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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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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 15 June 2022

3 pm

Prayers—read by the Lord Bishop of Southwark.

Vaccinations
Question

3.06 pm

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what lessons they have learned from the high uptake of Covid-19 vaccinations in the United Kingdom; and what plans they have, if any, to apply similar strategies to increase vaccination rates for other conditions, such as shingles or influenza.

Lord Hunt of Kings Heath (Lab): My Lords, on behalf of the noble Baroness, Lady Greengross, I beg leave to ask the Question standing in my name on the Order Paper.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): We have seen high levels of Covid-19 vaccine uptake by being flexible and innovative in how we get vaccinations into patients' arms and being supported by strong national and targeted communications and community-led initiatives. We have sought to learn lessons from the rollout and the NHS is working collaboratively with partners to design future NHS vaccination services for Covid-19 vaccines and other vaccination and immunisation programmes, considering how we can better use data to improve access to information.

Lord Hunt of Kings Heath (Lab): I am grateful to the Minister. One of lessons of the pandemic was that flu vaccines were given free to people aged between 50 and 64. The Government have said that from next autumn people will have to pay. The Minister will be aware that vaccination rates around the world, particularly in Australia, have increased dramatically. Will he reconsider this policy, given that we need to encourage that age group to have the vaccine?

Lord Kamall (Con): The noble Lord is absolutely right; we have received advice on the flu vaccine and at the moment it is free to those aged 65 and over. The issue, frankly, is balancing resources. A number of people in the system are saying that if you keep mandating vaccines, it means they cannot get on with tackling the elective backlog. On balance, at the moment it seems better to focus on the elective backlog, but UKHSA and others are monitoring the situation very closely.

Baroness Blackwood of North Oxford (Con): My Lords, the whole House will know that the great success of the Covid vaccine's development was not built during the pandemic but over many years of visionary research and investment. What steps are the Government taking to invest in a similar amount of research in next-generation vaccines for things such as cancer and universal flu?

Lord Kamall (Con): My Lords, I thank my noble friend for that question. She will know that we are investing in a number of different areas via NIHR and other research bodies. Those research bodies also welcome applications for research funds in specific areas. We do not necessarily ring-fence that funding, but we ask for applications. One issue we learned about is that there is the potential for future vaccines to cure, or be used as therapeutics for, a wider range of issues. In addition, we are looking at blood tests which can identify far more conditions.

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

Baroness Brinton (LD) [V]: My Lords, the shingles vaccine is available in the UK only to those aged between 70 and 79, whereas in the USA it is automatically available to everyone over 50. NICE data says that shingles is much more prevalent in those with a weakened immune system, yet they are not offered it until they are 70, resulting in severe cases of shingles, possible sight loss and other serious consequences which could have been mitigated by an early vaccine. Can the Minister say when Shingrix, the shingles vaccine suitable for the immunocompromised will be automatically offered to this group of patients?

Lord Kamall (Con): I thank the noble Baroness for that question. I am afraid I will have to write to her with the details.

Lord Clark of Windermere (Lab): My Lords, the country deserves credit for the high level of people coming forward to get vaccinated. As we move forward to the spring booster kicking in on 30 June, will the Government ensure that we maintain the high level of vaccinations? Will every individual who has received a vaccination then receive a letter informing them of their spring booster, either from their GP or the NHS?

Lord Kamall (Con): The noble Lord makes a very important observation about the programme and it is very important that we learn from that. One of the difficult issues was that, quite often, when you publicise the fact that there is a vaccine, a certain number of people come forward but, after that, there is hesitancy in different communities. Sometimes we have to show a bit of humility in Westminster or Whitehall; we are not always the best people to connect with some of those communities—so we have worked with various local community and civil society organisations. There is also innovation: certain places have a jab cab, a bus goes around Merseyside encouraging people to get vaccinated and there is often encouragement to get vaccinated at music festivals, local community festivals, mosques, gurdwaras, temples et cetera.

Lord Framlingham (Con): My Lords, there is widespread and growing concern that vaccinations against Covid-19 may be having a damaging effect on our natural immunity, leading to an increase in diseases such as shingles. Is the Minister aware of this? If he is not, perhaps he ought to make himself so. Could we have a government comment on this?

Lord Kamall (Con): I am afraid I am not aware of the details to which my noble friend refers, but I would be happy if he wrote to me. I will then take that back to my department.

Baroness Merron (Lab): My Lords, more than one in 10 children are not fully protected against measles by the time they start school, and research shows that many parents are unaware that it can lead to serious complications, such as pneumonia and brain inflammation —or, indeed, that it can be fatal. With the major focus on Covid vaccinations over recent years, what assessment has been made of the effect on the uptake of routine vaccinations, including MMR? What steps are being taken to restore any affected vaccination levels?

Lord Kamall (Con): The noble Baroness raises a very important point. We have to recognise that the UK has one of the most comprehensive childhood and adolescent immunisation programmes in the world. We have seven national childhood immunisation programmes, three adolescent programmes and two elderly programmes. Vaccine uptake in the UK remains high overall, but there has been some decline in routine childhood vaccines—so we have been looking at school-based immunisation programmes, some of which were clearly interrupted due to Covid. At the same time, from October to December 2021, the coverage of childhood vaccination programmes actually increased.

Lord Suri (Con): My Lords, it is vital that primary carers help increase the delivery of a structured mass vaccination programme to deal with conditions such as shingles and influenza. Are the Government going to act promptly, given that the fundamentals are in place since Covid-19 has been dealt with?

Lord Kamall (Con): I thank my noble friend for that question. There is a lot of innovation in vaccines. Over the years, we have seen combined vaccinations, and some places have moved away from vaccinations to orals or to not necessarily needing vaccinations at all. I am aware of that, and I would be very happy to write to my noble friend with more details.

The Lord Speaker (Lord McFall of Alcluith): My Lords, we have a virtual contribution from the noble Baroness, Lady Masham of Ilton.

Baroness Masham of Ilton (CB) [V]: My Lords, after having a coronavirus vaccine, for how long will a person remain protected? Do the Government propose a vaccine campaign next winter, and would it be possible to give the coronavirus and flu vaccines alongside each other to save administration and protect communities?

Lord Kamall (Con): This year, what the officials call the "delivery model" is likely to be broadly similar to previous rollouts, with a similar mix of vaccination sites—mass vaccination centres, GP surgeries, pharmacies, hospital hubs, pop-ups et cetera—as well as NHS services. NHS England and NHS Improvement try to emphasise co-administration of Covid-19 vaccines with flu vaccines and other vaccines. At the same time, NHS England, NHS Improvement and MHRA are looking at current guidance to see how we can ensure that we encourage this more.

Baroness Lister of Burtersett (Lab): My Lords, my understanding is that uptake of the Covid vaccine has been much lower among some of the most marginalised communities, reflecting that hesitancy to which the Minister referred. In part, it would appear that this is because of a lack of trust in state institutions. I very much welcome what he said about the deployment of other agencies, but what are the Government doing to build that trust for the future?

Lord Kamall (Con): Indeed, this is a really important point: the essential issue must be trust. As politicians in Westminster or officials in Whitehall, we must all have enough humility to recognise that we may not be able to cut through that. We have been looking at working with a number of different people in those communities and working out what the best message and channels will be. For example, we have spoken to faith leaders in some places. Even though some people may not be of a certain faith—they may be agonistic or atheist—they still respect faith leaders. In other places, we are looking at where people who are vaccine-hesitant go, and whether we can get the message—or even the vaccines—across to them.

Baroness Hayman (CB): My Lords, much of the success of our own vaccine development programme was based on investment in global health over many years. Is the Minister confident that, given the possibility of future pandemics, the research capacity in this country, and our contribution to international agencies such as the Global Fund, will not be prejudiced by the cut in our ODA spending?

Lord Kamall (Con): How we work together globally, learn from each other and co-operate are really important. One of the bits in my portfolio is international relations and, particularly, co-operation on health issues. I have been in G7 and G20 meetings on this. One of the big issues we must all look at is AMR—antimicrobial resistance—and how we can, first, stop the use of antibiotics in both human and animal health and, at the same time, help those countries that use quite a lot to build capacity.

Fire and Rehire

Question

3.17 pm

Asked by ***Lord Woodley***

To ask Her Majesty's Government what steps they are taking to prevent the use of fire and rehire as a negotiating tactic.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, the Government asked ACAS to investigate fire and rehire, and it published guidance in November. The Government have announced their intention to publish a statutory code on fire and rehire in March, and the draft is due to be published for consultation this summer. The code will set out good practice, helping parties to reach a negotiated agreement. In cases of dispute, the code will be admissible in relevant legal proceedings and may result in increased compensation.

Lord Woodley (Lab): My Lords, I welcome the Minister's response. Codes and consultations are helpful but, with respect, they do not go far enough. Ministers, including the Prime Minister, are paying lip service to condemning fire and rehire as an unacceptable practice. However, talk is cheap; we need legislation to stop the many abuses by numerous big-name companies and others. Today I will introduce a Bill banning fire and rehire, except in the most extreme circumstances—the same Bill that the Government so cynically squashed in another place. Therefore, my question to the Minister is simple: will he do the right thing and back my Bill —yes or no?

Lord Callanan (Con): My Lords, we always do the right thing. I realise that it is an easy soundbite for the noble Lord to say "ban fire and rehire", but even he would accept that you cannot ban redundancies, for instance if a company is going bust. You would end up banning the rehiring part of the equation.

Lord Whitty (Lab): My Lords, legislation is useful, and I hope the Minister pursues that course, but in the meantime will the Government look very carefully at giving any new contracts to a firm which engages in such atrocious behaviour?

Lord Callanan (Con): We want to see all companies engaging in responsible employment practice. The UK has an employment record to be proud of. We have one of the lowest unemployment rates in the western world, one of our lowest post-war records—down again yesterday. If you contrast that to many countries in the EU or on the continent, with much less flexible labour markets, the best employment right of all is a job.

The Lord Speaker: My Lords, the noble Lord, Lord Jones of Cheltenham, is making a virtual contribution.

Lord Jones of Cheltenham (LD) [V]: My Lords, I draw attention to my registered interests. Sometimes employment contracts need updating to reflect new legislation. Under current law, if agreement cannot be reached between employer and employee, notice can be given and new contracts offered. Then employees can opt for a tribunal claiming unfair dismissal, but tribunals are taking up to 18 months to determine. What are the Government doing to speed up tribunals?

Lord Callanan (Con): There has been a delay from the pandemic, as in many parts of the public service, but we are doing all we can to make sure that cases are expedited as quickly as possible.

Lord Brooke of Alverthorpe (Lab): The Government promised in their manifesto that there would be an employment Bill. When is it coming?

Lord Callanan (Con): We have said that we will deliver when parliamentary time allows, but there are many other ways of delivering what were manifesto commitments than a formal government employment Bill.

Lord Hamilton of Epsom (Con): My noble friend has pointed out that unemployment levels are at an all-time low, but is he not worried about the rising number of those who are not seeking work?

Lord Callanan (Con): That will depend on the individual circumstances of many people. The pandemic resulted in a number of people reassessing their life choices and if they have decided not to go back into the labour market, I am not sure that is something we can implicitly control. But as I said, we have 600,000 more people in work than before the pandemic and one of the lowest unemployment rates in the western world.

Lord Monks (Lab): My Lords, the Government were right in their condemnation of the disreputable behaviour of P&O Ferries recently, but I also read a lot in the papers about the Government considering introducing a Bill which will make it lawful to replace striking workers with agency workers. I am puzzled about what the difference is between what P&O has done and the kind of thoughts that are obviously alive in Government at present. What is the difference?

Lord Callanan (Con): The difference is very clear. What P&O did is potentially illegal. Investigations into both criminal and civil wrongdoings are ongoing, so I cannot comment on those particular investigations, but if trade unions are considering holding the travelling public to ransom, as many of them are, then it is right that we should look at all available options, and we will do so.

Lord Lennie (Lab): My Lords, British Airways, Accenture, and the DP World-owned P&O Ferries—significant players in the UK economy—have all used fire and rehire to replace their workforce. They have faced down government criticism and the public's disdain. For this to change, legislation is required to outlaw this practice. Will the Government take a lead by bringing forward a definitive code of practice that bans fire and rehire? Further, will the Government commit now to ensuring that companies found to have been using fire and rehire will neither be awarded contracts for any public body nor be allowed to take over provision of public services?

Lord Callanan (Con): I said that we are committed to bringing forward a code and we will consult on it shortly, but as I said in response to the noble Lord, Lord Woodley, it is a complicated area of industrial relations and employment law. I assume that even the Labour Party would accept that we cannot ban redundancy if a company is going bankrupt. Therefore,

[LORD CALLANAN]
by banning fire and rehire we would end up banning the rehiring part of it, which I am sure nobody wants to see.

Lord Hendy (Lab): My Lords, I take the point that banning fire and rehire would be extremely difficult, but what is the objection to regulating it by law?

Lord Callanan (Con): I am grateful to the noble Lord for accepting the point that I am making: it is a complicated area and an outright ban would not be appropriate. Therefore, I assume that he will not support the Bill from his noble friend. However, we are prepared to regulate in this sector, which is why we are talking about introducing a code. That code will have a positive effect and will be able to be taken into account in any industrial tribunal proceedings, potentially resulting in an increase in compensation awarded.

Lord Watts (Lab): My Lords, the Government take credit for the high employment in the UK and compare it with our neighbours in Europe, but if we compare poverty wages in the UK with the EU we find a different situation. Are the Government going to do anything about the poverty wages that exist in this country but are not allowed in other countries in Europe?

Lord Callanan (Con): I am absolutely taking credit, on behalf of the Government, for the record low levels of unemployment. I assume the noble Lord would be arguing something different if the opposite were the case. The minimum wage in the UK was increased by 6.6% to £9.50 an hour earlier this year. We also now have one of the highest minimum wages in western Europe, something else I thought the Labour Party would recognise.

Lord McLoughlin (Con): My Lords, I draw attention to my interest in the register as chairman of Transport for the North. Will the Government, in ensuring that employees get a fair deal, also look at the position of the travelling public getting a fair deal when they are being held to ransom by strikes that are deliberately protracted over a week, which will therefore bring disruption to the travelling network for more than a week, in spite of the fact that the strike days will be only three days and no more?

Lord Callanan (Con): My noble friend makes a very important point. He has long experience of industrial relations. It is almost as if these strikes were specifically designed to make life as inconvenient as possible at some of the worst times of the year for the travelling public. That is unacceptable. They should think again, and I hope the Labour Party will join us in urging the trade unions to think again.

Baroness Blower (Lab): My Lords, clearly the strikes are designed to make sure that those workers who worked extremely hard during the pandemic, and work very hard all the time, achieve decent wages and conditions, but does the Minister agree that, by failing to outlaw fire and rehire as a negotiating tactic, the Government are giving the green light to bad bosses to exploit workers?

Lord Callanan (Con): I am sorry the noble Baroness does not want to join us in condemning the potential strike action on the railways and elsewhere. As I said, we want to see good labour relations and employer-employee relations conducted in a meaningful and contented spirit, which is why we will try to introduce a code that will regulate these matters.

Lord Wigley (PC): My Lords, does the Minister recall an action 20 years ago in the Friction Dynamics factory in Caernarvon—the former Ferodo factory—where the employer had locked out the employees and hired a new workforce? It was taken to an industrial tribunal. The employees and the union won, but they were unable to get any compensation whatever. Can he assure the House that any forthcoming legislation will safeguard against such circumstances?

Lord Callanan (Con): I am not familiar with that particular case; I will certainly look at it. I would be interested to know why they were unable to enforce the order that was made. Perhaps it was because the company went bankrupt, but I do not know; I would have to look at the particular case.

Defibrillators

Question

3.27 pm

Asked by ***Lord Aberdare***

To ask Her Majesty's Government what plans they have to widen the availability of defibrillators in both public and private settings, including schools.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): The Government encourage organisations across England to consider purchasing a defibrillator as part of their first-aid equipment. Many community defibrillators have been provided in public locations, including in shopping centres, through National Lottery funding, community fundraising schemes, workplace funding or by charities. There are now more than 43,000 registered AEDs in England, and from May 2020 the Government have required all contractors refurbishing schools or building new ones through centrally delivered programmes to provide at least one automated external defibrillator, or AED.

Lord Aberdare (CB): My Lords, each year, some 60,000 people in the UK suffer out-of-hospital cardiac arrests. Fewer than one in 10 survive and every minute of delay in receiving defibrillation reduces their survival chances by 10%. I recently attended a drop-in event to introduce the world's first personal defibrillator, which is around 1/10th of the size, weight and price of current models and actually fits in my jacket pocket. Have the Government considered how development such as this might affect their approach to widening access to defibrillators? Will the Minister agree to meet me and leading resuscitation organisations to

discuss ways of increasing access to and awareness of defibrillators in schools, workplaces, sports locations and even homes?

Lord Kamall (Con): I thank the noble for raising the issue of this particular defibrillator. I am personally not aware of it, but I would be very happy if the noble Lord would send me more information on it—it sounds just up my street when it comes to innovation, as it were. We are working across the UK, with different sectors. In some ways, it is almost like a channel marketing campaign. How do we get defibrillators out to as many locations as possible? There is the Circuit and the National Defibrillator Database, and there will be an app that will allow people to find their nearest defibrillator. We are working with schools, educational institutions, sports grounds, transport, the Health and Safety Executive, the British Heart Foundation, Resuscitation Council UK and other partners.

Baroness Chisholm of Owlpen (Con): My Lords, I welcome the fact that there is a rise in the number of defibrillators across the country, but one of the problems is that a lot of people do not realise where they are located, particularly the emergency services and indeed the general public. My noble friend mentioned the national defibrillator network, known as the Circuit, but a lot of people are not aware of this—this is where outlets can register where their defibrillator is and the general public can find out where a defibrillator is when they need them. Is there some way that the department can raise the awareness of the Circuit so that more people are able to use it?

Lord Kamall (Con): My noble friend raises a very important point, in her usual assertive manner. The British Heart Foundation, in partnership with Resuscitation Council UK, the Association of Ambulance Chief Executives and the NHS, has set up the Circuit, which is now live in 13 to 14 ambulance services across England, Scotland, Wales and Northern Ireland. In January this year, the BHF launched a website that will assist members of the public to locate defibrillators; it is also looking at apps so that people can find out where defibrillators are. We recognise that in some places people themselves are putting in their own defibrillators and we are trying to make sure that they are aware that they should be feeding into the Circuit, so that more people are aware of where they are.

Lord Mackenzie of Framwellgate (Non-Afl): My Lords, if I may slightly broaden the Question, the Minister will be aware of the increasing difficulties caused by a lengthening of ambulance response times. This makes first aid at the point where the patient is located even more imperative. Could the Minister say what steps the Government are taking to increase training in first aid, and also whether introductory classes in first aid are given in schools?

Lord Kamall (Con): Clearly, one thing is making sure the defibrillators are there and people know how to use them, but also, as the noble Lord rightly says, they should be educated in CPR and resuscitation. All state-funded schools in England are required to teach first aid, including CPR. Those requirements came in in 2020. To support schools further, the department's teacher training modules cover all the teacher requirements in that. We are looking at how we roll that out further. As the noble Lord rightly acknowledges, it is all very well having defibrillators, but people have to use them and we also want to make sure we raise awareness of CPR.

The Lord Speaker (Lord McFall of Alcluith): My Lords, I call the noble Baroness, Lady Brinton.

Baroness Brinton (LD) [V]: My Lords, 12-year-old Oliver King died suddenly of sudden arrhythmic death syndrome, a condition that kills 12 young people under 35 every week. The Oliver King Foundation has been campaigning for a defibrillator in every school. Last September, the Secretary of State for Education said this should happen. The DfE has been working with the NHS to make this possible, but the NHS Supply Chain website says that, in December last year, only 3,200 were advantageously procured for schools to then purchase. Can I ask the Minister: is the NHS expanding its procurement to enable all 22,000 schools to be able to purchase defibrillators now and not just when the school is rebuilt?

Lord Kamall (Con): The noble Baroness raises an important point: while we require defibrillators to be purchased when a school is refurbished or built, one of the things we are looking at is how we can retrofit this policy. We are talking to different charity partners about the most appropriate way to do this. What we have to recognise is that it is not just the state that can do this; there are many civil society organisations and local charities that are willing to step up and be partners with us, and we are talking to all of them.

Baroness Finlay of Llandaff (CB): My Lords, I declare that I am patron of CRY, a charity that looks at cardiac arrest in the young. Of the 270 children who die each year, 75% of them would still be alive if a defibrillator had been readily available. Do the Government recognise that, as well as having a defibrillator in a school, one must also be on the sports ground because many of the cardiac arrests occur during athletic activities? Therefore, having only one in a school is inadequate. Will the Government consider asking Ofsted to ensure that there is a defibrillator on every sports ground specifically as well as centrally in every school?

Lord Kamall (Con): As the noble Baroness rightly says, it is important that we get these defibrillators out as widely as possible, including in sports grounds, for the reasons she mentioned. We are looking at how we work with partners in this area; for example, the Premier League announced that it will fund AEDs at thousands of football clubs and in grass-roots sports grounds. Also, Sport England is working with the Football Foundation on this. The defibrillator fund will see AEDs in a number of different sports grounds. We are also looking at other locations and working in conjunction with Sport England and the National Lottery fund. Not only do we have to put defibrillators in place, but people have to know where they are and how to use them.

Lord Geddes (Con): My Lords, in days of old there were defibrillators in your Lordships' House. Are they still there?

Lord Kamall (Con): All I can say is that I hope so. I will try to find out and commit to write to my noble friend.

Baroness Merron (Lab): My Lords, with Travelodge, Tesco and Royal Mail all announcing that they will participate in the British Heart Foundation use training pilot, will the Minister undertake to look at the potential impact of this training on saving lives and work with his ministerial colleagues across government to encourage such training on defibrillator use by other companies, the public sector and other organisations?

Lord Kamall (Con): If noble Lords will excuse the pun, one of the heartening things in answering this is that, when I received briefing on this, it is really important and interesting how we are working across government. It is not only in the Department of Health; we are working with the Department for Transport on transport locations, DCMS on sports grounds, the Department for Education on education settings and other departments. This is really a cross-government initiative.

Lord Polak (Con): My Lords, I was privileged to be at a meeting with Jamie Carragher and Mark King of the Oliver King Foundation and Secretary of State Nadhim Zahawi only a few weeks ago. At that meeting with some senior civil servants, he more than indicated that the Department for Education would be very keen to ensure that defibrillators will be in every single school and will not be waiting for the rebuild that has been mentioned. I urge the Minister to go back to the Department for Education and ensure that this happens. The Oliver King Foundation was founded because Mark King's son, Oliver, passed away at 11 or 12 at a swimming baths in my old school in Liverpool because there was no defibrillator. The point about sports places is right. Can he go back to the Department for Education, get this commitment which I have heard with my own ears and make sure that every school has a defibrillator as soon as possible?

Lord Kamall (Con): I thank my noble friend for his question. I know he has a long-term interest in this area. Of course I will go back to my department and talk about this. The important thing is making sure that we have more locations, that there is awareness and that people are educated in how to use defibrillators and in wider CPR.

Civil Servants: Reduction in Numbers

Question

3.38 pm

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what assessment they have made of the impact of reducing the number of civil servants by 10 per cent on the processing of applications by (1) the Passport Office, (2) the Driver and Vehicle Licensing Agency, and (3) UK Visas and Immigration.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, all departments have been asked to develop options for how we can return the number of civil servants to 2016 levels. As part of this work, departments have been asked to assess the impact of different options on the delivery of public services so that we can make informed decisions and focus resources on the right priorities. The work is ongoing in the Home Office and the Department for Transport.

Lord Berkeley (Lab): I am grateful to the Minister for that Answer, but is she aware that at the DVLA delays have risen by 65% in the last year and that the waiting time for a new driving licence is now six months? It takes three hours for British passport holders to get through some of the passport checks at airports to get home and 10 weeks to get a new passport from HM Passport Office. It has taken three months and rising for a friend of mine trying to get a sponsorship scheme from the department of the noble Baroness for someone from Ukraine. Is there not one common thread here—bad management by a monopoly supplier of essential services? Does the Minister agree that, if a private company were providing these services, it would take on more staff to deal with the backlogs? Here we are reducing by 10%. Can she explain why?

Baroness Williams of Trafford (Con): My Lords, there were quite a lot of questions there. I will try and deal with some of them, maybe starting from the noble Lord's first question about driving licences. There are no delays to the online application process for driving licences. The only delay in the driving licence system is for those with additional medical needs, and I understand that was because the PCS union went on strike and that caused a delay. Almost 99% of passports are being delivered in the timeframe of 10 weeks. I cannot remember the noble Lord's final question, but I think I have answered most of it.

Lord Paddick (LD): My Lords, my noble friend Lady Randerson had to wait three and a half months for the renewal of her driving licence after it had expired, apparently because of her title, which does not appear on her driving licence, so I am not sure that it is true to say there are no delays. The highly regarded former head of the National Crime Agency has said she fears Ministers' plans to cut civil servant posts could have a "devastating" impact on tackling serious and organised crime, which includes people smugglers, as the Home Secretary confirmed this afternoon. What impact will these cuts have on the ability of the NCA to tackle people smuggling?

Baroness Williams of Trafford (Con): Again, there are a number of questions there but regarding the noble Baroness, Lady Randerson, I go back to the point I made previously: there are no delays in the production and delivery of driving licences, and passports are

being done in 10 weeks. I listened to my right honourable friend the Home Secretary, because there has been a lot of noise around reductions in the NCA, and she was absolutely clear that there are no reductions in NCA staffing. Anyone who has been involved in a large organisation, as I have, will know that you prioritise areas which need prioritisation and do not do a blanket cut across the piece.

Baroness Watkins of Tavistock (CB): My Lords, the need to change the structure of the Civil Service may be imperative, but I cannot understand why we are going to reduce the number of fast-track graduate entrants next year. Other companies are trying to increase this to increase productivity and influence change. Those at university have had a pretty tough time. Can the Minister confirm that the Government accept this suggestion, or is it still under review?

Baroness Williams of Trafford (Con): I must confess to the noble Baroness that I do not have an up-to-date position on that; I will write to her.

Lord Coaker (Lab): Is the Minister telling the House that, contrary to the experience of the vast majority of people in this country, including people I know, there is no delay in getting passports or in the visa and asylum-seeking system, and that the Government's answer to this situation is to cut staff numbers by 10%? How on earth is that going to help? Will the Minister confirm that, actually, many people are waiting an inordinate amount of time for their passports? The last thing the visa and immigration system needs is more staff cuts.

Baroness Williams of Trafford (Con): I repeat that the areas that need more resource will be provided with it, and the figures I gave on passports within 10 weeks and driving licences are absolutely correct. However, there has to be recognition that new ways of working demand that we look at our workforce and decide how it is best served to deliver for that organisation—for example, in the area of automation.

Baroness McIntosh of Pickering (Con): My Lords, my noble friend has touched on working from home and trying to reach an accommodation with civil servants in this regard. Will she give us an assurance that civil servants who are working from home are not claiming and being paid a London weighting allowance?

Baroness Williams of Trafford (Con): What I can say to my noble friend is that the reductions will be laid out in more detail in due course. I cannot give her an answer, because I suspect that there is not one at this time.

Lord Reid of Cardowan (Lab): Can the Minister provide figures for the effect of the Covid lockdown on passport applications, and of the rise or diminution in Covid lockdown regulations on subsequent passport applications?

Baroness Williams of Trafford (Con): During lockdown, there was a massive diminution in the number of people applying for passports. Last year, we sent out reminders to people that their passports were going to expire. Unfortunately, that did not result in an increased number of passport applications, but we are currently processing 250,000 passports a week.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, may I move to other agencies? At this time of increasing threats, can the Minister give us an absolute assurance that there will be no cuts in the staff of the intelligence agencies?

Baroness Williams of Trafford (Con): The security of our people is the number one priority for this Government, and the security and intelligence agencies will have the resources they need to do their job.

Baroness Foster of Oxton (Con): My Lords, the three bodies that have been mentioned—the Passport Office, DVLA and UK Visas and Immigration—all handle hard-copy sensitive documents. Therefore, on the point my noble friend made about working from home, there would indeed be a problem in that respect. Will the Minister please tell the House what proportion of employees in these three areas are now back in the office and no longer working from home?

Baroness Williams of Trafford (Con): I really do not know the details of those figures, but I can find out for my noble friend.

Baroness McIntosh of Hudnall (Lab): My Lords, the Minister has referred several times to—or implied—an idea of planning the way that Civil Service numbers might be reduced. It is not clear to most of us whether there actually is a plan, but there is a number: 10%. Can she say what the magic of 10% is, and what the significance of 2016 is?

Baroness Williams of Trafford (Con): I think 2016 is when some of those numbers went up. The noble Baroness homes in on the point that planning is vital, and the health of the future workforce and the department's ability to deliver depends on how we do those reductions. I have been involved in some of that work thus far.

Lord Hamilton of Epsom (Con): My Lords, the noble Lord, Lord Berkeley, suggested that the private sector would hire more workers if it was involved in this. Does my noble friend accept that that might well not be true, because the private sector might get more out of existing workers, and it might indeed say that working from home is not acceptable and insist that they work in the office?

Baroness Williams of Trafford (Con): I totally agree with my noble friend.

Lord Brooke of Alverthorpe (Lab): The noble Baroness is on a different planet from citizens' experience in this country of service from both the public and private

[Lord Brooke of Alverthorpe]
sectors. Has she tried trying to get through to British Gas or BT? We wait, wait, wait on the telephone. It is time we had a review of the way public and private services are being handled, and not look simply at cuts but at more efficient operations and the need, perhaps, to employ more people.

Baroness Williams of Trafford (Con): The noble Lord will not recognise this, but he and I are saying a similar thing: we all need to look at our workforces and make sure that they are fit not just for the present but for the future and the development of new technology and processes.

Private Burial Grounds and Cemeteries Bill [HL]

First Reading

3.48 pm

A Bill to make provision for the regulation of private burial grounds and cemeteries.

The Bill was introduced by Baroness Hussein-Ece, read a first time and ordered to be printed.

Employment and Trade Union Rights (Dismissal and Re-engagement) Bill [HL]

First Reading

3.49 pm

A Bill to amend the law relating to workplace information and consultation, employment protection and trade union rights to provide safeguards for workers against dismissal and re-engagement on inferior terms and conditions; and for connected purposes.

Lord Woodley (Lab): My Lords, I declare my interest as a former general secretary of Unite the Union.

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

Motor Vehicles (International Circulation) (Amendment) Order 2022

Motion to Approve

3.49 pm

Moved by ***Baroness Vere of Norbiton***

That the draft Order laid before the House on 11 May be approved.

Relevant document: 2nd Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 13 June.

Motion agreed.

Contracts for Difference (Allocation) and Electricity Market Reform (General) (Amendment) Regulations 2022

Motion to Approve

3.50 pm

Moved by ***Lord Callanan***

That the draft Regulations laid before the House on 11 May be approved. *Considered in Grand Committee on 13 June.*

Motion agreed.

Construction Contracts (England) Exclusion Order 2022

Motion to Approve

3.50 pm

Moved by ***Lord Callanan***

That the draft Order laid before the House on 11 May be approved. *Considered in Grand Committee on 13 June.*

Motion agreed.

Social Security (Special Rules for End of Life) Bill [HL]

Order of Commitment

3.51 pm

Moved by ***Baroness Stedman-Scott***

That the order of commitment of 24 May committing the Bill to a Grand Committee be discharged and the Bill be committed to a Committee of the Whole House.

Motion agreed.

Migration and Economic Development Partnership with Rwanda

Statement

3.51 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I will repeat a Statement given in the other place by my right honourable friend the Home Secretary earlier. The Statement is as follows:

"With permission, I would like to make a Statement about the Government's world-leading migration and economic development partnership with Rwanda.

The British people have repeatedly voted for controlled immigration and the right to secure borders. This is a Government who hear that message, and we are determined to deliver. Last night, we aimed to relocate the first people from our country who arrived here through dangerous and illegal means, including by

small boats. Over the course of this week, many and various claims to prevent relocation have been brought forward. I welcomed the decisions of the Hight Court, the Court of Appeal and the Supreme Court to uphold our right to send the flight. However, following a decision by an out-of-hours judge in the European Court of Human Rights in Strasbourg, minutes before our flight's departure, the final individuals remaining on the flight had their removal directions paused.

I want to make something totally clear: the European Court of Human Rights did not rule that the policy or removals were unlawful; it simply prohibited the removal of three of those on last night's flight. Those prohibitions last for different periods but are not an absolute bar on their transfer to Rwanda. While this decision to intervene was disappointing and surprising given repeated and considered judgments to the contrary in our domestic courts, we remain committed to this policy. These repeated legal barriers are similar to those we experience with other removal flights. We believe that we are fully compliant with our domestic and international obligations, and preparations for the next flight have already begun. Our domestic courts were of the view that the flight last night could go ahead.

The case for our partnership with Rwanda bears repeating. We are a generous and welcoming country, as has been shown time and time again. Over 200,000 people have used safe and legal routes to come to the UK since 2015. Most recently, Britons have opened their hearts and homes to Afghans and Ukrainians. But our capacity to help those most in need is compromised by those who come here illegally and jump the queue because they can afford to pay the people smugglers.

