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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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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

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House of Lords

Tuesday 12 October 2021

2.30 pm

Prayers—read by the Lord Bishop of Oxford.

Schools: Examination Assessments

Question

2.36 pm

Asked by Lord Hunt of Kings Heath

To ask Her Majesty's Government what assessment they have made of the (1) credibility, and (2) integrity, of the assessment processes in schools for this summer's A levels and GCSE examinations.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, parents and students can have confidence in the credibility and integrity of the grades awarded this summer. Teachers did an excellent job assessing students based on a range of evidence and were best placed to understand the content students had covered. The outcomes of the quality assurance process demonstrated the extent to which teachers took the process seriously and followed the guidance and training provided. These grades reflect students' hard work in what was a hugely challenging year.

Lord Hunt of Kings Heath (Lab): My Lords, I welcome the noble Baroness to her new position and I am sure I speak for the whole House in paying tribute to the noble Baroness, Lady Berridge, for her work and her willingness to come to the House so often to talk about education matters.

I of course echo what the noble Baroness said about teachers and students and their achievements in the summer, but she will know that the overall increase in the level of grades was higher in private schools than in other schools. She will also know that the Sutton Trust has said that significantly more teachers in private schools than in comprehensive state schools came under pressure from parents to increase their child's grades—this is not too long, my Lords. So, far from levelling up, the new style of internal assessment loaded the dice further against comprehensive school students when it comes to higher education and career prospects. What is the Minister going to do to ensure that, where assessments are used in the coming examination process, there will be a level playing field?

Baroness Barran (Con): I do not accept the assertion that underpins the noble Lord's question that there was not a level playing field. All types of schools and colleges, including independent schools, had to submit evidence of their students' work to support grades. Exam boards set out very clear requirements for quality assurance and those quality assurance checks covered all types of schools and colleges. The department trusted teachers' professional judgment and exam boards set clear guidance for centres on malpractice, including that centres should report instances of parental pressure to their awarding organisation.

Lord Mackay of Clashfern (Con): My Lords, first, I associate myself with the remarks about the change in the ministerial situation. Is there anything yet to tell us how the grades given last year compared with the grades given in previous years, particularly recent years, in respect of applications for employment?

Baroness Barran (Con): I think it is early to draw firm conclusions, as my noble and learned friend hints. Obviously, there was a different basis for assessment last summer from pre 2019. But the House will be aware that this was a record year in terms of higher education admissions and that the Government's plan for jobs is focused on giving young people the skills they need to move into employment.

The Earl of Clancarty (CB): My Lords, does the Minister agree that the conclusion we should draw from the Covid experience in schools is a recognition of the paramount importance of a school's internal monitoring of a child's progress, central to which is the role of teachers? What then is the point of GCSEs if children remain in school until 18? This is not about fairness but about whether such exams are necessary. If school education in many countries thrives without the additional stress of external testing at 16, why cannot ours?

Baroness Barran (Con): Well, I would question the noble Earl in terms of fairness. It is, of course, as I am sure he would agree, absolutely critical, and we believe that exams are the fairest way of judging students' performance. GCSEs rigorously assess knowledge acquired by pupils during key stage 4 and are in line with expected standards in countries with the highest-performing education systems. So, despite remaining in education to 18, not all students will progress to level 3 qualifications, and therefore GCSEs remain vital to our education system.

Baroness Blower (Lab): My Lords, I have confidence in teacher-assessed grades, but the systems used in 2020 and 2021 were, frankly, not well planned by government—unlike the systems of teacher assessment in, for example, Finland, where there is a vanishingly small private sector in education. Given that government data shows that 204,000 pupils were out of school for Covid-related reasons on September 30, what plans do the Government have to discuss at an early stage what might be put in place for alternatives to exams this academic year? No communication expected in September from the exam boards has yet arrived.

Baroness Barran (Con): I think the noble Baroness is being slightly unfair, in the sense that the approach we took to teacher-assessed grades was extensively consulted on and agreed. It was clearly not a simple process, as the noble Baroness understands very well, but it was grounded on extensive consultation. She will be aware that we have announced adaptations to the exam system and an amended approach to grading in the coming year, which I hope will go some way to addressing her concerns.

Lord Storey (LD): My party would like to welcome the Minister to her new role and wish her well. We also pass on our best regards to her predecessor. My question to the Minister is about summer-born children; she will know that children who are born in the summer could miss a year, 11 months, 10 months or nine months of schooling. Why is no consideration taken of this fact in the guidance regarding assessment?

Baroness Barran (Con): I know that the noble Lord has been a champion of summer-born children, and I understand that he is one himself. As I am a winter-born child, obviously we might not see eye to eye on this. But we have had to take into account multiple elements in thinking about the adaptations for this summer, and we have tried to reach the fairest possible point in both adaptations to the system and in grading.

Lord Austin of Dudley (Non-Aff): My Lords, given all the problems caused by the pandemic, is this not the moment to have a proper review of what children need to learn, how they should be taught it and how they should be assessed? Despite the Minister's previous answer, there is a case for looking at the need for exams at 16 when young people are remaining in education until they are 18. Should we not specialise at 14, with proper, serious technical and vocational education, as well as more academic subjects for those who want to pursue them, and how should we change the curriculum to take into account new technologies and new ways of learning?

Baroness Barran (Con): The noble Lord will be aware that we are planning a White Paper on many of these areas, but our priority in the short term—I am sure the House would support this—is on recovery and catch-up for all children, particularly those who have been most impacted in their learning by the pandemic.

Lord Watson of Invergowrie (Lab): My Lords, I welcome the Minister to her new post. I could say she is at big school now. I also identify myself with the remarks of my colleague and noble friend Lord Hunt regarding the noble Baroness, Lady Berridge. The lack of standardisation in this year's exams meant that some pupils sat more than 20 exams while others sat fewer than five. Ofqual stats reveal that children on free school meals were less than half as likely to get a grade 7 or above in their GCSEs than their peers. The attainment gap between those on free school meals and those not has increased by one-third since 2019. Does the Minister expect the new Secretary of State for Education to be any more successful than his predecessor in securing the amount of funding identified by the Government's recovery tsar?

Baroness Barran (Con): We were pleased to see that at both A-level and GCSE all groups have seen an improvement in their outcomes at top grades compared with 2020 and 2019. The noble Lord is of course right that we need to redouble our efforts to close the attainment gap after the disruption caused by the pandemic. A crucial part of that is getting pupils back in the classroom. The Government have committed to an ambitious and long-term education recovery plan, including investment to date of over £3 billion.

Lord Flight (Con): My Lords, I would not expect there to be a major issue with integrity—teachers are usually honest—but rather one of credibility where A-level and GCSE qualifications are being reviewed and compared by third parties. The 2021 super-results might be written down a little for comparison by third-party assessors.

Baroness Barran (Con): The department is clear that these grades reflect students' hard work in an extraordinarily difficult year. It is not unexpected, given the different approach to assessment that was taken, that the grades look different, but students can and should feel proud of their achievements.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, following the question from my noble friend Lord Hunt, what possible justification can there be for private schools having charitable status? Would not the money saved by removing such status be better used in state schools so that they can improve their exam results?

Baroness Barran (Con): The rate of improvement in exam results was faster in state schools, with the exception of selective secondary schools, than in independent schools across the board. The noble Lord will be aware that the issue of charitable status in private schools is a lot more complicated than transferring money from one pot to another.

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

Health: Chronic Fatigue Syndrome Question

2.48 pm

Asked by **Baroness Thornton**

To ask Her Majesty's Government, further to the decision to delay the planned new guidelines on the diagnosis and management of ME/CFS, what assessment they have made of the ability of the National Institute for Health and Care Excellence to carry out its functions; and when they expect such guidance to be published.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): NICE is seen as a world leader in the translation of research into authoritative, evidence-based clinical guidelines, and the Government have confidence in NICE's ability to carry out its functions effectively. We all know that ME/CFS is a complex condition and, as we understand, a range of views about its management have been expressed during the development of the updated guidelines. To address as wide a range of views as possible, NICE is holding a round table with stakeholders next Monday to discuss these issues and will then take a decision on the next steps.

Baroness Thornton (Lab): First, of course, I welcome the Minister to his place and his job. There is nothing like hitting the ground running, since he has got to do

three Questions in a row—that does not often happen. My Question was prompted by two important issues. First, public confidence in NICE’s methodology, and indeed NICE’s own confidence in its methodology, are vital. If the Minister says that the Government have confidence in NICE, it begs the question why the Government are not demanding that the ME/CFS guidance, three years in the writing and with patient support, is not being published immediately.

Secondly, I will quote from one of the many emails that I have had about this issue: “Thank you in advance for speaking up for ME patients. No treatment is better than harmful treatment. My daughter is now bedbound with severe ME due to GET”. GET is the current medical treatment regime for ME/CFS sufferers, which these guidelines say should be reformed. Did NICE come under pressure to pull these guidelines because of medical vested interests in the delivery of GET, particularly since they believe that this is the treatment for long Covid?

Lord Kamall (Con): First, I thank the noble Baroness for her warm welcome. I look forward to many exchanges with her and to learning from Ministers across the House and those who have been in the Department of Health and Social Care before. I know that the noble Baroness is recognised as a champion of the 250,000 people who are living with ME/CFS. As the noble Baroness knows, there are a number of complex symptoms, and experts disagree over the multifaceted way to address this.

As the noble Baroness knows, the NICE guidelines were delayed twice. They were first delayed because it wanted to make sure that it had taken on board all the various submissions that had been made; they were delayed a second time because, just as they were about to be announced, concerns were raised by clinicians and other stakeholders. If you are going to have guidelines, it is important that they are accepted and recognised by as wide a range of stakeholders as possible; otherwise, they might lose their authority.

We want to make sure that, whenever we have this situation and there are people with a range of views, we get them around a table and have a conversation, as common sense tells us, to see if we can agree on a way forward. I very much hope that, once we have had this round table, we will be able to agree a way forward.

Lord Bethell (Con): My Lords, I welcome my noble friend to the Dispatch Box as a Minister for the Department of Health and Social Care and Minister for Life Sciences. It is, without doubt, the best job in government, and I know that he will acquit himself extremely well.

We are making huge progress on the syndrome called “long Covid”, and I note the encouraging progress that NICE is making on guidance for post-Covid syndrome. But does the Minister accept that this shines a clear spotlight on how far behind and wrongheaded we are with the diagnosis and management of ME and CFS? In particular, does he accept that, in the interests of health equality and national productivity, we need to rethink the way that people are got back on their feet after they have been hit by these horrible viruses?

Lord Kamall (Con): I thank my noble friend—my predecessor—for his warm words and his offer of advice to me, as I find my feet and find myself swimming at the deep end, if you like, in this job. Usually, when I get a question like this, I say, “I will ask my predecessor” but clearly, he has a question for me.

My noble friend is absolutely right that we have to be concerned about how we help those who are suffering from ME and chronic fatigue syndrome, but he will recognise that there is a range of views on this issue. If we want these guidelines to be widely accepted and respected, it is important that we get as many stakeholders around the table as possible. NICE has agreed to this round table; hopefully, we can then move forward.

Baroness Finlay of Llandaff (CB): My Lords, I too welcome the Minister to his post. I declare that I have been vice chair of the NICE committee that produced the revised guidelines on ME/CFS over the past three years, through consensus agreement in the committee. This was fully compliant with NICE’s rigorous processes. Will the Government work with commissioners to ensure that appropriate specialist services for patients with ME are developed and continue, and that services monitor accounts of harms as well as benefits?

Lord Kamall (Con): I thank the noble Baroness for her warm welcome. I am new to this and, as you can imagine, I am still learning the ropes and learning about NICE and its processes. However, I agree with the noble Baroness: it is really important that we address the issues she raises and if she writes to me, I will ask for some advice and respond to her.

Baroness Pitkeathley (Lab): Does the Minister agree that patient groups and charities are key in providing support to these patients? They are very concerned about the absence of guidelines, particularly as they have been involved in their production. Could the Minister offer them any reassurance about the timing of the guidelines?

Lord Kamall (Con): I understand that NICE wants to publish these guidelines as quickly as possible. It is very aware that there have been two delays: first, to make sure that it took on board the various comments; and secondly, the current delay because of issues raised by some clinician groups. As noble Lords will understand, NICE is independent from the Government. It hopes to progress this issue by having the roundtable, hearing all the different views and seeing if some consensus can be reached before the guidelines are published.

Baroness Scott of Needham Market (LD): Does the Minister accept that the prevailing view in some quarters that ME is a psychological disease is causing untold harm, including to children and young people, who are being forced to accept treatments which are damaging to them, and to their parents, who are sometimes accused of abuse? Taking time to achieve consensus is one thing, but the Minister should be aware that there is a huge cost to this.

Lord Kamall (Con): It is always important to recognise the unintended consequences and the costs of any delay. I can understand the frustration of many who

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have ME/CFS at the delay to the publication of the guidelines. It is important that we try to get as much consensus as possible. If noble Lords feel that there are further delays, I hope they will write to and put pressure on me and wider stakeholders, so that we can put pressure on NICE, but it is important that we try to achieve as much consensus as possible.

Baroness Ritchie of Downpatrick (Non-Aff): My Lords, what issues were raised during the pre-publication period for the final guidelines which merited a pause in publication?

Lord Kamall (Con): I thank the noble Baroness for her question. The issues related to some of the guidelines concerning GET. There was a concern that these would be deleted. Some groups and stakeholders expressed the concern that, while some patients clearly found these damaging, others might find them helpful, or partly helpful—not as a cure in themselves but as part of their treatment. That is why NICE convened this roundtable to ensure that it hears a wide range of views. Hopefully, this can achieve some sort of consensus and help stakeholders to understand where others are coming from, so that some sort of agreement can be reached.

Baroness Cumberlege (Con): Those who have had the opportunity—and, indeed, the fortitude—to read the report *First Do No Harm* have been struck by the treatment of women, who have suffered greatly at the hands of a minority of members of the medical profession. Today, we have another example. Patients have been dismissed, ignored and not believed, and the majority of them are women. Can my noble friend give an assurance that women will be listened to and not treated in the way that many of us, men and women, have found appalling?

Lord Kamall (Con): I thank my noble friend for her question and for making time to meet with me in the early days of my job and give me the benefit of her experience, particularly on the issues she covered in the Cumberlege review. It is absolutely right that we praise our health service when it does well, but we should also be able to acknowledge when mistakes are made or when patients do not receive the kind of service we expect them to. It is important that my noble friend and others push me, as the Minister, and the Department of Health and Social Care to make sure that we are addressing the genuine needs of patients and that patients are not ignored. I pledge that I will be a champion of patients.

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

Virginity Testing

Question

2.59 pm

Asked by **Baroness Sugg**

To ask Her Majesty's Government what plans they have to seek to use the Health and Care Bill to fulfil their commitment to make virginity testing illegal.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): My Lords, they said today would be a baptism of fire, and I did expect this, I will be honest.

The Government are committed to safeguarding women and girls, which is why in the tackling violence against women and girls, or VAWG, strategy—as noble Lords know, DHSE loves acronyms—we announced our intention to ban virginity testing. It is widely acknowledged that such tests have no scientific merit or clinical indication, are a violation of human rights and have an adverse impact on girls' and women's well-being. Details of any offence are being carefully considered and the Government will make virginity testing illegal when parliamentary time allows.

Baroness Sugg (Con): My Lords, I join others in welcoming my noble friend to his ministerial position and wish him all the best in his important brief. I am very encouraged by the clear indication in the violence against women and girls strategy that the Government intend to ban virginity testing when parliamentary time allows. The Health and Care Bill allows just that, and I hope that the Government will accept the amendments in the other place.

Virginity testing is inextricably linked with hymenoplasty, and any commitment to ban virginity testing will be undermined if we do not ban them both together. I am aware of an expert panel that has been convened on this, but I do not believe that it is necessary, as experts are aligned that there is no clinical or ethical reason for either invasive or harmful practice. Can the Minister tell me when that panel will report back so that action can be taken as quickly as possible, and we do not miss the opportunity to ban hymenoplasty in the Health and Care Bill at the same time as banning virginity testing?

Lord Kamall (Con): We completely agree with my noble friend's sentiments. It is really important that we ban virginity testing and hymenoplasty as soon as possible. The issue on hymenoplasty in particular is that, unfortunately, because it is classified as a cosmetic procedure, introducing legislation in this space might take away the right for women to make decisions about procedures that they wish to have and be counter to current regulation on cosmetic surgery. It is important that we work out how we can ban this practice, but those objections have been raised—and if those legal objections have been raised, we have to be careful that we work properly to make sure that we ban these procedures.

I give the commitment that I shall push as much as possible to make sure that we ban both virginity testing and hymenoplasty as soon as possible. My noble friend mentioned the amendments in the other place. The Member who submitted those amendments has been in consultation with the Department for Health and Social Care, and we hope to be able to introduce those changes, particularly those bans, as soon as possible.

Baroness Brinton (LD) [V]: My Lords, I also welcome the noble Lord, Lord Kamall, to the Dispatch Box. I want to pick up on points that the noble Baroness,

Lady Sugg, raised. Some private clinics advertise these procedures to women, which perpetuate myths around virginity, falling way below the standards of honesty and integrity that are rightly expected of doctors. Indeed, the GMC ethical guidance on communicating information explicitly outlines that, when advertising your services, you must make sure that the information that you publish is factual, can be checked, and does not exploit patients. We have waited far too long for this to be made illegal. Can the Minister please press to make this happen sooner rather than later?

Lord Kamall (Con): I thank the noble Baroness for her question, but also for having a meeting with me to discuss some of the issues that we will debate in future weeks and months. All preparation and revision are welcome.

I give a pledge that I will push back at my department and push to have both these practices banned as quickly as possible. However, as I said, some concerns have been raised from a legal perspective, given that hymenoplasty is a cosmetic procedure. All of us would agree that this is an awful thing and that it should be banned, but I want to make sure that in doing it we are very careful. A few years ago, I was a research director for a think tank, and one issue that I always considered with any change of law was unintended consequences. We have to be clear that we do this in a proper way, and I hope that we can introduce these bans as soon as possible.

Baroness Hodgson of Abinger (Con): My Lords, I join others in welcoming my noble friend to the Dispatch Box. Virginity testing is such a demeaning process and, as has already been mentioned, an abuse against women. In October 2018, the UN human rights office, UN Women and the World Health Organization issued a joint statement calling for the end of this horrid practice, saying that it was a “medically unnecessary, and oftentimes painful, humiliating and traumatic practice”.

What is the UK doing to support the World Health Organization, UN Women and the UN human rights office to ban this across the world and to mobilise other countries to outlaw this practice domestically?

Lord Kamall (Con): I thank my noble friend for her warm welcome. In answer to her specific question, the Government absolutely agree with the World Health Organization’s view that virginity testing is a violation of the victim’s human rights and is associated with immediate and long-term consequences that are detrimental to physical, psychological and social well-being—as well as, in simple terms, being demeaning.

On my noble friend’s specific question about what we are doing with the World Health Organization, I shall write to her with more details.

Baroness Bryan of Partick (Lab): My Lords, virginity testing is an abuse of women and a denial of their rights over their own body. The same private clinics can offer virginity testing and, once they have decided that a woman or a girl is not a virgin, they can then offer hymen repair procedure. Does the Minister agree that this should be illegal and that it is a total abuse of

that clinic’s profession? Having listened, as I can hear he has, to campaigners and professionals, will he give a stronger assurance that something will be done in the Health and Care Bill?

Lord Kamall (Con): The noble Baroness makes a valid point; I do not think anyone in this House would disagree with what she said. Virginity testing is demeaning and hymenoplasty is not only demeaning but damaging to women’s and girls’ health and we want it to be banned as soon as possible. I give a pledge that I will push for this to be introduced as soon as possible. Whenever noble Lords are told that the Government will find parliamentary time to do something, I understand why there might be some scepticism about that, but I will push to make sure that we can introduce it as soon as possible.

Baroness Stuart of Edgbaston (CB): My Lords, virginity testing and hymenoplasty have to be made illegal at the same time, and rather than talking about it as a cosmetic procedure, it should be seen as a form of abuse. When I read the guidance from the Royal College of Obstetricians and Gynaecologists, it is rather limp. I encourage the Minister to ensure that the medical professions recognise that they will have an integral part in reporting and preventing any of this, just as they had when we started in the early days with FGM, because it is no good creating an offence without it being enforced and actually punished.

Lord Kamall (Con): I give the noble Baroness the assurance that I agree—I do not think anyone disagrees—that we should try to ban both these practices as soon as possible. The issue is that although I do not personally consider it a cosmetic procedure, legally it is considered as such, and that is why we have to be a little more careful about how we address the issue in legal terms, and the exact drafting of the ban. Of course, any medical professional who carries out these procedures following a ban will be breaking the law, and that is absolutely right. The other issue we then have to consider is what penalty those who break the law in this way will face.

Lord Black of Brentwood (Con): My Lords, I welcome the Government’s renewed commitment to making virginity testing illegal, but I hope the fate of similar commitments in the health and care sector does not befall it. It is now four years since the Government made a similar pledge to end another degrading and cruel practice, that of so-called gay conversion therapy, and we are no nearer action to making it illegal than we were in 2017. Does my noble friend understand the frustration of those who want to see this repulsive practice banned but are having to wait for endless consultations and a failure to find parliamentary time? Is not the Health and Care Bill the perfect vehicle to fulfil this long-standing government commitment?

Lord Kamall (Con): I thank my noble friend for that question. I think we all agree, as he said, that conversion therapy is an awful practice and should be outlawed. The Government have made a commitment to outlaw it. There is an interesting thing, when we talk about the history of various commitments from the Front

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Bench and whether they were implemented: around Christmas time, we often see advertisements saying, “A dog—or a puppy—is for life, not just for Christmas”. As we know, with ministerial life, it is the opposite: a ministerial portfolio is for Christmas, not for life. However, when I look back at my time, I would ask people to judge me on my actions.

Baroness Merron (Lab): My Lords, I welcome the Minister to his place and wish him well. In addition to private examinations performed by gynaecologists and other medical professionals, campaigners report that victims are often subject to extremely crude examinations performed at home by family members, involving such means as inserting fingers into the vagina to check if the hymen is intact. What steps are the Government taking to tackle such hidden forms of abuse?

Lord Kamall (Con): One issue we have to think about whenever we bring in any new law or ban is the unintended consequences. One unintended consequence that has been raised is that doing so might drive this practice not only into the home but underground. If we make it illegal, it is illegal; we must make sure that, when someone subjects a woman or girl to that awful experience, everyone knows it is illegal and that they will face the full force of the law.

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

Health: Type 2 Diabetes Question

3.10 pm

Asked by **Lord Brooke of Alverthorpe**

To ask Her Majesty’s Government what assessment they have made of the data analysis by Diabetes UK, published on 6 October, which suggests that one in three adults in the United Kingdom could be at increased risk of developing type 2 diabetes by 2030.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): I thank noble Lords for giving me a pause for breath; I appreciate the patience they have shown me today. The Government welcome Diabetes UK’s research in increasing our understanding of diabetes and are committed to reducing and preventing type 2 diabetes, particularly in those groups who are more at risk of developing it and face poorer outcomes. This is why the Government launched the NHS diabetes prevention programme and the healthy weight strategy to look at ways to tackle weight gain and reduce children’s exposure to high-fat and high-sugar foods, including using digital tools to reach key groups.

Lord Brooke of Alverthorpe (Lab): My Lords, I am grateful to the Minister for that reply and welcome him to his new post. He has had a baptism of fire today and has come through reasonably well—so far. We wish him well and good health too. Does he agree that one of the major and most successful initiatives of

recent years was Mrs May’s move in 2018 to introduce a sugar tax on fizzy drinks? Employers have been persuaded to reformulate their product. Will the Government now extend that taxation over a wider front on food and drinks? Can they start giving some thought to possibly following the substance of that approach on fat and see whether we can move towards taxing it?

Lord Kamall (Con): I first thank the noble Lord very much for his warm welcome and his modest appraisal of my performance thus far. I am told that, coming from him, that is high praise indeed; he may disagree afterwards. As he knows, the Government are committed to this, but one thing we always have to look at in introducing new laws, bans or taxes is unintended consequences. Before I came to this role, I read some research which said that there were unintended consequences of some of the sugar taxes; for example, did they force people from poorer families or poorer communities to buy alternative, cheaper brands of the same drinks with the same sugar content, or did they just take the hit to their pockets and pay more? Were the outcomes any better? When looking at some of the programmes being put in place to tackle type 2 diabetes and the taxes proposed, it is important that we make sure it is all evidence-based and work out whether there are unintended consequences. If there are, we must find other ways to make sure we tackle obesity and some of the other issues that lead to type 2 diabetes.

Lord Davies of Brixton (Lab): My Lords, the figures in the report are shocking, so I hope the Minister understands that with diabetes, as much as or more than other conditions, there is a need for close and consistent monitoring, not just for the patient’s sake but to avoid greater subsequent demand on the NHS. Is he therefore concerned by reports that in too many areas the essential regular reviews of patients’ conditions are simply not happening because of pressure on clinics or even a shortage of the equipment required to undertake the necessary tests?

Lord Kamall (Con): I take a personal interest in diabetes; I have two very close family members with diabetes, one type 1 and one type 2. I noticed during the Covid lockdown the different approaches in meeting their clinicians—telephone calls rather than meeting in person, and reviewing their charts and sugar graphs over time, which is regularly done at these reviews. I agree completely that it is really important that we now try to address this backlog as much as possible. I know that the Secretary of State is committed to making sure that, with the uplift, we try to tackle as much of the backlog as possible, including for patients with type 2 and type 1 diabetes.

Baroness Jenkin of Kennington (Con): My Lords, I associate myself with the remarks of the noble Lord, Lord Brooke. I think everybody in the Chamber will appreciate the challenges that my noble friend has faced today with all these questions. My noble friend will probably know that 10% of NHS spending is currently on type 2 diabetes. That is £25,000 a minute, £1.5 million an hour, and rising. He will be aware that diabetes is reversible by diet. I am not sure whether he

is also aware that, under the leadership of Jonathan Valabhji, the NHS has now endorsed a 12-week programme which has put many patients into remission rather than having to go on to medication.

Lord Kamall (Con): I thank my noble friend. I have done my homework and I have read a little about what has been happening up to now, especially about the NHS diabetes prevention programme, which identifies those most at high risk of developing diabetes and refers them on to behavioural change programmes and personalised education to reduce their risk of developing diabetes, including things such as bespoke exercise programmes and learning about healthy eating and lifestyle. The programme achieved full national rollout in 2018 and 2019, with services available to patients in every system in England.

As we know, tackling diabetes is multifactorial. Nevertheless, the NHS long-term plan sets out plans for increased action on diabetes and related issues. I shall mention just a few, including the healthy weight strategy launched in July 2020 to help adults and children maintain a healthy weight, and the restrictions on the promotion and advertising of foods high in fat, sugar and salt, as was mentioned earlier. It is really important with programmes such as this that we look at these studies on a longitudinal basis and look at the evidence. Some of these programmes will work, and some will not. That is just the way the world is. We have to make sure that we tackle unintended consequences first of all, and that any future policy is very heavily based on evidence rather than a wish. That will be the most effective way of tackling diabetes.

Baroness Merron (Lab): My Lords, the rise in diabetes means that millions of people are at risk of devastating complications, including heart attacks. In 2009, to improve heart health, checks were introduced for the over-40s. However, by 2019, only half of those invited actually received those checks, and the checks were paused during the pandemic. Does the Minister agree that it is vital that these preventive checks are relaunched, and will he commit to putting in place a plan to ensure that people are able and willing to attend them?

Lord Kamall (Con): I do not think anyone will disagree on the importance of making sure that these checks are reinitiated, or on what is being put in place to make sure either that patients are able to continue with or that new patients can start some of these programmes. Also, as noble Lords can imagine, there has been better use of technology in all fields during the Covid lockdown. For example, the NHS used Facebook to reach millions of men aged 40 or over who were at risk of developing type 2 diabetes. We also know that, in some cases, there are online consultations between patients and medical experts. Of course, with better tools, such as remote monitoring and flash blood readers, it is important that information can reach clinicians and be reviewed remotely. But there is no substitute for face-to-face meetings, and we hope very much that many of these can be resumed as soon as possible.

Lord Dubs (Lab): My Lords, given the clear links between obesity and type 2 diabetes, does the Minister agree that more can be done to tackle obesity among children and young people? May I commend to him some of the practices being followed in Amsterdam, where this has really been tackled in a holistic manner? Could we not do likewise?

Lord Kamall (Con): I hope the noble Lord will forgive me, but I am not yet aware of the practices in Amsterdam. I would very much like to look into those and learn more. We can learn. It is really important that we learn from best practice around the world, and I would very much welcome it if he could write to me with some details.

Baroness McDonagh (Lab): There are not many questions left for the Minister now—it will soon be over. Can I ask again the question that some of my noble friends have asked, as I have not specifically understood the answer? What impact assessment have the Government done to understand the implications of the reduction of face-to-face GP and nurse appointments and the reduction in eye appointments, footcare appointments and nutrition appointments for the diagnosis and management of diabetes? We know that this is a progressive illness, and failure to act makes people much sicker and makes it very hard for the NHS to reverse the problems that diabetes causes. What assessment has been made of this impact?

