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Public Bill Committee

EDUCATION BILL

Fourteenth Sitting

Tuesday 22 March 2011

(Afternoon)

CONTENTS

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Saturday 26 March 2011

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Mr Charles Walker, †Hywel Williams

† Boles, Nick *(Grantham and Stamford)* (Con)
† Brennan, Kevin *(Cardiff West)* (Lab)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Duddridge, James *(Lord Commissioner of Her Majesty's Treasury)*
† Durkan, Mark *(Foyle)* (SDLP)
† Fuller, Richard *(Bedford)* (Con)
† Gibb, Mr Nick *(Minister of State, Department for Education)*
† Glass, Pat *(North West Durham)* (Lab)
† Gyimah, Mr Sam *(East Surrey)* (Con)
† Hayes, Mr John *(Minister for Further Education, Skills and Lifelong Learning)*
† Hendrick, Mark *(Preston)* (Lab/Co-op)
† Hilling, Julie *(Bolton West)* (Lab)
† McPartland, Stephen *(Stevenage)* (Con)
† Munn, Meg *(Sheffield, Heeley)* (Lab/Co-op)
† Munt, Tessa *(Wells)* (LD)
† Rogerson, Dan *(North Cornwall)* (LD)
† Stuart, Mr Graham *(Beverley and Holderness)* (Con)
† Wright, Mr Iain *(Hartlepool)* (Lab)

Sarah Thatcher, Richard Ward, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 22 March 2011

(Afternoon)

[Hywel Williams *in the Chair*]

Education Bill

Clause 13

Restrictions on reporting alleged offences by teachers

Amendment proposed (this day): 89, in clause 13, page 19, line 35, after 'teacher', insert 'or other member of staff'.—*(Kevin Brennan.)*

4 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following: amendment 85, in clause 13, page 19, line 35, after 'school', insert

'or at a sixth form college or at a college of further education'.

Amendment 86, in clause 13, page 19, line 40, at end insert

'or made by or on behalf of a former registered pupil at the school'.

Amendment 90, in clause 13, page 20, line 2, leave out 'as the teacher'.

Amendment 61, in clause 13, page 20, line 27, at end insert—

'(10A) The Secretary of State may by order amend this section to include all staff, or a description of staff, working in schools and institutions of further education.'.

Amendment 91, in clause 13, page 20, line 39, after 'teacher', insert 'or other member of staff'.

New clause 5—*Restrictions on reporting alleged offences by Further Education lecturers*

'In Part 8 of EA 2002 (teachers), after section 136 insert—

"Allegations of offences committed by teachers in further education institutions in England and Wales: reporting restrictions

136A Restrictions on reporting alleged offences by teachers in further education institutions

'(1) This section applies where a person who is employed or engaged as a teacher at a further education institution is the subject of an allegation falling within subsection (2).

(2) An allegation falls within this subsection if—

(a) it is an allegation that the person is guilty of a relevant criminal offence and

(b) it is made by or on behalf of a registered student aged 17 or under at the institution.

(3) No matter relating to the person is to be included in any publication if it is likely to lead members of the public to identify the person as the teacher who is the subject of the allegation.

(4) Any person may make an application to an appropriate criminal court for an order dispensing with the restrictions imposed by subsection (3).

(5) The court may make an order dispensing with the restrictions, to the extent specified in the order, if it is satisfied that it is in the interests of justice to do so, having regard to the welfare of the person who is the subject of the allegation.

(6) The power under subsection (5) of a magistrates' court may be exercised by a single justice.

(7) In the case of a decision of a magistrates' court to make or refuse to make an order under subsection (5), a person mentioned in subsection (8) may, in accordance with Criminal Procedure Rules—

(a) appeal to the Crown Court against the decision, or

(b) appear or be represented at the hearing of such an appeal.

(8) The persons referred to in subsection (7) are—

(a) a person who was a party to the proceedings on the application for the order;

(b) any other person with the leave of the Crown Court.