It is illegal, and it is not necessary; they are coming from other safe countries. It is not fair, either on those who play by the rules or on British taxpayers, who have to foot the bill. We cannot keep on spending nearly £5 million a day on hotels. We cannot accept this intolerable pressure on public services and local communities. It makes us less safe, because those who come here illegally do not have proper background checks and because evil people-smuggling gangs use the proceeds of their ill-gotten gains to fund other wicked crimes. It is also lethally dangerous for those who are smuggled. People have drowned at sea, suffocated in lorries and perished crossing deserts.

The humane, decent, moral response to all this is not to stand by and let people drown or be sold into slavery but to stop it. Inaction is not an option—or at least not a morally responsible one. There is a complex, long-standing problem. The global asylum system is broken. Eighty million people are displaced and others are on the move, seeking better economic opportunities. An international problem requires international solutions.

The UK and Rwanda have shown the way forward by working together. This partnership sends a clear message that illegal entry will not be tolerated, while offering a practical, humane way forward for those who arrive in the UK via illegal routes. It has saddened me to see Rwanda so terribly misrepresented and traduced in recent weeks. This is another example of how, all too often, the critics do not know what they are talking about.

Rwanda is a safe and secure country with an excellent track record of supporting asylum seekers. I am proud that we are working together, proud that the UK is investing in Rwanda and helping that great country to thrive, and proud that those who are relocated to Rwanda will have a new opportunity to thrive, too. They will be given generous support, including language skills, vocational training and help with starting a business or finding employment.

It would be wrong to issue a running commentary over ongoing cases but I will say this: this Government will not be deterred from doing the right thing. We will not be put off by inevitable last-minute challenges, nor will we allow mobs to block removals. We will not stand idly by and let organised crime gangs—who are truly despicable, evil people—treat human beings as cargo. We will not accept that we have no right to control our borders. We will do everything necessary to keep this country safe and we will continue our long, proud tradition of helping those in genuine need.

I have met refugees, both abroad and on British soil. I have listened to stories that have chilled my blood and broken my heart. Helping develop safe and legal routes to this country for those who really need them is a core part of my job. I have overseen efforts to bring to the UK thousands of people in genuine need, including from Hong Kong, Syria, Afghanistan and Ukraine. I am the first to say that controlled immigration is good for this country, including immigration by refugees, but we simply have to focus our support on those who most need and deserve it and not on those who have picked the UK as a preferred destination over a safe country such as France. It is no use pretending they are fleeing persecution when they are not.

Our capacity to help is not infinite, and public support for the asylum system will be fatally undermined if we do not act. The critics of the Rwanda partnership have no alternative proposal to deal with uncontrolled immigration. I promise to look carefully at any proposal to reduce illegal entry that the Benches opposite might care to suggest. Meanwhile, the Government want to get on with delivering what the British people want: an immigration system that is firm and fair. I commend this Statement to the House."

3.58 pm

Lord Coaker (Lab): My Lords, I thank the Minister for repeating the Statement. However, I am afraid that the Statement, and the words of the Home Secretary in the House of Commons earlier today, failed to answer any of the serious questions about this shocking policy.

The Home Secretary refused to give any transparency at all to the taxpayer or Parliament around how much taxpayers' money is being spent. She refused to answer questions about whether those intended for yesterday's failed flight included victims of torture or trafficking or people who have fled Afghanistan. The Home Secretary has also refused to confirm her support for the European Convention on Human Rights, which Britain helped to draft and proudly ratified decades ago.

Yesterday, on the day when Ministers were insisting that a flight with fewer than seven asylum seekers would take off, come what may, over 400 people risked their lives to cross the channel. We need serious

[Lord Coaker]
co-operation with our close neighbours in France to take action on the border, and dedicated action against criminal gangs. There is one suggestion for the Minister.

This is not, and never has been, a serious policy or a genuine attempt to get to grips with either of these very real issues. Can the Minister confirm that victims of torture were originally identified to be on yesterday's flight, and that the Home Secretary was aware of that? What screening processes are in place before people are identified for offshoring, including age assessments to prevent children being put on a flight? Can the Minister confirm that a number of people who were due to be on the flight were removed by the Home Office itself because officials knew that there were problems with the cases?

The Home Secretary has made it clear that she considers those fleeing Afghanistan and Ukraine deserving of asylum in the UK. Can the Minister confirm that it is true that yesterday's flight was due to include people who have fled to the UK from Afghanistan? Can she give a guarantee that no person who has fled from Ukraine will be deported by this Government to Rwanda? The Government have failed to do that when asked previously. For those fleeing persecution and danger in Syria, Iran and Iraq, what safe and legal routes are available for them to access? How many people have we taken from those countries in the past year?

On cost and the use of taxpayers' money, the Permanent Secretary refused to sign the policy off because of a lack of evidence that it is value for money. Has any evidence been found, or are officials still telling Ministers that there is no evidence at all that this will work? The Home Secretary has written a £120 million cheque for this policy before it has even started and paid out more than £500,000 for a flight that did not take off. She has refused to answer any questions or give figures for the additional payments that have been promised. How much was Rwanda promised for each of the people who were due to be on yesterday's flight? Why will the Government not share those numbers clearly with us and the taxpayer?

Of course, we need action to tackle dangerous criminal gangs. Of course, a Government have a right to police their borders. However, Ministers know, and ought to be honest, that this policy will not achieve that. If that was a key objective of the Government's decisions, it would not be the case that the National Crime Agency, whose job it is to target criminal gangs, has been asked to draw up 20% staff cuts. There is another idea for the Minister. In answer to MPs, the Home Secretary denied that she has asked the National Crime Agency to make any cuts. Can the Minister confirm that that is the case, and that government policy is that the NCA will not be asked to make any cuts?

Earlier, the Home Secretary herself said that, on this Government's watch, asylum costs "are soaring". Under the current leadership, the number of basic decisions taken by our asylum system has collapsed from 28,000 a year to just 14,000 a year. There is another example of a policy that the Minister could adopt: sorting that out. Why are the Government not dealing with the failures in our system to operate the basic necessities rather than paying a country thousands of miles away to take these decisions for us? How shameful does that make us look around the world?

Can the Minister confirm it is true that the Government are seriously looking to change the law and even leave the European Convention on Human Rights, which the court interprets? We helped to set it up in 1950. We were proud of it, as was every subsequent Prime Minister. Is that what this has come to—saying that we will get rid of the European Convention on Human Rights because we do not like it any more?

Lastly, is this really the image of our country that we want beamed across the world: deportation flights from a guarded RAF base because the policy is so unpopular? There is a better way, with a policy based on humanity and the values that this country holds dear. That is what we should be doing.

Lord Paddick (LD): My Lords, I thank the Minister for repeating the Statement.

The Home Secretary began her Statement by saying:

"The British people have repeatedly voted for controlled immigration".

This Government have dramatically increased immigration into this country, allowing visa-free entry from even more countries while retaining visa-free entry for those from the European Union. The National Audit Office estimates that between 600,000 and 1.2 million illegal immigrants are in the UK. In 2010, there were more than 10,000 removals of those illegally in the UK; in 2021, it was 113. Why are the Government increasing immigration and reducing removals?

The Home Secretary talked about "intolerable pressure" being placed on public services. In 2019, the Government allowed 680,000 economic migrants and foreign students into the country, while the number claiming asylum in the same year was 41,700. Only 6% of all long-term international migrants in 2019 were asylum seekers. How much pressure are asylum seekers placing on the system compared with other migrants?

The Home Secretary said that she welcomed the decision of domestic courts and blamed the European Court of Human Rights for grounding the flight to Rwanda. Reportedly, 130 asylum seekers were issued with notice of removal to Rwanda and the European Court of Human Rights removed three asylum seekers from the plane. Yet the Home Secretary seeks to blame a European judge in Strasbourg. How many asylum seekers won their cases in domestic courts?

The Home Secretary talked about it costing £5 million a day to house asylum seekers. The Rwandan authorities say that it will cost about the same to house a refugee in Rwanda as it does in the UK. Why are the costs so high? It is because since Priti Patel became Home Secretary, the number awaiting a decision on their asylum application, unable to work and reliant on the state has trebled. What will the cost be for those removed to Rwanda compared with those who stay in the UK?

The Home Secretary said that Rwanda was being terribly misrepresented, that it was in fact a safe and secure country with an outstanding record when it comes to supporting asylum seekers, and that those removed to Rwanda will be given generous support,

language training, and help to find jobs and to set up their own businesses. Leaving aside a dozen asylum seekers reportedly having been shot when they protested about conditions in Rwanda, if Rwanda is such a desirable location, how is threatening to remove asylum seekers, and only some asylum seekers, to Rwanda, supposed to deter those crossing the channel?

Some 75% of the people affected by this Government's policy of deporting asylum seekers, based on those crossing the channel whose claims are processed in the UK, are genuine seekers of sanctuary who have the right to settle in the UK under the UN refugee convention. They are vulnerable and traumatised. They are likely to include victims of modern slavery and victims of torture, who are unlikely to reveal the extent of their trauma on arrival in the UK. They are likely to be further traumatised by being removed to Rwanda. A Rwandan government spokesperson said today on Sky News that Rwanda does not have the facilities to care for these kinds of vulnerable asylum seekers. What will happen to these particularly vulnerable asylum seekers? Will they be returned to the UK and, if so, at what cost, both emotionally to the victims, and to the taxpayer?

The UK must take its fair share of asylum seekers and not export our legal and moral responsibilities to Rwanda. In 2020, the UK had six applications for asylum per 10,000 population, while EU countries on average had 11. In 2002, over 84,000 people claimed asylum in the UK and in 2019 it was less than 36,000. The asylum system is broken because this Government broke it. This immoral, impractical and expensive policy is not the answer.

Baroness Williams of Trafford (Con): My Lords, I thank both noble Lords for their comments. They will understand, as I said yesterday, that there are certain things which I cannot say because of ongoing legal challenges, one of which is around costs. However, you cannot put a cost on saving someone's life.

The noble Lord, Lord Coaker, asked me about the convention on human rights. Earlier today, my right honourable friend the Home Secretary confirmed that the Deputy Prime Minister was looking into a Bill of Rights for this country. The noble Lord talked also about action on criminal gangs. I found this interesting because of some of the resistance I encountered during the passage of the Nationality and Borders Bill to tackling some of those problems. I repeat that when it comes to funding for the NCA, the NCA will have the funds that it needs to tackle some of them, and that upstream work is not an either/or, as might have been debated in the other place, but an "as well as". We must do both. We must tackle those criminal gangs upstream and do what we can, but we must also deter the illegal crossings.

The noble Lord also asked me about victims of torture and people being taken off flights. If anyone claims they are a victim of torture, they are taken off their flight so that their claim can be assessed.

The noble Lord also asked about Afghans, Ukrainians and Syrians. Since 2015, we have resettled over 20,000 Syrians through the vulnerable persons resettlement scheme and the vulnerable children's resettlement scheme. We have also been incredibly generous to our Ukrainian friends and through the schemes for Afghans. Afghans really do not need to attempt to cross the channel; they need to apply through the safe and legal routes that we have set up for the Afghan people.

The noble Lord asked about the Permanent Secretary, whose letter to the Home Secretary made it clear that he considers

"that it is regular, proper and feasible"

for the Home Secretary

"to make a judgement to proceed"

with this policy

"in the light of the illegal migration challenge the country is facing."

It is the responsibility of the Permanent Secretary

"as Principal Accounting Officer to ensure that the Department's use of its resources is appropriate and consistent with the requirements set out in Managing Public Money".

The reasons for writing are set out clearly in the published letter.

The noble Lord, Lord Paddick, talked about there being far fewer asylum seekers than migrants. That is absolutely true. We are talking here about controlled migration and people not taking illegal and very risky journeys, across some of the busiest shipping lanes in the world.

Again, vulnerable asylum seekers are part of an ongoing legal challenge, so I cannot answer the noble Lord on that for the time being.

4.12 pm

Lord Pannick (CB): My Lords, I declare an interest as a practising barrister. Yesterday, in rejecting an application to stop the flight to Rwanda, the President of the Supreme Court, the noble and learned Lord, Lord Reed, said:

"In bringing that application, the appellant's lawyers were performing their proper function of ensuring that their clients are not subjected to unlawful treatment at the hands of the Government."

Do the Government agree with that? Will the Minister deprecate the criticisms of barristers and solicitors who have acted for asylum claimants in these proceedings, wherever they have come from?

Baroness Williams of Trafford (Con): The noble Lord knows I am on quite delicate territory, because legal proceedings are ongoing. I repeat the earlier words of my right honourable friend the Home Secretary, who described our legal system as

"the best in the world."

The Lord Bishop of Southwark: My Lords, in response to the Home Office Oral Statement, we on these Benches ask if it is not immoral that those who are to be deported to Rwanda have had no chance to appeal or to reunite with family in Britain. Is it not immoral that they have had no consideration of their asylum claims, recognition of their medical or other needs, or attempts to understand their predicament, given that many are desperate people fleeing unspeakable horrors? Would the Minister welcome the very good work done in parishes up and down the country in support of refugees and asylum seekers—endeavours that are strongly endorsed by these Benches? In the light of the Home

[The Lord Bishop of Southwark]
Secretary's challenge to articulate more clearly alternatives to government policy, I ask the Minister what consideration Her Majesty's Government have given to humanitarian corridors, as practised in France and Italy, and in which churches have played a prominent part.

Baroness Williams of Trafford (Con): My Lords, we had a good discussion on morality yesterday. As I said then, and shall say now, I think it is not moral to not do everything you can to prevent people drowning at sea or being delivered into the hands of criminals; I do not find that moral at all. On alternative humanitarian corridors, we have provided resettlement schemes for our Afghan, Ukrainian, Syrian and Hong Kong friends who are fleeing regimes which put them in danger. They are the sorts of things that we are doing. There are safe and legal routes. It is perfectly legitimate to say that we should widen the safe and legal route so that literally anyone can come here, but we have to tailor our hospitality and our refuge to the people who need it most, and that is what we are doing. However, I will not let this go by without thanking the Church for the work it does in supporting those in need.

Lord Robathan (Con): My Lords—

Viscount Hailsham (Con): My Lords—

Baroness Williams of Trafford (Con): I cannot hear either noble Lord.

Viscount Hailsham (Con): I shall repeat to my noble friend the question that I put to her yesterday to which she did not respond. She responded instead to a question I did not ask, so now I repeat my question: given that the judiciary is going to come to a determined view on the legality of this policy of migration to Rwanda in the near future, is it not right, in accordance with natural justice and fairness, to defer any further flights until the judiciary has come to a considered view on the legality of the Government's policy?

Baroness Williams of Trafford (Con): My Lords, the judiciary has come to a considered view not once, not twice, but three times, and none considered the policy unlawful. My noble friend is correct in what he says about the ECHR and its ruling at 10 pm last night. My right honourable friend the Home Secretary will reflect on that judgment.

Lord Winston (Lab): My Lords, this disgraceful Statement is made more disgusting by the crocodile tears which are shed by the person who is making the Statement and the pseudo call on a kind of democratic decision. Does the Minister not recall that this is reminiscent of another decision made by the British Government? I speak as a British subject, loyal to the Crown, and as a British Jew. I remember very clearly that boats that went to Palestine in the 1940s were turned back under the most cruel circumstances, with the inevitable death of those migrants who were seen to be illegal by the Government. This is a disgraceful example of continuing policy, and it seems to me that the Front Bench should not be sitting there but should be hanging their heads in shame.

Baroness Williams of Trafford (Con): My Lords, I object to pretty much everything that the noble Lord has just said. Using what happened to the Jews in the 1930s and 1940s as a reason to undermine and criticise the Government for everything really diminishes what the Jews went through, so I hope that this House does not deploy that any further. There are no pseudo crocodile tears from me or my right honourable friend the Home Secretary. It is a very desperate situation, and it is a global problem that requires a global response.

Lord Robathan (Con): Can my noble friend tell the House whether there is any truth in the extraordinary story that is currently running in the newspapers that the Democratic Administration of President Biden are negotiating with Spain to take Spanish-speaking illegal migrants from central America away from the United States.? Is that true?

Baroness Williams of Trafford (Con): I must confess to my noble friend that I have read that story but cannot corroborate it.

Baroness Chakrabarti (Lab): My Lords, first, does the Minister agree that the courts yesterday, domestically and in Strasbourg, were dealing with the narrow question of whether people should be sent off pending the substantive consideration and judicial review in July? Secondly, does she agree that, while I was disappointed by courts in London and her side was disappointed by courts in Strasbourg, what we in your Lordships' House do not do is have a go at the referees—the judges—because we happen to be disappointed on a given day? Thirdly, does the Minister, for whom I have enormous respect, agree that the European Convention on Human Rights was drafted in principle by Conservative lawyers as part of Churchill's legacy and that in these difficult times, domestically and in Europe, we should keep faith with the Council of Europe and keep our commitment to the European Convention on Human Rights?

Baroness Williams of Trafford (Con): I would say all yes on all three counts—but on that last point, as I said earlier, I know the Deputy Prime Minister is looking at a Bill of rights, and there is nothing wrong with revisiting things from time to time.

Lord Singh of Wimbledon (CB): My Lords, last week we were given a clear assurance that refugees from Ukraine would not be sent to Rwanda. Does this two-tier system of human rights fit with any sort of concept of equal rights for every human being? While I deeply sympathise with the plight of the Ukrainians, other people are also suffering and all people should have equal human rights.

Secondly, does the Minister agree with the sentiments expressed by all the Bishops of this House in yesterday's *Times* that this policy of sending suffering people—people fleeing for their lives—to Rwanda goes against all the concepts of Christian teachings and, if I may add, the teachings of other faiths too?

Lastly, does she agree that the whole concept of tearing up treaties, such as the Northern Ireland protocol and now the European Convention on Human Rights, makes us look ridiculous in the eyes of the rest of the world?

Baroness Williams of Trafford (Con): The question of tearing up treaties probably goes slightly beyond the purview of today's Statement. As for going against all Christian and other faith teaching, as I said on the question of morality, watching people die because they are paying traffickers and drown in the channel is the most tragic point of all of this. We should do everything that we can to stop it.

Lord Dholakia (LD): My Lords, Rwanda has been mentioned on a number of occasions and we now know the cost involved in detaining people there. Which other countries have been approached for similar arrangements and what has been the refusal rate?

Baroness Williams of Trafford (Con): The noble Lord will understand that I cannot talk about other countries, but I know that other countries are interested in the scheme we have agreed with Rwanda.

Lord Wolfson of Tredegar (Con): My Lords, two points are absolutely clear here when one talks about the rule of law. I declare an interest as a practising barrister. First, I would not like to be identified with several of my clients, with the greatest of respect to them. A lawyer should not be identified personally with the cause for which they are arguing, nor should a lawyer be identified, with the greatest of respect, with the people smugglers engaged in this enterprise.

Secondly, does the Minister agree that the European Court of Human Rights would do itself more favours if, instead of passing orders with no named judge attached to them, just as justice is done in this country by judges whom we can identify, orders of the European court were also in the name of an identified judge?

Baroness Williams of Trafford (Con): I used to be so grateful to have my noble friend beside me. I am now very grateful for his wisdom behind me, and he is absolutely right.

Baroness Lister of Burtersett (Lab): My Lords, the Refugee and Migrant Children's Consortium has expressed grave concern that, because of the Government's flawed approach to age disputes, it is already seeing children who have been detained as adults and issued with a notice of intent to remove them, despite Home Office assurances to the contrary. What steps are being taken to ensure that no unaccompanied asylum-seeking child is wrongly removed as an adult?

Baroness Williams of Trafford (Con): My Lords, my honourable friend Tom Pursglove made clear in the other place that no unaccompanied asylum-seeking child will be sent to Rwanda, and I am sure I repeated it in this House.

Lord Hannay of Chiswick (CB): My Lords, is the Minister familiar with the statement by the United Nations High Commissioner for Refugees, Filippo Grandi—he is, after all, the guardian of the migration convention—that the action by the Government was not in conformity with international law? If that is the case, what right do the Government have to elevate their view of international law above that of the UN High Commissioner for Refugees, whose job is to guard that convention?

Baroness Williams of Trafford (Con): My Lords, we had much discussion about the UNHCR's view of the Nationality and Borders Act. We disagreed. He is perfectly within his rights to say what he did, but we respectfully disagree.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, saying in answer to my noble friend that we are committed to a Bill of rights for this country does not answer the question about the European convention. Britain initiated the European Convention on Human Rights and Winston Churchill was one of its architects. The great advantage of it is that it holds other countries to an international standard. If we are going to ask countries such as Turkey, Hungary and Azerbaijan to adhere to standards, we have to do so as well. To suggest—even to hint—that we will withdraw from the European Convention on Human Rights is an absolute disgrace. If it happens, this country will not be able to show its face in any international fora again.

Baroness Williams of Trafford (Con): My Lords, I did not state that we were going to withdraw; I said that the Deputy Prime Minister was looking at a Bill of rights. All through the passage of the Nationality and Borders Act, we were absolutely clear that that Act complied with the ECHR.

Baroness Hussein-Ece (LD): My Lords, there seems to be a lack of transparency about the whole scheme. I ask the Minister, who knows I have enormous respect for her: what criteria were used to select those asylum seekers to be deported to Rwanda? It has been reported that it is quite random and not based on their circumstances, such as their having been trafficked. The Government and the Minister have emphasised that they want to stop trafficking, so what sense does it make to deport someone who has suffered trafficking and is a victim?

My second question is about how we learned that Britain has agreed to take refugees from Rwanda under the scheme Priti Patel signed up to. What details can the Minister give us about this? How many will be coming here? It seems to be a reciprocal scheme. If Rwanda is such a safe and secure country, why are we taking refugees from Rwanda?

Baroness Williams of Trafford (Con): To answer the noble Baroness's second question first, taking people from Rwanda is to do with problems in the region. It is not deportation, by the way. An awful lot of noble Lords and Members of the other place are calling this deportation but it is not. Deportation is for criminals.

On the criteria, with the exception of unaccompanied asylum-seeking children, any individual who has arrived in the UK through dangerous, illegal and unnecessary routes since 1 January this year may be considered for relocation for Rwanda. Those decisions are taken on a case-by-case basis.

Lord Kirkhope of Harrogate (Con): My noble friend knows my unhappiness with this provision. Indeed, I moved amendments in Committee on the nationality Bill to try to remove offshoring. As a former Immigration Minister, I revealed then that I looked at the possibility of offshoring asylum applications some years ago. After considerable research, I came to the conclusion that it was not a good thing for this country to do.

I am a lawyer, though not in the same league as some of the other speakers today, and my understanding is that someone who claims asylum in a particular country is entitled to the matter being considered by the country in which they claim asylum. In offshoring the whole application, which is not made to the Rwandans but ends up in their hands, how are we complying with the 1951 convention and general international law?

Finally—I am sure that my noble friend will be aware of this—I am most surprised that, once an application has been considered in Rwanda and accepted there, this does not entitle an applicant who initially made that application in the UK to come back to this country. They have to remain in Rwanda, where they have not made any form of application whatever.

Baroness Williams of Trafford (Con): My noble friend refers to the long-standing inadmissibility rule, which states that the asylum seeker should claim asylum in the first safe country.

Viscount Waverley (CB): My Lords, without getting embroiled in the politics of this, I would be grateful if the Minister could say why Rwanda was chosen and, generally, on what terms. If I heard her correctly, three were in question and were part of the legal process last night, so why did the flight not continue in any event?

Have the Rwandans given an assurance that they will not further deport refugees to another country? The Minister spoke about Rwanda being misrepresented and that it supports asylum seekers. Would she care to comment on the fact that Rwanda is looking for the extradition from this country of people associated with the genocide in that country? It has been doing so for a very long time, but the UK is not in any way accommodating that request.

Baroness Williams of Trafford (Con): I will not comment on legal matters. The three that I mentioned were the court applications, not people. Rwanda is a nation of refugees that has known terrible horror, including genocide; it is very sensitive to the plight of refugees. In fact, most of the people whom I spoke to when I was there were themselves refugees from other parts of Africa. At this stage, it is right to let the legal processes take their course. As my right honourable friend the Home Secretary said in another place, she will consider the judgment of last night.

Schools Bill [HL]

Committee (3rd Day)

4.34 pm

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

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, with the leave of the House, I will say a few words following days one and two in Committee on the issues your Lordships raised about the Bill. Your Lordships heard me say that we are listening and that, after hearing concerns during the earlier days in Committee, I am acutely aware of the strength of feeling in the House. Your Lordships are aware that there is a process which is followed after Committee. Noble Lords can be reassured that, when we return to the Bill on Report, I will be able to clarify and confirm the Government's position, having heard the views of the House in Committee. Any such statement will reflect the Government's position, will be subject to usual processes of agreeing policy and will be shared ahead of Report.

Baroness Chapman of Darlington (Lab): I will press the Minister. Should those amendments that she comes back with on Report, which is how I interpret what she has just said, be as substantial as we would hope and expect given our concerns, which I appreciate she says she had heard, would she perhaps consider reconvening the Committee for us to examine those new amendments? We expect that they will substantially alter the way the Bill is currently drafted.

Lord Addington (LD): My Lords, I will just follow up on that. It would be helpful if we could get some clarity on what else is coming through, if not that process. It is not the Minister's fault, but she was given a car crash to drive, and we have now got to where we are. Can we please have a little more consultation about the new form of this Bill?

Lord Knight of Weymouth (Lab): Is the Minister intending to conduct some kind of regulatory review and consultation prior to Report?

Baroness Barran (Con): I am sure all your Lordships understand that the timing and content of what we discuss at Report is a matter that will be agreed with the Chief Whip and through the usual channels. I really cannot say any more on that today.

Lord Baker of Dorking (Con): Does the Minister still intend to have Report in July this year?

Baroness Barran (Con): I repeat to my noble friend that this is not a decision that I can make; it is a decision for the Chief Whip and the usual channels.

Lord Grocott (Lab): My Lords, the specific question my noble friend Lady Chapman asked was about a quite common procedure in this House: if very substantial changes are proposed between Committee and Report, involving large numbers of new clauses et cetera, it is common that a Committee stage should be resumed to consider those precise additions so that the conversation can take place under Committee rules rather than Report rules. I know that the Minister cannot decide on the procedures of the House, but she is—I hope my saying so does not ruin her career—a very accommodating Minister, as far as she is able to be, who does listen to

the House. Having listened to most of the Committee so far myself, it is quite clear that many issues need to be discussed if and when there is some clarification about the content of the Bill. That needs to be discussed in Committee.

Baroness Barran (Con): I am unable to give any more clarification on that point at this stage. I am sorry that I cannot say anymore to your Lordships.

Baroness Blower (Lab): I realise that the Minister is not able to say anything further about the timing with regard to Committee and Report, but could she say anything further in response to my noble friend Lord Knight about regulatory review, leaving aside the question of Report?

Baroness Barran (Con): I have already said at the Dispatch Box that the regulatory review will begin within weeks. I am unable to say anything further about the other stages of the Bill.

Lord Blunkett (Lab): My Lords, may I just try this then with the Minister, who is doing her best in very difficult circumstances? Would she be prepared to talk with the Secretary of State, who is one of the most able members of the Cabinet—that might not mean a lot to others, but I think in this particular case it does—on whether it would be beneficial, not just to the passage of this legislation but to the whole education system, if he were able to see his way to taking time to reach a substantial consensus on the majority of this Bill, which I think we can do, if time were allowed to do so?

Baroness Barran (Con): I am more than happy to commit to taking back the views of the House to the Secretary of State.

Clause 29: Local authorities: power to apply for an Academy order

Amendment 59

Moved by ***The Lord Bishop of Chichester***

59: Clause 29, page 23, line 23, leave out "of its maintained schools" and insert "maintained schools in its area"

Member's explanatory statement

This amendment makes the language in this section consistent with language used elsewhere in legislation relating to maintained schools in a church context.

The Lord Bishop of Chichester: My Lords, I rise to speak on behalf of my colleague, the right reverend Prelate the Bishop of Durham, who regrets that he cannot be here to move the amendments in this group tabled in his name. I declare his interest as chair of the National Society.

Firstly, I shall say a brief word about Amendment 59, which is a small effort to ensure consistency of language used throughout the legislation relating to maintained schools in a church context. The particular amended line in Clause 23 removes the wording that assumes control of all maintained schools and replaces it with language that is applicable in a church context.

On Amendment 64, diocesan boards of education, as set out by Section 8 of the DBE Measure, exist to promote and assist the provision of religious education in church and other schools throughout the diocese. However, they also co-operate with other educational providers in their dioceses and play a vital role. In the right reverend Prelate the Bishop of Durham's own diocese, around 50% of schools are academies. Across the Church of England as a whole, it is about a third of our schools, including secondary schools, and this is growing all the time—working in a range of different kinds of multi-academy trusts. There is a strong and growing diocesan trust in Durham, serving the needs of all the community it serves, working in strong partnership with a range of school-led MATs across the north-east. The joint diocesan board of education for Durham and Newcastle has been crucial to the success in the diocese and has contributed much to serving the whole community.

Amendment 64 requires the consent of the relevant diocesan board of education before seeking an academy order on a school for which it is the religious authority. Consultation with the diocesan boards of education before seeking an academy order is an important step to retain the cohesion that they already help to promote, and to ensure that the governance of schools with a religious character is maintained by the religious authority. DBEs will also be increasingly important as the education system nationalises, which is evident in this Chamber as we discuss questions of adequate funding for rural schools and other issues for which more local insight is invaluable.

Amendment 65 and the consequential Amendments 66, 67, 71, 72, 73 and 74 are intended to reflect the position of the churches as partners in state education. Amendment 65 inserts proposed new Section 3B, which mirrors the power of local authorities in new Section 3A and applies the power to submit applications for an academy order to the religious authority for church schools. The drafting also reflects the expectations of each religious authority before applying the power and accounts for schools with a religious character that do not have a religious authority. This would enable the religious authority, or appropriate religious body, to apply for an academy order in respect of its schools, in line with a strategic plan to enable a fully trust-led system.

This is important because the churches and other religious authorities have a strategic role in the development of the educational landscape. The move towards all schools being in a strong academy trust is not something that can be allowed to happen in an ad hoc or piecemeal way but requires strategic planning and the development of a system that works for all schools concerned. It requires the religious authority to be able to propose strategic change to ensure that none of its schools is isolated or left behind. This will be particularly important as we consider the large number of small schools, often in isolated rural communities, many of which, as we have already heard in previous discussions, are church schools.

4.45 pm

We need to ensure that the religious authority has the ability to seek change for the good of the whole family of schools, not simply on an individual school

[The Lord Bishop of Chichester]
basis. The Church of England and the Roman Catholic Church provide one-third of state schools in England. One reason I believe these are schools that are often sought after by parents is that we have been on the block a long time—more than 200 years—seeking to provide free education for the children of this land. It is essential that those authorities have the same power as outlined for the local authorities, to ensure that they have the ability to function as a strategic partner with the state in this way. I beg to move.

The Duke of Wellington (CB): My Lords, I shall speak to Amendment 60A and I am very grateful to the noble Lord, Lord Lucas, for countersigning it. It is a probing amendment. As the noble Baroness, Lady Morris, who I am pleased to see is in her place, said so correctly last week in Committee, this is a very difficult Bill to amend. My amendment was the only way I could find to stimulate a discussion on the point that I raise in the amendment. What is absolutely clear from the debates at Second Reading and the two days of Committee so far is that this Bill gives very great powers to the Secretary of State over any school that receives funding from the taxpayer. The concern that I and others have is how a number of very specialist schools will be treated in future.

I realise that there are many matters in the White Paper that are not included in the Bill and will probably be in another Bill in the future or in regulations. However, it is stated government policy, as I understand it, that all schools should become academies and all academies should, by 2030, join multi-academy trusts. I am particularly interested in two types of schools which may not fit into this standardised structure. As I said at Second Reading, I am a patron of the King's Maths School. There are four maths schools in England and two more will be launched next year. They are all sponsored by universities and have impressive statistics for numbers of girl students, percentages of students from ethnic minorities and numbers on free school meals, and all the students get into leading universities.

These schools have been a huge success, both academically and socially, and we should have more of them. However, their success comes from their direct and close relationship with the sponsoring university.

I am very grateful to the Minister for two discussions that I have had with her on this matter. As I understand it, the Government's view is that putting a maths school in a multi-academy trust would spread some of this academic excellence around a number of other schools, but I suggest to the Minister that this is not what they maths schools were created for. The country needs, and the Government at that moment—Michael Gove, I think it was—recognised, that we need many more mathematicians and others who wish to study engineering at university. All students at these maths schools do A-levels in maths, further maths and usually physics as well. The ethos of the schools leads to high levels of achievement. If they were to join multi-academy trusts they would certainly lose this ethos and are likely to cease performing at this excellent level.

I therefore ask the Minister to confirm that these maths schools will not be forced, either by the Secretary of State or any other authority, local or otherwise, to join a multi-academy trust without the consent of the governing body and the sponsoring university. These schools have a very special status and an amazing track record.