Lord Kamall (Con): I thank the noble Baroness. I do not have the detailed assessments of that but I commit to writing to her with more details.

The Lord Speaker (Lord McFall of Alcluth): My Lords, that concludes Oral Questions for today.

Cost of Living

Private Notice Question

3.20 pm

Asked by Baroness Smith of Basildon

To ask Her Majesty's Government, following the end of the Universal Credit uplift, increasing energy prices and rising inflation, what steps are they taking to avoid a cost-of-living crisis for households.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, we recognise that there are transitory global pressures on costs, including energy. We are maintaining the energy price cap and helping low-income households with fuel bills, and our new £500 million household support fund provides vulnerable households in England with additional help to cover essential costs this winter.

Baroness Smith of Basildon (Lab): My Lords, is that it? I was expecting a bit more from the noble Baroness. Every home in the country is facing sharply rising costs, with hikes not just in energy bills but in food and fuel prices. A lack of HGV drivers has led to empty supermarket shelves, and there are queues outside petrol stations. Ministers are reported to fear that their Government's inaction could lead to the country

[BARONESS SMITH OF BASILDON] facing “a nightmare Christmas”. Families and businesses are struggling. I know that the Minister is not unsympathetic, but she knows that for some this winter it will be a choice between heating and eating, and for some families it will be a choice between the parents eating and the children eating.

I have two questions for the Minister. First—I heard the Answer she gave but it did not fully answer my Question—what will the Government do to protect, for example, the family of four hit by inflation to the tune of £1,800 by the end of the year, or pensioners having to find an extra £1,000? In addition, given this unfolding cost-of-living crisis, how can she, as a DWP Minister, think that this was an appropriate time to cut universal credit?

Baroness Stedman-Scott (Con): We are quite aware of the difficulties that inflation and rising food and energy costs present. We have introduced this household support fund—I am not being difficult—which is worth £500 million and which covers up to the end of March, which is six months, and, as ever, the Government will continue to assess the situation. That is the best that I can give the noble Baroness right now. On the universal credit uplift, I and others are absolutely aware of the angst and frustration about this decision. I have to repeat myself: it was temporary and it has come to an end. For people who are not able to work, there is one job to do. However, for people who can work, the labour market has never been so optimistic and we must work with them through that.

Lord Howell of Guildford (Con): My Lords, would it not make sense this coming winter, in the face of all the hardship, to consider temporarily suspending all the green levies and carbon charges and the idea, which has been mooted, of a further tax on gas, until at least the spring and at least until the present explosion of prices is over?

Baroness Stedman-Scott (Con): My noble friend makes a valid point and I will take it back to not just my department but the relevant department to see whether I can get an answer to his question.

Lord Grocott (Lab): Can the Minister confirm from the Dispatch Box the simple proposition that all these changes will impact disproportionately on the least well off? That inevitably means that the gap between rich and poor will increase. Can she explain to us how that fits into the Government’s levelling-up agenda?

Baroness Stedman-Scott (Con): I quite understand, but for those people to whom the noble Lord refers with a health condition or a disability who cannot work, there is also a chance to get the £350 a month top-up of the universal credit standard allowance to help with their everyday costs. I say again: while this is a difficult position and we, not least my ministerial team, understand the potential challenges for people in this field, we are listening and assessing. I am unable to make any other policy commitments on that.

On the levelling-up agenda, the Government are quite committed to levelling up. Andy Haldane has been appointed to head up the task force. This is an economist from the Bank of England who knows what this is about, and we must work with him to make sure that levelling up works.

The Lord Bishop of Manchester: My Lords, I wish that at the beginning of our proceedings this afternoon I had decided to count how many times the phrase “unintended consequences” would be heard in a ministerial voice. As someone who has long been a campaigner for and volunteer with homelessness charities, I wonder what assessment Her Majesty’s Government have made of the unintended consequences this change will have on the level of homelessness among our people. We did so well with the Everyone In scheme; it seems a shame if we are now putting that at risk. What will the Government do to mitigate that?

Baroness Stedman-Scott (Con): My Lords, the right reverend Prelate makes the very good point that at the time of Covid, the Government responded very well and made the terms of that response very clear. On the unintended consequences, I think I said in a previous answer that assessment of the universal credit uplift has not been made because it was a temporary change and facility, so we were not required to do that. I know that that answer will not please many people.

Baroness Janke (LD): My Lords, circumstances have changed significantly in the past few months, as others have said. The Bank of England is predicting inflation of 4% for the fourth quarter of this year and above 4% for the first and second quarters of next year. Pressures such as those, the national insurance increase, the public sector pay freeze and rising food prices from energy costs all squeeze the poorest, so, in the light of them, does the Minister agree that the Government are gambling with family finances by ending the £20 uplift? If she does not, will she assure us that they will come forward with a comprehensive package to address those pressures, including reinstatement of the £20 uplift?

Baroness Stedman-Scott (Con): The commitment I can give to the noble Baroness is that on a daily basis, these things are being assessed and discussed—they really are. I cannot give any other commitment, and I certainly cannot give any commitment that the £20 will be reinstated.

Baroness Stroud (Con): My Lords, I was really proud of this Government when we took steps to protect the most vulnerable, and the £20 uplift had a poverty reduction impact of 840,000—290,000 of those were children and 450,000 were those with disabilities. I understand that this provision was temporary, but, as my noble friend said, there is a new circumstance of rising inflation and cost of living. Can she say, if not the £20 uplift, what alternative mitigating strategy will be put in place to protect those who cannot work and/or those in work to progress in work?

Baroness Stedman-Scott (Con): I thank my noble friend for the time that she has given us in talking about the ideas put forward as a result of the £20 uplift being removed and other ways in which that can be mitigated. It really was a pleasure to sit down in a most positive way and discuss this. My noble friend will understand that I cannot make any commitments on that.

Lord Foulkes of Cumnock (Lab Co-op): Just answer her question.

Baroness Stedman-Scott: Let me finish. I am not able to say what might happen but the ideas that my noble friend has put forward are in the melting pot. As for in-work progression, a lot is going on and the labour market should make it really possible for people who can work to work more and earn more.

Baroness Watkins of Tavistock (CB): My Lords, will the Minister return to her department and request that, at the very least, free school meals are accounted for over the summer and Easter holidays by additional payments to families in need, so that students who have suffered so badly through Covid can study on a full stomach over their holiday periods?

Baroness Stedman-Scott (Con): The noble Baroness makes a good point. I will take that straight back to the department and do as she requests.

Lord Watts (Lab): My Lords, the upgrade was introduced to deal with the crisis. Families are now facing a bigger crisis than they were before. The Government's £500 million goes nowhere near dealing with this problem. Will they go back and think about how they are going to support those families through a difficult winter?

Baroness Stedman-Scott (Con): I am not sure why the noble Lord says that the £500 million “goes nowhere near”. It is for a six-month, not 12-month, period. I will go back and make the points, as I have already done regularly—as have other colleagues—about the dire circumstances of the situation.

Lord Cormack (Con): Does my noble friend agree that anybody who, like she, is a genuine one-nation Tory, is somewhat embarrassed?

Baroness Stedman-Scott (Con): Sometimes we find things more difficult than others. That is how I would answer that but I am very proud of how this Government have responded with our plan for jobs. I hope all noble Lords will agree with that.

Lord Browne of Ladyton (Lab): My Lords, in a Statement in the other place on 20 September, Kwasi Kwarteng pledged to MPs that

“protecting consumers is our ... primary focus”

and was shaping

“our entire approach to this ... issue.”—[*Official Report*, Commons, 20/9/21; col. 23.]

He then, of course, went on to say that universal credit and other support were matters for the Chancellor and the Secretary of State for Work and Pensions. There is no dispute that the poorest families are most

likely to receive universal credit and other benefits. They are also the most likely to spend the great majority of their income on food, gas and electricity, so they will be hit the hardest and £500 million goes nowhere in dealing with that. What does the pledge mean in the absence of sufficient support for vulnerable households? That is all we ask for—sufficient support for vulnerable households.

Baroness Stedman-Scott (Con): I know for a fact that the Department for Work and Pensions, the Treasury and BEIS are in dialogue daily. I honestly cannot say what the outcome of that will be and I shall certainly not try to do so, but this Government will try to do all they can to mitigate these difficult circumstances, especially on the energy issue.

Baroness Hussein-Ece (LD): My Lords, more than a million children have been affected by the Government's two-child benefit cap limit during the pandemic. Does the noble Baroness appreciate that the level of child poverty has risen dramatically, especially during the pandemic? What is being done to help those families who have already taken the hit on that to enable them to cope during this winter? Will the Government have a look at and revisit the issue of families with more than two children, given that the Prime Minister is a good example of that? What can be done to address this matter?

Baroness Stedman-Scott (Con): My Lords, I can again confirm to the noble Baroness that there are no plans to change the two-child limit. However, I can say that we will try to do things, and are committed to doing things, about the national living wage so that it reaches two-thirds of the median income for those aged 21 and over by 2024. We have put in place an energy cap, which will remain in place—although I expect that there will be some increases in cost. We have the warm home discount scheme, which provides a rebate of £140, and the cold weather payment. These are all things that we are doing to try to mitigate the effects.

Baroness Redfern (Con): My Lords, does my noble friend the Minister agree that one way to help people is to get them into work? Can she inform the House of how many job vacancies there are and how we are helping people to get those jobs?

Baroness Stedman-Scott (Con): My noble friend asks a really interesting question—[*Interruption.*] No, it is interesting. Let me preface my answer with the fact that most of the questions asked are about people who are unable to work. I accept that. On my noble friend's question, there are 1,102,000 vacancies. The labour market has never been as buoyant. Our work coaches are turning themselves inside out and upside down to get people into work and into work that pays. That commitment will continue, and our liaison with employers is paramount.

The Deputy Speaker (Baroness Fookes) (Con): My Lords, I am afraid that the time allowed for this Question is up. We must move on to the next business.

A noble Baroness: Better briefing needed.

Skills and Post-16 Education Bill [HL]

Report (1st Day)

3.36 pm

Clause 1: Local skills improvement plans

Amendment 1

Moved by **Baroness Barran**

1: Clause 1, page 1, line 7, after “provides” insert “English-funded” Member’s explanatory statement

This amendment ensures that Chapter 1 of Part 1 applies only in relation to post-16 technical education or training that is English-funded, which will be defined by virtue of the Minister’s amendment to Clause 4 at page 5, line 23.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I rise to speak to the amendments in my name. Before doing so, I pay tribute to my predecessor, my noble friend Lady Berridge. I thank her for all her hard work and the dedication that she brought to this role.

I will speak to Amendments 1, 2, 4, 15, 22 to 25, 51 and 52, which are in my name. The first set of these amendments makes clear that duties related to local skills improvement plans will apply only to relevant providers that deliver English-funded post-16 technical education or training that is material to a specified area in England. “English-funded” is defined as education or training funded by the Secretary of State or an authority in England. This includes student finance provided by the Secretary of State and covers subcontracting arrangements to relevant providers.

These amendments will help clarify and ensure that English-funded technical education and training provision that is material to an area in England is better aligned to employers’ skills needs, leading to good jobs for learners and improved productivity. The amendments also make clear that employers that provide English-funded education and training only to their own employees are excluded from the definition of an independent training provider.

Clause 22 places a requirement on the Secretary of State to take into account any applicable local skills improvement plan when assessing whether the institution has failed to meet local needs. As a consequence of the amendments to Clauses 1 and 4, Clause 22 has also been amended to reference providers of English-funded education and training.

I now turn to government Amendment 49, regarding the list of post-16 education or training providers. First, I want to set out that the Government strongly value the role of independent training providers in helping to provide a diverse and innovative learning offer.

Amendment 49 ensures that regulations setting up the list of relevant providers can allow the Secretary of State, or any other suitable person or organisation identified in regulations, to exercise discretion about whether certain conditions have been met by relevant providers. This is required to ensure that any conditions set are practically workable and that there can be legal certainty over whether a provider meets some of the criteria.

For example, if the regulations set out that a provider must have a student support plan in order to be on the list, this amendment ensures that it will be permissible for the regulations also to set out that the Secretary of State or other suitable person may determine whether that plan is of reasonable quality. The ability to exercise such discretion would be introduced only after consultation, which is required for the first regulations made under this clause. The nature of any such discretion would be subject to additional parliamentary scrutiny and debate, given that the relevant regulations are subject to the affirmative procedure. This amendment will help to ensure that this policy can be applied in a workable, certain and proportionate way, helping to preserve the continuation of study for learners and keeping learners engaged in the event of a provider exit.

Amendments 5 and 6 in my name relate to climate change, net zero and the environment, and to the skills needed to support the transition to a net-zero carbon economy and to recover our natural world. The Government recognise the dual crises of climate change and biodiversity loss. We will need a workforce with the right skills and expertise to support and build a net-zero carbon economy and restore nature. To this end, we are working closely with BEIS and Defra to ensure that skills are at the heart of the Government’s environmental agenda. This will be emphasised by the proposed amendments, which will reflect our aims within legislation.

The amendment provides that the Secretary of State may approve and publish a local skills improvement plan only if satisfied that the skills, capabilities or expertise required in relation to jobs that directly contribute to or indirectly support the net-zero carbon target, adaptation to climate change and other environmental goals, have been considered in the development of the plans. This will ensure that employer representative bodies consider such skills needs when developing the plans. Through this amendment, local skills improvement plans will be an important tool supporting the Government to meet the new legally binding environmental targets being set via the Environment Bill, which will include a target to halt the decline in species abundance by 2030. Moreover, it will also aid the progress on environmental improvement plans, the first being the 25-year environment plan mentioned in the amendment tabled by the noble Baroness, Lady Hayman.

We will set out further details in statutory guidance, working closely with BEIS and Defra. These amendments, in addition to the statutory guidance, will support our collective efforts towards achieving our ambitious climate change and wider environmental objectives. I beg to move.

Baroness Hayman (CB): My Lords, I remind the House of my interest as co-chair of Peers for the Planet. Together with the noble Baronesses, Lady Morgan of Cotes and Lady Sheehan, and the noble Lord, Lord Knight of Weymouth, I have tabled Amendments 3, 7, 17 and 64 in this group. Amendments 3, 7 and 17 were tabled and discussed in Committee, but I am delighted that I do not have to press them and the case for them in the House today because of Amendment 6, to which the Minister has just spoken.

3.45 pm

I record my gratitude to the Minister, her predecessor and the Bill team for listening to the points made throughout the House in Committee, and for the very productive meetings that led to the Government recognising the need to acknowledge the challenges and opportunities of our commitments to net zero and biodiversity loss in setting local skills improvement plans. In one amendment they have managed to cover comprehensively—and rather more elegantly and effectively—all the points in the three amendments we put down.

So I am extremely grateful, but when the Bill was introduced, yet again, as we have seen time after time—in the Pension Schemes Bill and the Financial Services Bill—there was no mention at all of net zero, climate change or the challenges for the green agenda of the future. On each of those Bills, we managed to persuade the Government to come forward, but we should not need to do this through a laborious process of Back-Bench amendments. If the green agenda is as high among the Government's priorities as they say it is, they should be looking at every Bill and every policy and making sure that they are taking the opportunities and doing what is necessary to further the broad aims in this area. The economy of the future will mean a shift to green jobs and a sustainable industrial model, which requires a skills and education framework that aligns with our net-zero and environmental goals. The Government's amendment now ensures that local skills improvement plans will be approved and published only where green jobs have been considered in the development of the plan.

With climate and nature considerations factored into the new jobs and skills framework at local level, we can ensure that we have the right skills and education to meet our key national commitments, including achieving net zero by 2050. It is extremely encouraging that the Government have now recognised the importance of embedding net zero and nature considerations into the framework. Doing so will contribute to a successful economic future and employment opportunities across the country, and to achieving our climate and biodiversity commitments.

The Minister will not be surprised, having given us something, that we ask for more. I therefore turn now to my Amendment 64, which proposes the publication of a green skills strategy so that, as well as ensuring that the issues raised are considered at local level, we have a national forward plan for the jobs and skills of the future. This will be essential if the UK is to take advantage of the great opportunities for young people and those wanting to reskill and retrain, and it was highlighted as a priority for 2021 by the Climate Change Committee in its progress report to Parliament this year.

There are real competitive advantages for the UK in being an early mover in developing the skills and innovations needed to transition to net zero. The think tank Onward predicts that 1.7 million jobs could be created in net-zero industries by 2030, and the Government themselves have set an ambition for 2 million green jobs in the UK by 2030. But we now have to plan ahead if we are to enable a just transition, so that

those in high-carbon sectors can reskill and have certainty about their futures. By linking local skills development with a national strategy, we can avoid locking in carbon-intensive career options that will not have a long-term future in the net-zero world.

As I said, there is great and widespread backing for a green skills strategy, not just from people interested in the “green” bit of skills, such as the Green Jobs Taskforce, which recommended in its report that we must develop a comprehensive and holistic view of green jobs and skills challenges. The Institute for Government has recommended that the Government should develop a green skills plan. Business groups such as Aldersgate and the CBI have called for a skills strategy that would embed sustainability and net-zero delivery, provide certainty and encourage inward investment. A national skills road map would enable and encourage different sectors, businesses and education providers to plan ahead. This is something that the further education sector has also asked for: an overall 10-year education and skills strategy.

I recognise that there might be different views on which would be the correct body to introduce and develop such a strategy, but it is really important that the Minister gives us some insight today into the Government's thinking in this area, and some recognition of where skills gaps have led to real problems in delivery—goodness me, we have seen that in recent weeks. We need to understand how the Government are thinking about taking this forward and whether they would support the Green Jobs Taskforce's recommendation of a UK-wide body with national representation to co-ordinate between central and local government and business to ensure momentum and coherence on workforce, including progress on delivery. I know that in Committee the Minister suggested that the Skills and Productivity Board might be the appropriate body, but I was concerned that the remit letter to that body again did not have any mention of green skills and net zero. I wonder whether the Minister could comment on that and whether it could be included.

In conclusion, to tackle the challenges and to benefit from the significant economic opportunities of the transition to net zero, we need an ambitious strategy. We have been promised an overall all-encompassing net-zero strategy from the Government before COP 26. Will the Minister commit to including a green skills strategy as part of that overall one?

Baroness Morgan of Cotes (Con): My Lords, I support the amendments that the noble Baroness has put forward. I draw attention to my role as a non-executive director of the Careers & Enterprise Company.

I very much welcome my noble friend the Minister to her place on the Front Bench. I wish her all the luck and enjoyment in what I know is a fantastic department. Like her, I also thank her predecessor for her hard work and commitment to the role when she held it.

I will speak very briefly in support of Amendments 3, 7, 17 and 64, to which I added my name with great pleasure. I also welcome government Amendments 5 and 6 and thank my noble friend and her civil servants for the discussions we have had. As she said in introducing those amendments, we will need a workforce with the

[BARONESS MORGAN OF COTES]
right skills. As we just heard outlined so eloquently by the noble Baroness, Lady Hayman, local skills plans should take into account national skills strategy requirements, particularly on green jobs and net-zero strategy.

The impending COP 26 conference next month would be a perfect place. If the Minister feels unable to accept Amendment 64, perhaps she might be able to encourage her fellow Ministers, particularly in BEIS, that next month's conference would be the right venue for an announcement on a national skills strategy for green jobs.

As we have just seen in recent weeks, and will continue to see, the transition to net zero is going to be a huge moment of both opportunity and challenges for the whole of our economy. I am pretty sure already from the debate on the Bill in this House that it is agreed on all sides that the education sector is vital in training and retraining the current and future workforce to have the right skills to deliver the transition to net zero—which is why these amendments are important, why I welcome the government amendments and why I look forward to hearing what my noble friend has to say about Amendment 64.

Baroness Sheehan (LD): My Lords, I add my thanks to the Minister's predecessor, the noble Baroness, Lady Berridge, for all her hard work on this Bill. I appreciated the fact that she seemed to be in listening mode throughout her time at the Dispatch Box on the Bill.

I thank the Minister for taking up the baton so swiftly and meeting representatives from Peers for the Planet to talk about Amendments 3, 7 and 17, tabled in my name and the names of the noble Baronesses, Lady Hayman and Lady Morgan of Cotes, and the noble Lord, Lord Knight of Weymouth. The noble Baroness, Lady Hayman, comprehensively introduced the thrust behind what we are trying to achieve through these amendments, so I can be relatively brief. They seek to insert recognition into the early stages of drawing up LSIPs of the importance of the skills and retraining necessary to equip people with the skills they need for the green jobs of the future. This is important because, without a workforce equipped with these capabilities, I am afraid we are destined to repeat the fiasco of the green homes grant, which ended in such ignominy.

I welcome government Amendment 6. It is a good amendment which makes it unnecessary to trouble the House with a Division, and I add my thanks for it to the Minister. It encompasses consideration of the net-zero target and the skills needed to deliver adaptation to the changes we are already seeing as a consequence of the climate emergency and takes into account other environmental goals. I hope the Minister will be able to confirm at the Dispatch Box that they include biodiversity, air quality, land use and marine environment targets.

However, despite my welcome of Amendment 6 and the accompanying technical amendments, there remains the niggling absence of a national net-zero skills strategy. This unease led us to table Amendment 64,

which would require the Secretary of State to publish a national green skills strategy for net zero within 12 months of this Bill becoming an Act. The Climate Change Committee has called for this and numerous surveys have shown the demand among young people—and older people, in fact—for green jobs. The Government urgently need a strategy that matches supply and demand for green skills. It should clearly outline routes into the green economy and reassure the public that the net-zero economy provides a secure path for their future.

Just a few days ago at his party's conference, the Prime Minister mentioned "skills, skills, skills" as a key priority for him. Sadly, he has a reputation for not always following through on his rhetoric, so I hope that the Minister can reassure us that on this occasion it will not be the case and give us a clear indication of when we can expect a national strategy for green jobs, as well as reassurance that it will have breadth and depth.

4 pm

Baroness Bennett of Manor Castle (GP): My Lords, I rise to find myself in the slightly unusual position of warmly welcoming a government amendment. I thank the Minister for the meeting on Friday and the Bill team for the briefing that she provided. I welcome her to her post and offer congratulations to her predecessor.

I do not know whether this is the result of your Lordships' House making the case so clearly in Committee, of the young climate strikers who were in Parliament Square after our debate finished, or of the young people who have so clearly been delivering the message that they want climate change and the nature crisis at the centre of every aspect of their education—perhaps it is a combination of all those—but this is a real demonstration that campaigning works.

I congratulate all the Members of your Lordships' House, led by the noble Baroness, Lady Hayman, who have helped to get us to this point. Had there been space, I would have attached my name to all these amendments, but I agree with all the other speakers who said that, except for Amendment 64, they have now been supplanted by the government amendment.

I will make one small point about how this government proposal should be interpreted. Sometimes, when we think about green skills, a lot of hard hats and yellow jackets are involved. Green skills and preparing to tackle the climate emergency we are now in takes a lot more than simply technical and physical skills. We also need an enormous amount of social innovation.

I was just thinking about my visit to Lancaster after the very big floods up there about six years ago. A couple of years later, I heard how local communities had got together, preparing flood resilience plans and for the next flood, which is very likely coming. Those communities had organised together to make sure that vulnerable residents would be rescued, cared for and supported to make sure that they were ready to do whatever they could to stop the floods. All of that was the community organising. This might not be what you think of as green skills, but it is absolutely crucial to adaptation and mitigation of the climate emergency.

This brings me to Amendment 64, which is about a “Skills Strategy”. Lots of people were talking about green jobs, but we need to think much more broadly than just about jobs. We are also talking very much about preparing our society for living in an age of shocks.

I finish by again commending the Minister and her team. We are making great progress but, as the noble Baroness, Lady Hayman, said, the next step in the scale of our progress will be when we open a government Bill and the climate emergency and the nature crisis are addressed in Committee and we can then say, “Well, how do we make this better?”

Lord Aberdare (CB): My Lords, as a member of the Parliament Choir I am happy to join the chorus of welcome for the Minister in her new role, which is at least as important to the issues I care about as her previous one. I also thank her for helpfully including me in one of the very many meetings she has obviously been having in the last few days, along with members of the Bill team. I shall speak mainly to the Government’s Amendment 49 and very briefly in support of the amendments of the noble Baroness, Lady Hayman.

I do not quite know what to make of Amendment 49, despite the Minister’s helpful introduction. I very much welcome what she said about the Government’s support for independent training providers, but I remain concerned that they are sometimes viewed mainly as gap-fillers in the training system, as being of secondary importance to colleges and other statutory providers, and as having an unfortunate propensity to abandon their learners, which, in reality, happens only very rarely. As a result, they often seem to be at the back of the queue for the allocation of government funding for skills training, and they may have to cut the amount of training they are able to offer.

I understand that Amendment 49 aims to ensure that conditions specified for inclusion in the list of relevant providers allow some flexibility in determining whether they have been met. This is welcome if it gives independent training providers some wiggle room in meeting conditions, but less so if it results in judgments—for example, on the quality of the student support plans the Minister mentioned—which could have a degree of unpredictability or subjectivity.

Apart from that, independent training providers have continuing concerns about the implications of the list and the conditions for inclusion in it, such as the suggested requirement for a form of professional indemnity insurance which does not currently exist, and about the fees and other costs involved, which may restrict access to the market for smaller providers. West Midlands Combined Authority has also expressed the concern that mayors of combined authorities may be prevented from funding providers they deem suitable but which are not on the centrally approved list.

I welcome the Government’s intention to ensure that this measure does not impose an unreasonable barrier to market for training providers while protecting the interests of learners, and their commitment to continuing to engage and consult with a wide range of stakeholders. I hope the Minister can give some reassurance that the discretion allowed by this amendment will be used wherever possible to facilitate inclusion

for ITPs in the list, and that their contribution will be duly recognised in the new arrangements under the Bill, including within LSIPs and in the allocation of funding for skills training.

Finally, I add my support particularly to Amendments 17 and 64 in this group, in the name of my noble friend Lady Hayman and others, which require the Secretary of State to report on how each published LSIP takes account of any national skills strategy and aligns with UK climate change and biodiversity targets. This is the sort of joined-up thinking needed to ensure that the different parts of the new system operate in a coherent way to deliver the skills and training needed by the nation as a whole, as well as in the local areas covered by LSIPs.

Baroness Whitaker (Lab): My Lords, I too welcome not only the Minister but the Government’s recognition of the vital importance of a climate-oriented curriculum. I support Amendment 64, tabled by the noble Baroness, Lady Hayman, and others. This amendment should succeed because it places the policy of integrating the national response to the climate emergency even more solidly into the education and skills process. Without it, we risk not having an entrenched capability to cope with the most long-lasting peril of our times.

Baroness Wilcox of Newport (Lab): I congratulate the noble Baroness, Lady Barran, on her appointment and thank her for meeting with us to discuss the Bill over the conference Recess. I was very impressed by the rapidity with which she got up to speed on this complex Bill. As always, I am grateful for the engagement of officials and other stakeholders in the system who have briefed us. I would also like to place on record my thanks to the noble Baroness, Lady Berridge, for her thoughtful engagement.

Although most of the government amendments are necessary and technical, we were delighted to see on the face of the Bill the need for future skills, capabilities and expertise to align with the UK’s net-zero target. I pay tribute to Peers for the Planet and other Members across the House who argued so persuasively at Second Reading, in Committee and behind the scenes for green jobs to be formally recognised in legislation; and indeed to the further exhortation today of the noble Baroness, Lady Hayman, not to let pass an opportunity to ask for more.

It is imperative that consideration of climate change and environmental goals be embedded in skills strategies, and that LSIPs plan to deliver the high-skilled jobs our countries and our planet so desperately need. This is the right thing to do for so many people who are facing unemployment; it is the right thing to do for our economy to get a lead in the industries of the future; and it is the right thing to do in order to build a better quality of life for people across the UK.

Thus the devolution interactions with my colleagues in the Welsh Government should be resolved with this amendment, while the environmental issues with the requirement for consideration of net zero, the adaptation to climate change and other environmental goals are now in the Bill. They must be considered in the development of local skills plans, together with the requirement for the Secretary of State to publish a

[BARONESS WILCOX OF NEWPORT]

national green skills strategy that will include skills and will directly contribute to or indirectly support climate change and environmental goals.

Noble Lords are well aware that we face a jobs emergency and a climate emergency. More than 75,000 green jobs were lost from the UK economy in just five years under this Government. This includes thousands of jobs lost in solar power, onshore wind, renewable electricity and bioenergy, and a huge fall in the number of jobs in the energy efficiency sector. These figures throw into light the huge chasm between rhetoric and reality, with huge falls in low-carbon employment alongside pledges to deliver green jobs but without a genuine green stimulus.

We further see a technical fix in the list of post-16 education providers to allow conditions for being on the list to contain discretionary elements. Thus, an employer is considered an independent training provider only if education and training is provided exclusively to its employees.

