate something that's existed in every school historically". It is about taking the best of what we have perhaps lost in some situations and adding different ways of engaging parents—there are now quite forward-looking, innovative and creative ways, using technology—to make sure that you do not just get the parents who would probably be most engaged anyway but get parental engagement that is representative of the wider community. I think we all want to make sure that we get that right.

I do not think the Minister is about to stand up and say, "Yes, we accept these amendments"; she is probably going to say that she does not think they are necessary or that there are other ways of going about it. But it would be good if she could come back at some point and explain how the Government are going to encourage or compel—however they want to do it—to make sure that all schools, whatever their governance status, can benefit from the value that can be gained from the really effective involvement of parents.

Baroness Barran (Con): I thank all noble Lords for their amendments relating to trust governance structures, parental representation and engagement, and the definition of "parent" in the Bill.

Amendments 23, 24 and 25, in the names of the noble Lord, Lord Hunt of Kings Heath, and the noble Baroness, Lady Blower, seek to secure the position of parental representation in the trust governance structures at both trust board and local level, and to have a strategic plan for parental and stakeholder engagement. Amendment 25, in the name of the noble Lord, Lord Hunt, also seeks to mandate local governing bodies in all trusts. I would like to cover this point first by saying that the schools White Paper sets out the department's view that all trusts should have local governance arrangements for their schools. To respond to the query from the noble Baroness, Lady Chapman, about how I was going to deal with this point, we have committed in the White Paper to working with the sector over the summer as the best way to implement this.

Moving on to the amendments pertaining to parental involvement, I reassure the House that it is already our position that all trusts should have a minimum of two parents in their governance structure, as the noble Lord, Lord Knight, pointed out. Amendment 26 continues with a focus on parental engagement in the form of mandating all trusts and academies to have a parent council and specifying the composition, role and support required. Parental and community engagement serves an extremely important role and can have a large and positive impact on children's learning, as we heard from the noble Baroness, Lady Chapman. An effective scheme of delegation should explain the trust's parental and community engagement arrangements and how these feed into and inform governance at both trust and local level. The department's *Governance Handbook* contains guidance for academy trusts on parental and community engagement.

However, as I said earlier, we believe that trusts are best placed to decide what engagement methods work best in the local context and—to pick up on the point made by the noble Lord, Lord Knight—at different points in the evolution of an individual trust. In addition, the place of parents in the governance of trusts will fall within scope of the planned discussions with the sector about the local tier of governance announced in the schools White Paper, and I am sure that the House would not want to pre-empt the outcome of that discussion at this point.

Amendment 27, in the names of the noble Lord, Lord Hunt, and the noble Baroness, Lady Blower, seeks to ensure that all trusts clearly set out the delegation of powers to their local governing bodies, and that delegation should include ensuring clarity of vision, ethos and strategic direction of the school, holding executive leaders to account, financial performance and ensuring that local voices are heard.

Some of the responsibilities set out in the noble Lord's amendment are core functions of the trust board as the accountable body of the trust, which the board may already choose to delegate to local governing bodies or choose to retain at board level. As such, there is a risk of duplication and some confusion.

Amendment 38, in the names of the noble Lords, Lord Shipley and Lord Storey, introduces a clause similar, as the noble Lord, Lord Shipley, pointed out, to that of the noble Lord, Lord Hunt, and the noble Baroness, Lady Blower, to mandate local governing bodies, while also including membership and specific powers of the local governing body.

I would like to address both amendments by referring to my previous comments that we will be holding discussions with the sector on local governance arrangements and that we do not want to pre-empt those discussions by introducing requirements concerning local governance arrangements at this point.

The noble Lord, Lord Hunt, and the noble Baroness, Lady Blower, have introduced Amendment 39 to mandate the establishment of an independent scheme of arbitration to resolve disputes between a multi-academy trust and the local governing bodies of individual academies within the trust. It is far from clear that it would be a proportionate and good use of public funds to set up a formal scheme, and we would want to discuss with the sector how local governance arrangements could be effective.

I thank the noble Baronesses, Lady Chapman and Lady Wilcox, for their Amendment 52, which seeks to ensure that references to "parents" in the Bill also include different kinds of legal guardian. We agree that this is an important point, and I am pleased to say that this is already captured within the Bill. The majority of references to "parent" in the Bill are in Parts 1 and 2. Clauses 31 and 46 state:

> "Other words and expressions used in this Part have the same meanings as in the Education Act 1996, unless the context otherwise requires."

I am therefore pleased to say that all references to "parent" in the Bill already include different kinds of legal guardian.

For the reasons set out above, I ask the noble Lord to withdraw his amendment.