The other schools referred to in my amendment are the music and dance schools. Of course, they are very different from maths schools. Here I declare an interest, as my wife was, for 10 years, chairman of the Royal Ballet School. There are, I believe, eight schools within the music and dance programme. They are independent but receive taxpayer support under the music and dance scheme. The students are all selected for their talent. They come from diverse backgrounds, and many are from very low-income households. The graduates go on to perform in orchestras and dance in ballet companies all over the world. These schools must retain their independence and they will always need considerable taxpayer support.

The powers being vested in the Secretary of State through the Bill are so great that I hope to receive from the Minister an assurance that these very special and specialist schools will be allowed to retain their present status and will not, by future regulation, be forced into a multi-academy trust. They must remain independent. They must continue to receive taxpayer support directly from the Department for Education.

The Bill appears to be changing, very substantially, the structure of education in England. There may be many schools—more than the ones I have referred to—that will not fit in to the new Department for Education standard structure. My amendment simply seeks to protect the independence of two particular types of school, and I hope the Minister can allay my concerns and give reassurance to specialist schools.

Baroness Morris of Yardley (Lab): My Lords, I support the arguments just made by the noble Duke about maths schools. I am not sure what the Minister will say—maybe she will solve the problem. I am not arguing that they need to be more independent than any others; the argument about the MAT is about the nature of the partnership the school is going into. I value partnerships—they are really important—but I can see the argument that maths schools need different partnerships from other secondary comprehensive schools that might go into MATs.

This is because we are not likely to have a whole host of these maths schools throughout the country. They are few in number, a bit like the music and ballet schools. Whatever you think of them, their aim is to take the most able children in that subject and support them to reach as high a level as possible. We will never aim to have thousands of them, so I worry that, if you make their key partnership in future—if you do not want them to stand by themselves—to be part of a MAT, you give the ownership of that scarce resource to that MAT. Just as we have competition between stand-alone schools, I am absolutely certain, because it exists at the moment, that we will have competition between MATs. They will not all share their resources; they will compete with each other. That is what they are doing now and will do in future. I am just not confident that the competitive environment in which MATs exist—trying to get more kids and the best results—will lead to them sharing the special skills in the maths schools in the way they should.

The maths schools have a different set of partnerships. Unlike the MATs, they have very good relationships with universities and business. Progress-wise, they look up. So I am not fearful that they will fall prey to the problems of standing alone. I do not think they stand alone; they have a different set of relationships in their partnership. To take them out of that partnership and make them a legal part of the ownership of one MAT would make it far more difficult for them to share their skill across a geographical area. I can just bet which MAT they will end up going into—the one that already has the most high-performing children, because it will think that it can use them better than anyone else.

Go for the partnership, as they already have existing ones, but be really wary of treating them the same as any other academy, as they were never set up in that way. I hope that complements what the noble Duke said about independence; the nature of the partnership needs a great deal of thought.

Lord Murphy of Torfaen (Lab): My Lords, I support the right reverend Prelate the Bishop of Durham's amendments, so ably spoken to by the right reverend Prelate the Bishop of Chichester. I do not have an awful lot of experience of academies; we do not have them in Wales. I suppose we are a bit old-fashioned, but the system seems to work quite well. However, I have nothing against them. They were introduced by the Government of which I used to be a member and I wish them well.

It is particularly important that church and state schools should have the same opportunities as academies. There is no reason in this wide world why a Church of England school or a Roman Catholic school—I am a Catholic—should not have the same opportunities as a state school. The right reverend Prelate the Bishop of Chichester rightly referred to the fact that, in England, one in three schools is a church school. Ten per cent of all schools in England are Catholic schools, and 850,000 pupils go to them. Both Church of England and Catholic schools do a tremendous job in very deprived areas all over England—and, indeed, although it does not apply in this debate, in Wales.

There is a very strong case for ensuring that church schools have equal status in the Bill; handbooks and various bits of guidance from the Department for Education are okay, but they are not enough. If there is to be proper equality between church schools and state schools, that has to be recognised in law. Those issues revolve around governance structures, appointments, religious education and collective worship. I know that the Catholic authorities, all dioceses in England and the Catholic Education Service warmly support the amendments spoken to by the right reverend Prelate the Bishop of Chichester, as I do. I wish them well.

5 pm

Baroness Chapman of Darlington (Lab): I should perhaps declare an interest on the amendments moved by the right reverend Prelate the Bishop of Chichester on behalf of the right reverend Prelate the Bishop of Durham, given that my children attend academy schools in the area of that diocese.

We would like to put on record our appreciation for the contribution of the Church of England to education in the country. I think it was very well put that there needs to be a strategic approach. The amendments tabled by the right reverend prelate the Bishop of Durham would better able that to happen, so we are sympathetic to the case that was made.

We were already minded to support Amendment 60, and my noble friend Lady Morris made the case better than I could. The issues highlighted prove that the Bill would have benefitted from some pre-legislative scrutiny.

I was particularly pleased to hear comments about fair access and admissions. Should we be forming a government any time soon, we would probably want to explore that and push it still further.

Given the very solid case that was made by both the noble Duke, the Duke of Wellington, and my noble friend Lady Morris, we would want the Minister to be as sympathetic as she can be in response to these amendments at this stage.

Baroness Penn (Con): My Lords, I will start by responding to Amendments 59, 64 to 67, and 71 to 74 in the name of the right reverend Prelate the Bishop of Durham. I thank the right reverend Prelate the Bishop of Chichester for moving these amendments on his behalf.

I acknowledge the very important role played by churches and other religious bodies in state education. As the right reverend Prelate has said, these amendments relate to powers to support schools to join multi-academy trusts, helping to fulfil the Government's ambition to have all schools in or joining a strong trust by 2030. I welcome the right reverend Prelate's support for that ambition. I understand that, as he said, the purpose of Amendment 59 is to make the language used in Clause 29 consistent with other legislation relating to maintained schools in a church context. However, the existing wording of the clause already captures these particular schools and so this amendment would have no material effect.

Amendment 64 relates to requirements for local authorities to obtain consents before applying for an academy order on behalf of a school with a foundation. The Government understand the desire for the appropriate diocesan authority, as the religious body for a church school, to be among the bodies whose consent is required for an application. However, as drafted, the amendment captures only the diocesan authorities and not religious bodies for other faiths, and the position should be fair for all religious bodies.

The remaining amendments tabled by the right reverend Prelate the Bishop of Durham seek to enable certain religious bodies to apply to the Secretary of State for academy orders in relation to schools for which they are responsible. As I have said, the Government want schools with a religious character to enjoy, like all others, the benefits of being part of a strong academy trust. The Government are sympathetic to the principle of these amendments but further consideration is needed to establish the scope of the religious bodies that could apply for an academy order and the types of maintained school to which it should apply. As drafted, the amendment may not adequately

[Baroness Penn]
capture all the religious bodies involved in maintained schools with a religious character. It may also inadvertently include bodies which are responsible for schools without a religious character.

Although I have set out some concerns relating to Amendments 64, 65, 67 and 71 to 74, the Government understand the intentions behind them and will reflect further on the issues raised by those amendments and the right reverend Prelate.

Turning to Amendment 60A, first, I want to reassure the noble Duke, the Duke of Wellington, on a specific point—though this may be unnecessary, because he said that this was a probing amendment. He will know that music and dance schools are typically independent schools, and that 16 to 19 maths schools are already academies. As such, they will not be affected by this clause. However, it would be wrong to exclude any schools in the maintained sector with a music, dance or maths specialism from the benefits of being part of a strong trust. I recognise the importance of preserving the unique characteristics of specialist schools within a fully trust-led system, as we have heard from the Committee. I can confirm that, in the event that a local authority applied for an academy order in relation to a specialist school, the regional director would have regard to the capacity of the proposed trust to preserve and support that school's specialism. But to be absolutely clear to the noble Duke and the Committee, there are no powers in the Bill that would force an existing academy to join a multi-academy trust, and that might be why he was struggling to amend the Bill to address his concerns.

Baroness Chapman of Darlington (Lab): I am a little confused. In the White Paper, the Government's intention around MATs is quite clear. I think the noble Duke is seeking some assurance that that will not apply to the schools that he is interested in.

Baroness Penn (Con): I absolutely understand that point. I was simply reassuring the noble Duke that within this Bill there are no powers to compel anyone to join a multi-academy trust. It is the Government's vision for every school to be part of a strong trust by 2030. The intention is for the Government to work with academies and to move people with the Government in pursuit of that vision. I was simply saying that there is nothing in the Bill that would compel an academy to join a multi-academy trust. That said, we have consistently seen that schools in multi-academy trusts are stronger together. The collective focus, vision and community creates opportunities, facilitates collaboration, enables resilience and improves educational outcomes.

Lord Addington (LD): I have listened to what the Minister has said, having not joined in on the debate on this amendment before. Are we saying that specialist schools which stand out from the normal run of schools are not expected to join because it goes against their ethos or because they do not fit in terribly well but that it is a jolly good idea if they do? This is a little confusing. We need some clarity before we move on. Effectively, the Government are saying that joining a multi-academy trust is a good idea but that these schools do not have to, but they then say that they want every school to join one. Can the Minister clarify this?

Baroness Penn (Con): We are saying that joining a multi-academy trust is a good idea and that we would like everyone to do it. We are encouraging everyone to do it, but there are no powers within the Bill to compel people. The reason we think it is a good idea is that we have seen that schools in multi-academy trusts are stronger together. Of course, it would be open for such specialist schools to, for example, perhaps form a multi-academy trust with each other. We know that there are many high-performing, stand-alone schools that have the capacity to support other schools within the combined accountability of a MAT model.

Viscount Eccles (Con): I may be wrong, but is there not a route to making it enforceable, or close to enforceable, by way of secondary legislation, given the way in which the Bill is drafted?

Baroness Penn (Con): I sought to confirm the point that was directly raised by the noble Duke about the powers within the Bill, and I have been given the reassurance that there are no powers within the Bill to force an existing academy to join a multi-academy trust. I will seek further, triple reassurance on that point, but I sought clarity on it before addressing this.

The Duke of Wellington (CB): My Lords, I am grateful to the Minister for her various replies. I am not nearly as expert on these matters as the many former Education Ministers who are Members of this House clearly are. Nevertheless, my concern remains that the way the Bill is constructed means there will inevitably be regulations and other secondary legislation coming forward, or indeed even possibly another Bill. I am trying to seek an assurance from the Government that these sorts of schools will never be forced into a multi-academy trust without the consent of their own governing body. In the case of the maths schools, as the noble Baroness, Lady Morris, so rightly put it, each of them has an existing partnership with a university. Therefore should a maths school ever be forced to join a multi-academy trust, or the Government of the day forces one, surely it should not be done without the consent of its own governing body and its sponsoring university.

Baroness Penn (Con): I understand the reassurances that the noble Duke seeks. I reassure him that we understand the unique nature of these schools and we want to see them thrive. We think that is possible within a multi-academy trust model. However, I reassure him that in the Bill before us today there are no clauses or powers that would force an existing academy to join a multi-academy trust. I am afraid it is not possible for me to think about any future Bill that could come before this House. We have a stated policy aim—an ambition—but we have chosen not to put any powers in this Bill to force any academy to join a multi-academy trust. We have been clear that in pursuing that policy aim we want to bring schools and academies with us. That is the approach we would seek to take.

Lord Knight of Weymouth (Lab): My understanding is that the powers in the Bill including ones for single-academy trusts to be subject to all the directions and all the compliance that we discussed on Monday. I believe there is a recent government amendment to make this possible. Therefore, my reading of it would be that the powers are there. If a Secretary of State decides that all single-academy trusts are going to go and they are all going to join multi-academy trusts, the powers are there for them to find reasons to do so and use the powers in the Bill to close down the single-academy trusts, which are then left having to find a home.

Baroness Penn (Con): I take the noble Lord's point. I absolutely reassure him that that is not the intention. I will also go away and double check that there is not the ability to do that under those powers. Given the discussions we have had on those parts of the Bill and our commitment to reflect on them, our discussion on this issue and the reassurance that is being sought will also form part of the discussions.

Viscount Eccles (Con): May I just articulate another problem I have? The noble Baroness used the word "intention". When I think about the summing up and read the summings up in *Hansard,* we have been presented a stream of good intentions. The problem is that I do not think Parliament is at all wise or sensible to live on good intentions; we all know where they can take you. I reiterate that it seems that the scheme of this Bill, broadly speaking, allows the Secretary of State to find a way of imposing the policy that every school should be in a multi-academy trust one way or another. At the moment, that is the position. I am afraid that both the right reverend Prelate and the noble Duke must view the future rather pessimistically.

5.15 pm

Baroness Penn (Con): I was clear about the Government's intention for these powers, which is not to use them to make single academies join a multi-academy trust. I also gave two undertakings in listening to this group in Committee. One is to go away and confirm, on the scope of the powers as drafted in the Bill, that it is not possible to do that, but the other relates to our wider conversations about those parts of the Bill where the Government have already given an undertaking, having heard the views of the Committee, to listen and reflect. My noble friend the Minister started today's Committee by trying to give an assurance to your Lordships that that is what we are doing. Therefore, on this particular question it is important to be clear about the Government's intention, which I hope I now have been, but I will also undertake two further actions, which speak louder than words, both to confirm on the powers as drafted and to reflect on how we have drafted those powers.

Lord Deben (Con): In that spirit, will my noble friend also discover whether the Government have the power to use the money they give to these individual schools in a way which could in fact insist that they become members of a multi-academy trust? My own experience is that the most important thing is to ring-fence the money from the interference of a Secretary of State who would use it to say, "You don't get your money unless you join this", or, "You get more money if you join this." We need that reassurance too.

Baroness Penn (Con): My noble friend's contribution falls within the remit of the undertaking that I have already given to the Committee.

Lord Grocott (Lab): My Lords, to my mind, the various assurances the Minister has given present a further complication. If she is able to give reassurance to the noble Duke about a particular type of school, which is pretty well defined, being able to guarantee its continued independence away from a multi-academy trust, as it were, what does that say to other schools which may have particular characteristics? What is the defining characteristic that distinguishes schools which can remain if they want to from those that cannot?

Baroness Penn (Con): To be clear, the undertaking I gave was around the Bill's powers being used to compel an existing stand-alone academy—the noble Duke gave the example of a specialist maths school but it is not restricted to that—to join a multi-academy trust, not based on any further characteristics of the school. I hope that reassures the noble Lord.

Baroness Chapman of Darlington (Lab): I think the noble Baroness knows what we are getting at here. She has said that she will endeavour to come back with something concrete for us, and that is appreciated. However, reflecting on this, this is not just about requiring these schools to join MATs. The noble Duke has highlighted for us that the powers contained in the Bill could get to the activities of these schools and undermine the essence of them, which my noble friend described. There is nothing in the Bill to protect those schools from that. Previously, my noble friend said that she would quite enjoy the ability to impose standards across all schools, but I do not think she was thinking of these schools when she said that. There is a bigger problem that we have come across here, which the Minister should also attend to.

Baroness Penn (Con): The most successful multi-academy trusts build on the strengths of these types of schools. The intention is to build on the strengths that we see in all sorts of academies, including specialist academies, in building the school system that we want to build in future. That is what is set out in the schools White Paper and what we are trying to deliver and achieve. Looking at and building on the freedoms that those kinds of schools have used to strengthen our education system is the direction of the travel that the Government have set out. We certainly want to continue to support that. We believe that these schools do an excellent job and we want to protect them in future.

I think I have gone as far as I can in setting out my understanding of what the Bill does and in seeking to reassure noble Lords that I will go away, check this point and look at it in the context of the wider concerns about the powers in certain sections of the Bill.

[Baroness Penn]

We heard in the debate about the partnership model that these schools have and their important role in providing outreach to other schools in the local area; indeed, that is part of the model that they have. Although it is our view that they can be part of a successful multi-academy trust, I have none the less given an assurance about our intention behind these powers and an undertaking once again to go away and confirm that point for noble Lords. With that, I hope that the right reverend Prelate will withdraw the amendment for now.

The Lord Bishop of Chichester: My Lords, the amendment in the name of the noble Duke, the Duke of Wellington, has produced far more energy. I have to say, what I think is shared here is a concern that what happens in our schools is not done in a piecemeal, ad hoc way but intentionally. So it is not just about the intention of the powers that are brought but about what their effect will be. Of course, finding that you are alone is a dangerous place to be in a powerful, fast-moving organisational circumstance.

I am grateful to the Minister for her assurance that she is sympathetic to and understands the Church's concerns over church schools. The need for a wider scope for what we had drafted in this amendment will be considered. I beg leave to withdraw the amendment in the name of my right reverend friend the Bishop of Durham.

Amendment 59 withdrawn.

Amendment 60

Moved by ***Baroness Blower***

60: Clause 29, page 23, line 24, at end insert "only with the consent of the governing body that is the subject of the application"

Member's explanatory statement

This amendment ensures that a local authority cannot apply for an Academy order to be made unless it has the consent of the governing body.

Baroness Blower (Lab): My Lords, in moving Amendment 60, perhaps I might be of assistance to the noble Duke, the Duke of Wellington. This amendment specifically says that nothing will be applied for without the consent of a governing body. It seems to me that that this would add to the points made by the noble Duke and to his position.

All the amendments in this group—I have added my name to Amendments 60, 61, 62, 69, 70 and 75—are about consultation. I would have made this point in the earlier debate but, knowing that I would come to it with this amendment, it seemed appropriate to wait. I think that there is a way round this. We could have something in the Bill to preclude the possibility of a school being forced to change its status if the consent of the governing body could not be achieved. It may be that this is a helpful amendment.

I am very grateful to the National Governance Association for all the work that it has done on this. I have been a governor at various schools and have had the pleasure of being a local authority-appointed governor, a staff governor, and a parent governor. These roles are all very important and I continue to believe that membership of the local governing body is an important role which is of value to the institution and the individual. As we have seen, it may be even more important if it is able to protect certain kinds of establishment.

The governing body should both provide the link to the community and be the voice of the community. For that reason, Amendment 60 is important. It is a way of saying that without that voice the status should not be changed. Hitherto, this central role of working with the school but also connecting with the local authority or with other relevant parties is really about how good decision-making should continue.

It appears that the Government's intention is for all schools to be in a MAT. We are not quite sure whether that is genuinely their intention, so let us say that it is not the Government's intention to force anyone, but that it is their intention that all schools should seek to be in a MAT, and that any movement out of the MAT into which a school or a stand-alone academy has been put or finds itself would be only in exceptional circumstances.

The National Governance Association has described that relationship as the possibility of

"marriage with no prospect of divorce."

This may warm the hearts of those who think that divorce should never happen, but divorce does happen. On this basis, it is important that governing bodies should engage with schools and local authorities to make the possibility of an unhappy marriage a distinctly avoidable one. Therefore, the notion that there should be proper consultation with all relevant and interested parties before decisions are made is really important.

The NGA says that governors should consult widely with stakeholders, including staff, parents, pupils—we should note that—and the wider community, on all possible options. That is significant. The NGA is suggesting that the stakeholders should think about what the possibilities are for the institution with which they have been associated. If, ultimately, joining a MAT is required or desirable, it should certainly be one that the school feels is appropriate to its current ethos. That point is made several times by the National Governance Association.

I turn to Amendments 61, 62 and 75. The NGA has some clear and particularly helpful advice on consultation. It says:

"Formal consultation will need to be carried out as part of the official process"

and that:

"Stakeholder engagement is a core governance function and buy-in from the school community will be essential in making a success of any decision to form or join a MAT."

It talks about ensuring therefore that all stakeholders are able to engage properly in that. It makes some suggestions as to how that consultation can be done: staff meetings, engagement with the relevant trade unions, a letter to parents, information on the school website, a question and answer session. Here, the National Governance Association is really talking about the widest possible and, from its point of view, the most effective consultation, to ensure that whatever path is chosen has the biggest possible buy-in, because it must be clear that if that is the case, the way forward for the school is likely to be the most successful.

It also says that a school

"may also wish to set out what it regards as the advantages of joining or forming a MAT".

That is critical. In making this decision, it should be clear why it is being taken. Accepting that particularly the noble Baronesses opposite are enthusiastic to make sure we have a successful system, an individual institution must also explain why it is to its advantage to join a MAT or, as the noble Duke has said, not to join a MAT. There is a lot to be considered here and significant amounts of work for governing bodies to do.

5.30 pm

The purpose of all these amendments is to say that consultations with all the relevant parties are particularly important. The NGA says

"they should be undertaken when proposals for the subject of the consultation are at a formative stage".

I note in passing that this is why I find government Amendment 68 less than helpful, as it suggests that consultation can be done "before"—appropriately—or "after" an application has been made. I am sure all noble Lords agree that, once something looks like a fait accompli, it probably is. Therefore, anything that can properly be said to be consultation should happen before that stage.

The NGA also talks about schools providing enough information to enable anyone to make an intelligent appraisal of what is being put to them and allowing enough time for those consultations to be considered. Obviously 2030 is a long way away, so we have a long time before we end up with a fully MAT-led system, if the Government should manage to bring their vision to fruition. It is critical that sufficient time is made available for each particular change of status.

The NGA further states that

"consultation responses should be specifically considered by the decision-maker when deciding whether or not to implement the proposal".

This brings me back to Amendment 68. It is much more difficult for a body to resile from something on which it has already made a decision than to consult on something in advance of the decision being made. For all the reasons given by the NGA, these amendments seem particularly appropriate.

The National Governance Association highlights timely consultation, which is one of my reasons for saying that Amendment 68 is not taking the right position and is not the most encouraging way to think about how consultations should be done.

I am very enthusiastic about all the other amendments and—this is my first attempt to do this—I beg to move.

Lord Hunt of Kings Heath (Lab): My Lords, it is a great pleasure to follow my noble friend. I have added my name to her Amendments 60, 61 and 75. I have my own Amendment 62, and my Amendments 69 and 70 seek to amend Amendment 68 in the name of the noble Baroness, Lady Barran, on which my noble friend Lady Blower has already spoken.

I very much support what my noble friend said and could not help reflecting on the previous debate, where the argument was about the extent to which this legislation is forcing single academies to join multi-academy trusts. My view is that although the noble Baroness was explicit on this, we do not really need it, because the system is putting so much pressure on individual academies anyway. The combination of the government policy in the White Paper, the regulator, the regional apparatus and what people can see happening is putting tremendous pressure on those schools. I think that this is a really underhand way of doing it; if the Government have a policy, on this or on another Bill, they should be explicit.

The underhand way in which this is all being done reinforces the points we are making in this series of amendments about the importance of governing bodies. What seems to be happening is that all sorts of secretive talks take place between MATs and the heads of the schools that they want to take over, and left out of these discussions are the parents and staff of the individual schools. They are usually presented with a fait accompli. As my noble friend said, this formal consultation stuff is really an attempt to legitimise a decision that the system has clearly already made. Our amendment seeks to put this right.

In addition to the excellent National Governance Association submissions, the work by the LSE and by Professor West and colleagues, which has looked into the governance of academies in detail, is very striking. I draw the Minister's attention to the recent instance of what I regard as high-handed action at Holland Park School. Since March, when staff and parents first learned of the governors' plan to transfer the school to a MAT, they have been seeking dialogue with the governing body to negotiate the involvement of the entire school community in a transparent, accountable consultation. As Ministers know, the school has been through a great deal of turbulence resulting from management changes in the past year or so: the sudden departure of the new head, the imposition of a new governing body and the absence of much of the leadership team for quite lengthy periods. It has clearly been a challenge to maintain a sense of coherence and direction for the children on a day-to-day basis. I have met some of the teachers. I believe that they have worked hard to provide continuity for pupils, but that is put at risk by this kind of unilateral, opaque decision-making and poor communication from the governing body.

This is often reflected up and down the country. The absence of meaningful consultation in the MAT acquisition process is a common theme. There have been numerous examples of high-handed governors ignoring parents and teachers, who have then fought hard to stop the school being taken out of local authority control and turned into an academy or forced to join a multi-academy trust. Public meetings organised by parents and staff, with large attendance, often make it made abundantly clear to the governing body that the larger school community does not want to go down that path, but they are often dismissed by the people making the decisions. Parents, governors, staff and pupils have no official rights to detailed information on the reasons why their school might choose to academise under a particular trust, let alone to have their views taken into account in the process.

As Warwick Mansell has written, the academies policy sees all decision-making as a closed-loop process between central government and academy trusts, with no decision-maker answerable at a local level to the

[Lord Hunt of Kings Heath]
people who depend on the decisions. The comment often made from the Dispatch Box is that we will talk to the academy trust. Once again, we do not hear about maintained schools. Ministers constantly harp on about MATs and point to their achievements—which are many—but they do not point to their defects and they give the sense that maintained schools are second-class entities. I object to that.

The Government's amendment reads:

"Before a maintained school in England is converted into an Academy following an application … the local authority must consult such persons as they think appropriate about whether the conversion should take place."

So, as I read it, it is only after you have made the application decision that the consultation has to take place. My argument is that that is far too late. Once the conversion application has been made, effectively the decision has been taken. Asking the parents what they think about it then is, frankly, a waste of time. Seeing the noble Baroness, Lady Shephard, here reminds me of health service consultations, which she will know about over many years: you make a decision and then you put out a consultation. My noble friend Lord Winston will also know about the way that the health service does consultations: you make the decision, you consult on it and then you reach the view that the original decision was right in the first place. For me, that is what the amendment is talking about.

Essentially, with the combination of our amendments we seek to ensure that a consultation must be comprehensive and in a timely fashion with the parents and staff of the school that is subject to the application. As my noble friend said, we are entitled to have it shown how the proposal will benefit children's education and, most importantly, what alternatives have been considered. I do not think that is at all unreasonable. If the Government are asking us to believe that this is all going to happen by a process of gradual change rather than mandation, I would have thought they would welcome a proper process of parent and staff involvement.

Baroness Bennett of Manor Castle (GP): My Lords, I shall speak to Amendment 75, in the names of the noble Baroness, Lady Blower, and the noble Lord, Lord Hunt of Kings Heath. It is a great pleasure to follow the noble Lord, and I agree with pretty well everything that he said. I shall build on it with a practical example.

Amendment 75 says that consultation with parents and staff has to happen before the application to join a MAT. I entirely agree with what the noble Lord just said about the problems with the government amendment. Across many fields of government, not just the health service, the term "consultation" now has an extremely bad odour. That is something that really needs to change, or we need to find a new word or a different process that genuinely addresses the collection and exploration of views before a decision is made. That is not what people think of when you say "consultation" now, but that is the word in the amendment because that is the word we currently have.

I draw the Committee's attention to the sad and traumatic case study of Moulsecoomb Primary School in Brighton, which is of course of particular interest to my noble friend Lady Jones. We have just seen first-choice applications to the school fall to their lowest level ever after the school was forced to become an academy despite considerable local community, family and parent resistance. Of course I wish the school all the best and very much hope that things work out for it, but we have to focus on what kind of disruption happens both to pupils and to a community if a decision is made that parents and the community are unhappy with. We have seen a number of pupils leave that school and a huge amount of time, energy and attention that might have gone into doing the best possible for the education of pupils going instead into resistance to an ideological decision being made. It is important that this whole set of amendments tabled by the noble Baroness, Lady Blower, and the noble Lord, Lord Hunt, would make this a co-creation and co-production process, not an imposition.

Lord Grocott (Lab): My Lords, I cannot resist making one general observation about the whole debate on these amendments. In winding up the previous debate, the Minister said that the strength of multi-academy trusts is that schools are stronger together. Talk about rediscovering the wheel; the whole argument of those of us who have been unhappy about so many aspects of academisation is precisely that we could see the strength of schools together in a community with local democratic control. I suppose that if you wait long enough these things come around again.

5.45 pm

Having said that, the strength of these various amendments to me—I would be interested to see, if the Government resist them, precisely how they resist them—is that they try to bring some element of local decision-making and involvement, if not control, to the structure and nature of the schools in their area. This is something which, time and again, we have found has not applied with the process of academisation. So often, schools have been forced, by fair means or foul, to become academies and now the same thing is happening in terms of their becoming parts of multi-academy trusts.

I share all the concerns that have been expressed about the great word "consultation". It is a wonderful thing, and I am sure we all feel warm when we hear the word, but it depends on what the consultation involves and whether there is any evidence that, once a number of consultations have taken place, the organisation, body or Minister responsible for making the decision at the end of day has taken any notice of it. Those things can only be tested by the passing of time.

I have to exercise a preference in the various amendments before us—all of which I would be happy with, though I share the same reservations as other Members about the government amendment—for the one in the name of my noble friends Lady Chapman and Lady Wilcox. I like it as, if a school's governing body opposes a local authority's application to the Secretary of State for its academisation and

"the Secretary of State intends nonetheless to accept the application, the Secretary of State must lay before Parliament a statement explaining how the application will benefit children's education".

I am sure the Government will support that with alacrity because they have told us repeatedly that their overwhelming concern is to benefit the children's education—but I am not holding my breath.

I like that this amendment brings some semblance of accountability at some level—which has been so absent from the academy system. It is very weak accountability; a Secretary of State standing up, as we have said before, would be responsible for any number of schools in one way or another. But at least someone would stand up in this House, the other House or both, and justify their decision about the future of our children in a particular local area, which the people living there and the people whose children go to the school may not agree with. The Minister will have the opportunity to explain the benefits couched in the terms of whether it is for the benefit of the children's education. Let us hope the Ministers are as enthusiastic about consultation and local involvement as we would hope they are and, even more, that they show their enthusiasm for democratic accountability by ensuring that Amendment 63 is agreed to.

Baroness Wilcox of Newport (Lab): My Lords, if I can beg the Committee's indulgence for a second, it is my birthday today.

Noble Lords: Hear, hear!

Baroness Wilcox of Newport (Lab): For the second successive year, I am here in the Chamber debating an education Bill. At least when I taught, I could leave at 4 pm.

For the avoidance of doubt, this group is about consultation. I am grateful to my noble friend Lady Blower for proposing such a sensible way forward and reminding us of the value of governing bodies. We are supportive of the thrust of these amendments, which would give a greater voice to parents and staff and consideration to the local context and challenges. A struggling local authority may want to offload a school that is not equipped to academise yet—or indeed at all—so we cautiously note the government amendment in the name of the noble Baroness, Lady Barran, which requires consultation with appropriate persons before this can happen.

However, we have a genuine question about why this consultation can be carried out after a local authority's application, as noted by my noble friends Lord Hunt and Lady Blower. It cannot possibly be meaningful, and it looks as if it is a done deal. It is another example of the cart before the horse. Many times in this Committee we have mentioned the word "consultation", so we need to put it in the correct context and the appropriate order.

I will speak specifically to our Amendment 63, and I thank my noble friend Lord Grocott for his support. It aims to be proportionate. If the Secretary of State intends to accept an application for academisation and the school's governing body opposes it, the Secretary of State must lay before Parliament a Statement explaining how academisation will benefit children's education—it is as clear, simple and straightforward as that. Over the coming days, this whole debate will be about the benefit to children's education.

These amendments speak to the Bill's general approach of imposing academisation in a top-down fashion on schools, children and parents. If a governing body is opposed, the Secretary of State must give robust consideration to, and justify the case for, approval. After all, they are the arbiters of the community, and parents, teachers, governors and children will have a much clearer insight of the situated context of the school and the wider community issues than—with the greatest respect—a Whitehall official. Many great plays have been written about the disruption caused when a stranger enters a community and the chaos that subsequently unfolds.

Baroness Barran (Con): My Lords, the amendments in this group are concerned mainly with rights of consultation and consent when a local authority intends to apply for an academy order on behalf of a maintained school.

The picture drawn by your Lordships of some kind of Machiavellian plan to impose multi-academy trusts on schools is not a fair representation of how the Government propose that the system should work in the future. I will come on to specific examples, but, in response to the remarks of the noble Baroness, Lady Bennett, and the noble Lord, Lord Grocott, on academies coming in and being imposed, I say that they are imposed because those schools have failed children—both noble Lords know that that is the case. When schools are judged to be inadequate, as was the case with the school that the noble Baroness referred to, academies come in to turn them around because they are failing children. I will leave it there, but I think that it is fair to set the record straight on that point.

Amendment 60, in the names of the noble Baroness, Lady Blower, and the noble Lord, Lord Hunt, would require a local authority to obtain the consent or support of the governing body of a school where it is proposed that the school join a strong trust. I will also refer here to Amendment 63, in the names of the noble Baronesses, Lady Chapman and Lady Wilcox. As the noble Baroness described, it would require the Secretary of State to lay a Statement before Parliament if they approved an application for an academy order against a governing body's wishes. There is a requirement in the Bill for local authorities to consult a school's governing body before applying for an academy order. We expect that local authorities and schools will have open discussions about the principle of joining a trust and which trusts schools might join.

Although we hope that any applications for academy orders would have the support of the local governing body, there may be genuine circumstances where agreement cannot be reached with individual schools. Whether the local authority includes such schools within its plans will depend on whether it is prepared to continue to maintain those individual schools.

The decision on whether to approve an order will rest with the relevant regional director. When considering local authorities' applications, regional directors will of course take all relevant considerations into account. These will include the views of governing bodies, local authorities and other stakeholders—and, of course, the likely impact on children's education. The regional

[Baroness Barran]
director's decision would be made public. Against this background, I do not believe that the additional requirements proposed in these amendments are necessary.