We would have preferred a wider range of government amendments to be included in the list, and it will be the Opposition's position to continue to persuade the Government that previously rejected amendments are crucial for inclusion in this important Bill, to ensure that the upskilling that is so desperately needed across our nations and regions is given the best possible start, and that post-16 education is enhanced and not limited by excluding certain learning pathways and is properly funded for both academic and vocational courses, to improve the life chances of young people and adults alike in the UK.

I hope the Minister can assure the House that this Government are ready to start delivering. It is what the British people deserve and what the crisis we face demands.

Baroness Barran (Con): My Lords, I now turn to Amendments 3, 7 and 17, from the noble Baroness, Lady Hayman, which seek to ensure that local skills improvement plans consider the skills needs required to support the transition to a net-zero carbon economy to achieve our climate change and biodiversity targets. This was a topic of considerable interest in Committee and I thank all noble Lords for their contributions then. I cannot comment on whose persuasive powers were the greatest—whether it was the noble Baroness, Lady Bennett's, protesters in Parliament Square, if I can describe them as such, or the persuasive powers of the noble Baroness, Lady Wilcox, representing the Opposition Front Bench.

I am grateful to the noble Baroness, Lady Hayman, for acknowledging that the government amendments meet the aims of the amendments in her name—Amendments 3, 7 and 17. At this point I also reassure the noble Baroness, Lady Wilcox, that the Government are of course committed to delivering—but we are also committed to continuing constructive conversations about how we can deliver the best way forward on the issues that we all care so much about.

Amendment 64, in the name of the noble Baroness, Lady Hayman, seeks to ensure that a green skills strategy is published within 12 months of the Act

being passed. The noble Baroness gave us a comprehensive view of a range of organisations which see this area as absolutely critical to address. My noble friend Lady Morgan of Cotes also made the important link with careers guidance, and the Government absolutely recognise the importance of working with industry to boost green skills. Last year, BEIS and the Department for Education invited experts to form the Green Jobs Taskforce, helping to build evidence on skills gaps in key green sectors and to advise the Government and industry on how to tackle them.

4.15 pm

The Government have also committed to publish a net-zero strategy ahead of COP 26, which will set out the steps the Department for Education is taking, through its reforms to the skills system, to boost green skills in line with industry needs and support the labour market transition to net zero. I hope that helps to address the very valid point raised by the noble Baroness, Lady Sheehan, on addressing both the supply of and demand for green skills.

Furthermore, the role of the Skills and Productivity Board will be to provide independent and actionable insights to help shape skills policy, focusing particularly on longer-term strategic issues and how they will affect productivity. Therefore, throughout its work, the board will consider the Government's net-zero targets, alongside other factors impacting labour markets and skills.

The noble Baroness, Lady Hayman, asked for clarification on the geographic footprint of the Skills and Productivity Board. It is England only, but the net-zero strategy articles will assess at a UK-wide level the jobs market and the skills that we need to adapt to a net-zero economy. The Skills and Productivity Board will publish three analyses this year on three questions put to it by the Secretary of State, the first of which is to consider the most significant skills shortages that we face in the economy. However, I would stress that the board is independent of government and therefore I cannot speak directly to its outputs and likely findings.

Furthermore, the department is developing a sustainability and climate change strategy that will focus on four key strategic aims: excellence in education and skills for a changing world; net zero; climate resilience; and a better environment for future generations. A draft strategy is due to be published at COP 26 next month.

The noble Lord, Lord Aberdare, raised points regarding the role of independent training providers. I would like to reassure him that the Government absolutely recognise the importance of an inclusive and collaborative relationship with ITPs. Placing duties on them, alongside colleges and higher education institutions, recognises absolutely that they are an important provider, and we hope this will support greater collaborative working.

Lord Knight of Weymouth (Lab): What the Minister said about the net-zero strategy and the Skills and Productivity Board was really reassuring, but how does that work connect directly to local skills improvement plans, so that we can be sure that there is join-up?

Baroness Barran (Con): The aim for how local skills improvement plans will work—the noble Lord will be aware that we have trailblazer pilots running at the moment—is that the Secretary of State will ensure when signing off on a local skills improvement plan that it pays due regard to the national picture and all the different elements that input into that.

The Government recognise the importance of achieving our target of reaching net-zero carbon emissions by 2050 and our wider environmental goals. I hope my remarks have provided the reassurance that the noble Baroness needs and that she will not press her amendments but will accept the proposed government amendment.

Amendment 1 agreed.

Amendment 2

Moved by Baroness Barran

2: Clause 1, page 1, line 9, at beginning insert “English-funded” Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 1, line 7.

Amendment 2 agreed.

Amendment 3 not moved.

Amendments 4 and 5

Moved by Baroness Barran

4: Clause 1, page 2, line 11, after “of” insert “English-funded” Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 1, line 7.

5: Clause 1, page 2, line 19, after “regard” insert “(including for the purposes of complying with subsection (5A))”

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment to clause 1 at page 2, line 20.

Amendments 4 and 5 agreed.

The Deputy Speaker (Lord Haskel) (Lab): My Lords, Amendments 6 and 7 appear to be alternatives. I can call Amendment 7 only if Amendment 6 is not agreed to.

Amendment 6

Moved by Baroness Barran

6: Clause 1, page 2, line 20, at end insert—

“(5A) The Secretary of State may approve and publish a local skills improvement plan only if satisfied that in the development of the plan due consideration was given to, amongst other things, the skills, capabilities or expertise required in relation to jobs that directly contribute to, or indirectly support, the following—

- (a) compliance with the duty imposed by section 1 of the Climate Change Act 2008 (UK net zero emissions target),
- (b) adaptation to climate change, or
- (c) meeting other environmental goals (such as restoration or enhancement of the natural environment).”

Member’s explanatory statement

This amendment ensures that jobs relating to climate change and other environmental goals are considered in the development of local skills improvement plans.

Amendment 6 agreed.

Amendment 7 not moved.

Amendment 8

Moved by Baroness Neville-Rolfe

8: Clause 1, page 2, line 20, at end insert—

“(5A) In producing a local skills improvement plan, employer representative bodies must consider skills deficiencies in the local area in the following fields—

- (a) digital,
- (b) innovation,
- (c) engineering,
- (d) the built environment, including climate related challenges, and
- (e) any other fields the Secretary of State deems relevant.”

Baroness Neville-Rolfe (Con): My Lords, I thank the noble Lord, Lord Ravensdale, for his help in crafting this amendment, and the noble Lord, Lord Bird, for his support. I also welcome my noble friend Lady Barran to her new role as Minister in the education department. Her consummate courtesy and forensic attention to detail were manifested at a meeting she arranged involving her, the Bill team and me yesterday. I am hopeful that she will have a long and successful stint at the department at a time when improving skills is a top priority. I declare my interests as a non-executive at a number of businesses which will benefit from improved skills.

My amendment is intended to ensure that local skills improvement plans take proper account of deficiencies in certain fields of vital importance to our country. Let me explain the rationale for the various proposals in the amendment. First, I am concerned that our lack of digital skills is acknowledged but not built consistently into either the school or the FE system—unlike, say, literacy and maths.

Next, innovation is essential to future growth and competitiveness and is well supported by our universities. What is less recognised is that innovation is also important in technical and vocational areas. I know this from my time at Tesco, when part of our success was down to thousands of people finding new ways of doing things that were quite often minor in themselves, but—and this is the vital bit—were able to be replicated very many times. I remember advances in packaging, for example, both to make it safer and to reduce its environmental footprint. I remember improvements in building design that reduced costs as we built more stores. The classic example, of course, is the UK Olympic cycling team, with its many small improvements, all of which helped us to win many gold medals over decades. We need to focus on that kind of thinking.

I have added engineering partly because the noble Lord, Lord Ravensdale, is an engineer, and I very much look forward to hearing from him. We lag behind some other nations, such as Germany, and in engineering

[BARONESS NEVILLE-ROLFE]

—ever more important in the digital world—we do not have a vocational route to the top from age 16, as it does. The industry associations decry this but have not found a way through so far, and we have a national shortage which is becoming ever more urgent.

Moving on, I should declare an interest as chair of this House's Built Environment Committee. Our first inquiry into housing is already revealing a serious problem in relation to skills—construction skills needed on building sites, project management and building control. We heard this morning in the committee that we need people with design skills, architects and planners to build the kind of homes and places that we all want to live in. Skills to tackle climate-related challenges are also referred to in my amendment. That includes the dire shortage of heat pump installers and energy efficiency and retrofitting specialists. They are in short supply.

The new local skills improvement plans need to tackle these needs relating to the built environment. I should acknowledge the good practice already being pioneered by Crossrail and at Hinkley and elsewhere, but this kind of endeavour in vocational training should become part of the system. I was heartened by seeing on Sky News yesterday a trainee bricklayer at an FE college confidently planning his future and expecting to establish his own business as a bricklayer in a few years' time. We need more like him, and they need to be paid properly.

The Minister has tabled—and we have already agreed—an amendment to the effect that skills relating to climate change and other environmental goals are to be considered in the development of local skills improvement plans. That is fine and dandy, but it does not meet my needs. I do not think—and I do not believe that most others, including our young people, will think—that environmental objectives should take precedence over all economic ones and, by implication, over jobs and skills in all non-environmental areas.

Of course, things change. For example, energy resilience has suddenly become a priority, as I predicted, Cassandra-like, when I was the Energy Minister a few years ago—I may add, to the surprise of some of the relevant officials at the time. To cater for the unexpected, my amendment also refers to

“any other fields the Secretary of State deems relevant”,

allowing him or her to add other categories to the plans in future.

Before I sit down, I have two related questions of which I have given notice. First, can we have a better idea of the geographical areas that the skills improvement plans will cover? I favour larger areas, such as the metro mayor areas, where top industrial and business players and small business interests can come together and help local colleges provide the right training in the right places. I worry that vested interests may lead to a less than effective patchwork of mini, unco-ordinated plans. It is somewhat unsatisfactory that we are agreeing new powers in this Bill without knowing how and at what level they will be applied, as we discussed in Committee.

Secondly, how can we ensure that the plans deliver results? We need incentives—carrots or sticks—so that they are implemented. Government, in my experience,

is often good at vision and virtue signalling, but less good than business at implementation, as I have discovered from moving between one and the other. We need to monitor what happens; we do not want a repeat of the problems on apprenticeships, where, for a considerable period, the numbers went backwards despite many of us in business telling successive Secretaries of State of the problems. We need to learn from this sort of experience.

I very much look forward to hearing my noble friend's comments and any reassurance she can provide and, of course, to hearing from other speakers on related subjects. I beg to move.

Amendment 9 (to Amendment 8)

Moved by Baroness Bennett of Manor Castle

9: Clause 1, after paragraph (d) insert—

“(da) the food system,

(db) ecosystem management, and”

Baroness Bennett of Manor Castle (GP): My Lords, I rise briefly to move Amendment 9, which could be described as a friendly amendment to Amendment 8; I hope its mover will agree. Proposed new paragraph (db) has already been supplanted by government Amendment 6, but I will speak to proposed new paragraph (da) on the food system, because the kind of shortages that the noble Baroness, Lady Neville-Rolfe, identified in areas such as engineering and technical skills are also very much reflected in our food system.

We recently heard the Prime Minister say that it is not the job of government to feed people and that it is up to business, but I hope the Minister will acknowledge that it is crucial in this age of shocks—where, as we see from our empty shelves, we cannot be guaranteed that the market will feed us—for the Government to see that we have the skills available right through our food system. The obvious area for this is farming, but we must also think about training people, in schools and communities, how to cook; that is why I used the term “food system”, which is something the Dimpleby report identified. We have many faults in our current food system which need to be fixed, and lack of skills is certainly one.

It is now obvious that the market on its own will not guarantee food security; it has also not guaranteed a healthy supply of food, and we need to think not just about the supply of calories but about a healthy food supply and healthy food preparation. Of course, we have the problem that, in our current food system, one in six workers is not paid enough money to be food-secure themselves. Upskilling the food system and providing those skills in local plans is absolutely crucial. I beg to move.

4.30 pm

Lord Bird (CB): I want to support the amendment from the noble Baroness, Lady Neville-Rolfe, but probably from a slightly different angle. People who end up doing apprenticeships and going into vocational work often had problems at earlier stages in their education. I am speaking from my own experience. We have to recognise that 49% of employers say that they do not quite believe in the curriculum that children follow before they go into apprenticeships, or even to university.

We always seem to be behind—we run our education system preparing children for jobs that often disappear before they come out of school. I was one of those people: I was trained in a very careful way to be a builder's labourer when I left school at 15, but unfortunately, they had brought in all this gear, so I had to do things other than dig holes and lay concrete. I am being a bit facetious, but the point is that we have to make sure that, for the period before people enter an apprenticeship and before they wonder whether they are going to go to university, we look at reinventing that kind of education.

The biggest ask among most employers is more creativity, because they know that, with 65% of the jobs not yet invented when children are at school, we need to find a way to up our game. We have a skills shortage now which has led to the fact that there are 1.4 million jobs. If we did not have that—if we had made the adjustments many years ago—we would not have the problem of the law of unintended consequences, which means that we cannot even get gas or petrol from our local garage.

I believe that, if we are to go anywhere, we have to reinvent the whole way in which children are taught creatively. I declare an interest, in that I put my children through the Steiner system: on the first day of school you are taught about nature, on the second day you are taught about making things, and you go on and on. They put enormous emphasis on chess and maths and various other things, and the children who come out at the end are the children people want in the industries of tomorrow.

Lord Ravensdale (CB): My Lords, I declare an interest as an engineer and project director for Atkins, and as a director of Peers for the Planet. I am delighted to support the amendment in the name of the noble Baroness, Lady Neville-Rolfe, to which I have added my name. I apologise to noble Lords for not speaking at earlier stages of the Bill, but I have followed its progress closely and am really pleased to be able to speak on this amendment today. I welcome the noble Baroness, Lady Barran, to her post in the DfE. It is great to see her in her place.

Amendment 8 seeks to ensure that some critical skills development for long-term national skills needs are taken into account in local skills improvement plans.

On digital skills and innovation, these skills areas are critical to the recovery of the economy following the pandemic and to the future, yet we are seeing a crisis in digital skills, with the number of young people taking IT at GCSE falling by around 40% since 2015, and high rates of digital exclusion; 20% of children in one class in a secondary school local to me do not have access to the internet, which is a shocking statistic. Digital skills cut across all areas of the economy and will be part of the key to addressing the flatline in total factor productivity growth across the economy that we have seen since 2008.

I will give noble Lords a simple example. In my consultancy business a few years back we were commissioned to do a project to undertake a large data transfer activity. On reviewing the task, one of our young engineers proposed using robotic process automation techniques to complete the task instead of

the original manual approach, whereby an advanced computer script undertook the task in place of engineers. This allowed it to be completed in a third of the time and cost, saving hundreds of thousands of pounds. That is productivity growth in action. In addition to improving productivity, such a process frees people from mundane and repetitive tasks and enables them to take on more value-added work; I liken the technology to the modern equivalent of machine automation, saving people from the drudgery of Adam Smith's pin factory. Robotic process automation is already leading to data and finance sectors repatriating work that had previously been offshored, and to significant productivity gains, with work being undertaken by teams of software robots overseen by humans.

Time and again I have seen the ability of advanced software skills to automate tasks and radically improve the productivity of teams and projects, yet in my business and in businesses across the UK we are struggling to attract these skills. I am currently building a software team to design the control system software for a new nuclear reactor, and our job adverts for software engineers go largely unanswered. It is possible that this reflects my limited aptitude for advertising, but, in all seriousness, we must ensure that digital skills are prioritised to enable our businesses to grow, innovate, compete, create the jobs of the future and create the high-wage, high-productivity economy that we all want.

Our economy has long seen a shortfall in engineering skills. EngineeringUK estimates an annual shortfall of around 59,000 people in meeting an annual demand for 124,000 core engineering roles requiring level 3-plus skills. As our economy undergoes one of the biggest transformations in its history, engineering will become more important than ever. For example, it is estimated that between nine and 12 gigawatts of new generating capacity must be installed every year between now and 2050 to meet our net zero goals. New gigafactories will need to be constructed and immense infrastructure programmes completed to decarbonise heat and industry. All this will need to be accomplished by engineers. Again, in my consultancy business we are struggling to grow to meet demand from clients because there are simply not enough qualified engineers to go around. This is just to meet current demand. As engineering is a key enabler for the future economy, it too must be prioritised in LSIP developments.

I second the comments of the noble Baroness, Lady Neville-Rolfe, on the built environment and will not expand on them here, but I congratulate the Government on bringing forward amendments on alignment with climate and net zero goals in response to the work led by my noble friend Lady Hayman. Our amendment complements these by focusing on the key enablers for our future economy. I note the synergies with the green skills strategy amendment proposed by my noble friend.

Finally, I have a question for the Minister. I had an excellent skills review meeting with stakeholders from the Midlands Engine yesterday—I declare my interest as co-chair of the Midlands Engine All-Party Parliamentary Group. Given the importance of SMEs to the region and indeed nationally, there was some concern that their voices would not be heard, and that employer

[LORD RAVENSDALE]

representative groups would be dominated by large corporates. This follows on from amendments raised by the noble Baroness, Lady Neville-Rolfe, and the noble Lord, Lord Patel, among others in Committee. Can the Minister provide some reassurance that those important voices will be heard in LSIP development?

Lord Adonis (Lab): My Lords, it is very hard to disagree with anything that has been said in the last hour. Obviously, we all want to see that skills are promoted. We all agree that we need more green skills. We all agree with Amendment 8 in the name of the noble Baroness, Lady Neville-Rolfe, that we want to see more digital innovation, engineering and built environment skills. She has a catch-all of

“any other fields the Secretary of State deems relevant.”

So, in case the noble Baroness feels that she does not have enough powers in the department, she can have almost anything she likes under paragraph (e). Who would want to disagree with Amendment 9 in the name of the noble Baroness, Lady Bennett of Manor Castle, that we should include the food system and ecomanagement systems? We all agree with all those things.

However, in essence, this is all fiddling while Rome burns, because the Government do not require any of these powers to promote skills. They have all the powers they require to promote skills. They do not need any additional funding powers. They have funding powers, and they directly control all the funding levers. They appoint all the people to the various quangos. The whole of Clause 1 on these local skills improvement plans appears to me to be a substitute for actual action on improving skills.

Obviously, we will have a lot of generation of plans now. Consultants are salivating; I know because I spoke to one last week who told me that he is already starting to put bids in writing. The people who will actually do these skills improvement plans are not all the big employers and those others we have paid tribute to. They will be consultants, who will be paid by those people, who want to start bidding for the money to start producing all these plans. Now that they might have an even longer list of things they have to produce—particularly with the amendment in the name of the noble Baroness, Lady Neville-Rolfe—my goodness, the fees these consultants will charge will go through the roof as they start to produce them.

It is motherhood and apple pie. No one is going to disagree with any of these things. The fact is that they will not make any difference: the Government could do it all already. They have had years to do it. They do not require any of these powers. They do not require local skills improvement plans for employers to be brought together locally. Indeed, as we ascertained in Committee, the actual groups of employers that are going to be brought together do not exist at the moment. In the White Paper, which I recommend that noble Lords read, there was a great tribute to chambers of commerce. They might be able to bring these together—except that the box on page 15 of the White Paper says:

“Case study: German Chambers of Commerce”,

because, for the most part, chambers of commerce do not exist in this country due to chronic failure of policy over the last 150 years.

This is all fine; we can carry on like this and make all these legal provisions and probably nothing much will change. But we face a real crisis in the real world. The noble Lord, Lord Bird, referred to apprenticeships. The route by which most young people who do not go to university get on a career ladder to get well-paid jobs in this country is, or should be, apprenticeships. While we are talking about local skills improvement plans and new employers' bodies that do not currently exist and which are going to produce all these plans, in the real world there is a deepening apprenticeship crisis at the moment. I looked up the figures before coming into the House. The latest figures published by the ONS in May this year show a 19% drop—I repeat, a 19% drop—in the number of apprenticeship starts in the first two quarters of 2020-21 compared with a year before. The drop in intermediate-level apprenticeships, which is by and large those people who most noble Lords would think of as apprentices—that is, school leavers who are getting on a work and training route which will get them an apprenticeship—dropped by even more. The apprentices mentioned by the noble Lord, Lord Bird, are now few and far between.

By the way, none of these local skills improvement plans will make much difference to this, because apprenticeships are largely created directly by employers, whereas the local skills improvement plans we are talking about are guidance to public providers, predominantly FE colleges, on what sorts of courses they should provide. But the number of actual apprenticeships—which are the things that, for the most part, will get young people jobs—is declining. We went through the reason why they are declining earlier, but we have not yet had any satisfactory account from the Government about it. It is because of the chronic misdesign and failure of the apprenticeship levy. The apprenticeship levy, which was dressed up by George Osborne as a levy on all employers to require them to train more apprentices, has led to a systematic decline in the number of apprentices, for two reasons.

4.45 pm

Unless and until their own training needs have been exhausted, employers keep the money from the training levy. They have had an incentive to gold-plate their own training, because if they do not do that, they must give the money to the Treasury or to other employers. I can assure noble Lords that most employers are much keener to keep the money themselves. Therefore, we have had an explosion in management courses and have even had MBAs being paid for under the apprenticeship levy. The Government have limited the ability for this top-level management executive education to be done on it, but none the less, the number of higher-level apprenticeships—which are basically the high-level training which employers were already doing but with more money put into them, so that they do not have to give the money to generate more apprentices—have been systematically undermining what was already a weak apprenticeship system.

None of these skills improvement plans give any confidence whatever that a difference will be made to this situation. When it then comes to the wider range of skills, it is all very well having consultants producing reports saying all kinds of motherhood-and-apple-pie

things about digital innovation, engineering, the built environment and any other fields that the Secretary of State may deem relevant, but unless there are employers out there offering these apprenticeships, and with the incentives to do so, particularly to create new apprenticeships, nothing will change and the last hour, the eight hours that we spent on amendments such as these in Committee, and the long debate at Second Reading, will have been entirely wasted.

The reality of the crisis that we face is accepted by the Government. The way that Governments allocate money is always the best indication of what they really care about and what their priorities are. The Chancellor, the guy who controls the money, in his Budget this year highlighted the problem concerning the creation of apprenticeships despite the apprenticeship levy, so even though there is formally more money going in, there have been fewer apprentices. He introduced, separate from any of these local skills improvement plans or anything of that kind, new incentives for the creation of apprenticeships. I ask the Minister to give an account of this to the House, because this is the acid test of what is going on in the real world.

Under the Chancellor's Budget, a £3,000 special incentive was going to be offered to employers for each additional apprentice taken on between 1 April and 30 September this year, in addition to the numbers in the previous year. Since 30 September has just passed, we should now know what has happened in the real world as a result of actual government policy with actual financial incentives for the last six months, as opposed to what may happen at some point in the next five to 10 years when all these employer bodies have been set up, the consultants have been paid, and they have started producing reports.

Can the Minister tell us, so that we can be sure that we are not completely wasting our time this afternoon, how many of these £3,000 incentive payments were made in respect of apprentices under the Chancellor's Budget this year for new apprentices? That is the acid test that things are going in the right direction, because the great and depressing feature of this Bill is that, with the best will in the world—and all of us here have the best intentions—we are presiding over an increasingly failing state and state-led apprenticeship system which will further widen the gap between the opportunities that graduates have in our economy and those of non-graduates, and nothing that has been said so far during the Bill's passage gives any confidence whatever that this situation is not going to worsen.

Lord Lucas (Con): My Lords, I will speak to Amendment 11, which I have put my name to, and regret that the rules on Report do not allow the noble Lord, Lord Watson, to launch into his exposition of it before the end, unless he wants to rise now.

Lord Watson of Invergowrie (Lab): I thank the noble Lord. I did intend to speak before the end of the debate.

I will speak to Amendment 11, which has cross-party support and has also been endorsed by the Local Government Association and the Association of Colleges. We support the Government's ambition to give local employers a strong role in the skills system through

local skills improvement plans, but we believe that it should be done as part of an integrated place-based approach to deliver sustained outcomes for local people and local businesses.

I cannot understand the Government's determination to exclude major players in the localities where the employer representative bodies are based. There needs to be a much more clearly defined and significant role for local and mayoral combined authorities, as well as colleges and other training providers. There has to be an appreciation of differing labour markets, and the way they have developed and are likely to develop. Surely that is best understood at local and regional level. I suggest, as I did in Committee, that it is impossible to prescribe the skills needed for the whole of England from DfE headquarters, yet that is what the Bill's measures effectively currently propose.

There has been a change since then because we now have a new Secretary of State, who, we are led to believe, has less centralising tendencies than his predecessor. Making the role of local authorities, MCAs, colleges and training providers clear and more effective would be a positive sign by the new Minister to that effect.

To achieve the best outcomes in every area, local authorities and providers should be named as a core and strategic partner in the LSIP process alongside employer representative bodies. To that end, Amendment 11 would provide for ERBs to develop LSIPs—sorry about all these contractions—in partnership with local authorities, mayoral combined authorities and further education providers to ensure that they reflect the needs of learners, employers and, as I said, the local community. Adults and young people have the right to expect access to quality education and training opportunities provided by a joined-up, place-based employment, skills and careers system. Integration at the local level will be vital to support the skills talent pipeline and to join up those skills and occupational pathways of progression.

Amendment 11 would also require local skills improvement plans to consider social and economic development strategies in the local area and long-term national needs that may not apply to local employers. Unless local authorities have a meaningful role in the development and approval of LSIPs there is a risk that these reforms could create further fragmentation within the skills system, which may result in further education providers being subject to different skills plans, disruption of progression pathways for learners and a lack of local democratic accountability, which I do not think we should lose sight of.

I can tell the Minister that local and combined authorities are ambitious to do more to join up local provision to create integrated skills and employment offers tailored to the needs of local economies and residents. This amendment would make use of local government's expertise to deliver the best outcomes for every community.

Finally, Amendment 11 would require LSIPs to identify actions that relevant providers and other local bodies can take regarding any post-16 technical education or training that they provide. This is drafted to avoid being too prescriptive but would allow LSIPs to work closely with other agencies, including Jobcentre Plus

[LORD WATSON OF INVERGOWRIE]
and careers advisory services. As Amendment 12 from the noble Lord, Lord Aberdare, says, bodies providing careers information, advice and guidance, and independent training are also crucial to the development and success of a local skills improvement plan.

I want to mention the LSIP trailblazers. Less than 24 hours ago, the Minister circulated to noble Lords a 20-page draft guide for employers on LSIP trailblazers. This was promised by her predecessor in Committee 12 weeks ago, so I have to ask why we received it quite literally at the 11th hour, which was not helpful. I do not claim to have gone through it in depth, partly because I was still trying to digest the 69 pages of additional policy notes I found on the DfE website last week that had not been drawn to our attention—yes, I do sometimes have trouble sleeping. There are ways in which communication of some of these papers could be improved, not least in their timing.

Colleges and employer representative bodies in the recently announced successful LSIP trailblazers and strategic development fund pilots will be considering how best they can work in partnership and how they can work with other key partners. There is considerable scope for the sector to lead the way in building new linkages between colleges, universities, schools and other providers; strengthening relationships with mayoral combined authorities and local government; and embedding the voice of students, staff and the wider community in all of this, in so doing demonstrating and strengthening the new environment that they want to operate in. The Government should do everything that they can to facilitate that. It would be to everybody's benefit.

I am very sympathetic to Amendments 10 and 66 in the name of my noble friend Lady Whitaker, who is yet to speak to them, which aim to ensure that the DfE has a plan for closing the attainment gap and that employer representative bodies have regard to it. The latest annual report from the Education Policy Institute found that the gap between what poorer pupils and their richer peers achieve at school had stopped closing even before the disruption of the pandemic. Disadvantaged pupils in England are now 18 months of learning behind their peers by the time they finish their GCSEs—a huge gap, but the same as five years ago. Disparities at primary school age are also widening for the first time since 2007.

However, a plan will not be worth the paper it is written on unless it includes substantive proposals backed by funding. Noble Lords will be well aware that the Government's education recovery plan has been roundly criticised as insufficient, including by Tory Members of Parliament and the Government's own, now departed, Education Recovery Commissioner, Sir Kevan Collins, who said that it did not come close to what was needed. I do not expect the Minister to answer me on that point now, but it is an issue that had an impact on Oral Questions earlier today and which must be taken forward and dealt with if the full effects of the pandemic are to be dealt with. I like to think that we might see a much-needed policy change shortly in the spending review, although, like other noble Lords, I obviously will not hold my breath.

Finally, the development of local skills improvement plans must be inclusive by demonstrating an awareness of and commitment to equality and diversity. It is crucial that those with learning and other disabilities can benefit from the measures in the Bill and that support for schemes that help, especially supported internships, are on the face of the Bill. It requires a focus on making all the so-called three ships—traineeships, supported internships and apprenticeships—more accessible and widely available, opening up pathways into long-term employment for people with a learning disability. Apprenticeships need to be made more flexible; this should be included as part of reforms to the post-16 education offer. Additionally, we want to see more of a commitment to people with education, health and care plans, as well as those who have disabilities but do not qualify for such care plans. Leaving these groups out will only further entrench the current barriers that people with learning disabilities face in finding sustainable paid employment.