Lord Hunt of Kings Heath (Lab): My Lords, this has been a very useful debate. Clearly, I agree with my noble friend that, with parental involvement in school governing bodies, there has perhaps not been a nirvana or golden age where it has always worked perfectly. School governance can be quirky; sometimes heads have far too much control and basically appoint their own governing body, and we have seen the problems that arise from that. However, I think there is a general consensus that getting parents involved in schools is a good thing per se. There are various mechanisms under which you can do that. Parent councils is a very good idea, and I would like to see that further encouraged. However, it is important to have statutory representation, if you like, of elected parent governors on the board of a maintained school or of an academy trust.

When it comes to multi-academy trusts, I still fail to see why it should be optional, in that if you have two parent governors on the multi-academy trust board, you do not then have to have the same representation on local governing bodies, and vice versa. That should be changed. Where you have a multi-academy trust, both the multi-academy trust board and the local governing body ought to have parent governors. However, I am sure that we will find a consensus on that on Report.

When it comes to the relationship between multi-academy trusts and local governing bodies where they are the individual trusts within a MAT, that is obviously a much more difficult issue where we do not have complete consensus. Here, the absence of a way forward for MATs is a big problem for us in trying to decide what is the best way through. In her response the noble Baroness said that obviously this is work that is taking place and that we must not pre-empt the outcome of discussions. I could not help thinking that, unfortunately, the Bill pre-empts the outcome of the discussions, which is why we are having this difficulty at the moment.

However, in principle, it is right that every local school has some kind of governance body. My noble friend Lady Blower is absolutely right: the local school needs ownership of the core decisions. I accept what she says about the need for interventions but, harking back to my health experience, I would say that we have boards until the cows come home but quick interventions can be made. It is really important that, when a parent goes to the school, they know that the people in charge are there, and that includes governance, as much as possible.

Also, we have to sort out this problem of what an academy trust does if it wants to leave a MAT. I heard the noble Lord, Lord Nash, arguing that an outstanding academy trust can go into a MAT and gain great advantage from it, but what happens if it is not going well? Can that outstanding trust leave? At the moment the answer is no, because it has no legal entity of its own to make that decision.

9.30 pm

Baroness Barran (Con): My Lords, I know that it is unusual to intervene this way round, but just to clarify for the noble Lord, in the schools White Paper we said that we will consult on the exceptional circumstances in which a good school could request that the regulator agrees that it moves to a stronger trust.

Lord Hunt of Kings Heath (Lab): My Lords, I know, but I worry about the "exceptional circumstances" because I do not see why an individual school could not simply opt out if it wanted to, giving due notice. Perhaps we will come back to that on one of our later amendments.

Having said that, this has been a really good debate. I welcome the Minister's constructive response and look forward to further discussions. I beg leave to withdraw my amendment.

Amendment 23 withdrawn.

Amendments 24 to 27A not moved.

Amendment 28

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

28: Clause 1, page 3, line 10, at end insert—

"(9) The Secretary of State must publish—

(a) an annual report on the exercise of the powers under subsection (1), and

(b) an annual impact assessment on the exercise of those powers.

(10) Before exercising the powers under subsection (1), the Secretary of State must consult relevant groups, including parents, teachers and governors, on the use of such regulations."

Member's explanatory statement

This amendment would require the Department for Education to seek the views of groups including parents, teachers and governors on how academy regulations are implemented, and then allow sight and scrutiny of the use of the new powers.

Baroness Wilcox of Newport (Lab): My Lords, this group is another trying to put safeguards around the Secretary of State's powers to set academy standards. In the absence of proper parliamentary scrutiny mechanisms, industrious noble Lords have sought to add their own. My amendment would require the DfE to consult parents, teachers and governors on how the regulations are implemented and then allow sight and scrutiny of the use of the new powers by way of reporting and assessing the impact that use has had.

For such a sweeping change to a crucial area of social policy, we believe that this amendment is proportionate and only right to allow meaningful public scrutiny. If the Secretary of State is overreaching or, equally, not doing enough to intervene in a specific case, it would allow that to become public knowledge and the public, expert stakeholders and parent groups to make the case for change.

My Amendment 83 would subject to the affirmative procedure the Secretary of State's power to give any person they choose responsibility to judge an academy's compliance with standards. Such a large empowerment, with the potential to place all-important judgments with anyone that the Secretary of State wills is surely worth giving Parliament sight of, and anyone involved in the process of proper scrutiny and democratic accountability should have little problem agreeing to the amendments. I thus beg to move.

Lord Hunt of Kings Heath (Lab): My Lords, I strongly welcome my noble friend's amendment. I, along with my noble friend Lady Blower, have a number of other amendments in this area.