Lord Deben (Con): I am rather attracted by the concept that the Government should be very clear about the reasons why this kind of change takes place and how it would benefit the children's education. I do not understand why that is not absolutely necessary. I quite see that you do not have to have the agreement of everyone—if you did, you would never get anything done—but, when you have made a decision and there are differences of opinion, it seems that there is a lot to be said for explaining precisely why you have done so.

My worry about the Bill is that there seems to be an overemphasis on neatness—neatness is the enemy of civilisation. I am a believer in difference, and one reason that I like academies is that different academy trusts are different; that is a change from when this was under local authorities, when I am afraid there was a very considerable sameness. I like this, but, when there is a real row, it is incumbent upon the Government to explain why they have made a decision.

Baroness Barran (Con): The Government are clear—we are talking about cases where a local authority wants a school to convert to an academy. I referred to the Government's current criteria earlier in Committee. The criteria that the regional directors use when deciding which trust a school should join are set out clearly. I believe that I put the link in my last letter to your Lordships, so I encourage my noble friend to take a look—they are very fair and clear.

I am not sure that my noble friend was in the Chamber when we talked about the fact that this legislation is part of wider work that the Government are doing in relation to commissioning and regulation, where there will be extensive engagement over the summer. I reassure my noble friend that that will focus predominantly on how we can achieve better outcomes for children. He used the word "neatness" in perhaps a pejorative way; one could absolutely justify why we need clarity in a system the size of the school system in this country.

In responding to Amendments 61 and 62, in the names of the noble Baroness, Lady Blower, and the noble Lord, Lord Hunt, I will explain how the corrective Amendment 68, in my name, will introduce a new consultation requirement. The Government expect local authorities to engage widely with interested parties when considering supporting schools to join strong trusts. Amendment 68 explicitly requires local authorities applying for an academy order to

"consult such persons as they think appropriate about whether the conversion should take place."

The noble Baroness gave an extensive list of the types of organisations and individuals who should be consulted, and she suggested, fairly, that in these cases there should always be a clear explanation of why the conversion should take place.

This amendment applies to local authorities the same consultation requirements as exist when governing bodies apply for maintained schools to be converted into academies. Local authorities should act reasonably in deciding who to consult, and it is therefore inevitable that parents and staff would be aware and able to express their views. As I said in response to my noble friend, the decision on whether schools should convert rests ultimately with regional directors, who will need to be satisfied that local authorities have consulted sufficiently and that their plans benefit children's education. However, it is not necessary or appropriate to require local authorities to demonstrate that they have considered alternatives. The decision before the regional director is whether to approve the local authority's plans for its schools to become academies. I hope but am not entirely confident that the noble Baroness, Lady Blower, and the noble Lord, Lord Hunt, will be reassured by the addition of this requirement.

6 pm

Amendments 69 and 70 in the name of the noble Lord, Lord Hunt, seek to impose more specific consultation requirements on local authorities than the government amendment provides for. I understand that the effect of Amendment 69 would be to prescribe the timing of consultation. The process of joining a strong trust only begins at the point of an application for an academy order; it does not end there. Even the issuing of an academy order is not the point at which a school becomes an academy, nor is it the point at which it joins a strong trust.

Amendment 70 would establish specific requirements around consulting parents and staff. As I have already made clear, it is inevitable that any reasonable consultation would involve parents and staff. However, we know that, when considering whether a school should join a strong trust, many interested parties will wish to express their views. For different schools, those who are interested will of course differ; some will want more information than is available in the early stages to enable them to express an informed view. It is for this reason that the existing consultation requirements for governing bodies applying for academy orders allow for flexibility in both when and who to consult. The proposed government amendment that is the focus of this amendment mirrors this flexibility to ensure that the most suitable consultation in each school's specific circumstances can be undertaken.

Amendment 75 concerns existing stand-alone academies joining multi-academy trusts. The process by which an academy joins another trust is not set out in legislation; it is a matter for agreement between the two trusts and with the approval of the regional director.

Lord Knight of Weymouth (Lab): I hope that this is an appropriate moment to ask this question. In listening to, and thinking about, this debate, my mind has gone to free schools and their duties to consult. We have not really talked much about free schools in the context of this Bill. The department's guidance for starting free schools says on a statutory duty to consult that Section 10 of the Academies Act

"requires the trust to consult with the people they think appropriate".

Is the department's thinking about free schools shifting around consultation in particular so that they do not just land among a group of schools in a community, throwing out all the pupil place planning and creating difficulties for existing providers in terms of the viability of the academies and other schools in that area?

Baroness Barran (Con): The noble Lord's point is a little broader than what we are talking about at the moment. With the free school applications that have come across my desk I have certainly tried to be very aware of, and sensitive to, the challenges they can pose. The noble Lord is also very well aware that, historically, there were areas where new free schools have been really important in raising standards. There is not a single answer.

Lord Hunt of Kings Heath (Lab): My Lords, I will take the opportunity of the Minister's slight pause to ask her a question about my reading of her Amendment 68, which says:

"Before a maintained school in England is converted into an Academy following an application under section 3A (application for Academy order by local authority)".

By the time the local authorities have made an application, that is, in effect, the decision. The point my noble friend and I were trying to make is that, surely, there should be mandatory consultation before the local authority makes the application.

Baroness Barran (Con): I am glad that I have been promoted to be the noble Lord's "noble friend"; things are looking up. I am very happy to take this offline with the noble Lord. It is just not case that the decision is made at that point, but I would be happy to meet with him and we can go through this in more detail, if that would be helpful.

Amendment 75 is concerned with existing stand-alone academies joining multi-academy trusts, which we discussed at length in the earlier group. The process by which an academy joins another trust is not set out in legislation; it is a matter for agreement between the two trusts and is subject to the approval of the regional director. I hope that noble Lords can forgive me for repeating myself. When considering any application for a stand-alone academy to join a MAT, the regional director will consider what stakeholder engagement has taken place, and the views expressed by stakeholders.

I do not believe that it is necessary or appropriate to provide for very specific consultation requirements in legislation. Stakeholder engagement is already embedded in the decision-making process. However, I agree that the process by which academies join trusts should be transparent—here, I am a little more optimistic about reassuring the noble Baroness, the noble Lord and other noble Lords opposite. As part of the regulatory review, which I have mentioned previously, we will consider the scope to clarify the arrangements for engaging with stakeholders when a stand-alone academy joins a multi-academy trust.

In the light of Amendment 68 in my name, and given these assurances, I ask the noble Baroness, Lady Blower, to withdraw her Amendment 60, and that other noble Lords do not move their amendments. I apologise to the noble Baroness, Lady Wilcox of Newport, that I did not echo the birthday wishes, but I wish her a very happy birthday.

Baroness Blower (Lab): Before I begin my remarks, I wish many happy returns to my noble friend on the Front Bench.

Never in my wildest dreams would I think of the Minister as Machiavellian—absolutely not. However, the lived experience of many people is that discussions over issues to do with academisation, moving into MATs or other such things have not always been open and the system has not always been transparent. I am personally aware of representatives of particular unions who, after being called in to see head teachers, have been briefed and then been told that the matter is absolutely confidential, and that they must say nothing to any member outside that room. I am not saying that this is the position the Minister would take, but it is the lived experience of a lot of people who genuinely believe that there should be proper and open consultation. We can say that those head teachers were doing it completely wrongly, but the fact is that it would have impacted those union members, and there is the impact of someone in the school now knowing something which the parents and students do not know.

There is clearly something here about the need constantly to reinforce the fact that consultation should be open, appropriate and transparent. This is probably why, although the Minister said these things in very reassuring tones, I cannot see why we would not specify the need to consult with particular groups of people, including parents, staff and so on. This remains an issue. I am delighted that the Minister thinks that it is inevitable, but my experience is that consultation has not always been inevitable. However, I would like to believe that it was.

I will comment on the intervention by the noble Lord, Lord Deben, about neatness, which I thought was very entertaining. To him, I would add: I do not think that all local authority schools are like cookie cutters and exactly the same; they pride themselves on the fact that they have a particular ethos. That comes from the student intake, the particular group of staff they have, the governors and the head's style of leadership, so I do not think that they are all the same.

I am sure that those who have visited very many maintained schools will agree with me that they are quite different, whether they have a uniform or not—all sorts of things do make them different. But I was entertained by the noble Lord's remarks about neatness. Again repeating that nothing in my remarks suggests anything Machiavellian, although I am not completely reassured by everything, at this stage I beg leave to withdraw the amendment.

Amendment 60 withdrawn.

Amendments 60A to 67 not moved.

Amendment 68

Moved by ***Baroness Barran***

68: Clause 29, page 24, line 6, leave out paragraphs (a) and (b) and insert—

"(a) in subsection (1), after "Academy" insert "following an application under section 3 (application for Academy order by governing body)";

(b) after subsection (1) insert—

"(1A) Before a maintained school in England is converted into an Academy following an application under section 3A (application for Academy order by local

authority), the local authority must consult such persons as they think appropriate about whether the conversion should take place.";

(c) for subsection (2) substitute—

"(2) But this section ceases to apply where, following an application under section 3 or 3A in respect of a school, an Academy order is made in respect of the school under—

(a) section 4(A1) (duty to make Academy order in respect of school requiring significant improvement or special measures), or

(b) section 4(1)(b) (power to make Academy order in respect of school otherwise eligible for intervention).""

Member's explanatory statement

This amendment would require the local authority to carry out a consultation in relation to an application under new section 3A for conversion of a maintained school into an Academy. As with consultations by governing bodies who apply for Academy conversion, the consultation may be carried out before or after the application, or any Academy order, is made.

Amendment 69 (to Amendment 68) not moved.

Amendment 70 (to Amendment 68) not moved.

Amendment 68 agreed.

The Deputy Chairman of Committees (Baroness Barker) (LD): My Lords, I cannot call Amendment 71 due to pre-emption.

Amendments 72 to 74 not moved.

Clause 29, as amended, agreed.

Amendments 75 and 75A not moved.

Clause 30: Transfer of land by local authorities

Clause 30 agreed.

Amendment 76

Moved by ***Baroness Barran***

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

"Secure 16 to 19 Academies

(1) The Academies Act 2010 is amended as follows.

(2) In section 2 (payments under Academy agreements), after subsection (2) insert—

"(2A) Subsection (2) applies to an Academy agreement in respect of a secure 16 to 19 Academy as though the references to 7 years were references to 2 years."

(3) In section 9 (impact: new and expanded educational institutions), in subsection (1), after paragraph (b) (and on a new line) insert—

"except where the institution, if the arrangements are entered into, is to be a secure 16 to 19 Academy."

(4) In section 10 (consultation: new and expanded educational institutions)—

after subsection (2) insert—

"(2A) But where the educational institution, if the arrangements are entered into, is to be a secure 16 to 19 Academy—

(a) the person is not required to carry out a consultation on that question, and

(b) they must instead carry out a consultation on the question of how they should cooperate with potential local partners in connection with the establishment and carrying on of the Academy.

(2B) "Potential local partners" in subsection (2A)(b) means—

(a) public authorities (within the meaning of section 6 of the Human Rights Act 1998), and

(b) so far as not falling within paragraph (a), proprietors of educational institutions,

with whom the person carrying out the consultation thinks it appropriate to cooperate.";

(b) in subsection (3), for "The consultation" substitute "A consultation under this section"."

Member's explanatory statement

This amendment makes special provision for secure 16 to 19 Academies as to the period for which funding must continue, the requirement to consider the impact of new or expanded educational institutions on other local institutions, and the consultation requirements applicable to new or expanded educational institutions.

Amendment 76A (to Amendment 76) not moved.

Amendment 76B (to Amendment 76) not moved.

Amendment 76 agreed.

Amendments 77 and 78 not moved.

Amendment 79

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

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

"School reserves and income raising

(1) Where an academy or maintained school comes under the control of a Multi Academy Trust, the reserves of the school must be—

(a) independently audited to arrive at an agreed level;

(b) ring-fenced for the exclusive use of the school for the benefit of that school's pupils with any expenditures required to be agreed by the Local Governing Body of the school.

(2) Where an academy or maintained school comes under the control of a Multi Academy Trust, any income generated by the school including the renting out of premises when under the control of the Multi Academy Trust must be used exclusively for the benefit of that school's pupils with expenditures required to be agreed by the Local Governing Body of the school."

Member's explanatory statement

The amendment is designed to ensure that where an academy or maintained school comes under the control of a Multi Academy Trust, the reserves and income generating activities of the school can only be used with the agreement of the Local Governing Body of the school exclusively for the benefit of that school's pupils.

Lord Hunt of Kings Heath (Lab): My Lords, my Amendment 79 is part of a wider group dealing with funding of schools and provisions in the Bill for the nationally determined funding for schools in England. My amendment is rather narrow, but it introduces the subject of funding. My concern is the circumstance under which an academy or mainstream school comes under the control of a multi-academy trust, as there are questions about what happens to its reserves or income-generating activities. I want to see them essentially

used, with the agreement of the local governing body of the school, exclusively for the benefit of that school's pupils. I am very honoured to have an Opposition Front Bench amendment to my amendment, Amendment 79ZA, and I very much accept the principle of what my noble friend is proposing there.

The Local Government Association briefing has a lot of wisdom on the matter:

"At present, MATs can reallocate an uncapped proportion of funding from schools' budgets within their MAT, with no requirement for transparency as to how this money is spent or the outcomes it delivers. … While we support MATs having a degree of flexibility over budgets within their trust to best meet schools and pupils needs, the lack of public transparency over their expenditure should be addressed to ensure public funding is delivering the best outcomes for pupils."

I am sure that the noble Lord, Lord Shipley, will speak in this group, but on the first day in Committee he said that there is a danger of a multi-academy trust removing a highly skilled governing body and the trust, to cover its own costs, would end up top-slicing the school's budgets, making successful, smaller schools a little less viable.

6.15 pm

The recent LSE analysis, to which I have already referred, points out:

"MAT accounts, while having to be signed off by an external auditor, do not provide a detailed account of how public money is spent, and data published by MATs can mask the financial decisions made by individual academies. This is in contrast to the accounts of maintained schools. …This lack of transparency has led to concerns that MATs are using public money to pay excessive salaries – they are not bound by the School Teachers Pay and Conditions framework that governs maintained schools. It has also allowed MATs to pay out compensation costs without setting out how much public money was used to cover this, using opaque reporting practices to hide the payments. … The procurement practices of Academy Trusts are also of concern. 'Related party transactions' - business arrangements between a MAT and body with which those responsible for the governance of an academy have a personal connection - were worth £120m in 2015-16, over 3,000 transactions."

This is the background to my amendment, which is designed to explore what financial safeguards are in place when an academy or maintained school becomes part of a multi-academy trust. My amendment seeks to ensure that, when this happens, first, the reserves need to be independently audited to arrive at an agreed level and, secondly, they should be ring-fenced for the exclusive use of the school for the benefit of its pupils, with any expenditure required to be agreed by the local governing body of the school. In earlier amendments, we have argued that every school should have a local governing board.

I think that this is quite a reasonable set of amendments. I also want to ensure that any income generated by the school, including the renting out of premises when under the control of a multi-academy trust, must be used exclusively for the benefit of that school's pupils, with expenditures required to be agreed by that school's local governing body. I accept the modification being moved by my noble friend in her amendment. At heart, this is about the individual school, the ownership of that school, the integrity of that school and ensuring that the resources coming to it will be a fair allocation and that its reserves and income-generating activities are protected. I beg to move.

Amendment 79ZA (to Amendment 79)

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

79ZA: After subsection (2), insert—

"(3) Subsection (2) does not apply if the Local Governing Body has explicitly agreed so."

Member's explanatory statement

This would allow arrangements wherein one academy agrees to fundraise for another in its trust.

Baroness Chapman of Darlington (Lab): I acknowledge the good manners of my noble friend Lord Hunt in not finding it too cheeky that we seek to amend his amendment. Our aim is pretty clear: we want to make sure that, on occasions when the governing body wants to see flexibility when a school joins a MAT, it is able to have that. We think it is important to recognise that that can sometimes occur. It may want to address a particular priority, and that may be one of the driving forces for its desire to join a MAT. We very much support my noble friend's desire to protect pupils if their school joins a MAT; we are just keen to make sure there is a bit of flexibility. We agree completely that there must be transparency and financial safeguards when a school joins a MAT and I echo everything that my noble friend said.

Moving on, our Amendment 79C draws Ministers' attention to our concerns about the fundamental inequality in educational outcomes between regions. We are deeply concerned about regional disparities that are growing in education and we think they have worsened since the pandemic. In its recent report, the Education Select Committee in the other place found that disadvantaged pupils could be

"five, six, seven—in the worst-case scenarios eight—months behind",

according to regional data. By the second half of the autumn term 2020, the average learning loss for maths for primary pupils was 5.3 months in Yorkshire, compared with 0.5 months in the south-west—I think 0.5 months probably means a fortnight. By March 2021, the National Tutoring Programme had reached 100% of its target number of schools in the south-west, 96.1% in the south-east, but just 58.8% in the north-east and 59.3% in the north-west.

More broadly, children in Yorkshire and the Humber are 12 times more likely to be attending an underperforming school than their counterparts in other areas of England. Perhaps it is no surprise that schools across the north have lost out on funding, despite having a higher proportion of poorer pupils. Research by the House of Commons Library found that schools in London got more money per pupil last year, despite having fewer children on free school meals, than in areas further north. Schools in London, where 22.6% of children are eligible for free school meals, received an average of £5,647 per pupil in cash terms in 2021. The figure in the north-east was £4,919, even though it has the highest proportion of pupils qualifying for free school meals, at 27.5%. In the north-west, according to the House of Commons Library, where 23.8% of children are eligible for free school meals, schools got £4,925 per pupil. This is not about doing down children in London, but about highlighting inequality of funding and of outcomes. We believe there is a connection.

[Baroness Chapman of Darlington]

We should remind ourselves that the funding of schools since 2010 has been shameful. Cuts to education over the past decade were without precedent in post-war history, according to the IFS, but the pain has not been felt equally across the system. The most deprived one-fifth of secondary schools had a 14% real-terms fall in spending per pupil between 2009 and 2019, compared with a 9% drop in the least deprived schools. So our Amendment 79C asks the Secretary of State to report on outcomes and the financial health of schools by region. We are asking for this because we want MPs and Peers to be able to challenge Ministers on their success or otherwise in addressing regional inequalities in education.

We understand that it is possible now to tease out the information we are looking for from various data, from commissioning, from the House of Commons Library, the House of Lords Library and reports from research organisations, trade unions and others who make a point of looking for this information in a way that enables us to see the full picture. At the moment, the Government do not have an obligation to do it in that way. We think that if we do not collect and present the information in a standardised, regular way, it is too easy to take our eye off the ball. We want to be able to see what is happening in different regions over time, because at the moment we are at a bit of a disadvantage. The truth about what the Government are doing to entrench—or, I hope, address—the relative performance of schools across regions is not shown in the way we think it could be.

All these amendments stem from the lack of information in the Bill on the funding formula. We are very worried about the removal of local authorities from the process. The Explanatory Notes say explicitly that local authorities have the most detailed knowledge about the needs of their local schools, so why are they being treated in this way? There are a number of reasons a local authority might wish to have a role in funding allocations, including those referred to by my noble friends in Amendment 97, which looks at specialist services.

Amendment 86A emphasises the need to take the index of multiple deprivation into account. The reason we are so concerned about this is because the National Audit Office's recent report into schools funding says that the government should

"evaluate the impact of the national funding formula".

It is quite explicit in its recommendation:

"In particular, the Department should review whether the shift in the balance of funding from more deprived areas to less deprived areas, and from more deprived schools to less deprived schools, means it is adequately meeting its objective of matching resources to need."

We feel that currently it is not; hence our amendment asking the Government to be more explicit in the way they look at deprivation. I accept that the amendment could probably be better worded, but I wanted to raise the issue with the Minister now and explore whether there is something we can do through the Bill to enable our concerns to be dealt with.

We think Amendment 92 is sensible and encourages partnership. I am very sympathetic to Amendment 94, referring to transport for 16 to 18 year-olds. Obviously, we would need a full understanding of the cost of that, but I understand completely why that is something we should aspire to deliver. In a local authority area near me, Redcar and Cleveland, there is nowhere to do A-levels. It is not like living in a city, where you can choose between colleges and access them all easily; it is very hard for young people who find themselves living somewhere where a choice of post-16 education is not available. Amendment 85 asks for impact assessments on the national funding formula in rural areas. We have no issue with that at all: it is looking for transparency and understanding of the way the funding formula is impacting different areas of the country in different ways, and we do not have that currently. I beg to move Amendment 79ZA.

The Deputy Chairman of Committees (Baroness Barker) (LD): The noble Baroness, Lady Brinton, is participating remotely. I invite her to speak now.

Baroness Brinton (LD) [V]: My Lords, I am a signatory to Amendment 86 in this group, tabled by my noble friend Lord Storey, who unfortunately cannot be in his place today. Our amendment requires the funding formula to be accompanied by an assessment of the funding to support pupils disrupted by Covid and the ability of schools to support such pupils. I thank the noble Lord, Lord Hunt, and the noble Baroness, Lady Chapman, for going into a lot more detail than I propose to do this evening.

I want to make two points. The first is a broader one. The extra funding for post-Covid catch-up is welcome, but how much of it is essentially baseline budget, and what is the impact of that on small rural schools, versus the highly targeted catch-up funding for those pupils who need it? I will discuss one particular group of pupils in a minute.

I note that the notification on all schools and colleges that will receive the extra funding for catch-up, published by the Government recently, talks about the additional investment also supporting the delivery of a £30,000 starting salary for teachers, alongside a further £1.8 billion dedicated to supporting young people to catch up.

6.30 pm

My noble friend Lord Storey referred at Second Reading to the very particular problem that small schools in rural areas face and how they can be helped, because obviously a very small school will have a very small base budget. I thank the noble Baroness, Lady Barran, for her letter to all peers on 1 June, which said:

"The Government recognises the essential role that small schools play".

It said that the "'sparsity' factor" budget for small rural schools has been increased

"from £26 million in 2020-21 to £95 million in 2022-23."

That is absolutely vital for small rural schools. What is not clear is whether that is in proportion to the increasing grant for larger schools as well. I would be grateful if the Minister could say whether it is.

I turn to one specific group that I mentioned at Second Reading, who appear to be left out of receiving support from the Covid catch-up funding: mainly, but

not only, the National Tutoring Programme. ONS data published this week show that nearly one in 20, or just under 5%, of secondary school pupils meets the criteria at the moment for long Covid following their most recent Covid infection. There has been a myth, since long Covid was first described, that children do not get it. ONS data very clearly say otherwise. There is no doubt that the percentage of primary-age children who are getting long Covid is lower, but one in 20 secondary school children is a substantial number.

I have been talking to the clinically extremely vulnerable families, some of whom have children with long Covid, and also to the group Long Covid Kids. The CEV families surveyed their group members who said that their children had not been supported by the National Tutoring Programme; some 94% of these children, who either have long Covid or are immunocompromised, have seen their education much more severely disrupted than that of children who have no health problems but faced lockdown. The worry is that the rubric against this budget describes it as being for those whose education has been most affected by the disruption of the pandemic. The problem appears to be that the current catch-up funding is focused entirely on borderline children who have had support before in previous non-Covid grants. There is a worry that the Long Covid Kids group and the Covid extremely vulnerable families have had no serious engagement either with the Children's Commissioner or with Ministers and officials. I hope that the Minister might be able to listen to their problems.

Let me give noble Lords a flavour, with just one example of one family. I am an officer of the All-Party Parliamentary Group on Coronavirus, and we heard from the Long Covid Kids group in January, which has published a detailed report. One parent of an 11 year-old and a 13 year-old said:

"My son had numerous hospital visits due to the severity of his cough, he was then hospitalised for 4 days … he was paralysed from the neck down. He is still unable to walk more than a few steps … using a wheelchair, he has not been back to school since. He is still suffering with brain fog, severe headaches, extreme fatigue, rashes, twitching".

I will spare the Committee the rest, but you get the picture. The daughter also has many of the same symptoms, but less severe. The problem is that, instead of getting support for catch-up, parents are being threatened with fines from schools because of poor attendance. Again, this is because schools are not believing the severity of their symptoms due to Covid.

Last week, the Secretary of State for Education said in *Tes* that he has

"asked officials to draw up new guidance on long Covid for schools as cases continue to rise among teachers and support staff".

I read the longer article, and nowhere were pupils with long Covid mentioned, let alone any recognition that those who do have long Covid—those who are being seen at long Covid clinics—actually need that catch-up support.

I hope the Minister and officials might be able to meet the two children's groups that I have described. I will go into more detail about these two particular groups in later amendments that I have laid for the Bill, but there is a very specific question here about whether these children are getting the support they need, rather than schools using the money only to fund investment in tutoring for those who have traditionally had access to it. This amendment seeks transparency—that schools have to be held accountable —to make sure there is provision.

Baroness Garden of Frognal (LD): My Lords, it is a great pleasure to follow my noble friend, who has raised some very serious issues. I will speak to Amendment 84 in my name and that of my noble friend Lord Storey. This would require the funding formula to provide for transport costs for 16 to 18 year-olds on the same basis as those eligible children up to the age of 16. I am grateful to the noble Baroness, Lady Chapman, for sort of agreeing with this amendment.

It is so important that children from poorer families should be helped to remain in education and training beyond the age of 16. The Liberal Democrats wish to introduce a young people's premium, based on the same eligibility criteria as the pupil premium, but a portion of it would be paid directly to the young person aged 16 to 18 to support them with travel and other education-related costs. It is entirely logical that the core funding rate for full-time students aged 16 to 19 should match that of secondary school pupils.

The UK faces a serious skills deficit, with many business leaders expressing concern that too few workers have the necessary skills to meet their future job needs. We need young people to enter the work market having learned relevant skills while in education. We also call for grants rather than loans for those over 16. Those entering the workplace, as well as adults, are unlikely to want to take on repayable debt. Government support for enhanced education and training would benefit not just individuals but the country too.

We recognise that transport costs currently present an insurmountable barrier to many people who want to learn and achieve. Transport costs across England can be extremely high, and the availability of discounts or free travel for children and young people varies considerably by geographical location. This means that, in many places, and particularly in rural areas—my noble friend Lady Humphreys will say more about this shortly—transport costs can pose a fundamental barrier to children and young people accessing the education and training which is most appropriate to their abilities and aspirations.

Since the abolition of the education maintenance allowance, or EMA, the only outstanding student support is extremely limited. A young person can apply from their college or school sixth form, but it is not guaranteed; it is discretionary and cannot be relied on. It is not sufficient for the numbers who require support, and not necessarily sufficient for transport costs, let alone wider needs. It would certainly not be enough to cover transport costs for potential further travel to undertake work experience placements, for instance, as required by the Government's beloved T-levels.

This is a very modest proposal which would have an enormously beneficial effect on many young people, and I urge the Minister to accept it.

Baroness Humphreys (LD): My Lords, I am pleased to follow my two noble friends. I wish to speak to Amendment 85, in the name of my noble friend Lord

[Baroness Humphreys]
Storey, to which I have added my name. This amendment requires that the funding formula be accompanied by an impact assessment on state-funded schools in rural areas.

I live in a rural area of north Wales and, like other noble Lords, fully understand the vital importance of rural schools for their communities. If schools are forced to close, young families will not move to an area and this is not conducive to building the thriving, forward-looking rural communities that we wish to see. Rural schools are also an important employer. Even a small school with a handful of teachers will provide a range of other jobs—for example, in administration, caretaking, cooking and teaching assistance—that would be lost if the school closed. Crucially, as with other services, pupils should be able to access their schools within a reasonable travel time.

However, children in rural areas across England, such as Devon, are being short-changed and taken for granted by this Conservative Government. With the challenges ahead of us as education recovers from the pandemic, we cannot allow such children to be left behind in its wake. Why do I believe that children in rural England are being short-changed and are in danger of being left behind? According to the House of Commons Library, schools in Devon receive £345 less per pupil than the national average across the UK. This difference in funding obviously has an impact on school budgets, which needs to be analysed and recognised through an impact assessment. Any adverse impact of the funding formula on staffing and the quality of education provided, for example, needs to be assessed and addressed.

So much can be done to help rural schools. An impact assessment could help point the way forward, to fund schemes such as those my Liberal Democrat colleague Kirsty Williams implemented in Wales when she was Cabinet Secretary for Education. I know that this Schools Bill does not apply to Wales because education there is devolved, but I cite it as an example. In government, Kirsty Williams introduced a rural schools strategy, including a £2.5 million per year grant for rural and small schools to be used for improving digital technology, supporting collaboration between schools or providing administrative support in schools—

Baroness Wilcox of Newport (Lab): If I may intervene, much as I laud Kirsty Williams, who was a Liberal Member of the Senedd, that was under a Welsh Labour Government of which she was the sole Liberal Member. I dealt with her a great deal as the education spokesperson. I make that point in case the Committee is not aware.

Baroness Humphreys (LD): I think I clearly said that she was the Cabinet Secretary for Education—perhaps I should have said under a Labour Government. She also introduced a presumption against closure for rural schools and, for the first time ever, a definition of a rural school. I am sure similar strategies are happening in England, but there is obviously scope for other schemes to be highlighted.

Impact assessments are an important part of our decision-making process. They set out the objectives of policy proposals and help us with facts and figures to evaluate them. The impact of the funding formula on the funding of rural schools needs such an evaluation so that we can understand whether the formula works for them and meets their needs. I hope the noble Baroness can tell me that there will be an impact assessment of the funding formula for future stages of this Bill.

The Lord Bishop of St Edmundsbury and Ipswich: My Lords, I speak on behalf of my right reverend friend the Bishop of Durham and declare his interest as chair of the National Society. I am grateful to follow the noble Baroness, Lady Humphreys, as I will speak in favour of Amendment 85.

The amendment presents an important consideration in the context of Church schools, which are predominantly small and rural. More than 1,000 Church of England schools have fewer than 100 pupils. In my diocese, comprising most of the glorious county of Suffolk, 35 of our 87 Church schools have fewer than 100 pupils—crucially, each of them serves often quite isolated rural communities. A funding formula ensuring that those settings are viable is key to securing future provision for their communities.

Lord Deben (Con): My Lords, I have listened with great care to the amendments. There is a common note here which my noble friend might wish to take up. There are few happy points in the Government's ill-fated food strategy, but one was the desire for better data. One thing that has come from this debate is that, if we are to have any means of assessing the success of this Bill, we need the data to do so.

Some amendments seem appropriate and others perhaps not; I will not discuss them one by one, but I suggest my noble friend gives some assurance to the Committee that the Government will look carefully at the data provided—how it is provided and how simple it can be made—so that there is some really appropriate way to have accountability. One of the issues in this Bill is accountability, and one of the main ways to have proper accountability is to have proper data. That is the common theme of everything that has so far been put forward.

6.45 pm

Having heard the right reverend Prelate the Bishop of St Edmundsbury and Ipswich—the diocese in which I reside—it is important for those of us in very rural areas to remind the Government constantly of the special position of schools in rural areas. The reason is that our nation has become overwhelmingly metropolitan, as are those most concerned with education at the centre. It is therefore necessary for us to remind Ministers all the time that they should be asking, "How does this affect what happens in the countryside?", which is increasingly important as we find more and more villages without the resources they once had and the understandable paucity of rural transport.

The two things come together. We need better data; it needs to be presented in an easily accessible way for us to hold the Government and academies to account. It also needs to have a special bias, if I may misquote the right reverend Prelate, not to the poor but to the poor rural areas.

Lord Knight of Weymouth (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Deben, partly because he may be supportive, given his expertise in climate change, of my amendment, which I will speak to. I agree with the thrust of what he said. I am a former Rural Affairs Minister and a former Schools Minister; one of the very few things I managed to do for school funding, apart from announce a lot of it, was to introduce a small element in the formula on pockets of rural deprivation. I would hate to see that recognition lost in a national funding formula, so I support this.

I will mostly speak to my Amendment 97ZA, which is about a pupil fund for sustainability. This is probably the first of a whole set of hobby-horse amendments which we will hear more of through the rest of this evening. I will probably duck out at the end of this group and not hear some of it; in particular, I regret that I will not be around for the debate on Amendment 168 from the noble and right reverend Lord, Lord Harries, who I am delighted to see in his place. I introduced a Private Member's Bill in the last Session, the Education (Environment and Sustainable Citizenship) Bill, which very much attempted to do what the noble and right reverend Lord seeks to do with his amendment.

Instead of using the curriculum to persuade the Government that we need to do more on a more mandated basis on the study of climate change and sustainability in our schools, my amendment uses funding—one of the other great levers Ministers have at their disposal to try to encourage behaviour. In the measures I proposed on curriculum, I was inspired by my friend Lorenzo Fioramonti, the former Education Minister in Italy. Given the Mediterranean climate, I have stayed with the warmer climes for my inspiration on this and gone to Portugal, where Minister Rodrigues introduced a very simple mechanism of pupil empowerment. He agreed that every pupil in Portugal would be entitled to €1 for their school, on condition that the pupils would decide how it would be spent. It was a simple mechanism, initially spent simplistically by pupils, but they have gradually matured as they have got used to this very modest sum of money that, as a pupil body, they have been required to decide how to spend on a school-by-school basis. As a result, they have become much more engaged in the running of the school and the empowerment has worked extremely well in that country.