There is much for the Minister to respond to in this group of amendments. I do not expect her to respond to all of it in detail but it would be helpful if she could follow up on some of my points by letter after the debate. However, let me be clear: we want both employer representative bodies and local skills improvement plans to be successful but we believe that, as it stands, the Bill will limit what can be achieved. There are so many people and organisations with much to offer. They should be encouraged to play their part fully in developing skills for the future.

Baroness Whitaker (Lab): My Lords, I want to go back to Amendment 10. I assumed that the noble Lord, Lord Lucas, was going to speak to Amendment 9—my apologies. I will speak to Amendments 10 and 66. In doing so, I declare my interests as chair of the Department for Education's stakeholder group for Gypsies, Travellers and Roma and a former chair and current fellow of the Working Men's College for men and women.

I am grateful for the advice and support of the Association of Colleges. I was also grateful for the sympathetic response to my amendment from the Minister's predecessor—the noble Baroness, Lady Berridge—in Committee, and even more so for her positive letter to me and others last month. However, we must look at the facts, not just the aspirations.

All the amendments in this group, particularly Amendment 19 in the name of the right reverend Prelate the Bishop of Durham, are worth pursuing. I turn to Amendments 10 and 66. Again, they are aimed at enabling the missing third to gain the skills to earn a good and useful living. They respect the decision of the noble Baroness, Lady Berridge, not to proceed immediately with a national plan for those who have not achieved grade 4 or above in GCSE maths or English. However, they would oblige the Government to find out what is actually happening.

In her letter, the noble Baroness again promised the publication of the long-overdue national strategy for Gypsies, Travellers and Roma, which will inter alia address the widely acknowledged educational attainment deficit. Can the Minister give us the date of publication and specify what consultation has taken place? The noble

Baroness, Lady Berridge, also said that tuition for 16 to 19 year-olds has been expanded for those who need help to catch up in English, maths and other vocational subjects. How many Gypsies, Travellers and Roma have been given this tuition, and with what results? Similarly, what has happened with the additional funding of small group tuition?

Finally, on the assurances in the letter, how will the department make the new centres for excellence in mathematics accessible to disadvantaged minorities? As I said in Committee, there is no evidence that such minorities lack the requisite ability—something else is at play.

Most importantly, in what terms have the Government made it

“clear to employers that we will fund apprentices without English and maths to achieve Functional Skills qualifications during their apprenticeship”?

Frankly, without the review that my amendment proposes, we shall, as usual, not know what is happening to the missing third. This would enable something to be done about the plight of thousands of our young people who should be entering the world of work.

5 pm

Colleges are at the last stage of the journey for English and maths, and they have to pick up the pieces of the many shortcomings in pre-16 education. For T-levels, the requirement is for students to have achieved level 2 English and maths by the time they have finished, but, at present, only students who already have that enrol. I am told by the Association of Colleges that the results, so far, therefore end up with informal self-selection, so those sectors of the student population with low maths and English achievement will not apply for T-level courses.

After seven years of conditional funding, there is ample need for a review to see how the current policies are fitting, or not fitting, students for work. For many years this significant proportion—the missing third—has been most damagingly neglected. I beg to move.

Lord Lucas (Con): My Lords, I will pick up where I left off on Amendment 11 and also speak to my Amendment 20. I welcome my noble friend to the Front Bench. There was a period when she was my Whip; she probably thought that she had finally escaped having to deal with me, but now she is back, front and centre of my interests.

I apologise that my first action will be to vote with the noble Lord, Lord Watson, if he pushes his amendment. Like him, I absolutely support the objectives of the Bill, but I will vote with him because I am really unhappy and unclear about it in its current state. I want us to be able to continue this conversation as the Bill winds its way through the Commons. As the noble Lord, Lord Watson, said, the key element of this discussion—the local skills improvement plan trailblazers document—arrived today, at least for me, and I have not managed to look at it properly. There is a lot there that needs attention.

I thoroughly support the idea of local employer involvement in skills provision. For a long time, local employers have complained to me that their local

colleges and other providers are not doing the courses they need: the engineering kit that the FE college has is 20 years out of date, and graduates have to be completely retrained if they enter engineering; the building courses do not align with the methods used at the moment; nothing is available for the local foundry; and so on. The need for local employers to be involved in local skills provision is very clear to me.

However, to get successful employer engagement you need both status and longevity. You are asking employers to get senior, good and effective members of staff to spend time on collaborative bodies and arriving at results. They need to do that over a period of years to build up relationships and understanding with each other, among the employer community as much as with education providers. That takes time and an attitude to these bodies that is not, “Oh, we’ve had this for five years—let’s throw it out of the window and start again”. Starting again takes you back to zero.

If I have understood the document right, the trailblazers will exist only for a year or two. Why will any sensible employer spend time trying to make something right when it will be torn up after two or three years? There will be a few, but there will not be the comprehensive effort that would be made if the Government gave themselves a bit more time and, when they know what they want to do, set out to provide employers with something that has a hope of lasting 10 or 20 years.

We have a new ministry for levelling up, which gives it an opportunity to make a decision about what is happening to local enterprise partnerships. These are a source of relationships, understanding and established ways of doing things which might well be drawn on to make a success of local skills improvement plans, but they appear to be ignored entirely. Why? Let us have some coherence in this across government. This is already at least the second way in which the Department for Education is proposing to consult employers; it already has a reasonably well-established network in IfATE, but it does not appear to be tying that in at all to what is happening with local skills improvement plans. There are also networks based in BEIS and in the Department for Work and Pensions. There needs to be more thought and coherence before we set out on this, so that we can really make a success of the idea.

If I read this document right, there is a budget of £4 million for the seven trailblazers, so that is about half a million quid each. In our local area, this is the whole of Sussex, and because of the way Sussex has evolved, the Sussex Chamber of Commerce knows very little about what happens down at the town level. There is almost no relationship between the Sussex chamber and Eastbourne; Eastbourne is dealt with by the Eastbourne Chamber of Commerce. There is also very little relationship between the Sussex Chamber of Commerce and that huge employer of people in Sussex: London. So you are asking this body to build from nothing a knowledge of the skills needs of a very large area—four or five million people’s worth, if you embrace the south of London—on a budget of half a million quid. It is a comfort to the noble Lord, Lord Adonis, that there is no possible way they will have money to

[LORD LUCAS]

pay consultants; they will be really pushed to do this on a few local people. It does not seem to be a recipe for success.

To pick a quote from the document, these partnerships are supposed to look at

“opportunities created by emerging technologies, cleaner growth and new global markets.”

How can you do that based in Sussex, for goodness’ sake? You are not exactly at the middle of any of these industries. Where is the source of knowledge and information to enable them to do that? That sort of thing requires national co-ordination and there is no sign in this plan of how that national understanding will develop.

As the noble Lord, Lord Bird, said, you need an organisation which is looking ahead; ideally, 10 years ahead—though it is getting pretty speculative—but certainly five years. If you talk, as I do, to the jobs board providers, they will say, by and large, that employers look at what they want today and, if you push them hard, they will look a year or so ahead. Local employers do not have that understanding of where their whole industry is going; they have to deal with the problems of today. You need to build in something which is looking further ahead, and there is no reason to try to do that locally. Also, there is a lot of commonality between local problems: the problems we face in Sussex will be replicated in East Anglia, the north-east and elsewhere, one way or another. We do not want to have to create individual, from-the-ground-up solutions to each of these problems; we want to have a mechanism for sharing the problems and approaches and putting the best solutions forward, rather than just creating new things locally. Again, I do not see a sign of that in the Bill.

The system of careers advice for children at school set up by this Government in the Careers and Enterprise Company, of which I have a high opinion, is based on their relationship with local enterprise partnerships. What is proposed under this new system to enable them to continue the rollout of local career hubs? Again, I do not see anything. Where in this structure do we encounter the interests of students? Somewhere in Eastbourne is the engineer that the noble Lord, Lord Ravensdale, wants. Under the LSIP, as described here, the only training available for us will be for hoteliers—that is the main business in Eastbourne. There is no engineering contractor, let alone a nuclear industry. There is not much IT at the moment; there is no obvious source of green growth jobs within our patch. Where is this understanding to come from? Why should our children be restricted in their opportunities to what happens to be available in Sussex? An awful lot of people who live in Sussex work in London. How is the source of demand and need to be factored into the local skills improvement plan in Sussex?

I hope that when the Bill comes back to us from the Commons we will end up with a nationally coherent, long-living system of involving local employers and other sources of information in producing a structure of training that works for local people and local industries. What the noble Lord, Lord Watson, suggests

is the right way to do it. As for Boris—if I am allowed that shorthand for my right honourable friend the Prime Minister—he was talking about that last time I read one of his speeches regarding raising the leaders of counties to the same status as local mayors and giving them the same sort of powers and ambit. We will see how that direction works out but at least the understanding is there. A lot of support is available at county level, including a lot of knowledge, skills and people in the workforce, which would really support an enterprise like a local skills improvement partnership. If the two aspects are embedded together, they are likely to work together and benefit from each other. In terms of sending a message to our colleagues in the Commons, the amendment of the noble Lord, Lord Watson, does that pretty well.

The Lord Bishop of Oxford: My Lords, I shall speak to Amendments 13, 16 and 19, tabled by the right reverend Prelate the Bishop of Durham, who is unable to be present because of his other engagements. Along with others, I welcome the Minister to her new role and join others in offering appreciation to her predecessor, the noble Baroness, Lady Berridge. I should also say, as a member of your Lordships’ Select Committee on the Environment and Climate Change, how much I welcome government Amendment 6, and I add my support to Amendment 64.

The context of my remarks is a general welcome for the Bill and recognition of its role in helping to meet the Government’s ambition on FE and skills. However, there is almost no specific reference to SEND provision in the Bill, despite the significant role that FE plays in provision for students with additional needs or disabilities. Noble Lords will know that around 202,000 students have special educational needs in further education, of whom 90% attend general FE colleges and make up almost one in six of all enrolments. Within those, almost a quarter of students are aged 16 to 18. In contrast to the school sector, there is a small number of specialist institutions. That situation makes a profound difference to the scale and range of support needed in general FE and sixth-form colleges.

During Second Reading, the Minister gave assurances that the overall legislative framework, notably the Equality Act and the Special Educational Needs and Disability Act, provided sufficiently rigorous safeguards for ensuring that the needs of SEN students were met. It was also most helpful to see the updated policy note and to hear the further assurances from the noble Baronesses, Lady Chisholm and Lady Barran, at their meeting with my right reverend friend the Bishop of Durham last week. The Government’s high aspirations for students with learning needs and disabilities is clear, and we warmly welcome that ambition.

However, the evidence from the Special Educational Consortium and Natspec, which are key voices promoting the rights of disabled children and young people, those with special educational needs and specialist further education, is that far more explicit duties should be incorporated into the Bill to ensure that high ambitions and good intentions are subsequently consistently turned into effective action.

5.15 pm

I am sure that Ministers will acknowledge that the SEN review and its associated Green Paper, which we look forward to seeing in the near future, have already identified opportunities to create a much-needed comprehensive and integrated strategy for children and young adults with SEND. There are many points of potential synergy with the national disability strategy, the national strategy for autistic children, young people and adults and in the health and disability Green Paper. Perhaps most of all, a major issue, tackling the disability employment gap, is not yet specifically identified as one of the core tasks of the employer representative bodies and the local skills improvement plans for which they are responsible.

The amendments tabled by the right reverend Prelate the Bishop of Durham are strongly practical in scope and would not impose additional duties on the ERB. Indeed, it is clear that the Government regard them as implicit within the ERB's responsibilities in any case. Rather, each amendment is framed so as to make explicit and much clearer how LSIPs make effective provision for students with SEND, and are much easier to evaluate.

That is the rationale for each of the three amendments. The first, requiring that the evidence used must include views of the relevant community groups, including those representing the interests of people with disabilities, ensures that a full range of robust evidence informs decisions about the LSIP. A very experienced principal in the north-east pointed out that it was vital for her college to have the views of both employers and those of the communities which the college serves in order to make the very best decisions about provision.

The second amendment picks up one of the most important indicators that provision is meeting needs: namely, that it is helping to prepare people with SEND to successfully enter and progress within the employment market and, by so doing, substantially reduce the disability employment gap. Thirdly, in order for ERBs to tackle these issues effectively, it is crucial that the LSIPs are informed by the employers among their number that have the expertise and track record to ensure their plans are genuinely inclusive in respect of disability.

At this stage in the Bill's passage, it would be most helpful if the Minister could indicate how the review of the current trailblazer pilots could be used to inform the Government's evolving view of how ERBs might best operate, with specific reference to the amendments I have outlined and what future discussions with the right reverend Prelate the Bishop of Durham and other interested Peers might be a fruitful way of following up these issues. We even suggest that the Government might adopt the amendments themselves, since hope is considered one of the virtues on these and, indeed, other Benches.

Lord Storey (LD): My Lords, before speaking to the amendment of the noble Lord, Lord Watson, to which I added my name, I thank the noble Baroness, Lady Berridge, for the work she did on this Bill and wish her well.

The noble Lord, Lord Watson, uses the word "integrated"; I would use "partnership". What the Government are trying to achieve, which we want

to achieve, will fail if we do not get the local skills improvement plan right. To do that, we must have a partnership of people. A key factor in that must be the local combined authorities. It is not just me saying that. Your Lordships may remember when a former Chancellor, George Osborne, set up combined authorities. He said that they were a "devolution revolution" and gave them extra powers involving the provision of skills training, business support and economic development.

Indeed, the powers of the Liverpool City Region Combined Authority, where I live, include apprenticeships, grants for employers, an adult skills budget, post-16 FE and oversight of skills and advisory panels. Combined authorities have a wealth of experience, yet we are pushing them to the side. We are marginalising them. I just do not get it at all. It is not just me saying that, or the combined authorities saying that, or Peers saying that. It is interesting to see that message coming loud and clear from employers themselves. You have only to look at the comments from the Food and Drink Federation, which has again said that it is really important that there is a partnership across all areas.

Interestingly, the Energy & Utility Skills Partnership talks about the need to look not just at local skills but at those skills which are nationwide and at how they will be swept up or dealt with if there is just a local focus. I hope that when she responds the Minister will be positive. I agree with the noble Lord, Lord Lucas, that when this goes to the Commons it will be sensible enough to realise what we have said, and that changes will be made if we are able to give it those changes.

I end by saying how much I support Amendment 19 from the right reverend Prelate the Bishop of Durham. He is right to say that if we are to have these representative employer bodies, they must have a record of showing that they care about diversity, equality and disability and that should be an important hallmark of these bodies. If that amendment is not agreed, I am sure that if the Government saw a body set up that was not equal or concerned about diversity and disability, they would have the sense to step in.

Lord Aberdare (CB): My Lords, I, too, have added my name to Amendment 11, tabled by the noble Lord, Lord Watson, and to the amendment to it, Amendment 12. I shall speak also to my Amendments 14, 18 and 21, which are mainly concerned with the overall coherence and effectiveness of the skills systems of which this Bill will be such a major part. Many aspects of that system lie outside the Bill as drafted, but are essential for it to achieve its aims, so Amendment 11 and my amendments seek to fill some of the more important gaps that need to be addressed in the Bill. Others will no doubt be covered in the forthcoming guidance for employer representative bodies, which I have been no more successful than the noble Lord, Lord Watson, in absorbing since I received it this morning.

The amendment tabled by the noble Lord, Lord Watson, lists a range of bodies whose views rightly need to be taken into account in LSIPs. My Amendment 12 adds two more categories to the list: bodies providing careers information, advice and guidance and independent training providers. I have previously expressed my view that the importance of high-quality

[LORD ABERDARE]

careers guidance should be more explicitly covered in the Bill. Every LSIP should surely take account of the status of careers guidance provision in its area through drawing on the views of those responsible for it, including careers hubs and careers leaders in local education institutions. Seeking to ensure that all schools and colleges in its area are meeting the eight Gatsby careers benchmarks and complying fully with the requirements of the Baker clause as, I hope, amended by the Bill.

Given the importance of informing young people about their career choices and options early on, will the Minister tell us how the Government are ensuring that chambers of commerce currently delivering trailblazer LSIPs are engaging with local careers hubs to ensure that careers provision in schools is aligned with local labour market skills needs?

Could she also say whether there are any plans for a new careers strategy, to revive the terrific impetus provided by the previous one in improving the careers situation, and what the Government are doing to ensure that careers hubs will be an established part of the future careers landscape right across England, with sufficient funding to support careers activities in schools and colleges and enough qualified careers professionals to deliver them? Finding those professionals seems an increasing problem for some schools.

My Amendment 12 would also add independent training providers. I will spare noble Lords a repeat of my spiel on independent training providers, but I do believe that no LSIP can afford not to take account of their role in meeting the skills needs of its area.

My Amendments 14 and 18 seek to ensure that LSIPs take account of UK-wide standards developed by national employer groups, picking up on what the noble Lord, Lord Storey, said. Either of the two might meet the need, although the first relates to the actual content of an LSIP, and the second to the characteristics of the employer representative body which develops it. I apologise to your Lordships if this seems like trying to get two amendments for the price of one.

There will be many areas of technology where there is a pressing need for LSIPs to upskill and reskill the existing workforce in their area but there are no associated apprenticeship standards; for example, because they would not support a full year of study. Examples include some of the key green technologies, such as installation of ground source heat pumps or electric car charging points. In the absence of formal standards, LSIPs will need to assure themselves that training provision and assessment is of the right quality and meets agreed industry standards. This assurance could be provided by recognised national not-for-profit employer bodies representing specific sectors, such as the Energy & Utility Skills Partnership, again mentioned by the noble Lord, Lord Storey, for whose briefing I am grateful. I would welcome the Minister's views on how this need might be met and whether she might consider establishing a reasonably short list of recognised sectoral employer bodies capable of supporting LSIPs in this respect.

Amendment 21 addresses a related issue. The Bill says remarkably little about accountability and reporting requirements of employer representative bodies, apart

from developing their LSIPs in a form that the Secretary of State is prepared to approve and publish. Perhaps the Minister could say something about how the subsequent progress and implementation of the plans will be reported and monitored; how information from LSIPs across the country will be aggregated to assess their impact on national skills needs and objectives; and how the Secretary of State will determine whether the new arrangements in specific LSIP areas are working as intended, bearing in mind the point that noble Lord, Lord Adonis, and others have made, that chambers of commerce in England vary considerably in size, scope and capacity, and may not always be the right body to lead ERBs.

Amendment 21 addresses only one specific aspect of this broader issue of reporting accountability and two-way flows of information between local plan areas and the centre. The amendment would ensure that the Institute for Apprenticeships and Technical Education has access, via reports from ERBs, to information on the activities and outcomes of the upskilling and reskilling programmes being pursued through their LSIPs, to inform its own work in identifying and approving needed apprenticeship standards and other technical qualifications for the future.

I do not anticipate pressing any of my amendments to a vote, but if the noble Lord, Lord Watson, decides to seek the opinion of the House on his Amendment 11, I shall gladly support him.

Lord Addington (LD): My Lords, if I may say a few words now, let me first say that I will speak to Amendment 26 in my name. It was originally in the name of the noble Lord, Lord Lingfield, who has just sent me a note saying that he wishes me well but he has an appointment he must go to in the City. All right for some, but it was his idea in the first place.

Anyway, I have a few comments about the clerical Bench's series of amendments here. What I like about these is that when we deal with special educational needs, often it is as special educational needs going forward into the outside world. The fact is that talking about the employment gap for people with disabilities is something we should spend more time on and is sometimes a better way of looking at it to get clarification.

5.30 pm

There is no point in having training if it does not have a result; otherwise, you are just marking time and keeping people off the streets. There is enough of that in the system at various times and we all know it has happened and is going on. If they are being trained, people should have some end product from it. They should have the dignity of being able to sustain themselves.

In the disabilities sector, across all the myriad bits of it, there is a shared problem of underemployment. We do not seem to be getting that right; we do not seem to be getting the information across correctly that people who have minor disabilities can do ordinary jobs. It is not happening and consistently does not happen. This is not the problem of this Government; it is the problem of Governments over a long period of time. I hope that when the Minister responds she will give her full attention to this because it is a very good

way of looking at an existing problem. I salute those who have raised it and brought it forward. It brings the point home very clearly.

I turn to my pirated amendment: the review every three years to look at what SEN is achieving and how it is going. Something like that must be in the Bill because we talk too much about SEN. The Government tend to retreat into saying, “We have got lots of legislation, if it all worked properly and people refer back to each other and do other things they’re supposed to do, we will have a look at it and we will change it.” They do not. The SEN sector is in crisis at the moment. We have punched through the £100 million barrier that local authorities spend on appeals to stop people getting the high end of education and healthcare plans. They lose about 85% of these on a good day, more commonly 90%. That is at the high end. Further down—this is something that has come out in this Bill—those who are not going to get this are getting ignored a lot of the time.

The language has improved over this Bill, and I salute the Government Front Bench and the noble Baroness’s immediate predecessors for this. They actually helped and recognised this, which is a step in the right direction. But can we make sure that we are looking at this in the round so that you do not have to be a tiger parent in the future? We need to look at this properly and review it, both in terms of the final product and the process which brings people forward. It is something that must be integrated if it is to work.

We have been doing this for too long. I have been here for more than 35 years and I think it is nearly 35 years since I made my maiden speech. That was on SEN and the problems of it. One lifetime is surely enough for this.

Lord Coaker (Lab): My Lords, I will say a few concluding remarks before the Minister speaks. As I look around the Chamber, there are numerous former Secretaries of State and schools Ministers, including myself, and many others who have grappled with skills and post-16 education over a number of years. Why are we back here again? It is because, frankly, there is still a major issue and a major problem. This is one thing all of us want to do something about and yet we grapple with the fact that whatever we do does not seem to work in the way we want it to. The noble Lord, Lord Addington, mentioned his maiden speech 35 years ago when he talked about special educational needs with reference to this. I have heard many noble Lords speak on this issue and some of the things being said now could have been said by them decades ago.

I have one simple question and some comments for the Minister. The Government are attempting to grapple with a problem that has bedevilled our education system and our country for decades, so why will it be different this time? Why will it work in a way that it has not under other Governments—despite the best intentions—this time? There has been some progress. There are powers, as my noble friend Lord Adonis pointed out, ad nauseam for the Government to use should they choose to. So, why will it work?

This is a crucial issue. I was at Thales and Leonardo yesterday. They have graduate skills programmes and apprenticeships, but they struggle to fill them. The

noble Lord, Lord Ravensdale, talked about his own company. They cannot fill the vacancies, yet there are people who need skilled jobs, and they cannot be matched. Everybody knows it is a problem. Everybody knows it is an issue. Why has it not been resolved? It is not through lack of intent, desire or passion; it just has not worked.

This debate is crucial because the vehicle the Government are going to use is local skills improvement plans. The Government are saying, “Through our local skills improvement plans, this time it will be different. This time it will work. We won’t need to have another skills Bill in three, four or five years’ time, because this time it will work.” I say this to the Government: if they turn their backs on some of the amendments being put forward by all sides of this House today, whether they be on creativity or special needs or the amendments moved by the noble Baroness, Lady Neville-Rolfe, and others, the Government—whichever Government it is—will be back in two, three or four years’ time and the same debates will be replayed.

The noble Lord, Lord Baker, must be sitting there wondering. I remember talking to him goodness knows how many years ago. I remember talking to the noble and learned Lord, Lord Clarke, when he was my MP, about these sorts of things. He has been saying it for decades in his own constituency to his own schools: we have a skills shortage. The noble Lord, Lord Baker, has been saying, “What’s happened with technical education?” The fundamental question for the Minister is: why will these local skills improvement plans work, when they did not in whatever guise they were in in the past and, as the noble Lord, Lord Adonis, said, the present? Why will these work? Why will they make a difference? Why do they mean that we will not be here again in a few years’ time?

Amendment 11, in the name of my noble friend on the Front Bench, is fundamental. Why on earth would you have a local skills improvement plan that does not include local authorities, the mayors or all the providers? Why would they not—unless it is the Government’s view, which it should not be, that local authorities, the mayors, or the other things mentioned by the noble Lord, Lord Lucas, are an impediment to it? If the Government are really saying, “The local authorities are in the way, we want them out of the way and we’re going to do it without them,” that is ludicrous, and I do not believe that is what the Government think.

I finish with this; it is a plea from the heart. I was a careers teacher. I remember we had women into schools and engineering buses coming round. I am sure the noble Lord, Lord Bird, has spent decades trying to get people into creativity. We cannot get people. We are crying out for lorry drivers, bricklayers, and graduate skills. Our country, our Government and our education system have failed. There have been improvements and there has been progress, but it has been so slow. I do not want to be here in five or 10 years’ time having the same debates and discussions again.

So, I say to the Minister: why will it be different this time? Why will local skills improvement plans work when others have not? I say to the Minister, who I

[LORD COAKER]

know listens and takes all her responsibilities incredibly seriously, that Amendment 11 is one example and is fundamental, but so are many of the other amendments noble Lords across this House have tabled. If the Government do not listen to them, we will be back in five years' time debating another such Bill, and none of us wants that.

Baroness Garden of Frognal (LD): My Lords, I shall speak very briefly, because we have spent a long time on this very important group of amendments. I added my name to Amendment 20, proposed by the noble Lord, Lord Lucas, to ensure collaboration between the Departments for Education and for Business, and local government. Of course, this is hugely important, because there is little point in encouraging students into work-based qualifications if there are no jobs for them to fill either locally—which is where the local government people come in—or nationally, where the Business Department should have an overview of the skills the country needs. We desperately need a long-term coherent strategy.

I so agree with the noble Lord, Lord Bird, in his plea for creativity in education. I have long espoused the idea that education should be fun and that every child should be encouraged in their own skills and interests to try to get confidence that they can contribute to society, and I do not think that our education system does that.

I also support Amendment 66, proposed by the noble Baroness, Lady Whitaker, putting in a plea for vocational English and maths. GCSE English and maths are academic and are absolutely not appropriate for a whole load of people whose skills are more practical. The noble Baroness is quite right to press for support for those for whom literacy and numeracy are real difficulties and challenges. Without those basic skills, people have such difficulties in every aspect of their lives. They need all the help they can get from the nation and community. There are some really valuable amendments in this group, and I hope that the Minister sees that and takes them on board.

Baroness Barran (Con): My Lords, I am grateful for the opportunity to speak to this group of amendments. If I may, I shall start by responding to the words of the noble Lord, Lord Coaker, and his challenge to the Government. I do not want to be flippant, but there is nobody in this Chamber more aware than me of just how many former Secretaries of State for Education and former Education Ministers I am surrounded by. In listening to the noble Lord, I was reminded of the time when I worked in the City, where I was advised early on that “This time it will be different” were the most expensive words for an investor—so I hear him.

In trying to answer the noble Lord's point about why it will work this time, I am grateful to him for pointing out that this is an enormously difficult and challenging area. He will be aware that, in the White Paper, we set out a number of planks through which we will try to address the entrenched issues that he raised. LSIPs—I think that by this stage in the debate I am allowed an acronym—are an important plank, and our reform of technical and vocational qualifications

is another, along with how further education is funded in this country. I shall come on to the points that my noble friend Lady Neville-Rolfe, and the noble Lord, Lord Aberdare, raised about accountability, and the fact that we need to stay honest and keep checking how this works in practice, if necessary course-correcting to make sure that it delivers what the House resoundingly wants it to deliver. That is also an important part of it, albeit in future. So I thank the noble Lord for giving me the opportunity to set that out.

I turn to the detail of the amendments, and first to Amendments 8 and 9 from my noble friend Lady Neville-Rolfe and the noble Baroness, Lady Bennett, on consideration of skills deficiencies in specific fields when developing local skills improvement plans—skills described as absolutely crucial by the noble Lord, Lord Ravensdale. I know that my noble friend brings enormous experience from boardrooms around the country to her amendment; she rightly raises the importance of digital skills and innovation. The noble Baroness, Lady Bennett, has great insight into the issues surrounding the food system and biodiversity. We also heard from the noble Lord, Lord Ravensdale, about his very practical and relevant expertise and experience in engineering skills. These are all areas that the Government are actively trying to address in our skills policy. We have introduced, as noble Lords know, digital and other skills boot camps, covering construction and, most recently, HGV. So we are trying to be responsive to needs. On T-levels, we have introduced them recently in engineering and other related areas.

5.45 pm

Of course, it is really important that designated employer-representative bodies take into account robust evidence on national and local skills needs and priorities, as well as employer and stakeholder views, when they are developing their local skills improvement plans. This will be made clear in the statutory guidance, which is in turn informed by the work of the national Skills and Productivity Board. We are trying to link in a coherent way local with national needs, which I think is at the heart of these amendments.

We believe that strategies and priorities are likely to change over time. Indeed, my noble friend referred to her own experience in relation to the need for energy-related skills. We feel that referencing them in statutory guidance which can be updated regularly, rather than in legislation, which cannot, will ensure that key relevant skills needs and priorities are considered when developing and refreshing local skills improvement plans.

I thank the noble Lord, Lord Bird, for sharing his personal experience. The building industry's loss is this House's gain.