I want to encourage the Minister to say something about this. Clearly, she has heard all our concerns about Clauses 1 and 3. I just want to suggest that one way through may be to consider the super-affirmative procedure for dealing with the issue of standards. We debated earlier the issue that even an affirmative instrument allows us only a debate. The advantage of the super-affirmative procedure is that it allows both Houses of Parliament opportunities to comment on proposals for secondary legislation and recommend amendments before orders for affirmative approval are brought forward in their final form. The idea of the super-affirmative procedure is that those orders are implemented in enactments where an exceptionally high degree of scrutiny is thought appropriate—for instance, for the scrutiny of certain items of delegated legislation made or proposed to be made under Henry VIII clauses.

Take my noble friend Lady Chapman's earlier amendment, in which she sought to replicate the standards in relation to independent schools and said that, basically, this would give a much more explicit set of standards to work on. If you combine that with the super-affirmative procedure, you might achieve a greater and more effective way whereby Parliament could scrutinise what the Government seek to do. However, I really do not think that simply having regulations is the way to do it. I urge the Minister to consider this procedure as one way through, because it would give Parliament an opportunity to comment on the draft regulations and the department an opportunity to go away and consider it before coming back with the substantive order. In some ways, this would be a very good way to deal with some of the issues in this Bill.

Baroness Bennett of Manor Castle (GP): My Lords, I rise to speak briefly to Amendment 28 in the name of the noble Baronesses, Lady Chapman and Lady Wilcox, to which I have attached my name.

I agree entirely with what the noble Lord, Lord Hunt, just said. However, what particularly attracted me to this amendment was its reference to

"an annual report on the exercise of the powers … and … an annual impact assessment on the exercise of those powers."

The Minister reassured us a number of times in our debates on earlier groups by saying that "it is not the intention of this Government" to do this or that. The annual review proposed by this amendment would ensure, whatever Government are in power, an assessment of how the law is being used. Given the current powers in that law, many Members who usually sit on the Benches opposite might think that this would be a good idea with a different Government in place.

Lord Addington (LD): My Lords, I rise to speak briefly. This amendment is in the spirit of many of the amendments that were moved before. Basically, we need it to see what is coming and get some opportunity for comment. Is the super-affirmative procedure here the same as that for the amendment I moved earlier? No, but it is another way of skinning this particular cat—if one is allowed to use that expression any more.

We must make sure that Parliament sees this and can interact with the process. That is what we are all arguing about here and what has dominated both Part 1 and Clause 1 of the Bill. If the Government accepted something like this amendment or some combination thereof, they would probably have a much easier time of it and rather less excitement in Committee.

Baroness Blower (Lab): My Lords, given the lateness of the hour, I will comment but briefly. Notwithstanding that some of us on these Benches have found this a difficult Bill to amend in the way we might have wanted, I hope the Minister can see that, by proposing the super-affirmative procedure, we are seeking a way through so that we can improve the Bill, at least from

our perspective, although I hope that, on reflection, the Government might also consider that the Bill will have been improved.

Baroness Barran (Con): My Lords, this group of amendments seeks to apply additional procedural requirements to the use of the powers in Clause 1. I have heard again your Lordships' concerns about the centralisation of power over academies with the Secretary of State but, again, we want to do this so that we have a regulatory system which is more transparent and accountable to Parliament than the one which we currently have.

The noble Lord, Lord Hunt, invites me to consider carefully the super-affirmative procedure. The spirit of the regulations is that they will be subject to the affirmative procedure each time they are laid, allowing Parliament the opportunity to scrutinise, debate, and vote on them. We recognise the importance of consulting representatives from the sector on regulations and, as I have said before, the Government will always undertake a consultation on the regulations prior to them being laid.

The noble Baroness, Lady Bennett, referred to the report and impact assessment on the exercise of the powers. The Secretary of State will of course consider very carefully the likely and actual impact on academy trusts of any standards set out in the regulations.

Turning to Amendment 83, I say that Clause 1 is not designed to increase burdens on academy trusts, and that includes burdens associated with regulatory compliance. Clause 1(7) allows the conferral of the Secretary of State's regulatory functions to another person. It is important that we ensure that the right accountability arrangements are in place. In some cases that will be ensured by Ofsted and Ofqual. It is already the case that the Secretary of State can delegate responsibility for some elements of regulatory compliance, such as in relation to the monitoring of exams and other assessments. The provisions in Clause 1(7) ensure that this can continue to happen under the academy standards framework. I therefore invite the noble Baroness to withdraw her amendment.

Baroness Wilcox of Newport (Lab): The Minister noted that the Government want a more transparent and accountable way forward, but this whole debate has seen strong arguments from all sides of the House, from former Secretaries of State, in direct opposition to this view. I hope that the Minister has been listening, as I am sure that she has, but the story continues, as do the probing amendments and the demystifying of what on earth is going on here, while wanting the central purpose to remain the raising of standards for young people. With that in mind, I beg leave to withdraw my amendment.

Amendment 28 withdrawn.

Clause 1 agreed.

Clause 2: Academy standards: relationship with contractual agreements

Amendment 29 not moved.

House resumed.

House adjourned at 9.44 pm.