My amendment proposes an extremely modest £1 per pupil in the pupil formula for pupils to be able to spend, on the condition that they spend it on sustainability measures in their school and community. It is a start in trying to empower pupils around this issue.

In thinking about that, I commend to your Lordships the *Times* Education Commission report which was published today. What I have managed to read so far is an extremely good read. There are some gems in it, such as the commission's finding that the system is "failing on every measure", or that the schools White Paper is a

"tidying up exercise that shows a staggering lack of ambition".

But, more pertinent to my amendment, I was interested to read that:

"Young people are more socially aware, independent and intellectually engaged than perhaps any previous generation. Yet, pupils who are used to organising climate change campaigns, curating their own Spotify playlists, creating their own eBay businesses and researching their own interests on YouTube are treated in school as passive recipients of knowledge rather than active learners."

That goes right to the heart of what I am trying to encourage with this amendment. There were Members of your Lordships' House on the commission: the noble Lords, Lord Bilimoria, Lord Johnson of Marylebone and Lord Rees, the noble Baroness, Lady Lane-Fox, and Robert Halfon, the chair of the Education Select Committee in the other place. It is a commendable piece of work.

The commission talks also about employability, and that is part of what I am trying to achieve by encouraging young people in schools to work collaboratively to problem solve and to spend this money in projects round and about the school. That in itself is going to contribute to exactly the kind of employability skills that employers are asking for. Sir Charlie Mayfield, the former chairman of John Lewis and the UK Commission for Employment and Skills, who is now the Head of Training and Apprenticeships at QA, is quoted in the *Times* report. He said:

"We've ended up in a situation where the world of education and the world of work are almost more separate than they've ever been. It's crazy and very unfortunate for a lot of people."

He suggested that

"the failure to address the skills gap could cost the UK £140 billion in lost GDP by 2028".

He also said:

"Standards in education have always been measured by exams, assessment and grades, so it's not surprising that this has been the focus. However, this is increasingly at the expense of what employers really value: resilience, communication and problem solving."

That is what I want to achieve with this fund.

The other thing I wish to address, apart from the employability of young people, is the levels of anxiety, including climate anxiety, they are suffering, and there are other amendments around mental health that will be discussed today. The evidence is pretty clear that one of the ways you can help any of us deal with some of our anxieties is to empower us and trust us. That is what this fund would seek to do. We also know, categorically—and here it is tempting to say yet again how wonderful my time in Orkney is, to the delight of the noble Baroness, Lady Penn, but I will resist the temptation—that contact with the natural environment and spending time with nature is fantastic for well-being. I confess I measure my blood pressure every day, and my blood pressure certainly goes down when I am in Orkney; I am happy to say it has remained lowered since my last trip there.

With this amendment, I am not choosing on this occasion to ask the Government to impose this on the curriculum. I am supportive of their sustainability and climate change strategy, in so far as it goes, but I do think there is more to be done to activate our young people and to give them a sense of responsibility and power. If the Treasury is listening, it needs about £9 million—not a lot. If the Government choose to do more, we would be very happy about that. It is flexible, it can work for any and every school, and I hope your Lordships like the sound of it.

Baroness Bennett of Manor Castle (GP): My Lords, I feel I must leap to my feet and say what a great pleasure it is to follow the noble Lord, Lord Knight of Weymouth, and his brilliant systems-thinking amendment. He described it as a "hobby horse". It is a hobby horse that has been exercised before in the House, up to peak condition. He has groomed it, curried it and it is in beautiful condition and perfectly presented to your Lordships' House. It is a hobby horse that would enable the Government to leap out of the silos in which they so often find themselves trapped. As the noble Lord outlined, it joins up thinking that addresses the legal target of net zero carbon emissions by 2050 and all the other environmental targets the Government have set themselves in the Environment Act, but also issues of mental health, well-being, empowering pupils and involving them in democracy and society in their communities.

The noble Lord's amendment is a step towards active involvement that crosses over all the relevant departments, which makes it hard not just for this Government but any Government to deal with, but it is a neat way of addressing the issue. As the noble Lord said, it is at the moment set at a very modest cost level. It could be enhanced but this is at least a start. I know that many of the young climate strikers I have met in recent years out on the streets and outside their schools would embrace and love this. If the Government really want to get them saying, "Well done the Government!", this is a way they could do so.

I hope I am not speaking out of turn here, but I happen to know that the Minister, in a previous role, found that citizens assemblies worked very well in making decisions. This is the citizens assembly, the participative democracy, model that the Minister herself saw working in a different context, applied to her current portfolio—and what a wonderful piece of joined-up government that would be.

I must not forget to speak to the amendment. I had not spotted the amendment tabled by the noble Lord, Lord Knight of Weymouth; otherwise, I would have signed it. I will be keen to support it on Report if he is happy with that. I did sign Amendment 85, which is about the funding formula for rural schools. We have already heard some very strong arguments for this, but I want to pick up the point about data made by the noble Lord, Lord Deben. I was looking at—and because I like to show my sources, I have just tweeted for anyone who is interested—a 2019 study from the Centre for Education and Youth, which looked at the links between deprivation, location, particularly rural location, and attainment and pupil progress in secondary schools. It showed that there is a stronger link in rural areas than in urban areas, in terms of both attainment and progress, particularly in secondary schools.

A noble Lord, I have forgotten which, said that this House and the Government are London-centric and Westminster-focused. We tend to think of the countryside as bucolic, and there are many lovely, wealthy areas of countryside, but there are also areas of extreme deprivation. I am thinking of schools I have visited in Cumbria and in North Norfolk where we are not giving pupils the kind of chance they should be given. This is a modest amendment, but it would at least ensure that these issues are considered.

Lord Shipley (LD): My Lords, there are 10 amendments in this group, and my name is on two: Amendments 92 and 93. I have found the debate and discussion on a number of issues in this group extremely helpful, and I hope the Minister will be able to respond more when we get to Report.

I want to take us back to the issue of the centralisation of powers on the national funding formula. For me, that is a really important issue, because there are a number of practical problems that will be produced, which I think my Amendments 92 and 93 would help with. However, at this stage, they are probing amendments.

7 pm

In the Explanatory Notes to the Bill, the Government say that a directly applied national funding formula will ensure that funding is allocated on a "consistent basis" that will meet

"schools' and pupils' needs and characteristics."

The Government have also said that

"each mainstream school will be allocated funding on the same basis, wherever it is in the country, and every child will be given the same opportunities, based on a consistent assessment of their needs."

Those are the Government's words. I think that may be difficult to achieve in practice, because I feel that the system proposed is complex—and anyway, too much is being left for regulations. The Government's approach may address some of the unexplained differences that can arise with service budget allocations between local authorities, which the Government are understandably keen to address, but the proposed solution for direct control will inevitably create other anomalies, given the extra rigidities proposed.

Clause 43, for me, is a bit of a giveaway. Under the heading "Funding: other", on Clause 43, "Provision of information to the Secretary of State", the Explanatory Notes say:

"This clause provides that a local authority, the governing body of a maintained school, or the proprietor of an academy or non-maintained special school must provide reports, returns and information to the Secretary of State as and when required, in order for the Secretary of State to exercise their functions under this Part."

Various examples are given, including

"pupil numbers …; planned school closures and mergers; planned school expansions to meet basic need; and information on whether a school operates across split sites, to underpin split sites funding."

In the 2020-21 academic year, there were 9,444 academies, with 4.5 million pupils attending them, and there were 12,603 maintained schools, with a total of 3.7 million pupils. How many civil servants will there be to do all the allocations, responding to questions and all the administration and inquiries? Particularly at a time when the Government are trying to reduce the size of the Civil Service, I find it very hard to understand how this system could practically work. My Amendments 92 and 93 provide part of the solution to that problem.

Turning to my Amendment 92, I think it is essential that

"A local authority in England may make a national-to-local budget reallocation, up to a certain percentage of the national funding formula without the requirement to apply to and receive the agreement of the Secretary of State",

and that

"The percentage of the national funding formula … must be agreed between the local authority and all local schools that will be impacted by the national-to-local budget reallocation."

Amendment 93 simply spells out that

"when the reallocation is higher than the amount agreed by a local authority and their local schools",

the regulations and the role of the Secretary of State can then apply.

Under existing school funding arrangements, we currently have a situation where councils, with the agreement of schools, can move away from the national funding formula to address local needs. That flexibility will be removed once the direct national funding formula has been implemented. These amendments retain an element of local discretion to deal with additional school costs that cannot be adequately addressed through a formula. That might relate to, say, PFI costs; the revenue costs of funding new schools, which might need additional funding in their early days as the number of pupils builds up year by year; the additional costs of schools located on split sites; and additional funding to support small schools in rural areas, which is the sparsity funding that we were talking about earlier. There is a solution to the problem if the Government could just think a little bit further about how this is going to work in practice.

Within this area of thinking, there is a difference between multi-academy trusts and councils. At present, the Government's proposals will enable multi-academy trusts to top-slice and reallocate funding from school budgets within their trust, with no requirement for transparency as to how this money is spent. However, councils which support maintained schools will not be afforded the same flexibility, despite being subject to democratic accountability and a higher degree of transparency and scrutiny. This will create a two-tier system of funding between academies and maintained schools.

This is a huge Bill, and there are many things wrong with it. One of the things that your Lordships have expressed concern about is the overcentralisation in Whitehall with the powers of the Secretary of State. Funding will go exactly the same way through the national funding formula proposals unless some leeway is allocated so that, at a local level, changes can be made where they are needed.

Lord Davies of Brixton (Lab): My Lords, I very strongly support the remarks made by the noble Lord, Lord Shipley, but I will return to that issue in the next group. I was not going to participate in this debate, but I have been forced to because of the references made to rural and metropolitan areas. I say to my noble friend on the Front Bench as gently as I possibly can that comparisons between allocations to different regions are always difficult and complicated.

The noble Lord, Lord Deben, said that we metropolitan elites do not have much knowledge of what happens in the countryside. Equally, people from the rest of the country have surprisingly little knowledge of what happens in metropolitan areas. The levels of deprivation in London—a vast area in terms of population—are enormous. In terms of picking out individual figures, I have the brief from London Councils, which provides figures demonstrating to its satisfaction that London has been hard done by over the last few years, with bigger reductions in the allocation to schools than the rest of the country. I do not believe bandying figures in that way is that helpful. What we want is sufficient funding across the country as a whole, and I think that setting one part of the country against another should be done with great discretion.

Baroness Barran (Con): My Lords, I genuinely welcome the chance to talk to your Lordships about reforms to the national funding formula. We will come on to this in more detail on Clause 33 in the next group. I want to start my response by noting that this part of the Bill delivers a long-standing commitment to achieve fair funding for schools and, I should say, a commitment where there have been multiple consultations over the years with the sector.

I will start by responding to Amendment 79 in the name of the noble Lord, Lord Hunt, and Amendments 79ZA and 79C in the names of the noble Baronesses, Lady Chapman and Lady Wilcox, on the financial arrangements of multi-academy trusts. One of the ways that the best multi-academy trusts transform outcomes for pupils is by focusing their expenditure and investment towards the right areas, whether this is investing in new IT across the trust or securing additional staff to work across all the trust's schools.

Trusts can target funding to turn around underperforming schools they have brought into their trust or, indeed, as we discussed with the noble Lord, Lord Shipley, on a previous day, target funding to very small, rural schools which would otherwise not be viable. The academy model relies on trusts' ability to harness and share expertise and resources. However, Amendments 79 and 79ZA would stifle trusts' ability to do this, undermining one of the fundamental benefits of the model.

Moreover, academy trusts are already required to publish a full set of financial accounts annually, which are publicly available. The department publishes a full report and consolidated accounts for the academy sector each year. We believe this meets the intention of Amendment 79C. The report includes data on financial health across the academy sector, and the educational performance of the academy sector at a regional level, to which the noble Baroness alluded.

My noble friend Lord Deben suggested that we needed to do more with data. Again, I challenge my noble friend just to look at how much data on schools we share publicly. The website Get Information about Schools gives very detailed information on school and trust performance. You can look by constituency area, local authority area or trust area. It gives information on finance—including the voluntary income that was referenced in the debate—workforce, and educational outcomes. That allows one to compare academies and maintained schools. We also publish school-level funding formula allocations for every school every year and the Department for Education runs a website specifically to enable anyone to see school-level national funding formula allocations and understand what funding they would receive if the national funding formula was followed locally. That may be something to look at for the Devon schools; I have not looked but I will do. The

[Baroness Barran]
webtool is called view NFF allocations—I will write to noble Lords with the link—and it is published on GOV.UK.

We continue, of course, to look at how we can improve transparency, and in the schools White Paper we committed to consult on future financial reporting arrangements. The noble Baroness, Lady Chapman, asked —again, I hope she will forgive me if I paraphrase inaccurately—why we were not including local authorities in the process. She will know that we worked hard with local authorities ahead of publishing the schools White Paper to get a much clearer role for them. We are clear that the Government's responsibility is to make sure that local authorities are empowered to be the champion of the child. They will be at the heart of the system, championing all children in their area but particularly the most vulnerable children, so they will play a leading role, of course, in safeguarding, pupil place planning and admissions. They will continue to be responsible for the high-needs budget and will lead local delivery of provision for children with special educational needs and disabilities, and they will be supported by the new partnerships.

The noble Lord, Lord Hunt, alluded—again, I think I am right in saying—to related party transactions in trusts. The Government are extremely vigilant to make sure that related party transactions, whether they are in maintained schools or in trusts, are handled with the highest levels of governance. But I point out to the noble Lord that the £120 million is on a budget in 2019-20 of over £31 billion so, if my maths is right, it is 0.3%.

I turn to Amendments 85 and 86 in the name of the noble Lord, Lord Storey. As I have already said, transparency is critical and is at the heart of our reforms. In relation to Amendment 85, we will continue to publish information annually on the national funding formula, including how it is calculated, what factors it uses, school-level allocations, and an equality impact assessment. Based on this information, it is already possible to see the impact on rural schools, or indeed any other group of schools.

7.15 pm

The national funding formula recognises the essential role that small rural schools play in their communities through the sparsity factor in the formula. Support for such schools has increased by £69 million in the past two years, to a total of £95 million. The noble Lord will note that the move to the direct national funding formula will mean that all eligible small rural schools would in future receive this sparsity funding, helping those in the 16 local authorities which currently do not use this factor in their formulae. I hope this will reassure the right reverend Prelate the Bishop of St Edmundsbury and Ipswich.

In addition, in response to the noble Baroness, Lady Humphreys, the presumption against the closure of rural primary schools means that the case for closing a school must be very strong, with all alternative options and the potential impact on educational provision in the area considered before any closure is proposed.

The noble Baroness, Lady Bennett, talked about levels of attainment in rural areas. She is right and that is one of the reasons why a number of extremely rural local authority areas such as West Somerset, Fenland in Cambridge and several others are included in the Government's opportunity areas in the future education investment areas—as I am sure the noble Baroness is aware.

On Amendment 86, in the name of the noble Lord, Lord Storey, and the noble Baroness, Lady Brinton, getting students back into face-to-face education while providing additional help has been one of the Government's main priorities. I very much welcome the invitation from the noble Baroness, Lady Brinton, to meet the two children's groups which have experience of long Covid. But, if I heard correctly, perhaps I might just set the record straight. I think the noble Baroness said that the Government are providing tutoring to the people who usually get it. I think the whole point of the Government's tutoring programme is to get tutoring to all the people who do not usually get it.

Since June 2020 we have committed a total of nearly £5 billion over five years until 2024-25 to fund a comprehensive recovery package, focusing on the evidence of what works. We are providing support to all pupils while prioritising the most disadvantaged, vulnerable and those with the least time left in education.

On Amendment 86A, in the names of the noble Baronesses, Lady Chapman and Lady Wilcox, deprivation factors are central to our funding system, and we will discuss this further in the next grouping. The income deprivation among children index, known as IDACI, is one of three measures we use to fund deprivation in the national funding formula. The factor was included within the formula following extensive consultation prior to its introduction in 2018. As with the index of multiple deprivation, IDACI is a measure of relative deprivation between geographical areas but has a more specific focus on children and that is why we felt that it was the more appropriate measure to use here.

The national funding formula allocates 3.7% of its funding to IDACI, reflecting levels of deprivation where pupils live. It is important that we retain the flexibility to develop the factors within the funding formula outside of legislation, as we currently do, so that we can continue to allocate funding fairly, according to needs, if and when new measures of need are developed.

Baroness Chapman of Darlington (Lab): It is in some ways reassuring to hear what the Minister is saying. However, does she not accept that we have a situation where the lowest funding is going to parts of the country with the poorest outcomes? However much the Government think they are allowing for these factors, if something is going wrong, either the formula needs to be reconsidered in some respects or other measures need to be put in place to address this.

Baroness Barran (Con): The Government have worked hard. I know the noble Baroness is familiar with the data, but if she looks at the most recent allocations, we are, dare I say it, trying to level up funding to the areas which she and the Government rightly care about. I think others in the Committee will understand very well that these are not things that can be moved quickly, and if we were moving quicker than we are there would be challenge on that. We expect this to be a slow process but the direction of travel is very clear.

The noble Baroness will also be aware that in those areas beyond the core schools budget there is also significant investment, particularly through the education investment areas and the priority education investment areas, which cover—I think I remember rightly—55 local authorities across the country for the EIAs and 20 for the priority areas, where they are getting significant additional help.

On Amendment 84 in the name of the noble Lord, Lord Storey, and the noble Baroness, Lady Garden, on the affordability of home-to-school transport for 16 to 19 year-olds, it is for local authorities to determine the level of support available, including whether to offer free or subsidised travel, as many authorities do. Responsibility for securing home-to-school transport should continue to rest with local authorities because they are best placed to co-ordinate it locally. It would therefore be inappropriate to include it in the national funding formula, which directs funding to schools rather than local authorities. These funding provisions also apply only to pupils between the ages of five and 16.

On Amendment 97ZA, in the name of the noble Lord, Lord Knight, of course I welcome the opportunity to discuss sustainability, which is, as the noble Lord said and as all your Lordships are aware, an issue of paramount importance. Noble Lords may be aware of our recently announced strategy for sustainability and climate change, which was co-created with young people and which I think has been very well received. It includes setting sustainability leadership and the introduction of climate action plans, which will include mitigation.

I absolutely agree with the noble Lord on empowering pupils. He will be aware that part of the strategy relates to the National Education Nature Park, which empowers young people through both the information that they gather and the skills that they will learn in their work in relation to the nature park, which we very much hope will stand them in good stead in future life. More generally, the framework set by the Bill does not intend for the actual content of the funding formula to be specified in legislation, so any such detailed provisions would not be dealt with here.

Lastly, I turn to Amendments 92 and 93 in the name of the noble Lord, Lord Shipley. Many of his remarks were about the wider relationship between local authorities and central government. He will be aware that we have been working with local authorities over several years to implement this reform and we will continue to do so. Ultimately, however, if we want the same pupil to attract the same funding based on their needs, wherever they go to school, we must complete the move to a consistent national funding formula.

Lord Shipley (LD): Has any staffing assessment been done by the department? My interpretation of what the Bill is now saying is that a huge growth is due in the number of staff who will be employed by the department in Whitehall.

Baroness Barran (Con): I may have to write to the noble Lord on that. However, he will know that, through the Education and Skills Funding Agency—the ESFA—we already deal with payments to, as I think he said, roughly 10,000 schools. I would hope that the infrastructure that has been built to do that would allow scaling without having to increase staff in a direct proportion. However, I will write to him to clarify that.

Specifically regarding local authorities, there is a key interaction between schools and high-needs funding, which we are consulting on. The House will be aware that funding for high needs is increasing by £1 billion this year to a total of over £9 billion, which is an unprecedented investment in this area. Once we move to a direct national funding formula, local authorities will no longer calculate a local schools formula or transfer funding from the schools block to high needs. Clause 40 provides a new national-to-local budget reallocation mechanism from schools to high needs.

The Secretary of State will make final decisions to ensure national consistency, while still taking account of local circumstances. That could not occur if decision-making was left to 150 local authorities. Local authorities will still retain a key role in this process. They will initiate requests for funding transfers, setting out their rationale, and will consult with local schools. Overall, we think this strikes the right balance and aligns with the wider reforms in the recent SEND and AP Green Paper.

I hope that I have convinced your Lordships that the direct national funding formula will allow us fairly, consistently and transparently to fund schools on the basis of their needs. I ask the noble Lord, Lord Hunt, to withdraw his Amendment 79 and I hope that other noble Lords will not move theirs.

Lord Hunt of Kings Heath (Lab): My Lords, this has been a fascinating debate which has ranged very far and wide. I put in only an innocent little amendment to talk about the reserves of schools going into an academy trust or multi-academy trust. It is the gentlest of amendments, which the Minister ruthlessly swept away, saying that it would stifle the innovation and leadership of the multi-academy trust. However, behind it was an issue of substance, which is that the integrity of a whole school and its leadership is very important, and having control over its own budget goes with that.

Obviously, we have a load of interesting amendments around the whole concept of fair funding of schools. The noble Baroness, Lady Humphreys, spoke on rural schools. I totally agree with my noble friend Lord Davies; he might have mentioned Birmingham schools in his analysis of the issues that metropolitan schools face. My noble friend Lady Chapman, in looking at a region's ranking in the index of multiple deprivation, sought to bring a holistic solution to the undoubted different issues and tensions that are faced.

I noted the Minister's helpful comments. Whenever you have a funding formula, it is easier to shift money when you have real growth in the overall funding settlement. One of the problems we have at the moment has been the squeeze on school funding—my noble friend Lord Adonis made a telling intervention in our previous day in Committee. From my own experience, the health service has gone through its own funding formula. We had RAWP for many years, and then ACRA. It was all about the same issues of teeing up

[Lord Hunt of Kings Heath]
deprivation in rural and urban areas, age factors, and a population who are growing older. However, my goodness me, it was much easier to shift money when you had real growth in the system.

7.30 pm

Baroness Barran (Con): Just to be clear, there has been significant growth in funding in the system. In 2022-23, schools in the north-east, to which the noble Baroness opposite referred, will see a funding increase of 6.1%, with 5.9% in Yorkshire and the Humber. Small rural schools are attracting per pupil increases of 5.6%.

Lord Davies of Brixton (Lab): If my noble friend will allow me to butt in with some figures, London Councils points out that, between 2017-18 and 2020-21, 84% of schools in inner London saw a real-terms decrease in per pupil funding, compared with 55% in the rest of the country.

Lord Hunt of Kings Heath (Lab): I am grateful to my noble friend. The point is that, if we look at school funding going back to 2010, my goodness me, what a squeeze there has been between then and 2022.

Lord Knight of Weymouth (Lab): My noble friend may know that the Institute for Fiscal Studies, which is regarded as pretty authoritative on these things, has said that school spending per pupil in England fell by 9% in real terms between 2009-10 and 2019-20—the largest cut in over 40 years.

Lord Hunt of Kings Heath (Lab): There we have it. Is it not good to have noble friends to fully apprise me of the facts?

I sympathise with what the noble Baroness, Lady Garden, said on transport costs for 16 to 18 year-olds. This is not an issue just in rural areas; at sixth-form schools in metropolitan areas, there is a huge movement of students. I know that, in Birmingham, there is an enormous movement of students, which can be costly.

I noted the noble Baroness's comments about the EMA. I would gently say that it was a coalition Government decision to get rid of the EMA. I think that the EMA was one of the most brilliant initiatives—we still have it under a Labour Government in Wales—to encourage attendance at school. It is a great pity that it was removed.

I sympathise also with what the noble Baroness, Lady Brinton, said on the impact of Covid.

On Amendments 92 and 93 in the name of the noble Lord, Lord Shipley, I agree with him about the centralisation of powers. There is an issue around how bureaucracy responds to it but it is also about the span of political control. I do not want to go back over the first 18 clauses of the Bill but it is about putting the two together. There is a desire for the Secretary of State to control everything, including funding. The implication is that, in the end, Ministers are going to have to account for individual school performance here. I do not think that they have really taken that into account. The line of accountability, including for dosh, is clear now; Ministers have taken responsibility. In the end, they will find it very difficult to say, "I'm not going to get involved in that; it's nothing to do with us", because I am afraid that it will be to do with them. That is why it really is not good to have such central powers in an education system.

What an uplifting contribution from my noble friend Lord Knight. I have skimmed the *Times* commission's report. It has some wonderful ideas. What struck me is how uplifting it is. It gave me a positive feeling about what education could do, which drags us away from the rather dreary, exam-focused situation that we now find ourselves in. I almost thought that year 6 pupils might be able to enjoy their last year, instead of having incessant pressure from those wretched SATs at the end of the year. My noble friend is also right about pupil councils. In many cases, before we moved to the new system, the Lords outreach programme allowed us to engage with student councils. I found it a fantastic experience. Having some money tied in with sustainability is a wonderful idea indeed.

Finally, the Minister was a bit dismissive of my noble friend Lady Chapman's Amendment 79C, which would introduce a requirement to report on academy funding and performance. I think that that is a very good idea. I would tie that into the remarks from the noble Lord, Lord Deben, about transparency. I know the Minister says that this is all transparent but the process by which the funding formula is put together—it is the weightings that are so crucial—warrants greater transparency.

Having said that, I beg leave to withdraw my amendment.

Amendment 79ZA (to Amendment 79) withdrawn.

Amendment 79 withdrawn.

Amendments 79A to 79C not moved.

Clause 31 agreed.

Clause 32: Part 1: regulations

Amendments 80 to 83 not moved.

Clause 32 agreed.

Clause 33: Nationally determined funding for schools in England

Amendments 84 to 86A not moved.

House resumed. Committee to begin again not before 8.20 pm.

Global Energy Sector

Question for Short Debate

7.38 pm

Asked by ***Baroness Sheehan***

To ask Her Majesty's Government what assessment they have made of the report by the International Energy Agency *Net Zero by 2050: A Roadmap for the Global Energy Sector*, published in May 2021.

Baroness Sheehan (LD): My Lords, the gathering pace of extreme weather events, far earlier than scientists predicted, is the planet telling us that "enough is enough". The IPCC states that

"some of the changes already set in motion—such as continued sea level rise—are irreversible over hundreds to thousands of years."

The International Energy Agency, created in 1974, is an autonomous intergovernmental organisational hosted by the venerable OECD. It accepts that climate change is real and happening now. It has put its shoulder to the wheel and used its awe-inspiring expertise in the global energy sector to produce a report that is a road map to meet the net-zero target by 2050, keep global warming to 1.5 degrees and, crucially, safeguard our way of living. This is a report commissioned by our own Government. They should find succour in the IEA's conclusion that there is a pathway by which net zero by 2050 is achievable, and in how the IEA has dotted the "i"s and crossed the "t"s and detailed how the challenge can be met.

In introducing this debate, I openly declare that I stand with those international agencies and am a fully paid-up member of the "We must act now—this is a climate emergency" brigade. I also declare that I am a director of Peers for the Planet. I suspect that others may be contributing to this debate from a standpoint either of denying that climate change is real or that reaction to it is overenthusiastic. I hope that they will make a declaration on that and on membership of any groups that promote those points of view early on in their contributions.

There is a chant among children in playgrounds, "Sticks and stones may break my bones, but words will never hurt me." It is so right. Words alone will not undo the deep damage that we humans have inflicted on our planet and its life support systems. I am not a violent person. Rather than sticks and stones, the metaphorical carrot would be my preference, and it seems to me that Russia's invasion of Ukraine has shown us the real carrot, the real prize: to rid ourselves once and for all of dependence on essential energy supplies from geopolitically unstable and unpredictable sources of energy. That carrot is being dangled in front of us at a time when alternative sources are available, sources that are free from the taint of human rights abuses, free from dependency on rogue regimes that have heads of states with delusions of grandeur, cheaper by far, and becoming ever more so than fossil fuel sources.

Instead, we have the prospect of infinite clean energy from the sun, wind and ground, generated on domestic soil and available for domestic use rather than destined for the global trading floor and the highest bidder, as would be the case for oil and gas from UK waters, because pumping more gas out of the North Sea will do precisely nothing to ease the energy crunch and cost of living crisis in the UK. Supply from UK waters in the North Sea will make not so much as a dent in the shortage of global supply, and it is not ours anyway—we sold our assets in the North Sea decades ago. Maybe the noble Lord, Lord Lilley, who I am delighted to see is taking part in this debate, will confirm this, given his background as a practitioner in the oil trade. I look forward to his contribution to this debate and hope that we will be able to find some common ground.

Investing in new fossil fuel infrastructure would be a wilful act of self-harm. It shows a complete lack of imagination in analysing the science, programming in our knowledge of how the earth has moved through cycles of extreme weather over the millennia, and not taking on board that giving the finely balanced forces of nature a sharp shove risks damaging our planet irreversibly for the foreseeable future. I accept that there are uncertainties, as there always will be in science, but who can deny that the planet is creaking and who, until last year, had heard of heat domes or atmospheric rivers? If the planet cracks, there is no planet B to which we can evacuate. Common sense says that we must ensure our future.

Serendipitously, the steps that we can take are a win-win scenario. The IEA's authoritative report lays out the wins very clearly in *Net Zero by 2050: A Roadmap for the Global Energy Sector*. Its findings are quite explosive. It says that net zero by 2050 is a tall ask but that it is doable. If the world followed its road map, it would reap huge benefits—benefits which include millions of new jobs, many of them skilled, in manufacturing, construction, engineering et cetera, with the option of deployment where there is the greatest need for quality jobs. Millions more green jobs would be created than if investment was pumped into fossil fuels. Economic growth would exceed expectations, all the while ensuring clean, stable and affordable energy supplies, resilient against the vagaries of rogue regimes. What is not to like?

What must we do to get there? First, the report recommends a major worldwide push to increase energy efficiency. Would it not make sense to put a stop to the hideous waste of energy through leaky pipes, transmission lines and walls and rooves of buildings? A 2015 report from the Association for Decentralised Energy states that 54% of energy of energy produced in this country is wasted, equivalent to more than half the average UK annual electricity bill, or about £592, in 2015. The report said that the amount wasted was equivalent to the power generated by 37 nuclear plants. Maybe the situation is better now than it was in 2015. If so, can the Minister update the House? If the data are not to hand, can he write to me and place the letter in the Library?

The IEA has just published its report, *The Value of Urgent Action on Energy Efficiency*. The report says that by doubling the global economy's energy efficiency from 2% to 4% each year this decade, we could avoid 30 million barrels of oil per day, about triple Russia's 2021 production, and 650 billion cubic metres of gas per year, which is four times the amount that Europe imports annually from Russia.

Secondly, the Government must engage with the public. The Climate Change Committee's analysis shows that 40% of the changes needed to get to net zero require some sort of behaviour change. BEIS's own public attitudes survey shows a whopping 85% of people are concerned about climate change but lack information about how best to do their bit. Why is there no government strategy to improve climate education to encourage the behaviour change necessary to reach net zero by 2050?

[Baroness Sheehan]

Thirdly, the IEA's analysis has shown that there is no need to build new supply infrastructure for transitional gas. We already have all that we need, and more, to tide us over until we have the renewables in place for the vast majority of our energy needs, and mitigation measures in place for the minuscule amount of gas that may still be needed by 2050. Can the Minister explain why the Government think it necessary in the *British Energy Security Strategy* to announce a new licensing round in the autumn for new North Sea oil and gas projects that will not deliver for many years? Why is that preferable to investing in renewables, which will generate energy much quicker and more cheaply and have zero risk of becoming stranded assets?

Why do our Government handle the oil and gas sector with kid gloves and insist on continuing support for it despite clear evidence that support for the sector is incompatible with reaching their own statutory target of net zero by 2050? This is exemplified clearly in last month's energy profits levy. The framework includes doubling investment relief for oil and gas companies, but no such tax relief for investment in renewables or for demand-side measures has been proposed. This is Jekyll and Hyde politics. It is as if the Government were being held to ransom by hardcore climate deniers on their own Benches.

7.48 pm

Lord Lilley (Con): My Lords, noble Lords may recall the debate we had in February 2020 on *Absolute Zero*, the report produced by the Cambridge University engineering department and other universities in this country. It had almost the universal approval of this House. The central thesis of that report was that we cannot rely on

"new or breakthrough technologies … they won't be operating at scale within thirty years."

We have to rely on existing technologies and reducing demand. But the IEA road map assumes that what it calls "technologies under development" but not yet in the market will provide almost half the emissions savings by 2050. The main innovation opportunities it identifies to produce these savings are what it calls

"advanced batteries, hydrogen electrolysers, and direct air capture and storage."

I simply ask noble Lords participating in this debate or reading it in *Hansard* whether that is remotely credible. Clearly, the practical people in the Cambridge University engineering department do not believe it is. I am prepared to believe that the occasional pig might fly, but the IEA report assumes a whole farmyard of pigs will take to the air. That seems a little unlikely.