I shall respond to some of the questions posed in relation to this group. My noble friend Lady Neville-Rolfe asked why net zero and environmental goals were in the Bill but not digital or other crucial areas. We believe that through our amendment local skills improvement plans will be an important tool supporting the Government to meet our legally binding environmental targets, which have been set via the Environment Bill. As I have touched on already, other current priorities and skills shortages are likely to change and evolve

over time, so we believe that describing them in guidance that can be regularly updated, rather than in legislation, is the best way in which to future-proof the Bill.

My noble friend and the noble Lord, Lord Aberdare, asked how the Secretary of State would monitor designated employer-representative bodies and their plans and hold them to account. I absolutely agree on the importance of this; designated employer-representative bodies will be accountable to the Secretary of State for Education, and those arrangements for effective monitoring will be informed by evidence from the trailblazers that are running at the moment and will be set out in the statutory guidance.

My noble friend asked how the geography for a local skills improvement plan will be determined. This will be based on functional economic areas. The prospectus for the trailblazers sets out the

“geographical area that is sufficiently compact and coherent to enable effective decision making and delivery, while also encompassing a critical mass of employers and providers needed to make a demonstrable impact”.

The noble Lord, Lord Ravensdale, asked about the role of SMEs. Obviously, that will vary depending on the geographic make-up of the local skills improvement plan area. We clearly expect the designated employer-representative body to draw on the views of a wide range of local employers of all sizes, reaching beyond their membership, if it is a membership organisation, and covering both private and public employers. We will set that out in guidance. I spoke to one of the trailblazer areas last week, and the vast majority of its employers locally have 10 or fewer employees—so they may be even at sub-SME level—and it is very much incorporating those views in its plans.

I turn to Amendments 11 and 12 from the noble Lords, Lord Watson and Lord Aberdare, regarding local skills improvement plans. Forgive me; I do not know if there is a particular technical definition of “place-based”, which the noble Lord, Lord Watson, referred to, but with our local footprint we are looking very much at a place-based approach. We absolutely agree that local is an important part of the answer.

As well as engaging a wide range of employers, a designated employer representative body should work closely with all relevant providers, local authorities—which the noble Lord stressed—mayoral combined authorities and other key stakeholders to develop the plan. Without such widespread consultation and engagement, the plan will not be effective. Mayoral combined authorities play a particularly important role as commissioner and convener in their areas, and their views and priorities need to be brought to bear. Other key stakeholders with valuable local intelligence include the Careers & Enterprise Company, local careers hubs and National Careers Service area-based contractors. As the noble Lord, Lord Aberdare, predicted, this will be set out clearly in statutory guidance. As mentioned earlier, this guidance can be updated regularly to reflect evolving needs and priorities as well as best practice. It also enables the required level of detail to be captured.

Clause 1 already places duties on relevant providers to co-operate with employer representative bodies, to ensure that their valuable knowledge and experience directly inform the development of the plans so that

they are evidence-based, credible and actionable. Clause 4 makes it clear that relevant providers include independent training providers.

I turn to Amendments 13, 16 and 19 from the right reverend Prelate the Bishop of Durham on local skills improvement plans and the employment prospects of people with disabilities. The criteria for designation of employer representative bodies in the Bill are intentionally focused on the most important characteristics and capabilities required for the role. Of course we want all employers to demonstrate best practice in equality and diversity in employment, including in relation to disability, but the designation process for employer representative bodies to develop local skills improvement plans is not the best mechanism to achieve this.

The right reverend Prelate the Bishop of Oxford asked what we expected to learn from the trailblazer pilots. This is an important area in which to explore their experience and, as appropriate, include it in the statutory guidance.

The disability employment gap, while absolutely still too large, has narrowed significantly in recent years, from 33.8 percentage points in 2014 to 28.6 percentage points in 2021. However, since it is still too large, the Government’s national disability strategy, which the right reverend Prelate referred to, sets out how we will help disabled people to fulfil their potential through work and reduce this employment gap still further.

I turn now to Amendments 14, 18 and 21 from the noble Lord, Lord Aberdare, which in effect would require designated employer representative bodies to take account of and inform employer-led occupational standards approved by the Institute for Apprenticeships & Technical Education. We expect designated bodies to engage effectively with other relevant employer and sector groups and to have regard to employer-led occupational standards, among other things, when developing local skills improvement plans. For example, a plan might point to existing employer-led occupational standards and the related technical education and training that relevant local providers can start offering, or offer more of, to meet new or changing demand for skills in the local area. However, rather than in primary legislation, the best place to set this out is in statutory guidance that can be updated as needed as we move towards a national system where the majority of technical education and training is based on employer-led standards by 2030.

Amendment 20 from my noble friend Lord Lucas, supported by the noble Baroness, Lady Garden, was about consultation with other government departments when designating employer representative bodies. I fully agree with him that we need a coherent approach to designating them. I also reassure him that in delivering this policy, which was introduced in a government White Paper, and in exercising the power on behalf of the Government to designate an employer representative body, the Secretary of State for Education will continue to work closely with the Secretaries of State referred to in the amendment to give, in my noble friend’s words, a coherence across government.

My noble friend and the noble Lord, Lord Aberdare, asked about the future of the trailblazer sites. Their purpose is to test and understand how the employer

[BARONESS BARRAN]

representative bodies can best work with employers, providers and key local stakeholders, including local authorities, mayoral combined authorities and career hubs, to implement an employer-led approach to skills planning. Although the trailblazers themselves are time-limited, they will be subject to an independent evaluation which will feed directly into the plans for the future rollout.

I turn to Amendments 10 and 66 from the noble Baroness, Lady Whitaker, regarding a national review and plan for addressing the attainment gap. I hope this House will agree that supporting students who are yet to achieve a GCSE grade 4 or above, or equivalent level 2, in English and maths is fundamental to building a strong and productive labour market. That is why we already have a clear plan to support those who have not achieved grade 4 or above in English and maths GCSEs, whichever pathway they are on, both while in full-time education and training up to 19 years old and into adulthood. This includes a study requirement for all learners on 16 to 19 year-old study programmes who do not currently hold a GCSE grade 4 to 9 in their English and maths. We also apply this policy to transition years, such as the T-level transition programme and traineeships.

Advanced apprenticeships and T-levels have exit requirements so that all learners must achieve a level 2 in English and maths via GCSEs or functional skills qualifications to complete the programme successfully. Apprentices at level 2 need to complete functional skills qualifications at level 1 to achieve their programmes. We also support adults by fully funding GCSE and functional skills qualifications in English and maths up to level 2 through the adult education budget.

In response to the disruptions to education during the coronavirus pandemic, a further £222 million—

Baroness Whitaker (Lab): I am grateful to the Minister for her response—fairly grateful—but I had a number of other very specific questions. May I take it that she will write to me on those?

Baroness Barran (Con): I had not forgotten, so I absolutely undertake to write on the noble Baroness's specific questions in relation to Gypsy, Roma and Traveller communities and on the other points that she raised.

In response to the disruptions to education during the pandemic, a further £222 million has been provided to continue the 16 to 19 tuition fund for an additional two years from the 2022-23 academic year. It allows students to access one-to-one and small group catch-up tuition in subjects that will benefit them most, including maths, English and vocational courses.

6 pm

Amendment 26 from the noble Lord, Lord Addington, is in essence consistent with our approach set out in the draft statutory guidance published alongside the Bill. However, enshrining the minimum frequency for reviews as three years in legislation would remove important and necessary flexibility for colleges. The needs of learners with special educational needs and disabilities are, as my predecessor set out in an earlier

debate, already protected in legislation through the Children and Families Act 2014 and the Equality Act 2010. Further education providers must use their best endeavours to secure the special educational provision called for by a student's special educational needs, and make reasonable adjustments to prevent such students being placed at a substantial disadvantage.

Before closing, I would like to try to respond to the question from the noble Lord, Lord Adonis, about new apprentices. He referred to the end of September data; we should be pretty pleased that we have data to 10 August, which I hope he agrees is timely, but we can of course write once we have more up-to-date figures. The latest figures show that over 101,000 apprentices have been supported through the apprenticeships incentive scheme, of whom 76% are aged between 16 and 24. As he is aware, the Chancellor has recently announced that the incentive scheme has been extended and will be available for employers who hire new apprentices by 31 January 2022.

I hope that my remarks have provided your Lordships with some reassurance on the important issues about how local skills improvement plans will work in practice, how different key stakeholders will be involved in their delivery and how the delivery of our local and national plans will be linked. I therefore ask my noble friend Lady Neville-Rolfe if she would be able to withdraw her amendment, and other noble Lords not to move theirs.

Baroness Bennett of Manor Castle (GP): My Lords, three days off my second anniversary in your Lordships' House, I occasionally think that I am on top of procedure and am then comprehensively disabused of that fact. I thank the noble Lord the Deputy Speaker for his advance guidance on this matter; I was not aware that my modest little Amendment 9 would put me in this position, for which I feel particularly ill equipped, given the distinguished nature and level of experience of so many people contributing to this debate.

However, I shall do my best, briefly, and begin by thanking the Minister for her comprehensive wrap-up of this long group. If we look at the group's nature, it makes some kind of sense despite its large size. Amendments 8 and 9 are addressing the gaps in the matter—the skills needed—and, as the noble Lord, Lord Ravensdale, said, we need to prioritise the jobs that need doing. Many of the other amendments—I particularly highlight those from the noble Baroness, Lady Whitaker, and the right reverend Prelate—address the need to ensure that all humans in our society are able to contribute to the fullest extent, to meet the needs of our society and develop their own human potential.

I should declare my position here as a vice-president of the LGA and the NALC. I will briefly address the comments of the noble Lord, Lord Adonis, and Amendment 11. I agree with him that there was lots of criticism of the apprenticeship levy, but where there is hope is that this is working through the local level and local steps. I had a debate with the Minister in her kind meeting last week about which decisions should be made at a local level and which at a national level.

There is a green economic theory about bio-regions; different regions have different skills needs, and Amendment 11 addresses the way in which local government fits together in making these decisions.

In saying that briefly, I have one final sentence. I am going to keep to the battle by saying that skills are not just about jobs; skills are about providing the individuals in our communities with preparation for life in our difficult world. I beg leave to withdraw Amendment 9.

Amendment 9 (to Amendment 8) withdrawn.

Baroness Neville-Rolfe (Con): I thank all those who have taken part in such an interesting and wide-ranging debate on the content and creation of local skills improvement plans. I particularly thank the noble Lord, Lord Bird, for his contribution on both the need to look ahead and the importance of creativity. I agree, and creativity and innovation are clearly linked. We should all emphasise creativity, including in arts, music and innovation, when we visit schools and colleges. I also thank the noble Lord, Lord Ravensdale, for his emphasis—coming from an expert position—on the crisis in digital skills, especially digital engineering, and the need to listen to the voice of small business.

The noble Lord, Lord Adonis, was his usual challenging self but he is right to be concerned about the decline in apprenticeships. It is very good to hear from my noble friend the Minister that the Chancellor is on to this.

The noble Lord, Lord Watson of Invergowrie, said that we needed more flexibility in apprenticeships; perhaps we could think about that one. He is also right that local and mayoral authorities are keen and ambitious to do more on skills and they should be consulted, as the Minister has said that they will be. I do not support the precise terms of the noble Lord's amendment, which would slow down the reforms that we need and lead to a patchiness in provision, as I have seen with the local enterprise partnerships. We need to avoid slowness and bureaucracy, and—responding to the oratory of the noble Lord, Lord Coaker—get on with the skills revolution.

Above all, I thank the Minister for her helpful and concrete responses. I very much look forward to having the opportunity to see the statutory guidance—and to quizzing her on the subject of monitoring—but for now, with many thanks, I beg leave to withdraw my amendment.

Amendment 8 withdrawn.

Amendment 10 not moved.

Amendment 11

Moved by Lord Watson of Invergowrie

11: Clause 1, page 2, line 21, leave out subsection (6) and insert—

“(6) A “local skills improvement plan”, in relation to a specified area, means a plan which—

- (a) is developed by an employer representative body in partnership with local authorities, including the Mayoral Combined Authorities and further education providers for the specified area,

(b) draws on the views of—

- (i) employers operating within the specified area,
- (ii) regional and local authorities, including the Mayoral Combined Authorities, within the specified area with specific reference to published plans and strategies which have been developed by these authorities to inform the distribution of funding and prioritisation of resources,
- (iii) post-16 education providers active in the specified area, including schools, further education institutions, community learning providers, specialist designated institutions and universities,

such sources of information on long-term national skills needs as the Secretary of State may specify, and any other evidence, to summarise the skills, capabilities or expertise that are, or may in the future be, required by people resident in the specified area, and

- (c) identifies actions that relevant providers and other local bodies can take regarding any post-16 technical education or training that they provide so as to address the requirements mentioned in paragraph (b).”

Member's explanatory statement

This amendment would provide for employer representative boards to develop local skills improvement plans in partnership with local authorities, including the Mayoral Combined Authorities, and local further education providers to ensure that they reflect the needs of learners, residents and employers. LSIPs must also consider social and economic development strategies in the local area and long-term national needs which may not apply to local employers.

Lord Watson of Invergowrie (Lab): My Lords, I beg to move.

Amendment 12 (to Amendment 11) not moved.

Lord Watson of Invergowrie (Lab): My Lords, I thank the Minister for her comprehensive responses. It is clear that she has quickly got up to speed on the Bill. However, she said—I think I am quoting her accurately—that local skills improvement plans will not be effective without the involvement of local authorities and mayoral combined authorities, which is essentially what Amendment 11 is about. She went on to say that it can be covered by guidance, which is of course more flexible than primary legislation. I get that point, but in this case I do not really think that it applies.

Proposed new paragraph (a) in the amendment specifically mentions

“local authorities, including the Mayoral Combined Authorities and further education providers”.

It is not likely that any of them will change: there will always be local authorities and FE providers. I do not know about mayoral combined authorities. They have been invented, so they can be dis-invented, but I do not think that is going to happen any time soon. That argument does not serve the Minister well on this occasion.

This is the third time—at Second Reading, in Committee and now on Report—that we have discussed this issue. A lot of noble Lords have indicated their support at each stage. We have a new Minister but I am afraid that we still have the old argument. For that reason, it is time that noble Lords have a chance to express an opinion. I therefore wish to test the opinion of the House on this matter.

6.10 pm

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6.33 pm

Amendments 13 and 14 not moved.

Amendment 15

Moved by Baroness Barran

15: Clause 1, page 2, line 29, at end insert “English-funded”
 Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 1, line 7.

Amendment 15 agreed.

Amendments 16 and 17 not moved.

Clause 2: Designation of employer representative bodies

Amendments 18 to 21 not moved.

Clause 4: Interpretation

Amendments 22 to 25

Moved by Baroness Barran

22: Clause 4, page 4, line 24, after “provides” insert “English-funded”

Member’s explanatory statement

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

23: Clause 4, page 4, line 27, leave out from “applies,” to “but” in line 30

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 4, line 24.

24: Clause 4, page 4, line 32, leave out from “who” to “to” in line 33 and insert “provides the education or training mentioned in paragraph (a) only”

Member’s explanatory statement

This amendment makes clear that an employer is excepted by virtue of paragraph (b)(i) of the definition of “independent training provider” only if education and training within paragraph (a) that it provides is provided only to its employees.

25: Clause 4, page 5, line 23, at end insert—

“(1A) For the purposes of sections 1 to 3 and this section, education or training is “English-funded” if it is funded, wholly or partly, by—

- (a) the Secretary of State,
- (b) a combined authority,
- (c) the Greater London Authority, or
- (d) a local authority in England.

(1B) For those purposes, education or training funded by the Secretary of State includes education or training in respect of which amounts are paid directly to the provider of the education or training by the Secretary of State in accordance with provision in regulations made under section 22(1) of the Teaching and Higher Education Act 1998 (financial support for students) by virtue of section 22(2)(h) or (i) of that Act.

(1C) Where a relevant provider that provides English-funded post-16 technical education or training enters into arrangements under which all or part of that education or training is provided by another relevant provider, the education or training provided under the arrangements is to be treated as English-funded post-16 technical education or training provided by the second relevant provider (as well as by the first).”

Member’s explanatory statement

This amendment ensures that Chapter 1 of Part 1 applies only in relation to post-16 technical education or training that is funded by the Secretary of State or an authority in England, including where it is funded by student finance provided by the Secretary of State. Where such education or training is sub-contracted by one provider to another, both are treated as providing it.

Amendments 22 to 25 agreed.

Clause 5: Institutions in England within the further education sector: local needs

Amendment 26 not moved.

Clause 7: Additional powers to approve technical education qualifications

Amendment 27

Moved by Lord Lucas

27: Clause 7, page 7, line 32, at end insert—

“(c) must specify a range of qualifications with a teaching and learning requirement equivalent to one GCSE (at level 2) and one A level (at level 3) which allow students to combine academic and vocational education.”

Lord Lucas (Con): My Lords, there are a number of other amendments in this group. I very much hope that we will pursue one or more of them to a Division if we do not get some very clear reassurances from my noble friend, because it is my conviction that BTECs should continue to be widely available for some good long time yet at least, and that the Government’s suggestion that we should quickly move to a system of A-levels and T-levels only is profoundly mistaken. I have a number of reasons for this.

First, BTECs are respected. When it comes to educational qualifications, respect is hard to gain. BTECs are respected by universities, employers and parents, and not just parents of disadvantaged children. My daughter took a BTEC, her friend took three, and my cousin took three. They are something, as editor of the *Good Schools Guide*, that I would happily advise a child to take. They are a well-respected qualification and to dispose of them in haste and short order is profoundly un-Conservative. I very much hope that my new colleagues in the department will share that view.

I am very grateful to the department for sharing its reasoning with us. Broadly, as I understand it—my noble friend will doubtless correct me if I am wrong—it is that, looking at the people who take BTECs and comparing them with similar people who take A-levels, the people who take BTECs have a higher drop-out rate at university, and those who stay at university go on to learn less than equivalent pupils who take A-levels. That analysis is deeply statistically unsound. I will explain why.

A definitive and careful choice is made by a pupil and the people advising them as to whether they should go down the A-level or BTEC route. It is not a question of random allocation. Unless you really analyse what is going on in that process of differentiation, you absolutely cannot legitimately statistically compare the subsequent path of the two groups. You can remark on and look at them, but to compare them and say that one is therefore better than the other is not something you can do because you do not have the data to understand what that process of differentiation was. They are two different groups. They are swallows and crows—both birds, but to compare them is just to describe. It is not something you can draw conclusions from.

Nor is that the only point at which these two streams have different processes applied to them. When it comes to applying to university, they receive advice as to which course they should take at which university. The quality of that advice might well differ markedly for people taking BTECs as opposed to people taking A-levels. It certainly differs markedly between institutions. When, a few years ago, I was working with HESA statistics it was quite remarkable how drop-outs focused on the products of particular institutions rather than particular types of students or courses they were going for. So there is a second point at which this stream is different, which destroys the ability to compare.

Then there is what happens at universities. Universities are supposed, under their access policies, to support students from disadvantaged backgrounds. It is quite clear that they have not been doing this properly. I am delighted that the OfS is picking them up on this, but universities have not been looking at how they make the best of a student and give them the best possible outcome. They have been providing them with a relatively standard product and seeing how they get on with it.

Students who take BTECs are likely to have a different set of requirements in terms of teaching and support from students who take A-levels, so the differentiation may be entirely down to the practices of universities in not supporting BTEC students properly. That means that you cannot tell what is going on. The department is using this data to evince the reasons for its proposals on BTECs, but the data applies to the old pattern BTECs only—those that existed before the 2016 reforms. The new BTECs were specifically designed to deal with the worries people had about how BTEC students were doing at university. All the changes made to BTECs in the first teaching in 2016 were directed at helping students do better at university, but there is as yet no data available on how those students do at university. There were big changes—it is a different qualification in many ways—but the Government are treating it as if they can apply the data from the old qualification.

There is then another set of data which the Government do not seem to have applied themselves to: the data that comes before the surge in popularity of BTECs. The data for disadvantaged students in 2013-15 shows that almost all of them took A-levels and there was a huge rate of dropout, because these were not suitable for them. Go on a few years and there was a much lower school dropout rate because BTECs were holding these students in school. That does not seem to have been taken into the Government’s calculations. The department talks of getting these students back to doing A-levels, but we used to do that, and it had terrible results. Why does it want to do that again?

I am somewhat in despair at the quality of the DfE’s analysis of why it wants to do away with BTECs quickly. However, its analysis does suggest a test; it suggests that we should look at how new qualifications do when they have run their course and students have got to the point of being in employment. We can then judge how well they are doing. If we look at 2019-21 as the sample cohort for the new BTECs, we should have a reasonable idea of that by 2027. We should have a reasonable idea of how well T-levels are doing by 2029 or 2030.

That gives us a timescale for when we will have legitimate data to compare how T-levels and BTECs have done, if the Government are doing proper research—I do not know that they are—on how decisions are taken as to which qualification is provided, how pupils with the qualifications are supported at university and on careers advice given to different groups of students. All of that is necessary to take a justified decision about which set of qualifications should be provided.

I hope I am right in quoting the Government as saying that T-levels are the best option for 16 to 19 year-olds. How can they possibly know that?

These qualifications have only just been created—they are newborn. The emperor’s second wife always wants to kill the older children. It is a natural thing, but we really should not allow that. We ought to insist on a proper period of comparison to find out how they work out. I think the answer will turn out to be that we need not two qualifications but three: A, B and T. We want parity of esteem. If the system has just A-levels and T-levels, we will lose parity of esteem.

I would never, as editor of the *Good Schools Guide*, advise a child to do a T-level unless they were so clearly committed—at age 16—to the narrow scope of that T-level that they could legitimately take such a decision. There are not many 16 year-olds who are so clear and focused that they can reasonably take that decision. It is really hard to commit yourself to a single, narrow line which leads you away from the generality of university and towards a specific career. There are children for whom this will work, but there are fewer of them than the Government think, and there are an awful lot who need to be kept more general.

6.45 pm

A-level years are too narrow anyway; we need to broaden them out for people. There are advocates for maths to age 18 and various other streams which are trying to broaden A-levels—narrowing will not work. In any event, producing that extraordinary gap between the breadth and choice in A-levels and the narrowness of a T-level will entrench the division between academic and vocational qualifications. To take a vocational qualification is to commit yourself to a different life at 16. There will be a push against that by parents.

If you have BTECs in the mix, you can hedge that decision. You can go a bit towards vocational, sliding down that route, knowing that BTECs can get you back to university. With that option in the mix, you start to get a much more coherent package and T-levels and BTECs can find their own level.

There are also real problems with T-levels in local provision. How do you provide T-levels on the south coast, where I live, in industries which just do not exist there? The requirement of 45 days of real work experience is not something you can provide in breadth. You can teach a BTEC in the same subject, but you cannot do the T-level. Maybe the T-level will change, but we are not there yet.

There is absolutely no argument that there are too many BTECs. There are only 30-odd of them, and they are easily comprehensible to parents and schools. There is not a vast number of them, unlike pure vocational qualifications. There is no legitimate argument down that route.

For all those reasons, we should tell the Government, by making an amendment to this Bill, that we ought to keep BTECs for a good long time.

Lord Watson of Invergowrie (Lab): My Lords, I will speak to Amendments 28, 29 and 30 in my name plus, very briefly, Amendments 32 and 33, to which I have added my name.

The Government are undertaking significant reform to level 3 qualifications and that is an aim that we certainly support in principle. For too long, there have

been far too many qualifications. These have not only confused young people but have not been recognised by employers, who often have no means of gauging their worth.

The Government’s vision is for A-levels and T-levels to form the main further education level 3 qualifications in England and to sit alongside apprenticeships. Funding for other current post-GCSE options, including most BTECs, which are characterised by the Government as “low-quality qualifications”, will be removed from the system by 2025. The move to introduce T-levels, a recommendation of the 2016 review led by my noble friend Lord Sainsbury—I think I am allowed to refer to him as such, even though he has now retired from your Lordships’ House—is one that we welcome and very much want to see succeed.

However, the Government seem intent on introducing a binary system of academic and technical pathways, where students progress to employment, or further study, only via A-levels or the newly created T-levels. The reforms include the defunding of the vast majority of applied general qualifications, including BTECs. They do not appear to have considered the impact of defunding these qualifications on widening access to higher education and on social mobility—or social justice as we in Labour prefer to call it. We have just seen a new social mobility tsar appointed and it would certainly be interesting to know her views on this issue, particularly given her experience as a headteacher.

Yesterday, again at the 11th hour—Minister, please note—we received from the DfE an additional briefing on BTECs and applied general qualifications. In it, the DfE conceded that responses to the consultation highlighted that A-levels and T-levels alone would not meet the needs of all students, and it went on to explain:

“We will give funding approval to qualifications supporting progression to specialist HE courses in areas which are not covered by T Levels and not well-served by A levels as alternative programmes of study to A levels, such as those in performing and creative arts.”

Evidence around BTECs suggests that, while they generally provide positive impacts for students in terms of progression to higher education, wage returns and employment, those benefits are generally exceeded by those with A-levels. I suppose that that was to be expected, but it is not a reason to close down that route for those who did not find A-levels an appropriate option, for whatever reason. We would argue that it is the destination that matters, not the mode of travel to it. Accessing higher education will always have a value, and the greater the number of young people who do so, the better, surely.

Ofqual has also stated its concerns about the proposed new system. In its response to the 2020 review of post-16 qualifications at level 3 in England, it said, in relation to the risks to progression to higher education:

“We recognise the potential benefits for all learners at level 3 from the proposed reforms ... in recognising the benefits, we must also remain alert to the potential adverse impacts that these reforms may risk.”

The DfE’s own consultation impact assessment estimated that the qualifications that may no longer be funded could account for around 62% of current non-A-level 16 to 19 year-old enrolments at level 3, yet we know

[LORD WATSON OF INVERGOWRIE]

that the number of learners using qualifications other than A-levels to access higher education is in fact growing.

The DfE document referred to earlier—the one that appeared yesterday—contained six evidence sources, but that list did not include the National Education Opportunities Network at the University of West London, which has an unrivalled reputation for supporting widening access to HE. It published a report in February this year that contained a raft of evidence from universities, many of them in the Russell group, with 70% of respondents saying that BTECs prepared students for higher education study as well as, or better than, A-levels. The teaching and assessment style of the BTEC was seen to be particularly good at preparing students to enter more vocationally oriented HE courses.

The conclusion was that BTECs are essential to widening access to higher education, although it is only fair to say that this view is not universally accepted. But, until T-levels become fully established, which, I repeat, we very much want to see, more BTECs than the Government currently plan for need to be retained.

I accept that it is not helpful if BTECs overlap with T-levels and that that could delay their becoming fully entrenched. But while there is a risk, as highlighted by the NEON survey to which I referred, that a substantial proportion of students from the neighbourhoods with the lowest participation rate may not enter higher education under the proposed new system, that is a risk that the Government should weigh very carefully.

The most likely outcome is that around five years' progress in increasing the numbers of students entering higher education from the neighbourhoods with the lowest participation rate will be lost by the defunding of BTECs. It is almost certain that the proportion of students entering higher education who are from black and Asian backgrounds will decrease.

The DfE document also did not refer to research published by the Social Market Foundation in 2018 showing that students accepted to university from working-class backgrounds and/or minority-ethnic backgrounds are more likely to hold a BTEC qualification than their peers. The foundation's report said that a quarter of Asian students and 37% of black students were accepted to university after completing only BTEC qualifications at level 3.

On the basis of the evidence in these reports, the Government are strongly urged to reconsider the timescale of their plans to defund applied general qualifications. If the Minister can explain how doing so will not have a negative impact on widening access to higher education and social mobility, I am sure that noble Lords would be most interested to hear that argument.

I turn to the amendments in my name. Amendment 28 requires the Institute for Apprenticeships and Technical Education, hitherto referred to as IfATE, to consult and gain the consent of the relevant employer representative bodies before withdrawing course approval. The Government are intent on making the employer representative bodies all-powerful in their areas, which suggests that they, as organisations, would not want decisions taken that cut across their ability to pursue local priorities for qualifications. I accept that there is

a danger that a BTEC defunded in one area could remain available in another. That is certainly not ideal, but if local characteristics are to hold sway, it is an issue that can be accommodated, provided that these BTECs do not overlap with T-levels.

Amendment 29 calls for a four-year moratorium on IfATE withdrawing approval and thus defunding BTECs and other level 3 courses. This would prevent removal before 2025, rather than the Government's ambition of achieving this by 2025. This is a reflection of concerns that it will take some time, as I have said, for T-levels to become embedded and more widely understood and accepted by students, universities, colleges and employers. This is a real issue in the current economic climate, as T-level students are required to complete 315 hours or 45 days of work placements. Many employers have warned that they may not be able to commit to that, given the challenges they are facing, as evidenced by their ability to provide the necessary current work experience placements for T-levels in the health and social care, digital and construction sectors.

There is no mechanism in the Bill for a provider, or a student or prospective student for that matter, to challenge an IfATE decision to withdraw course approval. This is all the more concerning, given that we do not yet know how IfATE will make the decision on which courses to withdraw approval for. The DfE has referred to course duplication between T-levels and BTECs, and some courses have been labelled "low value" without reference to an objective established measure of quality, applied across the board.