It is worth looking at how rapidly—or not—new technologies have been deployed in our pursuit of reducing carbon emissions over the last couple of decades. After 20 years of effort, low-carbon technologies provide just 21% of this country's total primary energy. That is little more than double the 9.4% that they provided in 2000, almost all of which was from old-fashioned bioenergy. It is that which has produced most of the savings in the subsequent 20 years; it provides 8.8% of our energy now.

The somewhat newer but scarcely novel technologies that have contributed to our progress over that period are wind and solar. Wind has been around since the Middle Ages and solar has been around for quite a long time. Although they have developed over the last 20 years, together they provide just 4.7% of our primary energy in this country. That has taken 20 years to come about.

The IEA also makes heroic assumptions about deploying existing technologies. For example, it says that, from 2025, throughout the world, including this country, no new gas boilers should be installed. I ask participants in the debate whether they believe that should be the case. Should we ban the introduction of new gas boilers from 2025? Presumably they are to be replaced by either heat pumps or direct electricity. We know the problems with heat pumps. They are available and I wanted to install one in my flat, but I was advised by my architect and builder that, unless I was insane, I should not do so. If they are not yet available or cheap, and the costs of insulation and changing radiators are not viable, we will have to do it by direct electricity. Electricity costs four times as much as gas to provide the same amount of therms. Is that what supporters of this report want to see? If not, where are they going to conjure up heat for our households from, once they are no longer allowed to replace their gas boilers?

The IEA also says there should be no new oil or gas fields developed from now. The approach that we and most countries have adopted, in trying to move towards net zero, has been the sensible one of reducing demand, not supply: phasing out demand for fossil fuels by providing alternatives, not forbidding the supply of fossil fuels. That is the sensible thing to do. If, in spelling out how we are going to reduce demand, oil companies none the less go ahead and develop fields that subsequently prove surplus to requirements, they will be left with stranded assets. That is their fault; I am not going to shed any tears for them. If, on the contrary, we stop them developing enough oil and gas to meet our schedule of reduced demand, there will be a shortage. We are seeing it now as a result of the war in Ukraine. Oil has gone up by 60% to 70% and gas has gone up by 130% of what it was before Covid. That is hard and tough for consumers, but it makes wonderful profits for suppliers. Is that what those who advocate this approach of cutting back on supply, rather than on demand, want?

The noble Baroness, Lady Sheehan, asked us to spell out our credentials. I spell out mine. I studied science at Cambridge. Of course, I do not deny the science of global warming; it is about as robust as any science I know, although it is not as alarming as some would have us believe. There is double the amount of CO_2 in the atmosphere; the direct effect is to raise the temperature of the world by 1% and then knock-on effects will significantly increase that. I accept that.

Likewise, the noble Baroness asked whether we had any vested interests. I twice worked for an oil company and, long before that, studied energy and was an energy analyst in the City. I used to upset the oil companies by advocating that we, in this country, stopped giving them free assets in the North Sea. I published something

called *North Sea Giveaway* that prompted the Government of the day—this was before I was in Parliament—to introduce auctions to siphon off some of the profits the oil companies were making. That may be why none of them has ever asked me to go on its board.

The noble Baroness, Lady Sheehan, asserted that there is no benefit from developing new fields, or supplies of oil and gas, in the North Sea or, by extension, shale gas on land. There is; there is a direct reduction in the amount of emissions you would have for a given consumption of gas and oil. Instead of having to liquefy the gas in Qatar, ship it across the ocean and regasify it here, with the creation of emissions at those three stages, you would provide it locally, with reduced emissions. If people are sincere about wanting to reduce emissions, rather than simply wanting to punish oil companies and stop them going about their business, they would welcome domestic production for those reasons.

I hope that the House looks at this report with a critical eye and finds either that my analysis of it is incorrect and that it is full of realistic proposals, rather than flying pigs—if so, I hope someone will tell me what they are—or that it looks at a better solution to reach net zero by 2050 than what is laid out in this report.

7.58 pm

Baroness Bennett of Manor Castle (GP): My Lords, I begin by declaring my membership of the advisory panel of Peers for the Planet. In following the noble Lord, Lord Lilley, I actually agree with him, in some respects. I do think the International Energy Agency report is far too reliant on novel technologies. However, that is because it assumes continuing economic growth on a planet that is already exceeding many planetary boundaries, not just the climate emergency one. There are enough resources on this planet for everyone to have a decent life if we share them out fairly, and that means a different economic model: system change, not climate change, is the answer. The current system, the acceleration of which the noble Lord is promoting, cannot continue. That is not politics; it is physics. I also point out to the noble Lord that the solar and wind he was deprecating are the cheapest sources of energy now, which we can use to cut people's bills. Had the Government proceeded with them more in the past decade, we would see people having significantly lower bills already.

I want to begin not the rebuttal but the formal part of my speech by thanking very sincerely the noble Baroness, Lady Sheehan, for securing this debate on the report. I hope the Government will also thank her, given that the report was requested by Alok Sharma as chair of COP 26 to provide a road map for the energy sector to net zero by 2050. I think that 2050 is far too late, certainly for the UK—we should be looking at 2030—but at least it is heading in somewhat the right direction. Given that the noble Baroness has secured us this time, rather than skimming over the top, I want to focus on three areas.

The first is that the IEA very clearly says, as the noble Baroness highlighted, that pledges are just words, or hot air, without action. The report states that the nations of the world collectively fall well short of what is needed. One of the report's top recommendations is that there should be no investment in new fossil fuel projects. It is quite horrifying that this report came to Alok Sharma, as chair of COP 26 and a government Minister, in May last year and since that time 50 new fossil fuel schemes have been approved in the UK, including the Abigail oil and gas field development, an extension to a coal extraction licence in south Wales, and the expansion of oil production in West Newton in east Yorkshire. The figure of 50 comes from mid-May; since then we have had the Jackdaw gas field, and there is the threat of the proposed Cumbria coal mine, all of which are new projects. I point to the conclusion of the Committee on Climate Change which states that extra extraction in the UK supports a larger global market for fossil fuels. The assessment of the climate campaign Uplift shows that 56 more projects could be approved between 2022 and 2025 because they started the process before the climate compatibility checks announced by the UK Government last year.

I notice that in these areas we do not see the Government using their favourite phrases "world-leading" and "world-beating", because they cannot claim to be. That label belongs to the nations of the Beyond Oil & Gas Alliance, which is promoting the fossil fuel non-proliferation treaty. It draws its terminology from the nuclear non-proliferation treaty. It is exactly the right terminology because we face a carbon bomb which is being considerably enhanced, and its threat greatly increased, by all this new development of fossils fuels. The 2021 *Production Gap Report* from UNEP warns that Governments collectively plan to produce more than twice the amount of fossil fuels in 2030 than is consistent with the 1.5 degrees target. This cannot be magicked away; this is infrastructure.

It is worth highlighting that the fossil fuel non-proliferation treaty originated in 2015, with Pacific island nations. When I was in Paris at the COP talks, it was thought that the target of 1.5 degrees was necessary to protect those small island states, but we now understand that it is crucial for all of us, as our Committee on Climate Change says, to ensure the survivability of this planet and that we do not have runaway, chaotic climate change.

My second point draws on a debate in the other place which was originated by my honourable friend Caroline Lucas. Lee Rowley, speaking for BEIS, referred to the authors of the non-proliferation treaty and said that they were talking about changes that demanded a lowering of demand for goods and energy, a lowering of material consumption and a clear change in people's diets.

Here I want to pick up a point made by the noble Baroness, Lady Sheehan, who talked about the crucial nature of reducing waste. The reports she mentioned looked at waste as the very obvious things that we all see from uninsulated homes and buildings, with lights blazing away when they are not needed. But there are more sources of energy consumption and carbon emissions in our society that are damaging to people's lives and well-being and are actively harmful, such as fast fashion, factory farming and much of the advertising that bombards us from every corner, which these days

[Baroness Bennett of Manor Castle]
is often video powered, for gambling, alcoholic products or junk food. We could greatly improve our mental health with more mindful energy use and by thinking about where we should be using our energy and where we could improve our lives by using less.

My third point is about social justice. The IEA report crucially points out that there are currently 785 million people in the world without access to electricity and 2.6 billion people who lack access to clean cooking options. I said at the start of my speech that there are enough resources on this planet for everyone to have a decent life if we share them out fairly. They are the people who clearly need considerably more access to the planet's resources. We need to ensure that they have access to the technologies and infrastructure for renewable energy and the clean technologies that are also the cheapest form of technology available to them.

The noble Lord, Lord Lilley, suggested that people are being alarmist about the climate emergency. I invite him to look at an article on Reuters news agency today. It draws on research from the *BMJ* about the threat that high temperatures present to pregnant women, resulting in higher maternal mortality and morbidity and higher infant mortality. The article refers to Jacobabad, a city in Pakistan, where on 14 May the temperature exceed 51 degrees Celsius. In the UK people are talking about the heatwave, but it is vastly below that figure of 51 degrees, which is utterly unseasonable in May. We are talking about climate justice. We often use that as a phrase, but it means liveable conditions for pregnant women in that Pakistani city who are suffering, working and trying to survive.

8.08 pm

Lord Teverson (LD): My Lords, I must unplug myself from the excellent forensic analysis by the noble Baroness, Lady Bennett.

One of the great things about the IEA report is that it shows a pathway and is optimistic, if you like, that the pathway is

"narrow but still achievable"—

it is possible. I have now been shown the pessimistic side of that: it is not possible, as we still have the problem and we do not have all the solutions to it. Having said that, our UK Climate Change Committee bases most of its analysis on proven technologies. However, as we all know, the UK is only a small part of this issue and the rest of the globe is something extra. I hope we can get some optimism back in this debate somehow, although I recognise a number of those arguments.

At the moment, it seems to me that we are a cross-roads on this debate, particularly because of decisions made in the Kremlin on Ukraine, as mentioned by my noble friend Lady Sheehan, and a resurgence of the dilemma about whether to get through the cost of living crisis and the cost of energy crisis by investing in fossil fuels again or accelerating the transition to renewables and other forms of decarbonisation in our economy. I am convinced, as my party would be, that it is clear that we need to take the fork in the road and follow the path that pushes for further decarbonisation of our planet, our energy systems and our economy. The other way to go is not necessarily right.

Three things in particular sprang out at me from the report. They have been mentioned by Members already so I will not spend a lot of time on them, but it was clear to me that, in the order in which the report listed remedies, energy efficiency was once again number one. I know the Minister completely agrees with that, but what amazed me was the statistic where the report estimated that some 30% of what we need to do for decarbonisation could be achieved through not just energy efficiency but demand-reduction measures that included energy efficiency.

In this country at the moment, with the cost of energy in particular at the core of the cost of living crisis, the figure quoted is that the Government are committing some £37 billion to sort out the issue of customer bills and so on—but that is dead money; it goes but it does not improve the situation. Where are we when it comes to using money to invest in energy efficiency and ways of producing demand reduction? I would be interested to know whether, given energy efficiency's absence without leave in the Government's energy security strategy, there will be measures in the Bill that is coming forward to make sure that we can move on from the green homes farce over the last two years and really take that issue on.

The other area that noble Lords have mentioned is ending investment in future fossil fuels. I might slightly disagree with my noble friend, in that when we have a crisis, as we do at the moment, I would expect existing assets to be sweated out. If President Biden manages to persuade Middle East countries to increase their production when we have a reduction in supply from Russia and its allies then, to me, that is a way forward. However, on the question of investing in fossil fuels in the long term, coming from an economist's background, I know there will be supply where there is demand. However, it is important that we say no more about energy investment; it gives the wrong signals. There is a risk of stranded assets for the corporations that decide to do that, but there needs to be leadership on that.

I was amazed to hear that the Government recently approved, despite the Conservative local authority being against it, the exploration in Surrey. I would be interested to hear from the Minister why he feels that should have taken place.

The other strong message that has come out, and not just in the IEA report, is that there are economic benefits of decarbonisation, not just in terms of bringing down the costs of energy due to energy efficiency; in the whole area of jobs, growth and levelling up, the report estimates that would be an additional 0.4% of growth per annum. I expect that there is a strong standard deviation around that figure, but it shows that there is a way of moving forward that is economically positive but also brings the environmental benefits of clean air and a much better atmosphere altogether.

I have a question for the Minister. Suddenly COP 26 seemed to discover methane and the challenges around it. I thought that was a positive part of the Glasgow conference, in that there was an allowance to do that.

The IEA report points out that if we stopped the leakage from gas that there is at the moment and put it back in the market, we could bring down the cost of gas substantially, so what are we doing in the North Sea, and indeed internationally, to reduce methane emissions?

An interesting part of the report said that we could get rid of 17% of regional air flights globally through surface transport if we invested properly in high-speed rail. Given the decades that it is taking to do that in this country, that is something that I feel is a bit late for us to do.

The report lays a good foundation globally. The Climate Change Committee has shown that we can achieve what we want to in the UK with existing technologies, but for me the key message is that we need to move forward on both energy efficiency and renewables. Indeed, the IEA chief executive, Dr Fatih Birol, said that energy efficiency and renewables are "the Romeo and Juliet" of energy transition. That is absolutely right. I will leave the subject at that, except to say: let us focus on those areas and make sure that we in the UK are able to deliver net zero by 2050.

8.16 pm

Baroness Blake of Leeds (Lab): Follow that, my Lords. I have not heard "Romeo and Juliet" brought into this debate before, and I appreciate that.

I welcome this opportunity to debate the International Energy Agency report from May 2021. I thank the noble Baroness, Lady Sheehan, for tabling the debate and setting out the context so well. That is really important, particularly against the backdrop of more announcements just this week about what is unfolding, with more extreme events coming forward.

It is welcome that tackling the climate crisis is a shared national objective across this House, in spite of the caution of the noble Lord, Lord Lilley, on the subject. As we know, it is also a shared global objective. Unfortunately, the UK's current broken free-market energy system under this Government leaves us uniquely badly placed to cope and to act, but, as the noble Lord, Lord Teverson, said, we need to keep our focus on optimism as we go forward. We cannot simply go from a high-carbon, unjust, unfair and unequal country to a zero-carbon, unjust, unfair and unequal country. We need urgent answers from the Government on next steps.

Although much has happened on the world stage since the report was published, I am afraid that little progress can be noted. To be fair, the Government published both the net-zero strategy in October 2021 and the energy security strategy in April this year, but we seem to be falling short on where actions will be taken. In addition, plans made at COP 26 last November in my view fell short of what was needed, in spite of the modest progress. So when we look at the report's findings, which I will turn to shortly, there is little if anything that no longer applies, and ensuring that our efforts towards net zero are on course is only more urgent given recent developments in Russia and Ukraine. Energy security has taken on a whole new imperative and brought a new urgency, if that were possible, to the debate.

With regard to the report, as we have heard, the current trajectory for net zero by 2050 is not going to be met with the current climate commitments. That should not shock anyone; there has been a growing sense that the Government are finding the climate emergency too big to ignore yet too hard to grasp. This is not new. David Cameron's austerity Government slashed the renewable energy incentives and set us back both in terms of action and confidence. This report makes it clear that it has taken them too long to learn from these mistakes. The report sets out a road map for how the world can transition to a net-zero energy system while ensuring stable and affordable energy supplies, providing universal energy access and enabling economic growth. These are the broad criteria against which we will judge the Government's actions. The noble Baroness, Lady Bennett, is right to highlight the imperative of social justice.

The road map set out is far too comprehensive for me to cover in detail in nine minutes and far too comprehensive for a one hour debate, so I will focus on broader themes and a few key issues. Let us start with what happened yesterday, when the Government announced they were ending the plug-in subsidy scheme that provides grants of £1,500 towards buying electric cars, leaving the UK as the only large European country without any incentives for electric cars. While I completely agree with the need to expand the charging network and support other battery-powered vehicles, it is disappointing that measures to make the upfront cost barrier smaller for those on low to middle incomes are now being scaled back with no warning, when positive progress was being made. Over half the cars now sold are electric or hybrid, but given that the report makes it clear that we need to stop sales of combustion engine cars entirely by 2035, has the Minister considered replacing this scheme with long-term interest-free loans for new and used electric vehicles to tackle this instead?

The road map also called for no future investment in fossil fuel supply projects and no further final investment decisions for new unabated coal plants. This, in the short term, requires an immediate and massive push towards all available clean and efficient energy technologies, combined with a major push to accelerate innovation. The energy security strategy and the Bill that will follow soon are the Government's opportunity to get on track in this area. There is, of course, still time for the Bill to deliver what is needed. But the energy security strategy was a missed opportunity. There were welcome elements, of course, around nuclear energy and offshore wind, but the measures in the strategy do not constitute the green energy sprint that is required to cut emissions this decade. On the cheapest, quickest, cleanest renewables such as onshore wind and solar, the Government, we assume, caved to Back-Bench pressure. Furthermore, why the silence on energy efficiency and retrofitting projects and demand reduction, as outlined by the noble Lord, Lord Teverson?

Onshore wind is four times cheaper than gas and overwhelmingly popular, but hundreds of projects that communities want and are ready and waiting have been blocked. Earlier versions of the strategy showed that the Government are aware of this. Yet this strategy contains little beyond vague platitudes and nothing to reverse their ban on onshore wind projects in 2015,

[Baroness Blake of Leeds]
which destroyed the market, with only 20 new turbines granted planning permission between 2016 and 2021. Doubling onshore wind capacity to 30 gigawatts by 2030 could power an extra 10 million homes, add £45 billion to the UK economy and create 27,000 high-quality jobs. With the Bill coming soon, will the Government revert to their initial thinking and reconsider onshore wind? Will they commit to tripling solar power by 2030?

As we have heard, the door remains open to fracking, against local wishes, and the idea of a new coal mine in Cumbria is still being floated even though the chief executive of the Materials Processing Institute research centre has said that only one client, Tata Steel, would buy the coal and would not want much. How can the Minister expect to reassure this place of the Government's commitment to net zero if they continue to act to the contrary?

I believe the report also emphasises the need for research and development into new technologies to achieve the long-term goals, which is welcome. While most of the global reductions expected up to 2030 can and will come from technologies readily available, we have heard that this will not be the case beyond that and by 2050, around half of the required reductions will demand technology that exists today only in demonstration or prototype phases.

The IEA has therefore called for Governments quickly to increase and reprioritise their spending on research and development, with the most impactful suggestions being in respect of advanced batteries, electrolysers for hydrogen and direct air capture and storage. The Government's *Ten Point Plan for a Green Industrial Revolution* addressed this, as have the various documents built upon it. However, the sense remains that this Government are taking a scattergun approach to where support and investment fall, and to which technologies to back, rather than having a strategic focus on the impactful technologies the road map calls for.

We would like to hear about the long-term plans and the funding that we need. We need to know that positive words will be matched with positive action. There is a huge opportunity around this agenda to grow the economy. Finally, I ask the Minister to confirm that the Treasury is fully committed to helping industry and the public move towards net zero.

8.26 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): I thank the noble Baroness, Lady Sheehan, very much for securing this debate on a vital topic. It was an interesting and informative, albeit brief, debate with some excellent contributions from all sides. I am very grateful to all who contributed.

The UK became the first major economy in the world to pass legislation to end its contribution to global warming by 2050. I confirm to the noble Baroness, Lady Blake, that we remain absolutely committed to that goal and to achieving net zero. The report we are debating, the IEA's *Net Zero by 2050* report, sets out in very concise terms and detail for the international community to see how we can make that vision reality. We emphatically welcome the report, as has been pointed out. In fact, as COP 26 president, the UK asked the IEA to develop it. We peer-reviewed it and provided feedback and input into it. In doing so we believe we have helped the IEA to sharpen its focus on driving a clean energy transition, and to think through the positive impacts net-zero policies are having on quality job creation and investment, for example, with up to 30 million more people working globally in clean energy, energy efficiency and low-emission technologies by 2030, as the noble Baroness, Lady Sheehan, reminded us.

The report provides a robust basis for the UK, as COP 26 president, to seek raised climate ambition through international diplomacy. The reality is that we need all countries to deliver on their commitment in the pact to revisit and strengthen their 2030 targets to align with the Paris agreement temperature goal by the end of this year. In our presidency year, we are working with all parties to deliver on this commitment and to go further and faster to close the 2030 emissions gap to 1.5 degrees centigrade.

We also recognise, as pointed out in the report, that this transition must be fair and inclusive. That is why we launched the International Just Transition Declaration at COP 26, which commits to using our overseas development assistance to support a just transition globally, as the noble Baroness, Lady Bennett, mentioned. Just transition is also about the health implications of energy transition, and the UK is also promoting this internationally.

Turning to what we are doing at home, we are taking urgent action to make sure that the UK pulls its weight in the effort to shift the world on to the path to 1.5 degrees centigrade, as set out by the IEA in its report. The Prime Minister's *Ten Point Plan for a Green Industrial Revolution*, the net zero strategy, sets out a clear vision for how the UK will transform its production and its use of energy in a decisive shift away from fossil fuels. The UK Government have set in law, as I said, the world's most ambitious climate change targets, cutting emissions by 78% by 2035 compared to 1990 levels. This would bring the UK more than three-quarters of the way to net zero by 2050. As part of this, the Government remain committed to phasing out unabated coal generation in Great Britain by October 2024.

The recently announced *British Energy Security Strategy*, which was referenced in the debate, accelerates this plan in a series of fairly bold commitments that put Great Britain at the leading edge of the global energy revolution, which could see 95% of Great Britain's electricity set to be low carbon by 2030. We have a new offshore wind ambition of up to 50 gigawatts by 2030; this is more than enough to power every home in the United Kingdom. We want to see up to 5 gigawatts of that coming from floating offshore wind, which can of course be deployed in deeper waters. The *Net Zero Strategy* and the *British Energy Security Strategy* will level up the UK by supporting up to 190,000 jobs by the middle of the 2020s and around 480,000 jobs by 2030. We are also attempting to leverage an unprecedented £100 billion-worth of private investment by 2030.

A number of noble Lords—particularly the noble Lord, Lord Teverson, and the noble Baronesses, Lady Blake and Lady Sheehan—referred, of course, to the central news item in the world at the moment: the appalling illegal Russian invasion of Ukraine. This has underlined the need to address our vulnerability to international oil and gas prices by helping to reduce our dependence on oil and gas imports. Building a robust and secure UK energy market is now an issue of national security, and it is an important driver of the transformation of the UK economy, alongside decarbonisation.

More than ever, we need to work together to accelerate the shift to clean power generation and zero-carbon economies. An accelerated and more ambitious shift to clean energy provides the most effective route to ensuring climate and energy security and, ultimately, our long-term prosperity. As the IEA pointed out at last month's Energy Transition Council ministerial, a clean energy transition will support energy autonomy and reduce energy cost over time—I agree with the noble Baroness, Lady Sheehan, that this is a win-win scenario.

I will move on to some of the points made by noble Lords in the debate. The noble Baronesses, Lady Sheehan and Lady Blake, the noble Lord, Lord Teverson, and virtually everyone else in the debate mentioned the critical issue of energy efficiency and how essential it is—they will hear no disagreement from me on that. The cheapest energy is that which we do not use. The IEA report confirms energy efficiency measures as one of the most effective means of promoting the energy transition. Leading into COP 26, the UK and our partners launched a product efficiency call to action, with the goal of doubling the efficiency of four priority products that will account for 40% of global energy consumption by 2030. The Super-efficient Equipment and Appliances Deployment initiative—SEAD—today supports more than 20 countries in achieving this ambition quickly and at lower cost.

Domestically, our *Heat and Buildings Strategy* committed a further £3.9 billion-worth of investment in energy efficiency and low-carbon heating over the next three years, which takes our total investment to almost £6.6 billion during the lifetime of this Parliament. I know that noble Lords will push me, saying, "It's important to do more", "We could do more" et cetera—but let us at least agree that we are spending considerable sums of money on energy efficiency, and the vast majority of this is targeted to those in our society who are on lower incomes.

Furthermore, we are making significant progress on improving the energy efficiency of UK homes—again, you would not know it from some of the speeches that we have heard this evening. Back in 2008, just 9% of homes had an energy performance certificate—EPC—of band C or above; now, 46% do. We are committed to upgrading to EPC band C as many homes as is cost-effective, practical and affordable by 2035, and—I repeat—we are spending £6.6 billion during the lifetime of this Parliament to help to achieve that goal.

The noble Baroness, Lady Sheehan, asked about the government strategy to improve climate education and encourage the behaviour change necessary to reach net zero. We are, in fact, increasing our work on public engagement and net zero, both in communicating the challenge and in giving people a say in shaping future policies. The *Net Zero Strategy* sets out the Government's vision for transitioning to a net-zero economy, outlining our approach to public engagement through building public acceptability for major change and presenting a clear vision for how we will get to net zero. For example, in our Together for Our Planet campaign in the run-up to COP 26, our 26 "One Step Greener" champions showed how taking one step can have a positive impact on the environment, encouraging the public to do their bit, however large or small—everyone can make a contribution.

My noble friend Lord Lilley and the noble Baroness, Lady Bennett, both referenced the IEA modelling, which found that developers of oil and gas fields and coal mines will in fact not find it profitable to open new fields when demand for fossil fuel drops. Like the noble Lord, Lord Lilley, I say that they will not find much sympathy from me. But the IEA report was published before Russia's invasion of Ukraine and the subsequent turmoil in international energy markets.

We have made it clear, and I make no apology for saying, that we need to source from British waters more of the gas that we need and will use in the transition, in order to protect our energy security. I totally agree with my noble friend Lord Lilley that it has to be more climate effective to source the gas that we need in the transition—as recognised by the Climate Change Committee—from UK supplies, rather than very carbon-inefficient international sources of supply, through things like LNG. While we are working hard to drive down demand for fossil fuels, there will be continuing demand for oil and gas over the coming years, as we transition to cleaner, lower-carbon energy. The IEA report makes this clear, and we must be clear that it does not lock the UK into fossil fuel dependency in the longer term.

In response to the question raised by the noble Lord, Lord Teverson, regarding exploration at Loxley, the Government have now consented to a three-year drilling programme to establish the extent of the gas fields. The field could hold a sizeable volume of around 43 billion cubic feet of gas, helping the UK to respond to the current and unfolding energy crisis.

Unfortunately, I am running out of time, but I will deal with one point raised by the noble Lord, Lord Teverson, about methane emissions; I want to note this other crucial area that was referred to in the report. Action on methane is critical and can avoid up to 0.3 degrees centigrade of warming by 2040. The UK has started to answer that challenge: the global methane pledge, which was referred to, was launched at COP 26, with the UK as one of the first signatories. More than 100 countries—which are responsible for just under half of all global methane emissions—have now joined that pledge to cut methane emissions by 30%. That includes six of the top 10 methane emitters.

The noble Baroness, Lady Blake, asked me a number of questions on renewables which I would like to address, but I will write to her about them separately because I am running out of time.

[Lord Callanan]

I thank all noble Lords who have contributed to this important discussion, and for their sincere and considered questions and comments.

Schools Bill [HL]

Committee (3rd Day) (Continued)

8.38 pm

Clause 33: Nationally determined funding for schools in England

Amendment 87

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

87: Clause 33, page 30, line 3, at end insert—

"(11) Within the period of one year beginning with the day on which this Act is passed, the Secretary of State must publish an assessment of the impact of this section, which must include analysis of the distribution of funding by geographical location and comparative deprivation."

Member's explanatory statement

This amendment would require analysis of the changes made to the National Funding Formula that remove the role of local authorities in allocation.

Baroness Wilcox of Newport (Lab): My Lords, we degrouped the amendment because, although it was related to an earlier group, we wanted a specific ministerial response on this policy choice to remove local authorities from the allocation. To fully evaluate the changes, the public will need—and indeed deserve—a robust analysis of how they affect the funding by region when we know that there are already huge disparities in how different areas have been funded, as was alluded to in the previous debate. Indeed, in some cases, this has worsened over the duration of the pandemic. We cannot have this change just happen without detailed analysis and democratic scrutiny. Recent examples, such as the woeful implementation and less than satisfactory delivery of the National Tutoring Programme, clearly demonstrate that monitoring, evaluation and scrutiny of the implementation of policies are key drivers of success.

The DfE has acknowledged that there is a critical question over whether there would continue to be merit in local control of certain aspects of mainstream school funding, and we would argue that there is such merit. But what does the profession say? I will quote Geoff Barton, the general secretary of the Association of School and College Leaders. I am sure that my noble friend, although she is not in her place, will agree with me that ASCL is not the most revolutionary of trade representative bodies. Nevertheless, he says:

"While we support the direction of travel, our bigger concern is that there is not enough money being put into the system in the first place. The cake is too small, no matter how it is sliced. We recognise that the government is currently investing more money in schools but we do not think this is enough to repair the damage done by years of underfunding and we are concerned that much of the new money will be simply eaten up by rising costs. This is even more critical because of the havoc wreaked by the pandemic and the pressing need for significant investment in education recovery."

So if not this amendment—as I predict that the Minister cannot agree to it today—what are the Government's future plans to assess these impacts? I beg to move.

Lord Davies of Brixton (Lab): My Lords, I totally support the amendment moved by the Front Bench. If this change in the system of funding schools goes ahead, it is essential that an assessment along the lines proposed is made.

However, I question the need for—indeed, am deeply opposed to—Clause 33 and Part 2 as a whole. I am against the proposal for a hard national funding formula, fundamentally because I am a believer in local education authorities—LEAs—as a matter of principle. My noble friend Lord Knight is not in his place, but he said that everyone would be raising their hobby-horse, and this could well be mine. I am in favour of a seamless education system that works for local people through their local representatives. I am prepared to accept that there is scope for debate on the structure of LEAs. Personally, I have a predilection for bodies of sufficient scale which have significant financial and organisational autonomy—basically, a service that is run democratically and is responsive to local voices. Unfortunately, the trend over the last 40 years has been the other way: centralisation and financial restrictions.

I have re-read the debates that have brought us here and it is my view that no case has been made for a hard formula. Some figures are quoted showing what might be thought were gross discrepancies in what individual schools were receiving in financial support, but without providing the context within which these figures have been reached, it tells us nothing. We are also told that the new system will provide "a consistent assessment," as if that in itself was sufficient justification, when in my judgment it will be consistently bad. In truth, a close reading of the White Paper tells us that it

"supports the expansion of … trusts."

What we have here is little more than a by-product of the move to full academisation.

I am against a hard formula in principle, but I am also against it in practice, because it will not achieve a workable or effective outcome. I endorse the comments of the noble Lord, Lord Shipley, during the last debate, where the problems were made clear.

8.45 pm

My view is that there is simply no formula that the Government can reach that will work without local input. No practical formula will encompass the range of possible circumstances that arise in running schools. We know that every school is different: different intakes, different buildings and different social environments. To account for these differences, a complex formula will be needed, and it will be impossible to comprehend its full consequences. It will be an untameable beast, including—to mix metaphors—feedback loops, so it will be uncontrollable. It is also inevitable that a hard formula will rely too much on hard parameters—those factors that are easy to quantify—and not give sufficient weight to more subtle factors that are less susceptible to easy measurement but still affect the resources required to run an individual school.

I also endorse the remarks made in the previous debate by the noble Lord, Lord Deben, who is not in his place, about the increased importance of getting the right data in a hard formula. The difficulty of this should not be underestimated.

It is inevitable that rough justice will be built into the system, and in practice there will remain a need for fine tuning, but unlike the existing system it will be done in a place remote from the local area.

In summary, I am totally against the implementation of a hard, national funding formula that removes any local flexibility from the school funding system. The current soft formula enables head teachers and local authorities, via the schools forums, to address any local issues through a local formula applied on top of the national formula in a fair and transparent way. Local decision-making is tried and tested. It has supported many schools through difficult financial periods, such as a sudden change in leadership or growth. Local decision-making is vital in the school funding system to ensure that any local issues can be addressed immediately and sympathetically. LEAs will lose the ability to take local priorities and the needs of all schools in their area into account, and will have to deal with the additional school costs that are bound to arise and cannot adequately be addressed through a formulaic approach.

Just as an example, forecasting accurate roll numbers while the long-term impact of both Brexit and Covid-19 is still uncertain is very difficult. There is no way of knowing what the school roll will be in advance. There have been significant changes in demand for places over the past decade which the local formulae have been able to respond to swiftly to ensure budgets could cope with a sudden sharp increase or decrease in places. Local formulae are, as discussed and agreed at the schools forums, published and transparent, and I simply do not recognise the need to move to a hard formula.

A further reason to oppose a hard formula is that I simply do not trust this Government. This is a general problem with central government decisions on local spending: there is inevitably an element of political bias. The auguries are bad, given, for example, the impact on London's schools of the Government's levelling-up agenda. Such discrimination between areas is bad enough; just imagine if it were to occur on a school-by-school basis.

Finally, the Government need to give more thought to the political consequences of having a hard formula—be careful what you wish for. Every MP in England will have cases brought to them about the funding of individual schools in their constituency, and they will expect an answer from the Minister. It is inevitable that the funding of almost every school will become a political problem for the Government. That will not be good for politics and it certainly will not be good for education.

Lord Liddle (Lab): My Lords, I will intervene briefly. I apologise that I have been away and therefore unable to participate in debates on the Bill as much as I would have wanted to. I start by declaring my interest as still being a member of Cumbria County Council.