Amendment 30 would therefore allow someone to challenge the lawfulness of the decision to withdraw approval through a judicial review. For example, IfATE's decision could be overturned on the grounds of procedural unfairness if the process leading up to the decision were improper—perhaps simply biased in favour of T-levels over BTECs—or incompatible with human rights under the Human Rights Act 1998, which could come into play, given the issue of BTECs widening participation and/or ethnic minority entry. This links with Amendment 32, which would make it much less likely that a judicial review would be necessary.

Finally, Amendment 33, in the name of the noble Lord, Lord Willetts, has our support because we believe that it would put in place a safety net to guard against the issue surrounding the defunding of some BTECs that I have outlined.

If the Government really do want to level up, they need to slow down this major reform and recognise the risks posed to thousands of young people. We are big supporters of T-levels because they have the potential to improve the reputation and standing of technical education, if they are implemented properly, alongside other qualifications.

As the Association of Colleges has said:

"We don't need a strong-armed approach to force change, that change will happen."

The Government's approach risks leaving thousands of disadvantaged students with limited or no routes to progress into work or continuing education when they need them most, and that is an outcome the Government will surely want to avoid.

Lord Baker of Dorking (Con): My Lords, this is the first time that I have engaged on Report, and I gather that I have to speak to the various amendments I have supported. I certainly strongly support the one that has just been dealt with, and I will also speak to Amendments 30 and 31.

That amendment would delay the whole implementation of the Bill by four years. I will explain why that is necessary. The Bill is one of the most extraordinary Bills that has been laid before Parliament because it has no policy in it. It sets up two administrative procedures, one to deal with a statement that appeared in the White Paper on education and one to deal with a paper that appeared out of the blue on 1 January this year, on abolishing thousands of technical qualifications, which was totally unexpected. The Bill sets up a framework.

As regards the White Paper qualification, a framework of employer representative bodies was set up to prepare skill plans for each of the towns where the employers live, which is a very interesting idea. It is a bit experimental, but it means that local industry could get involved in setting the curriculum for Darlington, Newcastle, Plymouth or Exeter, and that is a good thing. It engages industry, which determines what technical subjects it needs. The various bodies that do the training, like the FE colleges, the apprenticeship providers, the private providers and the colleges that I support, such as the technical colleges, can then adjust their curricula accordingly.

The second policy that is not in the Bill appeared on 1 January this year, when the Government issued a paper on technical qualifications. This was totally unexpected: there has been nothing in a White Paper and no research on it—I am very interested to know what they will do—but they set out their policy.

7 pm

This is an unconstitutional enormity. All the other Bills that I have known in my 50 years in the two Houses of Parliament have always had policy in them so that it can be debated, amended, argued about, voted on, passed or rejected. It is very difficult to do that with this Bill because none of the details is on the face of the Bill. I will quote precisely what the Government's policy is according to their statement on 1 January this year, when they opened consultation:

"It is our intention that technical qualifications which overlap with T Levels in these waves will have funding approval removed from the start of the 2023/24 academic year"

and it will continue into 2024-25. Well, there are several thousand technical qualifications. The first thing to appreciate is that the Department for Education in his history since the 1870s has never created one technical qualification. That has been left to the exam boards. The department has no real knowledge of the contents of technical qualifications and has never had to create them. It has a profound knowledge of academic qualifications, but none of technical qualifications.

The other extraordinary thing is that the body that the Government have appointed to be the executioner of all these qualifications is the Institute for Apprenticeships and Technical Education, which has had no dealings whatever with technical qualifications. It does not do them; it does apprenticeships. That itself

is bizarre. We are dealing with very large numbers here; 200,000 students took these technical qualifications earlier this year. These are BTECs and diplomas. There were 100,000 diplomas and extended diplomas and 100,000 BTECs. The report was issued on 15 July, a very good day to publish the results of a six-month consultation, being the day when all the schools and colleges were closing for the summer. It is unbelievable that there has been no comment whatever in the general press, or even in the education press, about the policy, and so your Lordships are hearing about it for the first time.

The consultation had a lot of respondents, who were very frank. The report said that 86% of the respondents

"disagreed with the approach to removing funding approval for qualifications".

All of them—businesses, colleges, schools and teachers—were ignored, so you cannot say that this is a listening Government. They are an assertive Government. The whole consultation process was complete rubbish. They just restated their starting point.

Why was this all being done? It was being done because the Government have introduced a new exam—the T-level. I say at once that this could be a very good exam, but it is in its early days. They want to ensure that T-levels will survive, so therefore they want to destroy every competing qualification within two years, in 2023 and 2024.

What do we know about T-levels? Two of the university technical colleges that I am responsible for decided experimentally to teach T-levels last September. The one in Dartford decided to teach skills; the one in Telford decided to teach construction. Curricula were provided for the T-levels. What did we learn? We learned that T-levels are not remotely suitable for people who get GCSE grades of 5, 4, 3, 2 and 1. They simply could not cope with T-levels. The students who can cope with T-levels are those at levels 9, 8 and 7—the top end, basically, the brightest children. Certainly, those with grades 9 and 8, and probably most with grade 7, could cope but at level 6 some coped and some could not. The Dartford UTC is doing skills. Eight students applied. The students must apply; if they do not apply, they will not be taught. After a fortnight, two dropped out, unable to cope.

This was a bit disappointing, but we will not know until August 2022 who passed or failed. I cannot tell you. I suspect some will have failed and some will have passed. Some might just have failed, and some might just have passed. We do not know about that at all. How many people took these T-levels as an experiment? I am told that it is fewer than 1,000—600 or 700—but every time I have asked anybody in the department, they have said that they do not have the figures. I am not asking the Minister to give the figures tonight.

By the way, I should have begun my remarks by congratulating the Minister on becoming a parliamentary under-secretary in the Department for Education. I have enjoyed the meetings that I have had with her so far. Sometimes we agree, sometimes we disagree, but we do it very pleasantly. It is very nice to have a pleasant parliamentary under-secretary and I wish her well.

[LORD BAKER OF DORKING]

Coming back to where we are, we will not know until the autumn of next year how successful T-levels have been. This September, more T-levels were taught. I asked again how many have started them. We are half way through the term and no one will tell me. I do not know whether it is a few hundred or a few thousand. I have no idea. I would also like to know whether the ones who have started have secured promises of 45 days' work experience over two years, because one of the qualifications needed to take a T-level is that you must have 45 days of work experience. That is a very demanding level. Medium-sized and small companies cannot possibly provide that level; perhaps only a handful of large companies can.

Given the millions of students that we have, this is a very modest start for a trial of an exam. For the ones who started in September of this year, we will not have the results until August 2023, the year in which the Government propose to cull a large number of alternative qualifications without even knowing the outcome of the second year's trial. This is educationally totally and utterly unacceptable.

As I have said, this is a constitutional enormity. The report is very frank. It goes on to assess the impact of the proposals, which is very substantial. One of my purposes in speaking tonight is to put the words on record, because most people have not read anything about this, and I suspect that what I am saying is completely new to your Lordships.

As the Government are going to abolish most BTECs, they have to have something for all those 250,000 students who took them, so they have created a thing called a "small BTEC" of just one specialist subject. They say the students who used to take BTECs can do just this one. This means that a 16 year-old joining an FE college from his school, having done no technical training at all below 16, will, with a bit of luck, get a qualification at level 2—a sort of GCSE in a technical matter. That is good; that will get him a job somewhere. A smaller number might just get to level 3, which is A-level, but not all that many. That will not get them into a university at all.

So, in the future, youngsters who leave school and go into technical education will be able to take just one BTEC. But listen to this:

"It will be important to prevent students taking combinations of ... qualifications designed to be taken alongside A levels that would effectively replicate"

the larger programmes of extended diplomas. That means they are not allowed to take a second BTEC; the Government have said that they are not allowed to. This is the first time in the history of education since 1870 that we have created a qualification and said to a student that they cannot take a second one. These are the words from the documents that came out. In effect, this is educational lockdown. They are committed to one and cannot take two. But I remind your Lordships that 80% of black students who go to university do it by taking two BTECs. In the future, they will not be accepted into university if they do not have two BTECs, and they will not be allowed to go.

This becomes even graver:

"Large academic qualifications"—

such as the diploma and extended diploma—

"larger than one A level ... will not be funded if they overlap with T levels or A levels."

The diplomas are very important. A diploma is taken post-16 and is called a level 4 higher national certificate, then there is the extended diploma at level 5. These are two steps to university, and university could be level 6. But these particular subjects will now be very difficult to follow. So you have a most extraordinary arrangement: a whole lot of students can take one BTEC and not get much to level 3. They will be denied taking two and going to university—many go into university that way—because T-levels are going to replace them.

One of the things we have learned in our experiment with T-levels is that the curriculum for them is very clear: it is only 25% practical and 75% academic. The Government say in the paper that these exams must be taught in the classroom. They are technical qualifications taught in a classroom, not in a workshop or a working environment. I will tell noble Lords what happened this year in one of the UTCs we sponsor in Tower Hamlets. It is sponsored by a very famous school called Mulberry. All Secretaries of State are taken to it because it is about 90% Bangladeshi girls. The head came to us and said, "I want to create a UTC for the less bright, but really I want to get them jobs". Three years ago we started one and it has been highly successful. It has only two specialisms: health and the creative arts. For the creative arts it works with the National Theatre, and in health it does health and social care. To teach health and social care in this UTC, it creates a hospital ward instead of the some of the classrooms so that the students can go in and see what the nurses' duties are, what records they have to keep, what equipment is available for them and how frequently they visit the patient. That is practical. T-levels will not do that; they all have to be taught in the classroom, not in a working environment.

7.15 pm

Turning to the results from this particular UTC, 5.96% of those born in Tower Hamlets go to university. In the July before last we had 79 leavers from that UTC and 80% of them went to university, mainly to do health. That is good technical and practical education. That is real social mobility: moving children from an area where 40% of the houses have English only as a second language. To go from 5.96% to 80% shows that this is very good technical education, and I really do not see how T-levels can replicate that as they are currently planned.

But it gets a bit worse, I am afraid.

Noble Lords: Oh!

Lord Baker of Dorking (Con): It can get worse, you know.

I am quoting from the documents so that they are on the record, so that when MPs see it they know I am not making this up. This is real stuff. Listen to this:

"We have recognised the need for additional qualifications alongside A levels and T Levels, including small qualifications designed to be taken as part of a study programme including A levels. However, we recognise that students who traditionally take"

things such as diplomas, two BTECs or extended diplomas

“tend to have achieved lower GCSE grades than their peers who progress onto A level study. They are also more likely to be Black, Asian and Minority Ethnic students, have SEND and have received free school meals.”

So the Government admit in this impact document that one of the consequences of this is that the following people will suffer: black, Asian and minority ethnic students, those with SEND and those who have received free meals. They will not actually have much of a chance of going to university. This is a disgraceful and shaming statement to put into any public document.

It gets worse: those from

“Asian and black ethnic backgrounds are more likely to be affected by the proposals, as they are particularly strongly represented on qualifications expected to no longer be available in the future.”

It then does disabled students and disability, with

“these students being more strongly negatively impacted by being unable to achieve level 3 in the reformed landscape.”

So disabled students are going to be disadvantaged in this reformed landscape. Scrap the blasted landscape! It is absolutely disgusting. Quite frankly, I am very ashamed that a Conservative Government have done this. What they are denying to lots of people—black, Asian, ethnic minority, disadvantaged and disabled students—is hope and aspiration.

The Conservative Party at the moment has been accused of abandoning lots of the things it has traditionally lived by. One of the things it has lived by is improvement in education. With respect to my own family, my grandfather left school at 12, and my father left elementary school at 16 and studied all sorts of other things to get on, leave and eventually become a senior civil servant. That is what Conservatives believe in—hope and aspiration—yet this denies hope and aspiration. As Browning said, the reach should exceed the grasp,

“Or what’s a heaven for?”

They are denied that reach. This is a shaming thing. I am very ashamed that a Conservative Government could do it, and all I can say to your Lordships is that I apologise for the Government.

Baroness Garden of Frognal (LD): My Lords, I was going to say it is always a pleasure to follow the noble Lord, Lord Baker, but actually it is an extremely daunting task after that magnificent speech.

I shall speak to my Amendment 32 and add my support to Amendments 27, 28 and 33, to which I have added my name. But I support all the amendments in this group, which, as has been so powerfully set out by the noble Lord, Lord Baker, address a key concern over the Government’s policies on technical—or can I still say vocational?—qualifications.

I remind the House of my interests as a vice-president of City & Guilds, an organisation for which I worked for 20 years on practical, work-based technical and craft qualifications. BTEC broke away from City & Guilds in the 1970s, originally separating the business from the technical as BEC and TEC, but then coming together to offer both types of qualifications, particularly but not exclusively for secondary schools and further education colleges. Over nearly half a century, BTEC

has built a reputation which is recognised, understood and valued—or, as the noble Lord, Lord Lucas, said, respected—by candidates, employers and academia.

It would be an act of extreme folly and damage for the Government to undermine, let alone cease to fund, a set of qualifications which have had a profound influence on the work skills of the country, especially, as the noble Lord, Lord Baker, pointed out, for disadvantaged groups, and especially at a time when the country needs all the skills it can muster. We need skilled people to replace all the skilled workers which Brexit has seen return to their countries of origin. Do you know, I do not remember seeing that in the Leave campaign materials: “Vote Leave and be deprived of all the skilled workers you need.” We have shortages of farm workers, HGV drivers and butchers. My grandfather was a butcher. He had no problems in those far-off days in encouraging young people into an essential and respected trade.

Successive Governments’ relentless focus on universities and academia has led to a generation believing that actually doing things is less worthy than thinking things. We must urgently work to address the academic superiority which has so beset this nation for generations.

This Government have invented T-levels. Previous Governments, academically minded, have tried to invent different sorts of vocational qualifications. We had NVQs, which were going to be the vocational qualification to end all vocational qualifications—they were brilliant. We had GNVQs, we had CPVE. I looked after CPVE for a while. It was a brilliant secondary school practical programme. It was done away with by the academic superiority, who said that it lacked intellect. We had diplomas. They were all designed to break through this country’s unwillingness actually to do and make things. T-levels are untried and untested and will pose real problems, particularly, as has been mentioned, in the work element.

In proposing those shiny new toys, the Government chose to ignore City & Guilds and BTEC, with well over a century of expertise. They need now to put their weight behind those schemes which are proven and to encourage candidates to work with colleges and employers to fulfil their potential and fill the skilled jobs which are so crucial to the country’s well-being, indeed to its survival as a 21st-century force for good.

I support all the amendments in this group. Mine insists that the institution must publish specified criteria before it can withdraw funding, or approval, from an existing qualification. That of the noble Lord, Lord Willetts, insists on public consultation; that of the noble Lord, Lord Lucas, promotes the combination of academic and vocational education; and that of the noble Lord, Lord Watson, also calls for public consultation and the consent of employer representative bodies. On all sides of the House, we express concern that the Government’s blinkered support for their own invention threatens to undermine all that has been good and valuable in the past.

I wish the Minister well in her new post and hope that her own academic background will enable her to see just how important it is that we protect all that has been good and successful in the vocational field and

[BARONESS GARDEN OF FROGNAL]
support both BTEC and City & Guilds qualifications, which have been the bedrock of work-based skills for so long.

Lord Blunkett (Lab): My Lords, I shall speak extremely briefly, otherwise I think we will lose the amendments that we want to support. I declare an interest, because I have assisted Pearson's with its consultation, including attending workshops chaired by the former Conservative Skills and Apprenticeships Minister, Anne Milton.

I have never met anyone outside the DfE who thinks it a good idea to do away with BTECs. I have not met anyone who thinks it impossible to promote the quality and worth of T-levels without having to demonstrate that they must do away with, defund or have a hard stop on BTECs and associated general qualifications. It is perfectly feasible to square this circle, and that is why I have put my name to all the amendments before us. I thank my assistant, Joanna Firth, who has been liaising with noble Lords and those outside who are campaigning on this critical issue.

It would be a great shame if—perhaps I may just refer to myself here—ageing Peers did not actually protect the interests of the young people we so often talk about, the vocational qualifications and drive for good-quality vocational opportunity that we so often talk about on the back of the Augar report and beyond: if we did not tonight help the Government to help themselves. The new ministerial team will need time to absorb what is being put in front of them and what they have inherited from their predecessors. The civil servants have worked extremely hard on this aspect, including in the Bill, but—I say with some temerity—they need to avoid the syndrome I found all those years ago, which is that once people have got on a trajectory, they cannot find a way of getting themselves off it. Tonight, we have the opportunity of helping both officials and Ministers to get themselves off what could be an absolute disaster. It is not often that I offer to help the Conservative Party out of a hole, but on this occasion, it matters. If a quarter of a million-plus young people are denied a route to a good qualification simply on an ideological whim, it would be a great shame not just for them but for our economy and our nation.

At this moment, we have never needed training in vocational qualifications more; we have never needed more opportunity to succeed outside A-levels. We know that; we know the gaps; we can feel them; we have seen them in the past month, not just at petrol pumps but on the shelves, in abattoirs and other key areas, including in the steel industry in my city and beyond. We need to support T-levels as a really good opportunity to develop quality, but not position them against good quality, high-level vocational BTEC qualifications. If T-levels are good, as the noble Lord, Lord Baker, and my noble friend on the Front Bench said, they will stand on their own merits.

An interesting document was circulated for this evening's debate. I shall quote only two bits of it. It is very interesting, as was the document to which the noble Lord, Lord Baker, referred, published on 14 July and placed in the public sphere on 15 July. Here is a question for the Government.

“Why are you defunding qualifications when we don't yet know if T Levels will be a success?”

This is the answer:

“The government is committed to ensuring that T Levels are accessible to all”—

I stress, all—“young people”. But of course, they are not, for the reasons that the noble Lord, Lord Baker, spelled out. If you have to get a particular GCSE at level 6 or above to be able to take part in them, those who currently get levels 4 and 5 and go forward to BTEC are disqualified. We are talking here about tens of thousands of young people.

7.30 pm

Another question that has been referred to in passing this evening in relation to this document asks, “Are you intending to defund qualifications?” The answer is that defunding qualifications that overlap A-levels and T-levels for 16 to 19 year-olds will not be affected by the Bill, because funding powers rest with the Secretary of State for Education. The noble Lord, Lord Baker, rightly referred to the fact that the Bill is policy-free. What we are trying to do tonight is ensure that there is a policy that makes the Secretary of State and, for that matter, the institute accountable to someone somewhere for their actions, so that someone somewhere actually can assess whether the measures taken are in the interests of young people and our economy. If a quarter of a million young people are likely to lose in one form or another—the most disadvantaged, as has already been spelt out—it will be a disaster for our nation.

Maybe people outside this Chamber do not give a damn. Maybe they do not understand. Maybe they are not interested, except when occasionally they pay lip service to vocational qualification. But we do. I hope that we can manage to muster sufficient people to stay tonight to ensure that key amendments are passed, so that we give the Commons the real opportunity to say whether its Members, including those in the red wall seats, really want to go back to their constituencies and tell young people that they are removing a lifeline for their future. My eldest son took a BTEC national diploma and ended up with a master's degree. Do not deny on a whim—because one feels one has to have a hard stop—the opportunity to get this right.

Lord Willetts (Con): My Lords, I should like to speak to Amendment 33 in my name and in support of the other amendments, particularly Amendments 29 and 31. It has been a powerful debate and I shall speak briefly because the case has been made so effectively already.

I welcome the Minister to her post because I trust her to listen to the powerful points made by noble Lords from all sides of the House. I should declare my interests as the chancellor of the University of Leicester, as a visiting professor at King's College London and as a member of the board of Thames Holdings.

I want to turn to the concern that lies behind all these amendments, which is the future of BTECs. What the debate has revealed is that the scheme of thinking—the Government's model that lies behind their attempt to get rid of BTECs—is deeply flawed. The Government think that there should be some kind of clear divide between academic qualifications—A-levels—and vocational qualifications—T-levels—and

nothing else in between. The reason why BTECs do not fit in is that they straddle that divide between vocational and academic—and that is a good thing, too. It is totally unrealistic to expect every teenager neatly to fit into one of just two specified routes.

It is good that T-levels have that breadth of appeal. The Government are clearly committed to T-levels and all of us on all sides of the House have said that we want them to succeed. However, they should succeed on their merits, not because viable alternatives are removed by government fiat. My noble friend Lord Baker spoke powerfully and, as a fellow Conservative, I believe in choice and trusting the judgment of the people. If people are choosing T-levels, that is fantastic. If they are obliged to do them because the alternatives have been removed, that is not a strong case for T-levels. They are, as we have heard, so far untried and untested, and that is why I have particular sympathy for Amendment 29, spoken to by the noble Lord, Lord Watson, asking for a four-year delay so that the evidence on their performance, so powerfully referred to by my noble friend Lord Baker, could become available.

In private, Ministers and the Government think that BTECs are not much good. That is what they really believe. They do not think that BTECs are of a high-enough standard and worry that people who have done them do not perform so well afterwards. Ministers think that they are a soft option. That argument rarely speaks its name but that is part of the thinking. However, BTECs have been reformed. There is now an external examiner and that arrangement could be strengthened. BTECs are not unimprovable but they are not so bad that they should just be abolished. When one digs deeply into the evidence that they are apparently underperforming, one sees that the real evidence is on poorer academic performance. It is actually the old standard and always the academic measure. Indeed, as we have heard powerfully, T-levels are being designed as an academic vocational qualification. Often when Ministers say BTECs are a soft option, what they are really saying is that BTECs are not an academic route like A-levels. They appeal particularly to people who have other aptitudes, people for whom we have an obligation to design suitable qualifications, and I am not convinced that T-levels are right for them.

The other argument that one hears is that there are so many vocational qualifications that we need a cull of them. However, in that jungle of vocational qualifications, BTECs stand out. They are a recognised brand and are tried and tested. They were created by Margaret Thatcher's Government in the 1980s by the then Secretary of State for Education precisely to develop as a recognised vocational qualification, and they are now widely sat, as we have heard, by hundreds of thousands of young people and are known. Having a vocational qualification that is known, trusted and recognised is a precious thing. One does not throw away something that is well known and well recognised entirely in the belief in some experimental future alternative.

My amendment is designed to fit into the structure of the Bill, not to undermine its fundamental purpose. It says that as the Minister clearly has a power to decide funding, there should be a process of consultation before any significant decision to remove the funding

of BTECs is taken. We hear all the time from Ministers about the importance of the employer voice and they are legislating to bring in new employer-representative bodies. It is therefore reasonable that these new bodies should at least be asked what they think about the abolition of BTECs.

I end on a personal note. Sometimes people associate my interests with higher education, and I am very aware of the charge that we must not design an education policy solely around the academic route. There is a real danger that T-levels as well as A-levels are being designed around that academic route. Imagine that the Government were proposing to remove the funding of an academic qualification—a set of A-levels sat by 100,000 or 200,000 young people. There would be absolute uproar and fury at a sudden decision that within two or three years the funding for that academic qualification was to be removed. The least we owe to young people who have a different set of aptitudes, who are taking a different route, who are being served often by FE colleges that are also entitled to a fair deal, is to treat a decision to remove the funding for the qualifications that they do as seriously as we would treat a decision to remove the funding for A-levels. That is why, as an absolute minimum, proper consultation is a prerequisite before any decision of such significance were to be taken.

Lord Adonis (Lab): My Lords, I think that the House wants to move towards a decision and the arguments made have been utterly compelling. The noble Lord, Lord Baker, deserves to be parliamentarian of the year for his speech alone. I have rarely heard a government policy eviscerated so comprehensively by one of the Government's own supporters.

However, the Minister has our deep sympathy in seeking to reply. Can she point us to the actual statement of policy on which we are supposed to think that this is a good idea? I have been in search of it in the run-up to the debate because I am always in the market for evidence-based policy; after all, this is supposed to be an education Bill and one might expect that it has evidence behind it. I have searched in vain. The only statement that I could find on the policy that the Government are pursuing is in the skills White Paper of January 2021, which has one paragraph on this policy—an Orwellian paragraph because it states as fact things that have not yet even happened. I will read it to the House because it adds compelling force to the arguments of my noble friend Lord Blunkett and the noble Lords, Lord Willetts and Lord Baker.

Paragraph 63 on page 33 of the White Paper reads as follows:

“In September 2020, students across England started on the first ever T Levels.”

That is one year ago. These are some of the students in those two colleges that the noble Lord, Lord Baker, referred to. It goes on:

“The first three T Levels are in Construction, Digital, and Education & Childcare, and a further seven will be introduced in 2021.”

That is now; they are literally starting just now. We are being invited to legislate to abolish the qualifications which people sit in favour of qualifications that are only just at this moment being introduced. The Government say:

“We are proud of this programme”—

[LORD ADONIS]

I am delighted that they are proud of the programme—
“which is based on employer-led standards and offers a prestigious technical alternative to A Levels.”

How can we know that they are a prestigious technical alternative when most of them have only just started, only a small minority have been going for a year, no candidates have yet got any of these qualifications and been able to give a view on them, and there has been no evaluation whatever? That is the sum total of the Government’s justification for this policy of unilaterally abolishing all the existing qualifications in favour of those that have not yet started.

The really compelling point was the last one made by the noble Lord, Lord Willetts. Not following the day-to-day developments in the education world, I had not realised that the Government were moving to abolish BTECs so quickly. We all support the development of T-levels, but to abolish the existing qualifications regime in this way is a truly astonishing act. He is completely right; I invite the House to imagine what would happen if the Government announced that in two years’ time, GCSEs and A-levels were going to be abolished in favour of a qualification which is only this year being piloted in schools for the first time.

When I was Minister of Education, we had to decide what to do with the Tomlinson report, which proposed to replace GCSEs and A-levels with a new 14 to 19 diploma. I strongly advised Tony Blair not to go ahead with this on the grounds that trying to run these two systems side by side—the development of a completely new diploma alongside maintaining GCSEs and A-levels—over a period of 10 to 20 years was simply unsustainable. In any case, we were being invited by Sir Mike Tomlinson, who is a friend of mine and I hold him in very high regard, on a series of assertions and nothing more, to think that a completely new qualification would outclass and—with the great English middle classes, who are very attached to the status quo—prove itself to be better than the entire existing system of education that was available then.

I can assure noble Lords that the arguments in the Tomlinson report did not get very far with Tony Blair; he certainly was not going to be the Prime Minister who announced that he was abolishing the entire existing system of GCSEs and A-levels in favour of an exam which had not even been introduced then. But that is precisely what is happening at the moment in respect of vocational qualifications. My noble friend Lord Blunkett brought up the social aspect, as did the noble Lord, Lord Baker—his closing remarks on the impact of this reform on students from black and ethnic minority communities and disabled students were literally breathtaking in their import.

We would not dream—least of all a Conservative Government, but I do not believe a Labour Government would either—of announcing in advance the abolition of the entire system of academic qualifications in favour of a new regime which had not even been properly designed, let alone tested. That is precisely what is happening in respect of vocational qualifications under the policy announced by the Government and taken forward by the Bill, and we need the biggest possible majority behind the amendment tabled by the

noble Lord, Lord Lucas, and these other amendments, so that the Government are invited to think again.

Baroness Barran (Con): I thank all noble Lords for their powerful contributions on this group and I will attempt to set out again our measures in relation to technical educational qualifications. I underline that our ambition with these changes is for a technical education system that is directly rooted in the needs of the workplace. Our reforms will raise the quality of technical qualifications and give young people and adults the skills they need to progress into skilled employment.

7.45 pm

Assertions were made repeatedly during the debate that the Government are scrapping all BTECs. With the greatest respect to your Lordships, that is simply not correct. We will fund level 3 BTECs and/or other applied general qualifications or similar qualifications where there is a clear need for skills and knowledge that T-levels and A-levels cannot provide, but any qualification that is funded needs to meet quality criteria, which I am sure your Lordships would agree with, to be approved for funding. More broadly, level 2 BTECs are not part of this legislation and will be consulted on later this year. It is important to set that point straight.

The amendments tabled by my noble friends Lord Lucas and Lord Baker seek to ensure that the institute’s activities will allow for mixed academic and technical programmes and, through my noble friend Lord Baker’s amendment, other large programmes that are not T-levels or A-levels. Our reforms will make sure that every qualification—

Baroness Chisholm of Owlpen (Con): Could you speak a bit louder?

Baroness Barran (Con): Oh, I am so sorry, I will try to speak a little louder; forgive me. Our reforms will make sure that every qualification has a clear and distinct purpose so that learners attain the skills they need to succeed in high-quality higher education or to progress into skilled employment.

We set out the qualifications we intend to fund alongside A-levels and T-levels in the summer. I can assure noble Lords that we will fund a small range of high-quality qualifications at level 3, including some BTECs, that could typically be taken alongside A-levels if they meet our new approval criteria. These are qualifications with practical and applied elements, in areas such as STEM and IT, which support progression to high-quality higher education. For example, a student may choose to undertake an applied qualification in health and social care alongside A-levels in biology and psychology.