I agree with quite a bit, but not all, of what my noble friend Lord Davies of Brixton has just said. I am personally not against academies and academy chains; I think they have brought fresh thinking into the education system. The problem is how to regulate them. My impression is that the Bill is adopting far too centralised an approach.

The essence of the point I want to make is that it is my impression that, in my own authority, the schools forum approach, allowing the per capita payment to be flexed, has worked well. It has worked well in two respects, and I hope the noble Baroness might address this. I have great respect for her and her concern for education, and I hope she might reflect on these points.

First, in an area that is a mixture of big towns and lots of rural village schools, the formula can be flexed to help keep open village schools that serve important local needs. This is particularly true in areas where there are big distances, such as Cumbria.

Secondly, there is a problem when a school gets into difficulty. Schools can get into difficulty quite quickly, particularly if there is a change of head or something like that, and it does not work out well. In an area where there is no shortage of school places and parents have a lot of choice—this applies particularly at secondary level—you then get into the situation where parents can choose to take their children out and put them into other schools in the area if they think a particular school is not doing well.

You cannot turn that situation around—perhaps the noble Baroness agrees with me—by having to cut teachers as a result of school income declining. Somehow, we have to get better leadership into the school, and I am sure that this is what an academy chain would want to do. The formula has to reflect that possibility. How is that going to happen? I fully support the amendment from my noble friends on the Opposition Front Bench.

Baroness Morris of Yardley (Lab): My Lords, I was not going to speak on this issue; I will do so very briefly. It is really important, and it is a shame that it is so late in the evening. I am in two minds about it: I can see where the Minister is coming from but my views, on the whole, accord with those of my noble friend Lord Liddle, who has just spoken.

The point I want to make, and I would ask for the Minister's observations on it, is this. When I was doing her job, I remember when I learned that my decision on how the money should be allocated was not replicated in the local authority. I was a bit cross about it: here we are taking decisions about this, we send the money out to the local authorities and, blow me down, they change it around. I then realised that we just had to live with it—that was democracy, and that was making sure there was some local flexibility. However, I can remember feeling irritated by it. We lived with it because we were not as centralised as this Government intend to be.

My worry about this is not that it is trying to remedy the wrong that was referred to earlier on this evening—that 20 local authorities do not pass on the funding to small schools in rural areas when it leaves the department. It does not look like that to me, although I do not doubt that she is concerned. The way it looks to me is that this Bill is about giving power to the Secretary of State over every school and over everything. The minute the Government do that

[Baroness Morris of Yardley]
they have to control all the money. It seems to me that is the order: if the Government were not taking all the powers to control every school and everything they do, they would be able to be more flexible with the money, because that flexibility with the money would go with the flexibility given to the school. Because the Government are taking all the power to control all schools over all things, it looks as though they have thought, "The only way we can do that is to control every penny as well. We have to have that lever." That is what worries me. If you put it together with what is happening in initial teacher training, it is the last brick in the wall of an absolute top-down, very heavily controlled nationalised school system. I would really like the Minister's observations on that.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I will start by setting out the principles of Clause 33, in response to the intention of the noble Lord, Lord Davies, to oppose the question that the clause stand part of the Bill. I am thankful for the opportunity to debate the role of Clause 33 and this part of the Bill more broadly. This measure implements the direct national funding formula and, as I said in response to the third group, delivers on our long-standing commitment to achieve fair funding for schools. We received wide-ranging support from the sector for this vision of how we fund schools in our consultation last year, and we heard your Lordships' views on the importance of not only holding consultations but listening to them.

A single national funding formula, replacing the current 150 local arrangements, will make funding for schools simpler, fairer and more transparent. It will allow the sector, and your Lordships in this place, to hold the department to account for school funding. This measure outlines the framework of roles and responsibilities for the new funding system. The reforms set out in this part of the Bill have been developed carefully, in extensive consultation with stakeholders, to ensure we reflect the needs of pupils and schools in the fairest and most consistent way.

The noble Lord, Lord Davies, talked about how well the system had worked previously, but when I look at the data for funding per pupil from 2017—I think this was something the noble Baroness, Lady Chapman, also touched on earlier—for Brent and Lincolnshire, both of which had 12% of children on free school meals, the funding per pupil was £5,523 in Brent and £4,305 in Lincolnshire. Similarly, there were big differences in a number of other areas, not only London boroughs. For example, Blackpool and Manchester, at that time, had 25% of children on free school meals and there was about £800 higher funding per pupil in Manchester than there was in Blackpool. I hope the noble Lord will acknowledge that is hard to see as either transparent or apparently fair.

9 pm

The noble Lord, Lord Liddle, might have enjoyed the earlier group where we talked extensively about smaller rural schools. It may interest him to look at *Hansard* and see that significant increases in investment have been made in small rural schools and changes have been made to funding to make sure they get what they need. Changes to the way rurality is measured, one of which will be very relevant in Cumbria, has meant that the number of schools qualifying has increased from about 1,600 to about 2,500. There has been a big focus on that area.

The noble Baroness, Lady Morris, is extremely generous to describe us as being in the same job; if I remember rightly her job was a lot more senior, but that is very kind of her. I understand why she challenges in the way she does. She talks about centralisation of power; another way of saying it, as she will recognise, is that one of our privileges as Ministers in government is that we can try to make sure there is justice for children wherever they are in the country. One thing uniquely within central government's power is the ability to think through making sure that every child in every area gets fair and equitable funding for their school. She presented it this evening through the lens of centralisation of power, but she will also acknowledge that there are fundamental freedoms in the academies system around finances, curriculum and a number of other areas which, as I have already said at the Dispatch Box, we intend to protect. I encourage her to see that there are different ways of looking at this, and our way is in terms of justice for children.

Finally, the noble Lord, Lord Davies, asked how an MP would respond to his challenge on this. I encourage him to look at the fact sheet we put out with the Bill on the national funding formula. If I were the MP responding, I would certainly pick out that it is fair, efficient, transparent, simple and predictable.

Lord Davies of Brixton (Lab): I think figures were quoted comparing Blackpool and Brent—

Baroness Barran (Con): It was Blackpool and Manchester.

Lord Davies of Brixton (Lab): Okay. Does this imply that the introduction of the new funding formula will see a significant reduction in the payments received by the school that had the higher figure? The Minister told us there was a difference but we do not know the reason for it. If she is saying that the reason is unjustified, it must lead to a reduction in funding for the school that had the higher amount previously.

Baroness Barran (Con): I see the noble Baroness, Lady Chapman, is tempted to answer the question. The figures I referred to were from 2017. I am happy to set out in a letter to the noble Lord more of the reasons for the differences, but I suspect, being familiar with the subject, he knows what some of them are. To date, no area has seen a reduction in nominal terms in its funding. One reason why we intend to implement this over a longer period is to avoid any disruption to local funding. As I am sure the Front Bench opposite would say on my behalf, it will depend on the total quantum of funding committed to our schools.

I thank the noble Baronesses, Lady Chapman and Lady Wilcox, for Amendment 87 and for their unerring focus on ensuring that all children have a fair chance to realise their potential. The introduction of the

national funding formula in 2018 was a historic reform to school funding, replacing what we believe to have been an unfair and out of date system.

The national funding formula already calculates funding allocations for each school, which, as I mentioned in the earlier group, are publicly available and, with these, the calculations used to determine funding allocations for local authorities. In the current system, individual schools' final allocations are then determined through 150 different local formulae. The direct national funding formula will mean that every school is funded through the same national formula, with only specific, local adjustments. That will achieve this Government's long-standing ambition that funding is distributed fairly, and means that parents, school leaders and governors will have assurance that their school is funded on the basis of the needs and characteristics of their pupils, rather than where the school happens to be located. The intentions of the reforms are not to lead to changes in the distribution between geographical areas, but within them.

Similarly, this change should not impact how much funding the formula directs overall towards socioeconomic disadvantage. Instead, it should ensure that each school, in each local authority, receives a consistent amount of deprivation funding based on their pupil cohorts.

I want to reassure noble Lords that we are committed to levelling up opportunity to make sure that all children have a fair chance in life, wherever they live and whatever their circumstances. We are specifically targeting funding towards disadvantage. Through the national funding formula, we are allocating £6.7 billion towards additional needs, including deprivation, which is a sixth of available funding. In addition, we are directing other funding sources towards disadvantaged pupils, including the pupil premium which is rising to over £2.6 billion this year, and the school supplementary grant which includes a further £200 million targeted towards deprivation. We are also allocating over £200 million to support disadvantaged pupils as part of the holiday activities and food programme. This means that, altogether this year, we are allocating £9.7 billion towards pupils with additional needs, including deprivation.

For the 2022-23 academic year, the Government have committed around £500 million through the recovery premium and £350 million through the national tutoring programme, through which 1.5 million courses have been started so far to support the children whose education has been most impacted by the pandemic, with a particular focus on disadvantaged pupils.

By introducing the national funding formula and replacing the previous postcode lottery, we have a funding system that is much more responsive to changes on the ground. School funding is allocated based on current patterns of deprivation and additional needs across the country. It means that pupil intakes that have similar levels of deprivation, such as Liverpool and Wolverhampton, or Calderdale and Coventry, are now receiving similar levels of funding per pupil. The redistribution of funding seen since the introduction of the national funding formula reflects that the funding system has been catching up with changes in patterns of relative deprivation.

As we have discussed at length, the principle of transparency has underpinned our reforms to the school funding system. As I have said, we publish information annually on the national funding formula. We are committed to publishing the impact of transition on individual schools and on different types of school every year. I would also like to reassure the noble Lord, Lord Hunt, who is not in his place, that this does include the factor weightings which he questioned in the last group. Based on this, it is already possible to see the geographical distribution of funding and how that changes year on year, and what support the national funding formula offers for deprivation. We will continue to review the impact of the national funding formula in terms of meeting policy objectives, such as supporting schools to close attainment gaps. In addition, we want to ensure the information we publish is as helpful as possible and we are currently consulting with schools and the wider sector on what published information would be most useful for them.

I hope this has persuaded your Lordships that the national funding formula will continue to distribute funding ever more fairly, based on the needs of schools and their pupil cohorts. I therefore ask the noble Baroness opposite to withdraw her Amendment 87.

Baroness Wilcox of Newport (Lab): I thank the Minister for her reply. Nevertheless, our concerns remain, and much of what my noble friend Lord Davies has discussed is worthy of support. But in terms of our specific amendment, our call for a robust analysis still stands, together with detailed democratic scrutiny of the funding formula, and concerns around the removal of local authorities in allocations of funding still apply. However, I beg leave to withdraw my amendment.

Amendment 87 withdrawn.

Clause 33 agreed.

Clauses 34 to 38 agreed.

The Deputy Chairman of Committees (Baroness Henig) (Lab): I should tell noble Lords that the noble Baroness, Lady Brinton, will be taking part remotely on the next group. I hereby ask the noble Baroness to introduce Amendment 88.

Amendment 88

Moved by ***Baroness Brinton***

88: After Clause 38, insert the following new Clause—

"Duty of Secretary of State to give financial assistance for purposes related to mental health provision in schools

(1) The Secretary of State must give, or must make arrangements for the giving of, financial assistance to any person for or in connection with the purpose mentioned in subsection (2).

(2) The purpose is the provision of—

(a) an education mental health practitioner, or

(b) a school counsellor,

in every state-funded school.

(3) In this section—

"education mental health practitioner" means a person who possesses a graduate-level or postgraduate-level qualification of that name accredited by Health Education England;

"state funded school" means a school in England funded wholly or mainly from public funds, including, but not limited to—

(a) an Academy school, an alternative provision Academy or a 16 to 19 Academy established under the Academies Act 2010;

(b) community, foundation and voluntary schools (within the meaning of the School Standards and Framework Act 1998)."

Member's explanatory statement

This amendment requires the Secretary of State to give financial assistance in respect of mental health provision in schools.

Baroness Brinton (LD) [V]: My Lords, Amendment 88 in my name and that of my noble friend Lord Storey, who cannot be in his place tonight, picks up the debate on mental health support that we started last week with Amendment 8, which would ensure that the mental health of pupils is considered in any standards set relating to health. I said in the debate last Wednesday that the reason that mental health had to be specified in standards—rather than just subsumed into a general reference to health—is because, if it is not so specified, it just does not become a priority. This is even more true if it is not specified in funding arrangements.

The House of Commons Library briefing, *Support for Children and Young People's Mental Health*, published on 1 June, says in Chapter 4, on mental health in schools:

"The Government has reiterated that although schools play an important part in promoting mental wellbeing, teachers are not mental health professionals, and need backing from a range of specialised services. There has been work to strengthen partnerships between education providers and mental health services through a pilot linking schools with single points of contact in child and adolescent mental health services … The Government has said the pilot has led to improvements in higher quality and more timely referrals to specialist services for pupils. The pilot initially reached 255 schools and will be extended to 1,200 schools."

That still leaves over 21,000 schools to go. The briefing went on to say that there were concerns about the provision of mental health support in schools because it is very patchy, and that it

"was noted by the Care Quality Commission … in a 2017 review of CAMHS services … that when pupils can access high-quality counselling through their schools, it can be an effective form of early intervention. However, the CQC said it is not always available, and in some cases, there are concerns about the quality of support on offer."

In December 2017—four and a half years ago—the Government's Green Paper, *Transforming Children and Young People's Mental Health Provision*, made some proposals that would have set a framework, which included incentivising every school and college to identify and train a designated senior lead for mental health, with relevant training rolled out to all areas by 2025; creating new mental health support teams to work with groups of schools and colleges and the designated senior leads in addressing the problems of children with mild to moderate mental health problems, and providing a link and signpost for children with severe problems; building on existing mental health awareness training so that a member of staff in every primary and secondary school in England receives mental health awareness training; and adding a mental health specific strand within the teaching and leadership innovation fund.

9.15 pm

This is admirable and it was really good that in 2017 Ministers undertook to take forward every one of the proposals in the Green Paper. But it is not clear how much of this has been mainstreamed throughout all 22,000 schools and I hope that the Minister can update the House, even if it is not at the Dispatch Box this evening.

I am also very mindful of the intervention from the noble Baroness, Lady Fox, last week—and I am pleased to see her in her place—that school staff are not mental health experts. She is right and it seems to me that these proposals would go some way to delivering that key partnership between schools and the professionals in CAMHS.

However, it is vital that there is ring-fenced funding to deliver the training that teachers and other staff will need and that schools are not expected to use their mainstream education budget to provide it. This amendment sets out how to achieve this and I hope the Minister will be prepared to accept it, given the Government's commitment to the mental health and well-being of children in all our schools. I beg to move.

Lord Addington (LD): My Lords, I will take a few moments to support my noble friend. The major point she has made is that if you do not measure something, it does not happen. It is also the case—as we know through the special educational needs model—that the minute you start to compete between mainstream expenditure in a school and something specialist such as this, you already have a conflict. It often results to the detriment of the minority activity—the one that if you do not look for, you will not find very often. My noble friend mentioned the low to moderate levels of need that could grow and probably impair; there needs to be a reason to look at them and make sure things happen. These problems are also probably going to be tied in with just about every other problem you can imagine in a school—special educational needs, parental problems and so on. Every time you have something that causes stress, you generally find increases in mental health problems.

I hope that the Minister will give us at least some idea of what the Government are doing to make sure that there is some capacity for the staff to have some idea of how to spot this and move it on to the relevant professional. That is the key thing. My noble friend mentioned it, as did the noble Baroness, Lady Fox. If you are not a professional, you will have to be told where to look and then when to pass it on. If you do not have this, you are going to make mistakes. If you just say, "Try harder, concentrate, get on with it, what is the problem with you?", which is a perfectly normal reaction when you are confronted by somebody who is not conforming to the norm, who is annoying you and disrupting a class, this will exacerbate those problems within the classroom.

Dealing with this properly, or having a better chance of dealing with it, gives a better chance for teachers to get on and do their job and teach and teach the rest successfully. You have to deal with the whole picture to make sure you get good results.

Baroness Chapman of Darlington (Lab): It is pleasure to speak to Amendment 88 in particular. We are very pleased to see it. This is an important group of amendments. We believe that there is a need to do more in this area.

I am very proud that my party—a couple of years ago now or maybe it was last September in Brighton—set out a new NHS target ensuring that patients start receiving appropriate treatment, not simply an initial assessment of need, within a month of referral. We have committed to recruiting 8,000 new staff so that 1 million additional people can access treatment every year and we also think there should be open-access mental health hubs for children and young people in every community, providing early intervention and drop-in services to support pupils and solve problems before they escalate.

We would like to see a full-time mental health professional in every secondary school and a part-time professional in every primary school. The evidence base for this is good and there are some excellent projects and work happening in schools that I have visited. I will recommend one, Place2Be—the Minister is nodding and it is good that she is aware of this and she supports it too. It looks at the general well-being in the school and also supports staff in the school. We think that that is important too.

We are concerned about the patchy nature of the support that is available. In too many cases there is a lack of early intervention and prevention. The waits for children's mental health services have been described as "agonising" by the chief executive of the YoungMinds charity, and a BBC freedom of information request revealed that 20% of children are waiting more than 12 weeks to be seen. By the time they get to that point of referral, the problems are usually already pretty severe and causing huge anxiety and stress to the child, as well as to the wider family. The Government could fund this in part by removing the VAT exemption from private schools—but I know we will come back to this at later stages; we will probably discuss it in more depth next time.

One of the most urgent needs of our time is mental health, and we must make sure that children and young people get early help, with specialist support in every school. It is urgent, and it is quite remarkable that the Bill does not mention mental health.

The noble Lord, Lord Woolley, is not here, and he will not be speaking to Amendment 171E. However, while I am on my feet, I point out that he is talking about extending the remit of Ofsted to consider the work being done. We are interested in this, but, if this idea was to be pursued at some stage, we would also be interested to make sure that Ofsted has the expertise and resources to do this work in the way that I am sure he would want to see happen.

Baroness Penn (Con): My Lords, I am grateful to the noble Baroness, Lady Brinton, for Amendment 88 and for allowing the Committee to return to the question of mental health support in schools.

The Government believe that school leaders should have the freedom to make their own decisions and prioritise their spending to best support their staff and pupils, especially as they address the recovery needs of their children and young people from the pandemic. This support can include school-based counselling services, and we have provided guidance on how to do that safely and effectively. To provide this support, schools can use the additional £1 billion of new recovery premium announced in the autumn, on top of the pupil premium, as well as their overall core school budget—which has significantly increased—to support their pupils' mental health and well-being. As I said, this can include counselling or other therapeutic services.

However, as the noble Baroness acknowledged, schools should not be the providers of specialist mental health support, and links to the NHS are vital. That is why we worked with the Department of Health and Social Care and NHS England to create mental health support teams—which the noble Baroness referred to—funded by NHS England, which are being established across the country. As the noble Baroness said, the teams, made up of education mental health practitioners and overseen by NHS clinicians, provide early clinical support and improve collaboration between schools and specialist services.

The Government believe that, rather than funding for specific types of support, we should continue to give schools the freedom to decide what pastoral support to offer their pupils. However, to support schools in directing that funding we have put funding in place, as the noble Baroness acknowledged, so that they can train a senior mental health lead in every school, who can then look at what approach is best for pupils in each school.

Lord Addington (LD): On that senior lead, if you have one person who knows something about this, they cannot get round the whole school, and there is a process by which you have to get the child in question to their attention. Are the Government giving any general guidance to staff to consult that person?

Baroness Penn (Con): I will check and follow up with the noble Lord in writing, but I know that having the lead in place means that they can then be the person to whom other staff in the school can go and with whom they can interact, to get guidance and help shape the school's approach. It is not for the lead to be singly responsible, but they can get training that can then inform other staff as well.

I was just coming on to say that we have put funding in place. Our aim is that all schools will have a lead in place. More than 8,000 schools and colleges in England, including half of all state-funded secondary schools, have taken up this training offer so far. We recently confirmed further grants to offer training to two-thirds of schools and colleges by March 2023, with the ambition that, by 2025, all state-funded primary and secondary schools, as well as colleges, will have had the funding made available to train a senior mental health lead.

In addition to training for senior mental health leads, there are also the mental health teams to which I referred. The noble Baroness, Lady Chapman, asked for an update on our progress in delivering these. They currently cover 26% of pupils in schools and further

[Baroness Penn]
education. Our ambition was to cover 25% by next year so we have already met that ambition; indeed, we have raised it to cover 35% of pupils in England by next year.

More broadly, when those specialist teams are in place, they need to be able to refer students to more specialist support where needed. That involves more money going into children's mental health. I can confirm to noble Lords that there is record NHS funding for children's mental health services. It will grow faster than the overall NHS budget and faster than adult mental health spending in the coming years. There is more to do, but increased funding and priority are being given to this issue by the Government, not just in schools but in the NHS where those specialist services need to be delivered.

I am grateful for the opportunity to set out again the priority the Government are giving to this issue, the progress we are seeking to make and the approach we think is right to support schools in supporting the mental health of their pupils. I hope that the noble Baroness, Lady Brinton, will withdraw her amendment.

Baroness Brinton (LD) [V]: My Lords, I thank everyone who has taken part in this short debate. Before I respond on Amendment 88, I want to offer my support to the noble Lord, Lord Woolley, for his Amendment 171E, which would require Ofsted to ensure that schools take account of the public sector equality duty to tackle discrimination, promote equality and assess extracurricular activities at the school. It may seem obvious but, at the moment, there seems to be some confusion about that duty and various parts of our public sector; it is good to see the amendment there.

I am grateful for my noble friend Lord Addington's helpful comments, further to mine, on Amendment 88 and how essential it is to ring-fence mental health funding to ensure that education staff are effectively trained, as well as being supported by CAMHS.

The noble Baroness, Lady Chapman, talked about some excellent initiatives, such as Place2Be. She echoed my concerns about the patchy nature of CAMHS provision and how long severely affected children can wait. Just last week, I heard of a family friend with a daughter who shows clear signs of serious clinical mental health problems. However, the queues at their local CAMHS are such that they have been told that she will be seen only if she is suicidal. She is eight. That is just too late. It also places unacceptable pressure on a little girl, her family and her school. I recognise that this is an NHS problem—I applaud the Government for trying to join some of this up—but it is why we must have some ring-fenced funds: to make sure that the school side of this, the mental health partnership, will actually work.

9.30 pm

I thank the Minister for her response but I confess that I am a little disappointed by it. She talked about the designated lead targets. It is good to hear that there is progress on that, and I really hope that it will be achieved by 2025. However, the other key elements that I quoted from the Green Paper absolutely must be there too; without them, the designated lead will not manage. We must ensure that staff across the board in schools are changed at the same time and that the training is refreshed.

The Minister said that we have record mental health funding for children's health. There is only one reason for that: it is a record because it has been for far too long a Cinderella service, and we are desperately playing catch-up with our children's mental health.

I am grateful for the Minister's response and the contributions of all other noble Lords. I beg leave to withdraw this amendment tonight, although I may bring it back on Report.

Amendment 88 withdrawn.

Amendment 89

Moved by ***Baroness Humphreys***

89: After Clause 38, insert the following new Clause—

"Universal infant free school meals grant: annual up-rating

(1) The Secretary of State must, for the financial year beginning 1 April 2023, provide that at least £520.60 is payable from the universal infant free school meals grant to schools and local authorities for each registered pupil who is entitled to it under the terms and conditions of the grant.

(2) The Secretary of State must, for the financial year beginning 1 April 2024 and for each financial year thereafter, provide that the amount payable under subsection (1) is increased in line with inflation as measured by the consumer price index.

(3) In this section "universal infant free school meals grant" means the grant of that name paid to a school or a local authority by the Secretary of State under section 14 of the Education Act 2002 (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or children etc)."

Member's explanatory statement

This amendment increases the free school meals grant in 2023-24 to reflect the increase in inflation since September 2014, before pegging it to inflation thereafter.

Baroness Humphreys (LD): My Lords, I am moving Amendment 89, tabled by my noble friend Lord Storey, who regrets that he cannot be here today. This amendment seeks to increase the free school meals grant in 2023-24 to reflect the increase in inflation since September 2014, before pegging it to inflation thereafter.

I must admit that the Government's announcements yesterday on free school meals came as a bit of a surprise and made me wonder whether this was an attempt to gazump our amendment, and even whether our amendment had pricked their collective conscience. I am sure that there were more external influences at play here.

Lib Dems feel very strongly about universal free school meals. They were introduced by us under the coalition Government, with the aim to provide free school meals to all pupils in reception, year 1 and year 2. However, since these meals were introduced seven years ago, the Government have increased the amount paid to schools by just 4p per meal. This is an increase of just 1.3%,

from £2.30 per pupil in 2014 to £2.34 today, despite the latest ONS figures showing that food prices have soared by 7% since the introduction of the policy. Had the funding increased accordingly, it would currently stand at least at £2.46 per pupil.

Free school meals were introduced as a way of giving children a healthy lunch every day and saving parents hundreds of pounds a year. However, funding has been slashed in real terms, despite food prices going through the roof. While we welcome yesterday's announcement of an uplift in infant free school meals funding, this does not go far enough. The effect of the Government's announcement will be to raise the rate per meal to £2.41. This is still short of the £2.46 per meal that would be needed to increase funding in line with increased food prices.

Our amendment reflects the increase in inflation overall since September 2014 and calls for a 19% increase to reflect this, meaning that the rate per meal would increase to £2.74. Can the Minister clarify whether the Government's new proposals also include a commitment to an annual increase in line with inflation and food costs?

The coronavirus crisis has shone a new spotlight on the issue of child hunger, with demand for food banks soaring and almost a fifth of households with children unable to access enough food in the first weeks of lockdown. Yesterday's announcement is a sign that this Government know just how terrible their record is on free school meals. Too many children are going hungry under their watch, yet the Government still show complete unwillingness to expand this offer to some of the most disadvantaged children in the country on universal credit. It feels like a one step forward, two steps back approach from Ministers.

The Government cannot continue to ignore their own advisers, such as Henry Dimbleby, who recently published the *National Food Strategy*. In an Oral Question on 6 June, I asked if the Government would commit to extending free school meals to all children whose parents or guardians are on universal credit. These are the children who will be most impacted by the cost of living crisis. I believe the Government's stance is that families on universal credit would still have to meet eligibility criteria or be in receipt of legacy benefits. Could the noble Baroness confirm this is still the case? We believe that every pupil whose parents or guardians are in receipt of universal credit should automatically qualify for free school meals. I beg to move.

Lord Young of Norwood Green (Lab): My Lords, I am inclined to support this on the grounds of the report in the *Times* on Monday on what schools are facing in early years. Children are coming to school who have not been potty-trained; they cannot even use a knife and fork and are still feeding out of a bottle. Those children have suffered during the pandemic. The one thing that gave them some influence and that made a difference, given that many come from a background where English is a second language and there are perhaps other serious challenges at home, was being at school. While I do not necessarily go along with every aspect of this amendment, the noble Baroness raises a valid point at its core.

I have said this before: where should we put our money in education? We should be putting it in the early years because we know that, if we do not get it right there, the cost—not only to individual children but to the state in remedying it in the future—will be much more significant.

Lord Shipley (LD): My Lords, I am very grateful for the support of the noble Lord, Lord Young of Norwood Green, for the amendment on the free school meals grant. My Amendment 90, also in the name of my noble friend Lord Storey, addresses the similar issue of inflation for the pupil premium.

I listened carefully to what the Minister said earlier about the extra financial support the Government were giving to the disadvantaged. I will read *Hansard* carefully tomorrow to recall the exact numbers, but the principle is that this amendment would increase the pupil premium in 2023-24 from the 2022-23 level by £160 per primary pupil and £127 per secondary pupil, before pegging it to the consumer prices index and the inflation rate thereafter. It would also increase the pupil premium plus sum made available to children in care by a similar amount. This is a probing amendment to ascertain the Government's intentions in respect of the pupil premium, and of the free school meals grant and the amendment tabled by my noble friend Lady Humphreys.

Baroness Wilcox of Newport (Lab): My Lords, the 7p increase to infant school meals announced yesterday by the Government has generally been received as inadequate. Labour's amendment compels the Secretary of State to review food standards every three years and to consider quality, nutritional value and value for money. As noted, the Government rejected Henry Dimbleby's advice to extend free school meals to 1 million more children in need and to raise the grant schools get in line with rocketing inflation. Schools are already reducing meal sizes to afford their obligations. Will the Minister say what the Government's plans are to help avoid children going hungry? Have they done any analysis of what inflation is doing to the amount of food schools are able to provide and the adverse effects when this gets smaller and smaller?

I shall give the UK Government some good ideas and positive direction on what the Welsh Government are doing on these matters. From September, some of the youngest children in primary schools in Wales will begin receiving free school meals. Our First Minister said:

"no child in Wales should go hungry and … every child in our primary schools will be able to have a free school meal.

We are facing an unprecedented cost-of-living crisis. We know younger children are more likely to be living in relative income poverty, which is why the youngest of our learners will be the first to benefit.

This cost-of-living crisis is being felt by families all over Wales, extending free school meals is one of a number of measures we are taking to support families through this difficult time."

I sincerely urge the Minister to reflect on these proposals and see whether there is the political will to do something similar for English children.

In terms of what we can practically do in the meantime, our amendment would ensure that food standards are reviewed regularly and would weigh up

[Baroness Wilcox of Newport]
value for money with quality and nutritional value. All the evidence suggests that children cannot learn when there are hungry. Acting on this fundamental principle is surely an all-round win for the Government.

We know that governmental focus has drifted from children in care too. In March, it was revealed that the National Tutoring Programme, referred to earlier, no longer had to ensure it was reaching two-thirds of the most deprived pupils. The requirement that two-thirds of pupils in the programme must be from disadvantaged backgrounds was in place for a reason: there is strong research evidence that poorer pupils have been the biggest losers from the pandemic, seeing greater attainment losses than their peers.

For the purposes of political balance, as I have quoted my First Minister, I shall now quote what the Conservative MP Robert Halfon, who chairs the Education Committee, said about the National Tutoring Programme:

"The Government must ensure Randstad shapes up, or boot them out. The catch-up programme must be shown to be reaching disadvantaged pupils and this data must be published."

So there is cross-party agreement that we must ensure that disadvantaged pupils are at the front and centre of our thinking in all aspects of educational provision, especially in the critical area of school admissions. As was debated on Monday, we cannot exclude pupils and operate a soft selection policy as it is unfair and frankly immoral.

Baroness Barran (Con): My Lords, I turn first to Amendment 89 in the names of the noble Lord, Lord Storey, and the noble Baroness, Lady Humphreys. As the noble Baroness said very eloquently, providing free school meals to eligible children is very important to this Government. We spend around £600 million per year making sure that 1.25 million infants enjoy a free meal under the universal policy. The per-meal rate was increased last year and the Secretary of State recently announced a further £18 million, increasing the rate to £2.41 per meal, which has been backdated to April this year. The noble Lord, Lord Young of Norwood Green, stressed the importance of supporting children in the early years, particularly post the pandemic. He is absolutely right.

Under the benefits-related criteria, the Government provide a free meal to around 1.9 million more children. For 2022-23, funding through the free school meal factor in the national funding formula is increasing to £470 per eligible pupil. In recognition of cost pressures, after the national funding formula rates were set the department provided extra for core schools funding for 2022-23. Core schools funding for mainstream schools, which includes benefits-related free school meals, is therefore increasing by £2.5 billion, compared with last year.

9.45 pm

The noble Baroness asked about the Government's commitment to free school meals and linking the payments to inflation. More broadly, and in response to the question from the noble Lord, Lord Shipley, the Government are committed to ensuring that schools have sufficient funding to fulfil their functions effectively, and clearly there are different ways in which that support can be provided.

I turn to Amendment 90 in the names of the noble Lords, Lord Storey and Lord Shipley. The Government are committed to ensuring that everyone has a fair chance to realise their potential. Pupil premium funding rates are increasing by 2.7% in 2022-23, and in absolute terms total pupil premium funding is increasing to over £2.6 billion this year, compared with £2.5 billion last year, but, of course, as I said in response to the earlier group, that is not the only additional support for children. In all, in 2022-23 we are allocating approximately £2,000 per pupil for all pupils who have been eligible for free school meals at any point in the last six years, through a combination of the national funding formula, the pupil premium and the 2022-23 school supplementary grant.

Future decisions on free school meals and pupil premium funding must be considered in the light of all calls on schools funding. It is right that the Government should be able to take these decisions in the round, in light of the most recent information, to ensure that funding is being directed where it can do most good. The amendments would pre-empt such considerations. The Government will continue to place a high priority on providing free meals to children who need them and supporting disadvantaged pupils. I hope I have been able to reassure your Lordships on this point.

I turn to Amendment 161 in the names of the noble Baronesses, Lady Chapman and Lady Wilcox. The Requirements for School Food Regulations 2014—the school food standards—require food and drink for pupils in all maintained schools, including academies, in England to comply with certain nutritional standards. They are critical to ensuring that schools provide children with healthy options.

We believe that the current standards provide a robust and appropriately flexible framework. The department's current focus is on an expansive programme to promote compliance with the standards. We are working with the Food Standards Agency on local authority assurance and support on compliance. We are also promoting accountability and transparency by encouraging school food statements on school websites, and looking to pilot training for governors and for academy trusts.

Focusing on compliance and support is the right step now. Changing the standards in parallel risks confusion, and we must avoid any excessive burden associated with frequent reviews and expanded scope. Including value for money within the standards would be genuinely challenging as there are many variables that determine that; for example, local catering arrangements. I assure the Committee that we will take account of evolving evidence, but without such prescribed frequency.

I therefore ask the noble Baroness, Lady Humphreys, to withdraw Amendment 89.

Baroness Humphreys (LD): I thank those who have taken part in this short debate. I am grateful for the support from the noble Lord, Lord Young of Norwood Green, and very much appreciate his emphasis on supporting early years pupils. Obviously, I support what the noble Lord, Lord Shipley, has said on the

pupil premium. It is another matter that is very close to Liberal Democrat hearts. I enjoyed very much the contribution from the noble Baroness, Lady Wilcox. As a fellow Cymraes—a Welshwoman—I share her pride in what the Welsh Government are achieving.

I thank the Minister for her very thorough response. I will read *Hansard* carefully, but I reserve the right to return to these issues, if necessary, on Report. But I will withdraw this amendment.

Amendment 89 withdrawn.

Amendment 90 not moved.

House resumed.

House adjourned at 9.50 pm.

Grand Committee

Wednesday 15 June 2022

4.15 pm

The Deputy Chairman of Committees (Lord Geddes) (Con): My Lords, it is now 4.15 pm. As is customary on these occasions, in the unlikely event of there being a Division in the Chamber while we are sitting, this Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Goods Vehicles (Licensing of Operators) (Amendment) (No. 2) Regulations 2022

Considered in Grand Committee

4.15 pm

Moved by ***Baroness Vere of Norbiton***

That the Grand Committee do consider the Goods Vehicles (Licensing of Operators) (Amendment) (No. 2) Regulations 2022.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, on 9 March 2022, your Lordships' House debated the Goods Vehicles (Licensing of Operators) (Amendment) Regulations 2022, which govern the goods vehicle operator licensing regimes in both Great Britain and Northern Ireland. The regulations came into effect on 17 March. During the debate on 9 March, I explained that an error in transcribing our policy intent into legislation would mean that a second debate might be necessary on an instrument to make the necessary correction. This is that debate.

First, I would of course like to apologise to noble Lords for taking up valuable parliamentary time with this correction to a previously laid and debated instrument. The reason for the correcting instrument is that the original instrument went beyond the policy intentions. The intent was that the regulations should apply only to the operation of goods vehicles. However, one provision unintentionally also applied to the operation of passenger vehicles; in doing so, it disrupted the Public Passenger Vehicles Act 1981, which has made the regulation of passenger vehicles slightly more complicated. While the traffic commissioners have been able to continue their important work, this added complication is not tenable in the long term. The Committee will know how disappointed I am that an error has occurred, and I assure all noble Lords that the causes are being addressed within the department, as a wider review into SI processes is now under way.

To touch in a bit more detail on the real-world consequences of what has happened, the error in question was in Regulation 7 of the original instrument. In being drafted as it was, Regulation 7 incorrectly applied certain provisions to road passenger transport operations. The effect of the error, applying these provisions to all transport managers of certain road goods vehicle operations and road passenger transport operations, was not the original policy intention.

Essentially, the effect of the gap was that the regulators, which in Great Britain are the traffic commissioners, have used other options. They are using case law rather than legislation to minimise the gap, but of course we think that legislation should be put in place. We had originally hoped to lay this as a negative instrument. Indeed, we did so, but it was upgraded by the sifting committee, which is why noble Lords are having the debate today.

I turn to the practical effect of whom this impacts. It relates to those transport managers within the public service vehicles jurisdiction, either those already on licences who are subject to regulatory intervention—because they have not done something correctly—or those who seek to be nominated as transport managers. Looking back at the numbers in previous years, for example, in 2019-20, around 19 transport managers would have been affected by such actions, so it is not a great number. The traffic commissioners have been able to cope and have taken particular care in communicating their decisions during this quite short gap period of just over three months. Their hard work is very much appreciated, so I commend these regulations to the Committee.

Baroness Randerson (LD): My Lords, I thank the Minister. I had a sense of déjà vu when I saw this instrument on the list for today. To be honest, it is tedious enough that we have to go through the vast list of SIs as part of the replication of EU regulatory structure without having to deal with errors, although it is not surprising that there are errors. One can hardly process the amount of legislation that we have been dealing with for the last couple of years without the occasional error creeping in. I was horrified today to read that Jacob Rees-Mogg has a plan for us to go through all 2,000-plus pieces of EU legislation within the next two years to re-examine them.

May I cut to the core of the issue? The Minister has explained that road transport operators were mistakenly included in the original SI alongside goods operators. One of my questions was going to be about the impact on the traffic commissioners' powers, but the Minister has explained that. She has also explained clearly the number of cases involved.

My other question is, to go back to the original SI, why are passenger vehicle operators excluded? Why do they not need transport managers in the way that goods vehicles and their fleets need them? Is there separate legislation that covers passenger transport operators or is it that, for some reason, they are not regarded as in need of managers in the same way? Other than that, I am delighted to see that this error has now been corrected and it should, I hope, be fully operational and effective.

Lord Tunnicliffe (Lab): My Lords, I welcome the introduction of this SI to amend the errors in the previous regulations approved by this House in March. As the logistics sector experiences an unnecessarily difficult time, it is disappointing that even the initial piece of secondary legislation has problems. There is an important point here in that the Government previously claimed errors in the initial drafting would be rectified through the negative procedure, which clearly has not been the case.

[Lord Tunnicliffe]

Three months later, the House is finally to approve a technical instrument to right the wrongs of the previous legislation. I hope this will bring this specific matter to a close, though unfortunately it will not solve the chaos that is still plaguing British business. Weeks away from the summer holidays, the Government must bring forward a plan to fix the crisis and bring much-needed certainty.

Baroness Vere of Norbiton (Con): I am grateful to both noble Lords who took part in this short debate and will answer the issues they raised. The noble Baroness, Lady Randerson, asked about passenger vehicle operatives needing transport managers. They do need transport managers and always have done. If the noble Baroness recalls, the issue we were discussing here was the extension of the requirement to have transport managers to much smaller vehicles. It was basically down to vans between 2.5 tonnes and 3.5 tonnes, I think. It was only because it was a requirement of the TCA that we matched what the EU was doing in that area, but the passenger service vehicles require transport managers now and always have done, so there is no change for them.

On the point about procedure raised by the noble Lord, Lord Tunnicliffe, I sincerely wish this had been done by the negative procedure; I feel that we could have got away with it but the sifting committee did not agree, which is why we are before the Committee today. As he knows—we had a debate around it the other day—the Government are very focused on what might happen in the summer in terms of challenges to road traffic in Kent. We are working closely with the Kent Resilience Forum and will continue to do so.

Motion agreed.

Hovercraft (Application of Enactments) and Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Amendment Order 2022

Considered in Grand Committee

4.25 pm

Moved by ***Baroness Vere of Norbiton***

That the Grand Committee do consider the Hovercraft (Application of Enactments) and Merchant Shipping (Prevention of Pollution) (Law of the Sea Convention) Amendment Order 2022.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, this order amends two distinct instruments to give the Government powers in two areas: first, to apply pollution prevention requirements in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, which I will refer to as the STCW convention, to hovercraft; and, secondly, to provide strengthened enforcement powers for breaches of requirements by all ships, including hovercraft, relating to the prevention of pollution. These powers must be contained in an Order in Council because the Merchant Shipping Act 1995 and the Hovercraft Act 1968 require it.

This order has no impact in itself on the only commercial hovercraft route in the UK—Southsea to Isle of Wight—in respect of which there is one operator and two hovercraft, operating in inland waters. In addition, there is no impact because this order simply creates powers to make secondary legislation. These powers are needed as a result of the repeal of Section 2(2) of the European Communities Act 1972, following the UK's exit from the European Union, which provided the powers for the pollution prevention requirements in the regulations that currently implement the STCW convention. The repeal of Section 2(2) means that such provision relating to hovercraft cannot be made, or existing provision remade.

The STCW convention sets the standards required for seafarers to obtain the internationally recognised certificates required for seafarers to work on vessels that operate internationally. The convention has been subject to a number of recent amendments affecting seafarer training; these amendments are intended to be implemented in regulations, replacing existing regulations that implemented the STCW convention. Criminal sanctions relating to breaches apply to shipowners, operators and masters who fail to ensure that their seafarers are qualified, certified and discharge their obligations in accordance with the convention requirements, including the latest amendments to the STCW convention. Although these amendments do not affect hovercraft, other provisions of the STCW convention, such as manning, watchkeeping and the requirements to ensure that seafarers are trained and certified in accordance with the convention, will continue to be applied to hovercraft and will be contained in the new replacement regulations.

In the absence of Section 2(2), the current powers to provide for criminal sanctions for a breach of STCW training and manning requirements relating to the prevention of pollution do not include custodial penalties. This contrasts with the criminal sanctions available for breaches of safety requirements, which include custodial sentences of up to two years. It is therefore necessary to have the same provision available for contravention of the pollution prevention requirements in the new regulations implementing the STCW convention, as the training and manning requirements in the convention relate to both safety and prevention of pollution. Without the powers created by this order, the recent amendments to the STCW convention cannot be adequately enforced in UK law, and existing provision for custodial penalties and hovercraft cannot be remade. This order provides those powers.

In even more detail, this order will ensure that the pollution prevention obligations in the United Nations Convention on the Law of the Sea, known most commonly as UNCLOS, can be applied in full to hovercraft in the same way that they apply to ships. It also applies other up-to-date pollution prevention-enabling powers in the Merchant Shipping Act 1995 to hovercraft. This means that UK regulations governing hovercraft can include provision for pollution prevention that derives from UNCLOS. This order also enables manning requirements in Section 47 of the Merchant Shipping

Act 1995, which apply to ships, to be applied to hovercraft. Finally, this order makes discrete amendments to the order enabling the implementation of the pollution prevention obligations in UNCLOS. The UNCLOS order needs to be updated so that regulations made under it can prescribe custodial sentences in respect of offences for breaches of requirements in those regulations.

I have highlighted the importance of this draft Order in Council so that, in the absence of Section 2(2) of the ECA, we can, first, continue to apply pollution prevention provision in the STCW convention to hovercraft and, secondly, impose custodial penalties in relation to all ships in so far as they relate to prevention of pollution. I look forward to contributions from noble Lords.

4.30 pm

Lord Mountevans (CB): My Lords, I have no comment to make on the hovercraft provisions but should like to raise two points. I am concerned about possible creeping criminalisation for seafarers. A pollution incident could take place due to a fault in a valve, a pipe or some such—work that could have been done by a shipyard or other third party—or something for which the crew are arguably not specifically responsible. I want the Minister to be very careful about extending to seafarers in this way criminalisation which might not be appropriate.

The second point is that shipping is a reserved power, but the legislation will generate different actions depending on the registered port of the vessel, so that a vessel registered in Aberdeen would not be liable to action, whereas a vessel registered in Southampton would. It would not matter per se whether the incident happened in the UK or elsewhere in the world, but the provisions in Scotland appear to be different and, if the ship is registered in Scotland, British ships could incur different penalties for a similar offence.

Lord Berkeley (Lab): My Lords, I am grateful to the noble Baroness for her introduction of this very interesting SI. My first question is: why now, apart from the fact that Brexit has happened? We have all been travelling on hovercraft for 40 years or more, and one could assume, therefore, that it has been all right to pollute from hovercraft for 40 years without anyone worrying and you need only one person on the bridge because the regulations do not apply to hovercraft. Can the Minister explain why hovercraft are different? There are other types of fast passenger boats around these days—they are probably called "jet boats", or something like that. I am not sure why a hovercraft is so different, apart from the fact that it gets its lift from air which does not leak out. It is still a craft and therefore obviously still needs to be subject to the pollution regulations and the manning rules.

On manning, is the intention to make rules for hovercraft the same as for any other passenger vessel, where, I think, the rule is that if you do not have more than 12 passengers, you can have one person as the crew, whatever the size of boat? But then there are various rules according to the number of passengers, size of ships, weather conditions and everything else. Hovercraft generally do not operate in bad weather in the way that many ships can. Perhaps the Minister can explain how the manning regulations would be different on a hovercraft from an ordinary ship in the number of crew wanted.

Lastly, I think that, as the Minister said, the only service now in the UK is the one across to the Isle of Wight, but there used to be one across the channel. If that re-emerges in some shape or form—between the UK and France or another EU country—will we get into the same knot as has happened with P&O Ferries with manning and everything else? I hope that will not involve coming back here with some more regulations; I hope it is already covered. I look forward to her answers.

Baroness Randerson (LD): I thank the Minister for her introduction, and the noble Lord, Lord Mountevans, for pointing out that the situation will be different in Scotland. It will also be different in Northern Ireland, so far as I understand it from my reading of the SI.

Lord Berkeley (Lab): What about Wales?

Baroness Randerson (LD): No, the situation will not be different in Wales; as so often, it is a case of "England and Wales".

I join the noble Lord, Lord Berkeley, in asking why this is happening at this point. My research suggests that not only is there only one public hovercraft service left in Britain, but there appears to be only one commercial hovercraft service left in the world. If that is the case, hovercraft really are yesterday's technology. They are even less likely to make a comeback following the huge increases in the price of fuel, because they consume very high amounts of fuel as well as being unreliable as a passenger service, of course, because they are difficult to operate in bad weather—and we get a lot of that in the UK. In modern terms, although hovercraft are exciting and interesting to travel on, they are environmentally unacceptable because of their high fuel consumption.

My suspicious mind led me to wonder whether there was a specific Isle of Wight issue. I would be grateful if the Minister would address in her answer whether specific aspects will be applied to the Isle of Wight service, which, despite all that I have said, is an important part of the infrastructure connections for people living on and visiting the island.

When I had stopped wondering why the measure was being introduced now, after all these years, I wondered whether this was part of the major catching-up exercise that the Minister has bravely embarked on in her department. We know that the Department for Transport has a backlog of marine legislation that long pre-dates her coming into her position there. Is this part of a routine catching up to ensure that we can apply rules to hovercraft that apply to other types of seagoing vehicle? I would be grateful if the Minister could answer my questions now, or in writing afterwards if she is unable to do so immediately.

Lord Tunnicliffe (Lab): My Lords, I welcome this order to support the Government in meeting pollution prevention requirements and ultimately making our waters safer in compliance with international standards. Hovercraft are a technical wonder but can be particularly

[Lord Tunnicliffe]
harmful to the natural environment. Although the usage of these vehicles in the United Kingdom is not particularly widespread—indeed, it is not spread at all—Ministers are right to consider how we can eliminate their negative effects.

Although the UK is currently no longer a world leader in sea transport, by decarbonising maritime we can certainly aspire to become one yet again. I hope this instrument can form a small contribution towards that goal.

However, it is disappointing that the development of this order has not been used as an opportunity to properly engage with the limited hovercraft industry that exists today in the UK. While I appreciate the reasons given by the department for not formally consulting on this legislation, I hope the Minister can at least clarify that discussions took place with those who operate in the sector. I also hope she is able to confirm the Government's wider strategy for improving the cleanliness of the seas through better regulation of the maritime environment.

The noble Lord, Lord Mountevans, raised a point about the criminalisation of seafarers, and I am sure we all share with him that this should not be unreasonable. But we are in an environment—I think Grenfell has brought this environment to our attention—in which the assurance that regulations are fit for purpose, which is the responsibility of government and its agencies, and the execution of those requirements must have a clear responsibility chain. I have no idea about the detail of these orders, but it has to be a good thing for seafarers to be required to be responsible for their craft and confident, as far as reasonably practical, that the state of their craft and its operation are properly regulated.

I am all in favour of this sort of regulation. The important thing is that it must be good regulation that is easy to understand and fairly implemented. There is no case for poor regulation. There is much that good regulation does, and in circumstances where it breaks down it sometimes has a catastrophic consequence.

Baroness Vere of Norbiton (Con): I thank all noble Lords for their consideration of this order. It was a helpful discussion, and I will address some of the points raised as I am able. I may well write a letter, but I hope not to on this occasion because I think I have some answers, which makes a change.

I turn first to the noble Lord, Lord Mountevans, and the creeping criminalisation of seafarers. It is right that seafarers are held to account, and we should not expect anything other than that. However, it is also the case that we need to make sure that the right seafarers are held to account, and that it is not those at the bottom of the tree who bear the brunt and end up receiving the penalties. It should be those with the responsibility for ensuring that vessels meet the requirements, wherever they come from. It is not our intention to criminalise unnecessarily, but we want to make sure that the appropriate penalties are available where breaches occur and, in this case, that breaches of both safety and pollution prevention incur criminal penalties.

The noble Lord mentioned differences between Southampton and Aberdeen, but I am not sure that there would be. The order enables the Secretary of State to make regulations to make provisions to impose fines and a custodial sentence of up to two years, and that would be the same under the Scottish system as under the England and Wales system. If I have got that wrong, I will write to him. It would not be right that vessels could just go off to Aberdeen and say, "Sorry, you can't put me in jail up here because I am in Scotland". I am sure nobody wants that. I will look into that in a little more detail.

The noble Lord, Lord Berkeley, asked: why now? This is resulting from an international obligation, and we are very keen to make sure, particularly on maritime—as the noble Baroness, Lady Randerson, pointed out—that we really are working in as close a lock-step as we possibly can. Noble Lords may say, "Why hovercraft? Aren't they some outdated technology, et cetera?". We may think that now, but that does not mean it will be the case in future. Who knows what may come along in future?

The noble Lord, Lord Berkeley, also questioned why it is different. There is an entirely different legislative underpinning to hovercraft, as I have now learnt. They are viewed as very different vessels. Certain regulations apply just to them because they have their specific foibles. The point about what we are trying to do today is to make sure that there is as level a playing field as possible. It is all about bringing together as many vessels as appropriate under the same umbrella to create that level playing field, which I think noble Lords would all agree is fair.

4.45 pm

More specifically, hovercraft are subject to something called the high-speed code, within which many of the underlying requirements are the same. For example, manning requirements are the same, although the training required under the high-speed code is slightly different. That is where the differences really occur for hovercraft. This is really more about good housekeeping: because we have lost Section 2(2), we need to make sure that we still have that power available so that everybody has the same requirements as are needed.

The noble Baroness, Lady Randerson, asked about the maritime backlog. I am reliably told that this order is not actually part of that backlog, but who knows? There is still a maritime backlog, but it is getting better. My colleague the Minister for Maritime, Robert Courts, appeared in front of the Secondary Legislation Scrutiny Committee and we were able to update that committee in April this year to say that there are now nine SIs left to make, out of the original backlog of 13. I think that backlog of 13, which is now nine, possibly has things in it which are slightly more substantive than this provision. This is just an opportunity that we took.

The noble Lord, Lord Tunnicliffe, asked about discussions taking place with those who operate in the sector. This is difficult, because nobody actually operates in the sector and there is no indication that the people who currently operate to the Isle of Wight, which is an internal service, are going to change their service at all.

They would therefore not be covered. The noble Baroness, in her suspicious way—I was very perturbed about this—assumed that something terrible was going to happen to the Isle of Wight service. I can reassure her that this has nothing to do with the Isle of Wight, so she should not worry: that service will continue.

There will of course be consultations and impact assessments relating to the wider STCW regulations, but that is not for today. That is a whole different kettle of fish that we will, no doubt, have much enjoyment with in due course. For the time being, I hope I have managed to cover all of the questions, apart from that of the noble Lord, Lord Tunnicliffe, about decarbonisation of the maritime sector. I probably do not have time for that today, but perhaps will on another day. In the meantime, I commend this instrument to the Committee.

Motion agreed.

Public Procurement (International Trade Agreements) (Amendment) Regulations 2022

Considered in Grand Committee

4.49 pm

Moved by ***Lord True***

That the Grand Committee do consider the Public Procurement (International Trade Agreements) (Amendment) Regulations 2022.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, the instrument brought forward today will give legal effect in domestic regulations to the United Kingdom's procurement obligations under the free trade agreement between the UK and EEA EFTA states of Iceland, Liechtenstein and Norway. The EFTA agreement sought to reflect many of the provisions of the EU-EFTA agreement by which the UK was bound when an EU member state. This is part of the Government's wider approach to provide continuity, as far as possible, in existing trade and investment relationships with third countries that had an agreement with the EU before we left.

The UK-EFTA agreement was signed on 8 July 2021 and completed its scrutiny period prescribed under the Constitutional Reform and Governance Act in October 2021. This instrument is concerned with implementing the procurement obligations contained in that agreement. The procurement provisions will ensure that UK businesses will continue to be able to access procurement opportunities in these three countries. This coverage is reciprocated by the UK giving businesses from those EFTA states no less favourable treatment when conducting its procurements covered by the agreement.

The UK has an open procurement market underpinned by principles of non-discrimination and equal treatment. However, without this instrument, there is a risk that, in respect of procurements covered by the agreement, relevant EFTA businesses will not be entitled to the legal remedies that the UK has committed to in the agreement. This instrument therefore ensures that we fulfil our obligations.

In terms of the coverage in the agreement, the UK is an independent party to the World Trade Organization's Agreement on Government Procurement—or GPA, as it is known—along with Iceland, Liechtenstein, Norway and other major world economies. The GPA aims to mutually open global public procurement markets and is worth some £1.3 trillion in guaranteed access to global procurement opportunities for UK firms.

The UK-EFTA agreement incorporates the relevant GPA provisions, and goes further. The procurement coverage is similar to the UK's coverage under the EU's agreement with the EEA EFTA states, with some exceptions including in respect of health services.

This instrument is being made using powers set out in Section 2 of the Trade Act 2021. It will add the UK-EFTA agreement to the existing schedules of international trade agreements contained in the various UK and Scottish procurement regulations to ensure that no less favourable treatment is accorded to businesses of Iceland, Liechtenstein and Norway, where the procurement is covered by the terms of the agreement. It will also make explicit in those procurement regulations that contracting authorities can make inquiries as to whether subsidies form part of an abnormally low tender, as provided for in the agreement.

Importantly, these amendments do not add any burdens to the UK's procurement process, nor do they reduce any of the UK's procurement standards.

The provisions will be implemented across the United Kingdom. We have consulted officials from the devolved Administrations throughout the process. We have also formally notified each Administration, via ministerial letters, of our intention to lay this instrument. The Scottish and Welsh Governments have formally agreed to our approach and the Northern Ireland Executive Minister responsible for procurement has confirmed that he did not have any objections. I therefore thank each Administration for their engagement and collaboration.

Any amendments to the procurement coverage in the UK-EFTA agreement, or other international trade agreements, will require further legislation to give them legal effect. Any future trade agreements which the UK signs or has signed—for example, with Australia and New Zealand—will be implemented by separate legislation.

I hope that noble Lords will join me in supporting these draft regulations. I commend them to the Committee and beg to move.

Lord Lansley (Con): My Lords, I am very glad to have the opportunity to say a few words about these regulations and I thank my noble friend for introducing them so clearly. As somebody who laboured long and hard on the Trade Act 2021, it is always a pleasure to see the powers being used. There may not be many such further events but it is interesting to see it being used in this case.

I must confess that the reason I looked at these regulations was that, as my noble friend will recall, at Second Reading of the Procurement Bill I raised the interaction between that legislation and the Trade (Australia and New Zealand) Bill, which had, of course, been introduced at the same time in the other place.

[Lord Lansley]

I looked at this instrument and thought, "How does this relate to the Procurement Bill?" Like the Australia and New Zealand Bill, as far as I can see, the Procurement Bill will supersede these regulations when it becomes law. Schedule 9 to the Procurement Bill incorporates the UK-EFTA agreement into the list of treaty state suppliers. So far, so fairly straightforward: we need these regulations to give effect to the agreement in the intervening period.

However, there is an issue about what these regulations do, because they also amend public contract, concession contract and utilities contract regulations to include the further provision relating to abnormally low tenders. It is a question of whether the price or costs take into account the grant of subsidies. First, I ask: does the preceding EU-EFTA economic area agreement have the same language? It seemed surprising if it did, on the face of it, because existing regulations, which are part of the structure of EU regulation, already take account of whether—to cite Regulation 69 of the Public Contracts Regulations, for example—the abnormally low tender price is because of the possibility of the tenderer obtaining state aid.

I should have thought that, in the EU context, the question of state aid and grant of subsidy were regarded as effectively the same thing. I suspect, therefore, that EFTA countries are saying that the words "state aid" do not necessarily have the same meaning in United Kingdom in future as "state aid" did in the EU in the past. I may be wrong about that, but I should be interested to know whether that is the case.

Anyway, this additional provision in the regulations changes, for example, Regulation 69 of the Public Contracts Regulations, which relates to abnormally low tenders. I thought, "Let's see how this is incorporated into the Procurement Bill", but I cannot find it. So, my other question is: how will that Bill incorporate the provisions of, for example, Regulation 69 relating to abnormally low tenders into the structure of our regulation in future? I am happy to be guided by my noble friend on that, not least because it will no doubt give us an opportunity to learn a bit more about how the Procurement Bill itself will work in future. Subject to those questions, I am glad to take the opportunity to welcome the regulations and support my noble friend.

Baroness McIntosh of Pickering (Con): I, too, am pleased to speak to some of the issues before us this afternoon and thank and congratulate my noble friend on bringing forward the regulations. My noble friend Lord Lansley has eloquently addressed a number of issues on the relationship between this instrument and the public procurement Bill. But there is also the broader context of our new relationships with the EU and, now, with the three countries before us this afternoon. What is generally understood by "state aid" and has our policy towards them changed in that regard?

Perhaps the thing that concerns me most is this. My noble friend spoke about the GPA, the global procurement agreement to which we have signed up, and mentioned that it is worth £1.3 trillion to the UK economy. When the Trade Bill was passing through—I also took an interest in that at the time, and my noble friend Lord Grimstone spent hours trying to allay our concerns in this regard—it was curious that any public service was obliged to declare a contract worth, I think, €130,000 and to put it out for tender.

5 pm

I thought that one of the biggest dividends of leaving the European Union might be that our schools, colleges, hospitals, Army, Parliament—all public bodies that were putting out a public contract for tender for, say, food—could be opened up to local suppliers. I was told by my noble friend Lord Grimstone that that was not the case and that any contract worth more than $130,000—I think that is the figure now—is covered by the GPA. If that is the case, we have not benefited from leaving the European Union but are bound by the GPA, which—I accept—brings trillions of pounds of value to this country.

The *Government Food Strategy* launched and published on Monday clearly states that we want:

"Public procurement leading by example".

I will read out paragraph 2.4.2:

"To deliver this vision, we are consulting on public sector food and catering policy, including the Government Buying Standards for Food and Catering Services ... We will consider widening the scope of the policy to be mandatory across the whole public sector. Within the consultation we will propose that the public sector reports on progress towards an aspiration that 50% of its food expenditure is on food produced locally or to higher environmental production standards such as organic, Linking Environment and Farming (LEAF) Marque or equivalent, while maintaining value for money for taxpayers."

There are two issues here. First, I absolutely welcome the fact that it will be produced to our UK standards. It was in the Conservative Party manifesto on two separate occasions that any food we eat, whether imported or home produced, would be produced to the same high standard. That is absolutely super. But there is something I am failing to understand. I have always wanted to have the local farmer, or grower if it is fruit and vegetables, produce for the prisons, schools and hospitals locally, but my understanding—I would be most grateful if my noble friend the Minister would clarify this—is that that can apply only to contracts for tender of less than $130,000, which I presume is about £100,000 or £110,000.

I am trying to square the circle between what was announced in the food strategy—which I have always wanted to do and was told we could not do when we were part of the European Union—and, our having left the European Union, being told that we could not do it because we are still bound by the GPA. If that is the case, presumably the public procurement leading by example is only for government buying standards for contracts of less than $130,000. They are quite meaningful, but smaller contracts than would otherwise be the case.

To return to the instrument before us, I would love to know how many instances my noble friend and his department might expect of contracts under the EEA EFTA agreement that would be deemed to be "abnormally low tenders", as in paragraph 7.5 of the Explanatory Memorandum. I have never visited Liechtenstein, but I am reasonably familiar with Iceland and Norway and I would have thought that their contracts are quite expensive, so I would like to know in how many instances my noble friend thinks they might be faced with "abnormally low tenders".

With those few remarks, I welcome the regulations before us but seek clarification on the public procurement aspects.

Lord Collins of Highbury (Lab): My Lords, I am grateful to the Minister for introducing these regulations. As he and others have stated, they are basically a continuity agreement while we process the much bigger piece of legislation to which the noble Lord, Lord Lansley, referred, the Procurement Bill. One of the things I open with is to repeat the mantra that the Minister often does about how this House conducts its role in scrutiny of legislation. When I read *Hansard* from the other end, I thought I would get some useful questions from the Opposition—and of course there was none, so I am grateful for noble Lords here today who have prompted an interesting debate. I suspect that most of the questions will be answered on the general legislation on procurement—the Procurement Bill—including some of the issues that we will address in amendments, not least defence and security, which are critical issues.

I do not want to repeat the points made by the noble Lord, Lord Lansley. I will be interested to hear the Minister's response, but the Opposition support the instrument and are happy that it provides the continuity necessary before other legislation takes over. I should add that I am not formally becoming a shadow Cabinet Office Minister; I am simply standing in for my leader, who covers these issues—and as deputy leader I of course do as I am told. I have at least been able to speak for a short time in support of the instrument. I echo some of the comments already made and I look forward to the Minister's response.

Lord True (Con): My Lords, I thank those who have spoken, including the noble Lord opposite; I nearly always say "my noble friend opposite". I also looked at the proceedings in another place, but I will tread no closer to that than he did.

I am grateful for the general welcome for these provisions. I was asked a couple of points. I am not sure I can answer every one, but if I do not I am sure we will pick them up. On the question of whether state subsidy is defined in the regulations, it is not defined in this SI. It was also not defined in the UK-EFTA agreement procurement chapter from which this follows.

I was asked about abnormally low tenders and subsidies going more widely than the definitional point. Article 6.9 of the UK-EFTA agreement provides that, where a tender appears to be abnormally low, the contracting authority may ask a supplier whether the price in a tender takes subsidies into account. That was the point to which my noble friend acutely referred. The instrument makes this explicit—it is on the face of the procurement regulations. Prior to the UK leaving the EU, contracting authorities and utilities receiving an abnormally low tender could investigate whether the supplier had obtained state aid and, if that was not compatible with Article 107 of the Treaty on the Functioning of the European Union, it could reject the tender. These provisions were removed from the public procurement regulations through EU exit legislation.

The current procurement regulations are largely transposed from the EU directives, which include a number of permissive provisions. For this reason, it makes sense to make explicit mention of the fact that, when investigating abnormally low tenders, contracting authorities are able to make inquiries as to whether the bid includes subsidies. However, overall the Procurement Bill will aim to deliver a simpler regulatory framework and increased flexibility and does not include every possible action that a contracting authority might take. Therefore, there has not been such an impetus to make explicit this provision in the new Bill.

So far as the relationship is concerned between the Bill and where we are now—and both my noble friends referred to the period between now and the coming into being of the Procurement Act, if your Lordships so please; I am never daring enough to take that for granted—we need to bring forward this statutory instrument now to amend existing procurement regulations to enable the procurement provisions of the UK-EFTA agreement to come into force as soon as possible. When the Procurement Bill has received Royal Assent, during its implementation period it will repeal certain UK procurement regulations, including the UK public contracts regulations; the UK utilities contracts regulations; and the UK concession contracts regulations, to which the UK-EFTA agreement is being added. However, this is not expected until at least six months after Royal Assent.

The UK-EFTA agreement is included in Schedule 9 to the Procurement Bill, along with all other relevant international trade agreements, which ensures that the procurement obligations regarding EFTA suppliers will be carried forward seamlessly into the new regime. The amendments made by these regulations also add, as I said in my opening remarks, the UK-EFTA agreement to the corresponding Scottish procurement regulations, which will not be affected by the Procurement Bill.

I assure my noble friend Lady McIntosh, as again I said in my opening remarks, that nothing in this SI or, indeed, in the UK-EFTA arrangements overall, reduces any standards. We remain committed to holding up high environmental product and labour standards, and I can certainly give that assurance.

On the question of the lower thresholds in legislation, there are provisions—and I am happy to correspond or at least send advice to my noble friend before we reach the Procurement Bill. As she will see, there is a whole section relating to the level below which there are exemptions. We must abide by our international obligations in relation to trade under the GPA; that is, to give fair access to both sides of the agreement, which is reflected in these regulations.

We have enjoyed a strong trading relationship with Iceland, Liechtenstein and Norway for many years, as some noble Lords were kind enough to refer to. Indeed, I think that Norway is in the top 10—perhaps our 10th most important trading partner. By implementing UK-EFTA procurement commitments, this instrument will, we hope, help to continue and build on this prosperous and friendly relationship between our four countries.

I hope that colleagues will join me in supporting these regulations. I am grateful for the general tenor of the debate. I commend the regulations to the Committee.

Motion agreed.

Committee adjourned at 5.14 pm.