We will also fund larger qualifications that support progression to higher education in subject areas less well served by A-levels and where there is no T-level; for example, in the performing arts. These are not qualifications designed to relate to specific occupations and so will fall outside the institute’s remit, but we do expect them to include some BTECs.

In addition, we will fund technical qualifications which support the development of competence in

occupations that are not currently covered by T-levels, where they meet the approval criteria. For example, this could include areas such as travel and tourism or training to be a blacksmith; these will be within the institute's remit. Employers must play an active role in the technical qualifications system. The institute places the independent view of employers at the heart of its activity. It is important that the institute has discretion in its activity so that it can respond to the changing needs of the labour market.

Both my noble friends raised important points of detail about the data that we use to compare BTECs and A-levels and the specific rules around taking a second BTEC, the environment in which T-levels are taught, and the background to the recent policy announcement. If I may, in the interests of time, I will give responses and clarification to those points because there were possibly some misunderstandings, which I can address in a letter.

Amendments 28 and 33 from the noble Lord, Lord Watson, and my noble friend Lord Willetts, would require public consultation and the consent of employer representative bodies before institute approval is withdrawn, or before funding is withdrawn where a qualification no longer has institute approval. Institute approval is a mark of quality and currency with business and industry, showing that employers demand employees who have obtained that qualification. I hope that in some way that reassures my noble friend Lord Willetts and the noble Baroness, Lady Garden, both of whom referred—my words, not theirs—to a certain academic snobbery about technical qualifications. This is not about academic snobbery but about what employers have told us they need and value. Approval would be withdrawn when a qualification no longer meets the criteria against which it is approved and no longer delivers the outcomes that employers need.

The institute will actively involve employers when making decisions, including through its route panels. These panels hold national sector expertise and expert knowledge of occupational standards which have portability across employers. The requirement for a public consultation and consent from employer representative bodies, which are not designed to give input on individual qualifications, is therefore unnecessary.

Amendment 29 from the noble Lord, Lord Watson, seeks to delay withdrawal of level 3 qualifications for four years. It is vital in a fast-moving and high-tech economy that we close the gap between what people study and the needs of employers. That is why we are introducing more than 20 T-levels in 2023 and strengthening other routes to progress into skilled employment or further study.

The number of T-level providers is already growing quickly, from 43 providers in the first year to over 100 delivering in year 2, 188 in total by 2022, and significantly more by 2023, when we allow a greater range of providers to start delivery. We are looking carefully at where students currently take qualifications that may be withdrawn to ensure that relevant T-levels and sufficient numbers of industry placements are available in those areas. I know that both points were of concern to your Lordships this evening. I want to be clear that we will not leave learners without access

to the technical qualifications that they and employers need during this transition phase.

We have provided significant support to help providers get ready for T-levels and will continue to do so. This includes £165 million to support industry placements, and over £250 million has been made available in capital funding and the T-level professional development programme, available to all staff teaching T-levels.

T-levels raise the quality bar for technical education. They are co-designed with over 250 leading employers and based on employer-led occupational standards. We have tried to learn the lessons from the past, when new, high-quality programmes, such as the 14-to-19 diplomas, failed because they were added to the market without the removal of competing qualifications. We want as many young people as possible to benefit from T-levels, which is why it is important for us to proceed at pace.

Lord Adonis (Lab): Did the noble Baroness just say—I think the House was slightly surprised by that remark—that it was mistake not to have abolished GCSEs and A-levels because that might have led to the development of a 14-to-19 diploma?

Baroness Barran (Con): I am happy to write to the noble Lord to clarify the background to that but my understanding is that there were quality programmes, such as the 14-to-19 diploma, which did not gain traction, which I am sure the noble Lord would accept. I suggest that in part, that was because other qualifications were not removed.

Lord Adonis (Lab): GCSEs and A-levels?

Baroness Barran (Con): Perhaps the noble Lord will allow me to proceed.

Amendment 30 from the noble Lord, Lord Watson, seeks to confirm that the decision to withdraw approval from a technical qualification may be subject to judicial review. I assure your Lordships that the institute is a public authority and its decisions can be reviewed by the courts in the same way as the decisions of any other public authority.

Amendment 32 from the noble Baroness, Lady Garden, would require the institute to publish in advance the criteria which must be met before withdrawing approval of a technical education qualification. It is absolutely right that the institute should publish information so that awarding bodies know in advance the matters the institute will take into account. The Bill already provides for this in new Section A2D6(4).

As I said, approval will be withdrawn when a qualification no longer meets the criteria against which it was approved; for example, where it fails to keep pace with the relevant occupational standard, which will evolve with industrial advances. Specifying criteria that must be met for withdrawal—in addition to criteria that must continue to be met for a qualification to retain approval—would result in duplication and will remove the flexibility the institute requires to meet employer needs.

A number of questions were asked regarding the impact of T-levels on social mobility. Again, if I may, I will set out our position in more detail. However, I

[BARONESS BARRAN]

would like to be clear that the Government are absolutely committed to levelling up. Social mobility is clearly an integral part of this and education, skills and careers are vital to making a success of those efforts. We believe that T-levels represent a much-needed step change in the quality of the technical offer. As we have heard, they have the endorsement of employers, and alongside T-levels we have introduced the T-level transition programme to support students who are not yet ready to start a T-level at 16 but who have the potential to progress to one. We have also introduced flexibility for SEND learners across all elements of the T-level programme.

In conclusion, our reforms to post-16 qualifications aim to ensure that we will have a system where the choices are clear and learners can be assured that every option is of high quality, whether it supports progression to higher education or to skilled employment. Extending the role of the institute will make certain that the majority of technical qualifications available in England are based on employer-led occupational standards and deliver the skills outcomes that employers need. Given this, I hope that my noble friend Lord Lucas will feel comfortable in withdrawing his amendment, and that other noble Lords will not feel it necessary to move theirs.

Lord Lucas (Con): My Lords, I am grateful to my noble friend for that comprehensive reply. I will start by agreeing with her final words. Let us have qualifications that are clear, where every option is high quality, with employer-led standards and the skills outcomes that employers need. However, whatever language my noble friend dresses this up in, she is saying that the Government intend to abolish BTECs well in advance of having any information to show that T-levels deliver what we all hope they will deliver. Given in particular the effects that my noble friend Lord Baker has outlined on the children we ought to be having most care for—so ought the Government—I very much hope that one of my noble friends, or more of my noble friends than the noble Lord opposite, will choose to move their amendments. As far as my amendment is concerned, I prefer that in the name of my noble friend Lord Baker, so I hope he will consider moving it. However, I will certainly vote for some of the amendments in this group if they are moved to a Division. I beg leave to withdraw my amendment.

Amendment 27 withdrawn.

Amendment 28 not moved.

Amendment 29

Moved by Lord Watson of Invergowrie

29: Clause 7, page 9, line 41, at end insert—

“(2A) Subsection (2) does not apply to the withdrawal of level three courses for the period of four years beginning with the day on which this Act is passed.”

Member’s explanatory statement

This amendment prevents IfATE from withdrawing approval of established level 3 courses including BTECs for four years to ensure that T levels are fully embedded and acceptable to students, employers and universities.

Lord Watson of Invergowrie (Lab): My Lords, we have had a really compelling debate, with some powerful speeches from education big hitters on all sides. I will not rehearse any of the arguments; they have been well made. I just want to pick up a point made by my noble friend Lord Blunkett. He said that, on this issue, we need to help the Government help themselves. I want to do that by testing the opinion of the House.

8 pm

Division on Amendment 29

Contents 155; Not-Contents 150.

Amendment 29 agreed.

Division No. 2

CONTENTS

Aberdare, L.	Gale, B.
Addington, L.	Garden of Frognal, B.
Adonis, L.	German, L.
Alderdice, L.	Glasgow, E.
Allan of Hallam, L.	Gasman, L.
Anderson of Swansea, L.	Goddard of Stockport, L.
Andrews, B.	Golding, B.
Bach, L.	Grantchester, L.
Bakewell of Hardington Mandeville, B.	Greenway, L.
Barker, B.	Grender, B.
Bassam of Brighton, L.	Grocott, L.
Bennett of Manor Castle, B.	Hamwee, B.
Berkeley, L.	Harris of Haringey, L.
Blake of Leeds, B.	Harris of Richmond, B.
Blower, B.	Hayman of Ullock, B.
Blunkett, L.	Hayter of Kentish Town, B.
Boateng, L.	Healy of Primrose Hill, B.
Bonham-Carter of Yarnbury, B.	Henig, B.
Bowles of Berkhamsted, B.	Hollick, L.
Brinton, B.	Howard of Lympne, L.
Browne of Ladyton, L.	Howarth of Newport, L.
Bruce of Bennachie, L.	Hussain, L.
Bryan of Partick, B.	Hussein-Ece, B.
Burt of Solihull, B.	Janke, B.
Campbell of Pittenweem, L.	Jolly, B.
Campbell-Savours, L.	Jones of Whitchurch, B.
Carter of Coles, L.	Kennedy of Cradley, B.
Chandos, V.	Kennedy of Southwark, L.
Chapman of Darlington, B.	Khan of Burnley, L.
Chidgey, L.	Kilclooney, L.
Clarke of Nottingham, L.	Kramer, B.
Clement-Jones, L.	Lawrence of Clarendon, B.
Coaker, L.	Layard, L.
Cohen of Pimlico, B.	Lee of Trafford, L.
Collins of Highbury, L.	Levy, L.
Corston, B.	Liddle, L.
Dholakia, L.	Lister of Burterset, B.
Donaghy, B.	Lucas, L.
Drake, B.	Ludford, B.
D’Souza, B.	Masham of Ilton, B.
Dubs, L.	McDonagh, B.
Elder, L.	McIntosh of Hudnall, B.
Falconer of Thoroton, L.	McNally, L.
Falkner of Margravine, B.	McNicol of West Kilbride, L.
Foster of Bath, L.	Meacher, B.
Fox, L.	Merron, B.
	Morgan, L.
	Morris of Yardley, B.

Newby, L.
Nye, B.
Oates, L.
Osamor, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Pendry, L.
Pinnock, B.
Ponsonby of Shulbrede, L.
Primarolo, B.
Prosser, B.
Purvis of Tweed, L.
Randerson, B.
Ravensdale, L.
Razzall, L.
Redesdale, L.
Rennard, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Rosser, L.
Royall of Blaisdon, B.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Smith of Basildon, B.
Snape, L.
Somerset, D.
Stansgate, V.
Stoneham of Droxford, L.

Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tope, L.
Touhig, L.
Tunncliffe, L.
Tyler of Enfield, B.
Tyler, L.
Wallace of Saltaire, L.
Walmsley, B.
Walney, L.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Watts, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wilcox of Newport, B.
Willets, L.
Willis of Knaresborough, L.
Wood of Anfield, L.
Wrigglesworth, L.
Young of Old Scone, B.

Lancaster of Kimbolton, L.
Leicester, E.
Leigh of Hurley, L.
Lilley, L.
Lindsay, E.
Mackay of Clashfern, L.
Manzoor, B.
Marlesford, L.
McGregor-Smith, B.
McInnes of Kilwinning, L.
McLoughlin, L.
Meyer, B.
Mobarik, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrow, L.
Moylan, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Randall of Uxbridge, L.
Reay, L.
Redfern, B.
Risby, L.

Robathan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Sharpe of Epsom, L.
Sheikh, L.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Stedman-Scott, B.
Stewart of Dirleton, L.
Stirrup, L.
Stroud, B.
Sugg, B.
Suri, L.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Tebbit, L.
Trenchard, V.
True, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Warsi, B.
Wei, L.
Wharton of Yarm, L.
Williams of Trafford, B.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Barran, B.
Bellingham, L.
Bertin, B.
Black of Brentwood, L.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bridgeman, V.
Brougham and Vaux, L.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Caine, L.
Caithness, E.
Callanan, L.
Campbell of Surbiton, B.
Carrington of Fulham, L.
Cathcart, E.
Chisholm of Owlpen, B.
Colgrain, L.
Colwyn, L.
Courtown, E.
Crathorne, L.
Cruddas, L.
Davidson of Lundin Links, B.
Davies of Gower, L.
De Mauley, L.
Dodds of Duncairn, L.
Duncan of Springbank, L.
Dunlop, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.

Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fairhead, B.
Fall, B.
Faulks, L.
Finlay of Llandaff, B.
Fleet, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Foster of Oxtun, B.
Framlingham, L.
Fraser of Craigmaddie, B.
Freud, L.
Gadhia, L.
Godson, L.
Goldie, B.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Greenhalgh, L.
Grimstone of Boscobel, L.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hayward, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbots, L.
Holmes of Richmond, L.
Hooper, B.
Howard of Rising, L.
Howe, E.
Hunt of Wirral, L.
Jenkin of Kennington, B.
Jopling, L.
Kamall, L.
Keen of Elie, L.
King of Bridgewater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.

8.15 pm

Amendment 30 not moved.

Amendment 31

Moved by Lord Baker of Dorking

31: Clause 7, page 9, line 41, at end insert—

“(2A) But no student will be deprived of the right to take two BTECs, AGQ or a Diploma or an extended Diploma.”

Lord Baker of Dorking (Con): I wish to test the opinion of the House.

8.16 pm

Division on Amendment 31

Contents 148; Not-Contents 129.

Amendment 31 agreed.

Division No. 3

CONTENTS

Aberdare, L.
Addington, L.
Adonis, L.
Alderdice, L.
Allan of Hallam, L.
Anderson of Swansea, L.
Andrews, B.
Bach, L.
Baker of Dorking, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Bennett of Manor Castle, B.

Berkeley of Knighton, L.
Berkeley, L.
Blackstone, B.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Brinton, B.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bryan of Partick, B.
Campbell of Pittenweem, L.

Campbell-Savours, L.
 Carter of Coles, L.
 Chapman of Darlington, B.
 Charkey, L.
 Clarke of Nottingham, L.
 Clement-Jones, L.
 Coaker, L.
 Cohen of Pimlico, B.
 Collins of Highbury, L.
 Cormack, L.
 Corston, B.
 Dholakia, L.
 Donaghy, B.
 Drake, B.
 D'Souza, B.
 Dubs, L.
 Elder, L.
 Falconer of Thoroton, L.
 Falkner of Margravine, B.
 Finlay of Llandaff, B.
 Foster of Bath, L.
 Fox, L.
 Gale, B.
 Garden of Frogna, B.
 German, L.
 Glasgow, E.
 Glasman, L.
 Goddard of Stockport, L.
 Golding, B.
 Grantchester, L.
 Greenway, L.
 Grender, B.
 Grocott, L.
 Hamwee, B.
 Harris of Haringey, L.
 Harris of Richmond, B.
 Hayman of Ullock, B.
 Hayter of Kentish Town, B.
 Healy of Primrose Hill, B.
 Henig, B.
 Hoey, B.
 Hollick, L.
 Howard of Lympne, L.
 Howarth of Newport, L.
 Hussain, L.
 Hussein-Ece, B.
 Janke, B.
 Jones of Whitchurch, B.
 Kennedy of Cradley, B.
 Kennedy of Southwark, L.
 Kilclooney, L.
 Kramer, B.
 Lawrence of Clarendon, B.
 Layard, L.
 Lee of Trafford, L.
 Levy, L.
 Liddle, L.
 Lister of Burtsett, B.
 Lucas, L.
 Ludford, B.
 Marlesford, L.

Masham of Ilton, B.
 McDonagh, B.
 Mcintosh of Hudnall, B.
 McNally, L.
 McNicol of West Kilbride, L.
 Meacher, B.
 Merron, B.
 Morgan, L.
 Morris of Yardley, B.
 Nye, B.
 Oates, L.
 Osamor, B.
 Oxford, Bp.
 Paddick, L.
 Palmer of Childs Hill, L.
 Parminter, B.
 Pinnock, B.
 Ponsonby of Shulbrede, L.
 Primarolo, B.
 Prosser, B.
 Purvis of Tweed, L.
 Randerson, B.
 Razzall, L.
 Redesdale, L.
 Rennard, L.
 Ritchie of Downpatrick, B.
 Roberts of Llandudno, L.
 Royall of Blaisdon, B.
 Sharkey, L.
 Sheehan, B.
 Sherlock, B.
 Shipley, L.
 Smith of Basildon, B.
 Snape, L.
 Somerset, D.
 Stansgate, V.
 Stoneham of Droxford, L.
 Stunell, L.
 Suttie, B.
 Taylor of Bolton, B.
 Taylor of Goss Moor, L.
 Taylor of Warwick, L.
 Teveron, L.
 Thomas of Winchester, B.
 Thornhill, B.
 Thornton, B.
 Tope, L.
 Touhig, L.
 Tyler of Enfield, B.
 Tyler, L.
 Wallace of Saltaire, L.
 Walmsley, B.
 Watson of Invergowrie, L.
 Watts, L.
 Wheeler, B.
 Whitaker, B.
 Wilcox of Newport, B.
 Willetts, L.
 Willis of Knaresborough, L.
 Wrigglesworth, L.
 Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
 Ahmad of Wimbledon, L.
 Altmann, B.
 Altrincham, L.
 Anelay of St Johns, B.
 Ashton of Hyde, L.
 Astor of Hever, L.
 Barran, B.
 Bellingham, L.
 Blackwood of North Oxford,
 B.
 Blencathra, L.
 Bloomfield of Hinton
 Waldrist, B.

Borwick, L.
 Brougham and Vaux, L.
 Brownlow of Shurlock Row,
 L.
 Caithness, E.
 Callanan, L.
 Carrington of Fulham, L.
 Cathcart, E.
 Chisholm of Owlpen, B.
 Colgrain, L.
 Colwyn, L.
 Courtown, E.
 Crathorne, L.
 Cruddas, L.

Davidson of Lundin Links, B.
 Davies of Gower, L.
 De Mauley, L.
 Deben, L.
 Dodds of Duncairn, L.
 Duncan of Springbank, L.
 Dunlop, L.
 Eaton, B.
 Eccles of Moulton, B.
 Eccles, V.
 Fairfax of Cameron, L.
 Fairhead, B.
 Fall, B.
 Fleet, B.
 Fookes, B.
 Forsyth of Drumlean, L.
 Foster of Oxton, B.
 Framlingham, L.
 Fraser of Craigmaddie, B.
 Freud, L.
 Gadhia, L.
 Godson, L.
 Goldie, B.
 Goschen, V.
 Grade of Yarmouth, L.
 Greenhalgh, L.
 Harding of Winscombe, B.
 Harlech, L.
 Haselhurst, L.
 Hayward, L.
 Herbert of South Downs, L.
 Holmes of Richmond, L.
 Hooper, B.
 Horam, L.
 Howard of Rising, L.
 Howe, E.
 Hunt of Wirral, L.
 Jenkin of Kennington, B.
 Jopling, L.
 Kamall, L.
 King of Bridgewater, L.
 Kirkham, L.
 Kirkhope of Harrogate, L.
 Lamont of Lerwick, L.
 Lancaster of Kimbolton, L.
 Leicester, E.
 Leigh of Hurley, L.
 Lexden, L.
 Lilley, L.
 Lindsay, E.
 Mackay of Clashfern, L.
 Manzoor, B.

McGregor-Smith, B.
 McInnes of Kilwinning, L.
 McLoughlin, L.
 Meyer, B.
 Mobarik, B.
 Montrose, D.
 Morgan of Cotes, B.
 Morris of Bolton, B.
 Moylan, L.
 Neville-Rolfe, B.
 Noakes, B.
 Norton of Louth, L.
 Parkinson of Whitley Bay, L.
 Pidding, B.
 Polak, L.
 Papat, L.
 Porter of Spalding, L.
 Randall of Uxbridge, L.
 Ravensdale, L.
 Reay, L.
 Redfern, B.
 Risby, L.
 Robathan, L.
 Sanderson of Welton, B.
 Sandhurst, L.
 Sater, B.
 Scott of Bybrook, B.
 Seccombe, B.
 Selkirk of Douglas, L.
 Sharpe of Epsom, L.
 Sheikh, L.
 Shinkwin, L.
 Shrewsbury, E.
 Smith of Hindhead, L.
 Stedman-Scott, B.
 Stern of Brentford, L.
 Stewart of Dirleton, L.
 Stirrup, L.
 Stroud, B.
 Sugg, B.
 Taylor of Holbeach, L.
 Trenchard, V.
 True, L.
 Vaizey of Didcot, L.
 Vere of Norbiton, B.
 Verma, B.
 Wei, L.
 Wharton of Yarm, L.
 Williams of Trafford, B.
 Wyld, B.
 Young of Cookham, L.
 Younger of Leckie, V.

8.28 pm

Amendment 32 not moved.

Amendment 33

Moved by Lord Willetts

33: Clause 7, page 10, line 17, at end insert—

“(8) Where a technical education qualification has had its approval withdrawn under subsection (2), funding may not be withdrawn by the Secretary of State without public consultation and the consent of the relevant employer representative bodies, as defined in the Skills and Post-16 Education Act 2021.”

Lord Willetts (Con): It is very important that we sense the mood of the House on this issue. I beg to move.

8.29 pm

The Deputy Speaker (Baroness Finlay of Llandaff) (CB): My Lords, there being an equality of votes, in accordance with Standing Order 55, which provides

that no proposal to amend a Bill in the form in which it is before the House shall be agreed to unless there is a majority in favour of such amendment, I declare the amendment disagreed to.

8.29 pm

Division on Amendment 33

Contents 135; Not-Contents 135.

Amendment 33 disagreed.

Division No. 4

CONTENTS

Aberdare, L.	Hussain, L.
Addington, L.	Hussein-Ece, B.
Adonis, L.	Janke, B.
Alderdice, L.	Jolly, B.
Allan of Hallam, L.	Jones of Whitchurch, B.
Andrews, B.	Kennedy of Cradley, B.
Bach, L.	Kramer, B.
Bakewell of Hardington Mandeville, B.	Layard, L.
Barker, B.	Lee of Trafford, L.
Bassam of Brighton, L.	Levy, L.
Bennett of Manor Castle, B.	Lucas, L.
Berkeley of Knighton, L.	Ludford, B.
Berkeley, L.	Marlesford, L.
Blackstone, B.	Masham of Ilton, B.
Blake of Leeds, B.	McIntosh of Hudnall, B.
Blower, B.	McNally, L.
Blunkett, L.	McNicol of West Kilbride, L.
Bonham-Carter of Yarnbury, B.	Meacher, B.
Brinton, B.	Merron, B.
Browne of Ladyton, L.	Morris of Aberavon, L.
Bruce of Bennachie, L.	Morris of Yardley, B.
Campbell-Savours, L.	Nye, B.
Carter of Coles, L.	Oates, L.
Chandos, V.	Osamor, B.
Chapman of Darlington, B.	Oxford, Bp.
Chidgey, L.	Paddick, L.
Clarke of Nottingham, L.	Palmer of Childs Hill, L.
Clement-Jones, L.	Parminter, B.
Coaker, L.	Pendry, L.
Cohen of Pimlico, B.	Pinnock, B.
Collins of Highbury, L.	Ponsonby of Shulbrede, L.
Corston, B.	Purvis of Tweed, L.
Dholakia, L.	Randerson, B.
Donaghy, B.	Ravensdale, L.
Drake, B.	Razzall, L.
D'Souza, B.	Redesdale, L.
Dubs, L.	Rennard, L.
Elder, L.	Ritchie of Downpatrick, B.
Falconer of Thoroton, L.	Roberts of Llandudno, L.
Falkner of Margravine, B.	Rosser, L.
Finlay of Llandaff, B.	Royall of Blaisdon, B.
Foster of Bath, L.	Sharkey, L.
Fox, L.	Sheehan, B.
Gale, B.	Sherlock, B.
Garden of Frogna, B.	Shiple, L.
German, L.	Smith of Basildon, B.
Glasgow, E.	Somerset, D.
Glasman, L.	Stansgate, V.
Goddard of Stockport, L.	Stoneham of Droxford, L.
Golding, B.	Strasburger, L.
Grantchester, L.	Stunell, L.
Grender, B.	Suttie, B.
Hamwee, B.	Taylor of Bolton, B.
Harris of Haringey, L.	Taylor of Goss Moor, L.
Harris of Richmond, B.	Taylor of Warwick, L.
Hayman of Ullock, B.	Teverson, L.
Hayter of Kentish Town, B.	Thomas of Gresford, L.
Healy of Primrose Hill, B.	Thomas of Winchester, B.
Henig, B.	Thornhill, B.
Howarth of Newport, L.	Thornton, B.
	Tope, L.
	Touhig, L.

Tunnicliffe, L.
Tyler of Enfield, B.
Tyler, L.
Wallace of Saltaire, L.
Walmsley, B.
Watson of Invergowrie, L.
Wheeler, B.

Whitty, L.
Wilcox of Newport, B.
Willetts, L.
Willis of Knaresborough, L.
Wrigglesworth, L.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.	Howard of Rising, L.
Ahmad of Wimbledon, L.	Howe, E.
Altmann, B.	Hunt of Wirral, L.
Altrincham, L.	Jenkin of Kennington, B.
Anelay of St Johns, B.	Jopling, L.
Ashton of Hyde, L.	Kamall, L.
Astor of Hever, L.	Kilclooney, L.
Attlee, E.	Kirkham, L.
Barran, B.	Kirkhope of Harrogate, L.
Bellingham, L.	Lancaster of Kimbolton, L.
Bertin, B.	Leicester, E.
Blackwood of North Oxford, B.	Leigh of Hurley, L.
Blencathra, L.	Lexden, L.
Bloomfield of Hinton Waldrist, B.	Lilley, L.
Borwick, L.	Lindsay, E.
Bridgeman, V.	Mackay of Clashfern, L.
Brougham and Vaux, L.	Manzoor, B.
Brownlow of Shurlock Row, L.	McGregor-Smith, B.
Caithness, E.	McInnes of Kilwinning, L.
Callanan, L.	McLoughlin, L.
Carrington of Fulham, L.	Meyer, B.
Cathcart, E.	Mobarik, B.
Chisholm of Owlpen, B.	Montrose, D.
Colgrain, L.	Morgan of Cotes, B.
Colwyn, L.	Morris of Bolton, B.
Courtown, E.	Moylan, L.
Crathorne, L.	Naseby, L.
Cruddas, L.	Neville-Jones, B.
Davidson of Lundin Links, B.	Neville-Rolfe, B.
Davies of Gower, L.	Noakes, B.
De Mauley, L.	Norton of Louth, L.
Deben, L.	O'Shaughnessy, L.
Dodds of Duncairn, L.	Parkinson of Whitley Bay, L.
Duncan of Springbank, L.	Pidding, B.
Dunlop, L.	Polak, L.
Eaton, B.	Popat, L.
Eccles of Moulton, B.	Porter of Spalding, L.
Eccles, V.	Randall of Uxbridge, L.
Empey, L.	Reay, L.
Evans of Bowes Park, B.	Redfern, B.
Fairfax of Cameron, L.	Risby, L.
Fairhead, B.	Robathan, L.
Fall, B.	Randerson of Welton, B.
Fleet, B.	Sandhurst, L.
Flight, L.	Sater, B.
Fookes, B.	Scott of Bybrook, B.
Forsyth of Drumlean, L.	Seccombe, B.
Foster of Oxton, B.	Selkirk of Douglas, L.
Fraser of Craigmaddie, B.	Sharpe of Epsom, L.
Freud, L.	Sheikh, L.
Gadhia, L.	Shinkwin, L.
Godson, L.	Smith of Hindhead, L.
Goldie, B.	Stedman-Scott, B.
Goschen, V.	Stewart of Dirleton, L.
Grade of Yarmouth, L.	Stroud, B.
Greenhalgh, L.	Sugg, B.
Grimstone of Boscobel, L.	Suri, L.
Hamilton of Epsom, L.	Taylor of Holbeach, L.
Harding of Winscombe, B.	Tebbit, L.
Harlech, L.	Trenchard, V.
Haselhurst, L.	True, L.
Hayward, L.	Vaizey of Didcot, L.
Hodgson of Abinger, B.	Vere of Norbiton, B.
Holmes of Richmond, L.	Verma, B.
Hooper, B.	Wei, L.
	Wharton of Yarm, L.
	Williams of Trafford, B.
	Wyld, B.

Young of Cookham, L. | Younger of Leckie, V.

8.43 pm

Amendment 34

Moved by Lord Storey

34: After Clause 7, insert the following new Clause—
“Review of apprenticeship levy

The Secretary of State may request a review of the apprenticeship levy to—

- (a) ensure eligible costs are sufficient to enable apprenticeship standards to fully meet the demands of their occupation in relation to specific industries in the sector; and
- (b) provide the opportunity for coordinated pre-apprenticeship training and industry experience to broaden diversity and inclusion.”

Member’s explanatory statement

The purpose of this amendment is to create flexibility in the eligible use of employers’ apprenticeship levy funds and to ensure there is wider diversity and inclusion in apprenticeships.

Lord Storey (LD): My Lords, apprenticeships have been a really important development, particularly for young people. We saw at the beginning of the development of apprenticeships how young people felt that this was an important way to develop their skills and career prospects. For young people, it meant no student debt and more experience—20% on study and the rest on practical training—but in recent years, we have seen a massive decline in apprenticeships for young people, not just because of Covid. Current rates of employer-funded training for 16 and 17 year-olds are at their lowest levels since the 1980s. Just 3% of young people took up an apprenticeship in 2020 and only 2% of those were employer-funded training: it is almost back to the future.

Obviously, the pandemic and staying in education has had an effect, but the IFS concluded that there are fewer policy reforms or initiatives to arrest that decline in work experience among 16 to 17 year-olds. That is the area that we need to talk about, to look at and to be flexible about. Apprenticeship, like other routes of technical education, suffers from entrenched negative perceptions, biases and stereotypes in comparison to an academic route. Apprenticeship providers of high quality that lead to high earnings and better employment outcomes need to be stressed.

The Government have set a target that all public bodies should take on 250 apprenticeships with no age bracket, but the National Audit Office report found that employers were simply using money on existing professional development courses. Will the Government look again at how those targets might be honed more to young people because there is no age limit on them?

Of course, experienced workers should upskill or retrain, but apprenticeships should be prioritised for young people. The Government should look at employers and at receiving funds from the apprenticeship levy, using a substantial part of it on young people who began apprenticeships at levels 2 and 3, before the age of 25. We now need to refocus on the under 25s. We need to be ambitious, particularly with how we use the levy. The LGA—I declare an interest as a vice-president

—has asked for more flexibility, for example by allowing a proportion of levy funds to be used to subsidise apprenticeship wages.

As we have discussed before, any of the apprenticeship that is unused of course goes back to the Treasury. The Energy & Utilities Skills Partnership did a survey of its membership and found that 54% of the levy was unspent and going back to the Treasury. What a waste for the education sector and for skills and vocational education. Why are we allowing that to happen? We could unlock that logjam by ensuring that we use that money in more flexible ways—there are plenty of examples.

My amendment highlights the issue of young people from ethnic minority backgrounds, who, quite frankly, have not been taking up apprenticeship opportunities. We need to understand why, and how we can encourage them to do that. By being flexible, we can perhaps make that happen. I hope that Members will support this amendment.

Lord Aberdare (CB): My Lords, I have added my name to Amendment 34 of the noble Lord, Lord Storey, because of the key role that apprenticeships have to play in meeting the UK’s skills challenges, as pointed out earlier by my noble friend Lord Bird. However, as it stands, the policy is not working as well as it should or could, as pointed out by the noble Lord, Lord Adonis, and indeed the noble Lord, Lord Storey.

I was about to regale your Lordships with the results of a survey carried out by the energy and utilities sector, but that has already been done on my behalf, so noble Lords will be glad to hear that my speech will be even shorter. However, this illustrates that greater flexibility in the use of levy funds could actually increase the use of apprenticeships to deliver competences needed in that sector, for example through supporting pre-apprentice training initiatives in schools to increase the diversity and inclusiveness of new entrants.

Extra flexibility might allow some of the available levy funds to be used for approved high-quality shorter courses—less than one year long—or for apprenticeship-related costs outside the training itself, which might help in the perennial challenge of encouraging smaller firms to offer apprenticeships. This simple amendment merely gives the Secretary of State the power to request a much-needed review of the apprenticeship levy to ensure that it is working effectively in terms of the level of funding available for different apprenticeship standards and the opportunity to link policy on the levy more closely to other aspects of the overall skills programme. Even if the Government do not accept this amendment, I hope the Minister may say something about how they will respond to the widespread perception that the levy as it stands is not playing as effective a part in addressing the skills challenge as it should.

Baroness Chisholm of Owlpen (Con): My Lords, I am grateful for the opportunity to discuss apprenticeships. We have already heard from several noble Lords today about apprenticeships. They are at the heart of the Government’s skills ambitions—does the noble Lord want to speak?

Lord Watson of Invergowrie (Lab): I thank the noble Baroness. The time rumblings in certain areas are making us act a little less rationally. I will be very brief. I welcome the amendment tabled by the noble Lord, Lord Storey, and I am pleasantly surprised that the Public Bill Office accepted it and regarded it as within the scope of Bill. The levy does not merit a mention in the Bill, despite the Institute for Apprenticeships and Technical Education, which develops and approves the apprenticeships and technical qualifications of employers, being prominent in several clauses. However, here we are.

As the noble Lord, Lord Aberdare, said, apprenticeships are key to ensuring that Britain is equipped with a well-skilled workforce in the years ahead. It is a bit of a disappointment to some of us—certainly to me—that the scheme, which is a good idea, and the levy, which is an important way of ensuring that employers contribute to the costs of training, have yet to produce anything like the effects hoped for and, indeed, required. The number of young people taking apprenticeships is now down to something like 60,000—I am not quite sure. It has declined dramatically, and that is to be regretted.

When we debated this in Committee, I said to the noble Lord, Lord Storey, that I was happy to support the amendment but remained a bit unsure about using levy funds for any purpose other than apprenticeships. In his opening remarks, he said that it could perhaps be used to pay apprenticeship wages, and I am not sure whether that is different. I want to avoid a situation where the money goes back to the Treasury and disappears. As long as the unspent part of the levy was kept within apprenticeships, as it were, we would not be unhappy if it involved some support for wages. On that basis, I am happy to support the amendment. I hope that when we talk about apprenticeships again we will see an upturn in their fortunes. They have a very important contribution to make to the development of skills going ahead.

Baroness Chisholm of Owlpen (Con): I offer many apologies to the noble Lord, Lord Watson. It was so rude of me. I am afraid my tummy overtook my brain, not for the first time.

Apprenticeships are at the heart of the Government's skills ambition. Given Covid-19's impact on our economy, apprenticeships are as important as ever in helping businesses to recruit the right people and develop the skills they need.

I want to take a few minutes to outline the principles of the apprenticeship levy and funding as I think that will help to respond to some of the points made. The apprenticeship levy has put apprenticeship funding on a sustainable footing and means that this year £2.5 billion is available to support apprenticeships. The levy has been set at a level to fund apprenticeship training and assessment in all employers—both those who pay the levy and those who do not.

As my noble friend Lady Penn explained in Committee, the funds available to levy-paying employers through their apprenticeship service accounts

“are not the same ... as the Department for Education's ... apprenticeships budget.”—[*Official Report*, 15/7/21; col. 2025.]

This budget also funds additional payments made to employers and providers with apprentices aged 16 to 18. It funds the £3,000 incentive that can be claimed by employers hiring new apprentices. I should like to highlight to noble Lords that these incentives were recently extended by the Chancellor of the Exchequer until the end of January 2022, helping more employers to invest in apprenticeships as we recover from the pandemic.

This is one example showing that the apprenticeships programme is dynamic and responsive to both employers and the wider economic context. In addition, we are delivering a set of improvements and flexibilities that will make apprenticeships work better for employers in all sectors and give employers greater opportunities to make full use of their levy funds. Importantly, we also continue to listen to employers and adapt apprenticeships to better meet their needs. Work is under way to deliver a package of improvements which responds directly to employer feedback so that they can make greater use of the apprenticeship funds.

I think the noble Lord, Lord Storey, will be pleased to hear that, first, we are introducing a new service to make it easier for employers who pay the apprenticeship levy to transfer funds in their accounts to other employers. Large employers are able to pledge funds for transfers and other employers will be able to apply to receive these funds, helping both to benefit from transfers. Secondly, we are helping employers choose more innovative training models, such as front-loaded training and accelerated apprenticeships, which will help apprentices with relevant skills and experience to complete their training more quickly. Finally, we are supporting sectors of the economy which have more flexible working patterns, such as the creative industries. We will shortly launch a £7 million fund to help organisations in England set up and expand new flexi-job apprenticeship schemes.

I should also like to say a little about how we are supporting individuals into apprenticeships. We have introduced accelerated apprenticeships, which will reduce the duration of an apprenticeship for individuals coming from certain T-levels, skills boot camps and occupational traineeships where they have acquired substantial prior learning. This will join up skills opportunities and make them more appealing to both employers and individuals. We are undertaking the largest ever expansion of the traineeship programme for 16 to 24 year-olds, supporting more young people to move into apprenticeships and work. As over 30% of all traineeship starts are by learners from black, Asian and minority ethnic backgrounds, and over 20% of traineeship starts are from learners with learning difficulties or disabilities, our investment will also help to broaden diversity and inclusion. I hope the noble Lord will agree that there are some positive steps we are taking.

The noble Lord, Lord Storey, asked if the programme has shifted from older people. More than half—53%—of all apprenticeship starts continue to be by young people under the age of 25. This compares to 56% in 2015-16, prior to our reforms. As well as supporting young people into employment, it is important to recognise the role apprenticeships play in upskilling and reskilling people throughout their lifetimes. I hope I have made

the noble Lord, Lord Storey, happy with what I have said and that he will therefore feel comfortable withdrawing his amendment.

Lord Storey (LD): I think you have made Lord Storey very happy. I felt at one stage like I was in a sort of parallel universe when I was speaking—with people walking past, it was very strange. I reassure the noble Lord, Lord Watson, that I was not proposing that levy funds be used for wages. I was saying that we should be innovative in how we use the levy and that might mean increasing the amount of money we give to apprenticeships.

I was pleased to hear from the Minister about the package of improvements and new models of working. Flexibility is really important. We are all committed to the notion of apprenticeships, but we have to make the wider community and society realise how valuable they are. Maybe we could start in Parliament itself. I wonder how many apprenticeships for 16 to 24 year-olds there are in the House of Lords. Are there any? Perhaps not. Let us say straightaway that we will introduce some apprenticeships in our House. That would be a real start. I beg to withdraw this amendment.

Amendment 34 withdrawn.

Consideration on Report adjourned.

Regulation of Investigatory Powers (Criminal Conduct Authorisations) (Amendment) Order 2021

Motion to Regret

9 pm

Moved by Baroness D'Souza

That this House regrets that the Regulation of Investigatory Powers (Criminal Conduct Authorisations) (Amendment) Order 2021 (SI 2021/601) does not provide adequate safeguards on the actions of covert agents, as the Covert Human Intelligence Sources (Criminal Conduct) Act 2021 failed to include express limits on the crimes covert agents can commit; and calls on Her Majesty's Government to amend the Act to provide proper limits on, and oversight of, crimes committed by covert agents.

Relevant document: 4th Report from the Secondary Legislation Scrutiny Committee

Baroness D'Souza (CB): My Lords, I am very grateful that some noble Lords are still here. That is very nice. I make no apologies for returning to the Covert Human Intelligence Sources (Criminal Conduct) Act 2021, which was so thoroughly debated and amended in this House earlier this year. As I said while the Bill was passing through this House, I am truly happy that a previously secret process has been put on a statutory footing. That said, I also wish to have it on record that there remain serious gaps which would allow authorised agents to commit serious crimes with impunity. These gaps have not been adequately addressed in this regulation of investigatory powers statutory instrument and for this reason I have tabled this Motion.

The statutory instrument concerns requirements on the level of seniority for MI5 officers and those of other bodies who are authorised to sanction CHIS participation in crime and to record the criminal conduct authorised. The SI includes the crucial phrase

“including any parameters of the conduct authorised.”

I understand that these parameters will reflect only the conduct being authorised and will not include substantive limits on the crimes which may be committed. This, theoretically at least, enables involvement in serious abuses such as murder and/or torture.

The Government claim that, by introducing the requirement of recording any criminal authorisations, limits are effectively set on the crimes in which the CHIS Act may be involved. However, without hard limits there is nothing to ensure that the criminal conduct authorised does not itself involve abuses. As such, the SI is to my mind incomplete.

The point was argued at several stages during the passage of the CHIS Bill. Despite earnest pleas to tighten up the named crimes, as happens in countries such as Canada and the USA, the Government declined to do so. The argument put forward by the Government that defining more closely forbidden criminal actions, including murder and torture, would represent a risk of exposure to those working under deep cover is one that many other countries have rejected.

The Government are therefore asked once again to reconsider this SI and to include within it express statutory limits on the kind of criminal action that can be authorised. It is of course accepted that the mandatory application of finer points of the law in the potential context of immediate and present danger is a step too far. However, murder and torture are extremely serious crimes and as such need to be expressly forbidden. Furthermore, the fact that the phrase in question in this statutory instrument is left open, without express limits in the main Act, surely conveys the message that both murder and torture are, under certain circumstances, acceptable.

I welcomed the CHIS Act in so far as it placed the process of authorising criminal conduct on a statutory footing, as I said. However, a clearly stated prohibition under any circumstances of murder and/or torture would further assist in clarifying the operational environment and ensure that the UK upholds human rights laws. I beg to move.

Lord Paddick (LD): My Lords, we support the Motion to Regret moved by the noble Baroness, Lady D'Souza, to the extent that we too believe that this statutory instrument does not provide adequate safeguards on the actions of covert agents. However, we believe that the reason given by the noble Baroness in her Motion is not within the scope of the order. However, we feel that this House should regret the order because the authority level for authorising criminal conduct by covert human intelligence sources is not sufficiently high. Indeed, as was made clear in the Explanatory Memorandum, it is only at the same level as it would be if the CHIS were not participating in crime.

As we made clear during the passage of the Bill—now the Covert Human Intelligence Sources (Criminal

Conduct) Act 2021, which made the main part of this order necessary—we agree completely that there should be stronger safeguards surrounding the deployment of agents or informants in circumstances where they are permitted to commit crime. Agreeing with the noble Baroness, Lady D’Souza, we argued that there should be limitations on the crimes that covert agents can commit beyond the implicit Human Rights Act limitations. However, that issue was debated and decided on when this House considered the primary legislation. We did not win the argument. This statutory instrument does not impact on the types of criminal activity that an agent or informant can commit. We therefore consider that the noble Baroness’s justified concerns are not within the scope of the instrument.

We also maintain that there needs to be clear judicial oversight of such deployments to the extent that judicial commissioners should have the authority to prevent the deployment of—or, in urgent cases, to withdraw safely from deployment—agents or informants authorised by the police, the security services and other authorities to commit crime. Currently, there is a duty only to inform judicial commissioners within seven days of deployment, with no statutory mechanism for judicial commissioners to revoke the authority. Again, we debated this at length during the passage of the then Bill. We did not prevail in our insistence on these safeguards and the issue is not within the scope of this statutory instrument, but we feel that it is important to restate our position in this regard.

What is within the scope of this order, and what we do regret, is the authority level of the officer—particularly in the police—who can authorise an agent or informant to commit crime. In urgent cases this can be a police inspector. I was a police inspector at the age of 24. The Government may say that only specially trained inspectors can authorise the deployment of CHISs and that this will be written into the CHIS code of practice, but my understanding is that that is not contained in either primary or secondary legislation. Can the Minister confirm that it would not be unlawful for any police inspector to grant such an authority, even if it were against the code of practice? On that, the Explanatory Memorandum says that

“the formal process to update the Code is under way.”

Can the Minister confirm that, as this statutory instrument is already in force, these changes have already come into effect but the code of practice that underpins it is not yet in place?

The Explanatory Memorandum goes on to say:

“The updated Code will be subject to Parliamentary scrutiny upon the laying of an additional SI in due course”.

Can the Minister confirm whether this has happened, or when it is likely to take place? Will it be subject to the negative or affirmative procedure?

There is a world of difference between deploying an agent or informant benignly into a scenario and authorising that agent or informant to commit a crime; it is a degree of magnitude more serious, no matter what the crime is, yet the authority levels set out in this statutory instrument are the same as for a simple deployment with no authority to commit crime.

I refer back to the debates that we had during the passage of the original Bill. The noble Baroness,

Lady Manningham-Buller, referred to the impeccable and courageous agents deployed by the security services, perhaps conjuring up the image of James Bond in the public imagination. I contrasted this characterisation with the fact that most informants employed by the police are criminals. I would go further, and refer to the activities of undercover police officers that have recently been the subject of both a public inquiry and successful action in the courts.

The Government will say—indeed, the Minister said during debates on the Bill—that undercover officers would never be authorised to have sexual relations with activists. In an action brought against the Metropolitan Police Service and the National Police Chiefs’ Council, where the claimant successfully argued that her human rights—her right to freedom from inhuman and degrading treatment, her right to privacy and her right to freedom of expression—had been infringed, the Investigatory Powers Tribunal at the Royal Courts of Justice found:

“We are driven to the conclusion that either senior officers were quite extraordinarily naive, totally unquestioning or chose to turn a blind eye to conduct”—

sexual relationships—

“which was ... useful to the operation”.

According to the BBC report of the case dated 30 September, the tribunal also found that the failure of the Met and the NPCC to guard against the risk of undercover officers entering into sexual relationships with women amounted to unlawful discrimination against women. The tribunal concluded:

“Our findings that the authorisations”—

under the Regulation of Investigatory Powers Act 2000—

“were fatally flawed and the undercover operation could not be justified as ‘necessary in a democratic society’ revealed disturbing and lamentable failings at the most fundamental levels.”

This was not in the era of “Life on Mars”, when I joined the Metropolitan Police in the mid-1970s; this was this century. The officer concerned was not deployed undercover in connection with this case until 2003. This is not ancient history but at a time when the current commissioner and I were both senior Metropolitan Police officers, although neither of us had anything whatever to do with the case that I am describing. I am simply making the point that the senior officer in charge of the Metropolitan Police today was a senior officer in the Metropolitan Police when this happened, in terms of temporal proximity. The Government cannot say with confidence that that was a long time ago and the officers around at that time, who oversaw undercover officers and allowed that sort of thing to happen, are no longer serving.

Trust and confidence in the police have been severely undermined by recent events, as the Government have themselves admitted, yet here we are, allowing relatively junior police officers to authorise criminals and undercover police officers to commit crime with ineffective judicial oversight. The authority levels, as set out in this statutory instrument, are too low, the range of offences that agents and informants can commit is too wide, and the judicial oversight is not stringent enough. The Government are asking us to trust the police to authorise criminals to commit crime by passing this statutory instrument into law, while at the same time telling the public not

to trust police officers, particularly lone male officers in plain clothes. We regret this statutory instrument for the reasons that I have set out.

9.15 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, I thank the noble Baroness for tabling this regret Motion for debate today. It brings the House back to the detailed, thoughtful and vital discussions which were held on what is now the Act during its passage earlier this year.

The first priority of any Government, and of this Opposition, is to ensure the safety and security of our communities. We pay tribute to those who serve honourably and put themselves in harm's way to protect us, and to prevent and disrupt serious criminal activity. The Act addresses the necessary, though difficult, use of covert human intelligence sources to combat serious crime. The key purpose was to place the authorisation of CHIS activity on a statutory footing, where previously there was not that underpinning. The version of the Act which was passed was not the draft that a Labour Government would have passed but we did support it, as urgently needed legislation which created that statutory footing and contained some improvements on the status quo.

I recognise the significant contribution that this House made to improving the Act as it passed through Parliament, including securing extra protections for children and vulnerable people, ensuring access to compensation for innocent victims, and increasing oversight mechanisms. I pay particular tribute to the noble Lord, Lord Anderson of Ipswich, for his work on securing notification of all authorisations to the Investigatory Powers Commissioner, providing real-time oversight by the IPC.

The order about which today's Motion is tabled makes a series of changes in secondary legislation which are consequential to the Act. They include: updating requirements to keep records of authorisations granted under the Act, extending some existing safeguards on matters subject to legal privilege to the new authorisations, and updating the designations of the rank of a person able to grant an authorisation with a public authority. Here I should say that I listened with great interest to what the noble Lord, Lord Paddick, said about the relative seniority of police officers needed for particular authorisations. I look forward to the Minister's response to the questions which he raised.

The Motion, however, deals with a wider issue which was debated as part of our deliberation on the then Bill. During its passage, colleagues from across the House sought a wide array of improvements to the Bill. The Labour Party particularly sought for the Government to look seriously at the possibility of prior judicial authorisation as a gold standard. We also tabled amendments in the Commons and supported amendments in this House, including those tabled by the noble Baroness, Lady D'Souza, on the key issues raised in today's Motion. These were changes which would have put explicit limits on the type of activity that could be authorised on the face of the Bill itself. As a House, this was one of the issues we sent back to the Commons for further consideration, although we were ultimately unsuccessful.

The Human Rights Act is a proud achievement of the previous Labour Government. It provides safeguards to this Act and to all public authorities that take action under it. Adding explicit limits to the face of the Bill would, though, have provided clarity and reassurance, and positioned the protection of human rights as an integral part of this package. But as the noble Lord, Lord Paddick, said, this argument was had and lost when the Bill was before Parliament.

As has been well rehearsed, the inclusion of limits has been modelled by countries which are our allies and have similar judicial systems to ours, and with which we co-operate on security matters: Canada is the obvious example, a point made by the noble Baroness, Lady D'Souza. While those countries are able to do this, these Benches and our Commons colleagues remained unconvinced by the Government's argument that we could not.

I will be interested to hear the Minister's response to the questions put to her by noble Lords across the House today, particularly on what ongoing monitoring there will be of the operation of the Act and whether amendments of any kind are required. Specifically, will oversight of the Act be led by the IPC's oversight of the practical arrangements? Presumably, any concerns which could be raised will be addressed by the IPC.

Lord Mackay of Clashfern (Con): My Lords, it is worth reminding ourselves that the original Bill contained a restriction in relation to the Human Rights Act. The person operating under this Bill with authority will operate on behalf of Her Majesty's Government and will therefore be bound by the authority of the Human Rights Act in relation to the activities which they can undertake. That is an important consideration which was raised in the debate on the Bill.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the CHIS Act was the final Act on which my right honourable friend James Brokenshire and I worked. I know noble Lords will agree on several aspects of how we worked; we engaged extensively across both Houses, and we saw compliance with the Human Rights Act as central to the Bill—as my noble and learned friend Lord Mackay just mentioned—and safeguards as incredibly important to it. As an earlier speaker said, it puts beyond legal doubt the deployment of CHIS for criminal activity.

The SI on which the noble Baroness bases her Motion to Regret passed unopposed and, as the noble Lord, Lord Paddick, said, is not in scope of this Motion. That aside, noble Lords will recognise some of the points I am about to make from the extensive debates that took place when the Covert Human Intelligence Sources (Criminal Conduct) Act passed through the House earlier this year.

The passage of the Act provided significant opportunity for noble Lords to discuss and put forward amendments to the oversight regime for this power. Noble Lords will recall the collaborative approach we took in responding to the amendments. That included strengthening the oversight of the activity by accepting the amendment from the noble Lords, Lord Anderson—I join the noble Lord, Lord Ponsonby, in paying tribute to him—Lord Rosser and Lord Butler, and my noble

and learned friend Lord Mackay, which provided real-time independent oversight of every authorisation by the Investigatory Powers Commissioner. We have a robust oversight regime in place with significant internal and external safeguards to make sure that every authorisation is necessary for and proportionate to the purpose for which it is sought.

The noble Lords, Lord Paddick and Lord Ponsonby, talked about the seniority of authorising agents. They must be appropriately trained, as I said during the passage of the Bill, and of the necessary rank. Public authorities all have their own training processes in place for their authorising officers to reflect the specialist remit in which they operate. IPCO will identify whether any public body is failing to train and assess its officers to the sufficiently high standard necessary for this very specialist type of activity.

The other matter, raised by the noble Baroness, Lady D'Souza, and referred to by the noble Lord, Lord Ponsonby, was limits and, following on from that, practices in other countries. We debated this point extensively during the passage of the Act and voted on it but let me again state that the limits on what could be authorised under the Bill are provided by the requirement for all authorisations to be necessary and proportionate and for authorisations to be compliant with the Human Rights Act. Nothing in the Act seeks to undermine these safeguards and every authorisation will be considered by the independent Investigatory Powers Commissioner, who will be able to ensure that this is always the case. However, on numerous occasions we went over the point that to explicitly place limits in the public domain risks creating a checklist for terrorist organisations to test for suspected CHIS and doing so would put not only the safety of the public at risk but the safety of the CHIS.

In response to the concern that the Government are seeking to repeal the Human Rights Act, let me be clear that the Government are committed to human rights and will continue to champion them at home and abroad. The Government remain a signatory to the ECHR, which provides for the right to life and the prohibition of torture or inhuman or degrading treatment or punishment. The requirement for an authorisation to be necessary and proportionate further limits the activities which can be authorised under this Act.

To address the point made by the noble Lord, Lord Ponsonby, regarding the comparative position in other jurisdictions, it is unhelpful to compare the UK legislation with that of other countries because each country has its own unique laws, public authorities and, crucially, threat picture. We know that CHIS testing takes place in the UK, particularly in relation to the unique challenges that we face in Northern Ireland, and it is important that we legislate for the particular circumstances in which we need our operational partners to operate in order to keep the public safe. I emphasise that our advice on this issue is based solely on the advice of operational partners, and I hope that noble Lords place the same weight that the Government have on their assessment of this issue.

The noble Lord, Lord Paddick, talked about the undercover policing inquiry and the separate recent ruling of the IPT. I have repeatedly made it clear to

this House, as he referenced, that the conduct that is the subject of the inquiry was completely unacceptable and should not have taken place. It is never acceptable for an undercover operative to form an intimate sexual relationship with those whom they are employed to infiltrate and target or may encounter during their deployment. That conduct will never be authorised, nor must it ever be used as a tactic of a deployment. Nothing in this Act changes that. The noble Lord quoted from the IPT's judgment that the authorisations made under RIPA were fatally flawed, but the court did not find that the entire CHIS regime under the Regulation of Investigatory Powers Act breached article 8.2 of the ECHR. It invited the UCPI to draw its own conclusions. The tribunal is still to hold a remedies hearing in light of the findings.

There are now much more stringent safeguards in place to guard against these mistakes being repeated. In 2014, the Regulation of Investigatory Powers (Covert Human Intelligence Sources: Relevant Sources) Order 2013 came into force. The order applies enhanced safeguards to authorisations for long-term undercover operatives from policing or other law enforcement agencies. This includes a higher rank of authorising officer than for other CHIS and greater oversight by the Investigatory Powers Commissioner.

To answer the question asked by the noble Lord, Lord Ponsonby, all the changes were brought about to address specific concerns that were raised about law enforcement undercover deployments. They have been tested in the operational and judicial environment over the last six years and we think that they are robust and fit for purpose.

9.30 pm

The noble Lords, Lord Paddick and Lord Ponsonby, talked about the oversight arrangements—the noble Lord, Lord Ponsonby, specifically on the pre-approval of a judge. That is another point debated extensively during the passage of the Act and the Government believe that Parliament has agreed that the oversight provided by the Act strikes the right balance in ensuring that appropriate safeguards are in place and that decision-making sits with the operational officers best placed to assess the legal and operational environment. The balance also provides the agility for officers to respond to live and often dangerous operational environments. I have spoken extensively about the range of safeguards and oversight in place, both within public authorities and through the IPC and Intelligence and Security Committee. It is a robust oversight regime.

Finally, in answer to the question of the noble Lord, Lord Paddick, I take the opportunity to confirm to noble Lords, as I committed to during the passage of the Act, that the Government will shortly be consulting on that revised code of practice, which will further set out the processes underpinning the activity. I encourage all noble Lords to contribute to that process. The Government will approach the consultation in the collaborative manner in which I hope all noble Lords can agree that we approached the passage of the Act and I hope I have approached the debate today.

Lord Paddick (LD): Can the noble Baroness address the question that I raised of whether it would be

unlawful for an inspector who was not trained to authorise a CHIS to commit crime? If she is unable to do that this evening from the Dispatch Box, perhaps she could write to me.

Baroness Williams of Trafford (Con): As I said during my response to the debate, the officers who authorise are trained but the noble Lord is now getting into the area of rank and asking whether the authorising officer would have to be an inspector or above as well as trained. Rather than guess what the right answer might be, I shall write to him on that point of clarification.

Baroness D'Souza (CB): My Lords, I thank the Minister and all those who have contributed to this debate warmly for their response.

I had not expected there to be a Damascene conversion in the past 30 minutes or so. However, I maintain that the SI as it stands is incomplete and find it difficult to understand why it is possible, for example, to talk about sexual abuse but not mention murder or torture. It rather looks as though the Act and the SI exclusively allow murder or torture as crimes that can be committed by covert agents.

The noble Lord, Lord Paddick, talked about the transgressions of policemen and questioned the rank

of those who could authorise people to commit crime. That underlines the issue that I have mentioned, which is that sexual transgressions take place in the mood of the moment and are extremely serious. But so are murder and torture. It seems odd that it was difficult to mention that in the Act or the SI. The noble and learned Lord, Lord Mackay, reminds us, rightly, that any authorising agent must abide by the Human Rights Act. But there again, if it is a question of abiding by that Act, what is the difficulty in mentioning serious crimes such as torture and murder? It therefore seems that there is reluctance on the Government's part to circumscribe the kind of crimes that can be committed within the CHIS Act. I wanted to put that on the record because I fear that the matter is unclear and the lack of clarity will have adverse consequences in the long run.

I nevertheless thank the Minister for patiently going over ground that we have covered at length previously, but it is worth taking a stand on this SI. We so rarely get an opportunity to really discuss SIs on the Floor of this House and it is important to do so. Meanwhile, I beg leave to withdraw the Motion.

Motion withdrawn.

House adjourned at 9.35 pm.