(9) On an appeal under subsection (7), the Crown Court may—

(a) make such an order as is necessary to give effect to its determination of the appeal, and

(b) make such incidental or consequential orders as appear to it to be just.

(10) The restrictions in subsection (3) cease to apply once there are proceedings in a court in respect of the offence.

(11) In this section—

"appropriate criminal court" means any court in England or Wales which has any jurisdiction in, or in relation to, any criminal proceedings.

"publication" includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose, every relevant programme shall be taken to be so addressed), but does not include an indictment or other document prepared for use in particular legal proceedings;

"relevant criminal offence", in relation to a person employed or engaged as a teacher or lecturer at a further education institution, means an offence against the law of England and Wales where the victim of the offence is a registered student at the institution;

"relevant programme" means a programme included in a programme service, within the meaning of the Broadcasting Act 1990.

"further education institution" means an institution within the further education sector (within the meaning given by section 91(3)(a) to (c) of the Further and Higher Education Act 1992).

136B Offence of breach of reporting restrictions

'(1) This section applies if a publication includes any matter in breach of section 136A(3).

(2) Where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical is guilty of an offence.

(3) Where the publication is a programme included in a programme service (within the meaning of the Broadcasting Act 1990), the following are guilty of an offence—

(a) anybody corporate engaged in providing the programme service in which the programme is included, and

(b) any person having functions in relation to the programme corresponding to those of an editor of a newspaper.

(4) In the case of any other publication, any person publishing it is guilty of an offence.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) If an offence committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of, or

(b) to be attributable to any neglect on the part of, an officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) In subsection (6) "officer" means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(8) If the affairs of a body corporate are managed by its members, "director" in subsection (7) means a member of that body.

136C Defences

'(1) Where a person is charged with an offence under section 136B, it is a defence for the person to prove any of the matters mentioned in subsection (2).

(2) The matters are—

(a) that, at the time of the alleged offence, the person was not away, and neither suspected nor had reason to suspect, that the publications included the matter in question;

(b) that, at the time of the alleged offence, the person was not aware, and neither suspected nor had reason to suspect, the allegation in question had been made;

(c) that the person who is the subject of the allegation had given written consent to the inclusion of the matter in question in the publication.

(3) Written consent is not a defence if it is proved that any person interfered unreasonably with the peace or comfort of the person giving the consent, with intent to obtain it.".'.

Julie Hilling (Bolton West) (Lab): I was cut off so cruelly in the middle of my speech that I am tempted to start again just in case anyone has forgotten what I was saying or, indeed, for your benefit, Mr Williams. However, hon. Members will be relieved to know that I will resist the temptation.

As I was saying, anonymity is crucial for all staff working in schools. Someone does not have to be a teacher to have their career, their family life and, indeed, their whole life destroyed by false allegations. Why should greater protection be given to teachers when other staff are even more vulnerable to accusations—for example, staff who are doing personal care, such as toileting children and young people; staff who are working one-to-one; and staff who are working outside the classroom? Of course, the teaching unions and professionals working in schools agree with us. Schools are places where teams of people work together, and they should all be afforded the same protection.

This is not just an issue for schools; it is an issue for sixth-form colleges and colleges of further education. The settings may be different, but the issues remain the same. As was said earlier, we have many young people of statutory school age studying in colleges of further education. There are also young people of ages at which they can misread the actions of staff and feel slighted when they are rebuffed—a situation in which allegations of improper behaviour are liable to occur. I truly believe that the amendments will strengthen the Bill and I cannot see why the Government would not agree. I therefore hope that they will be bold and accept the amendments, which would protect all staff in all institutions.

Meg Munn (Sheffield, Heeley) (Lab/Co-op): I want to talk to these amendments because, like my colleagues, I am keen to understand the purpose of these clause overall and why they have been drafted as they have. Clearly, one of the issues we have been looking at in more detail is why teachers are mentioned and not other members of staff. However, I would also like the Minister to say a bit more about the justification for proposals that appear to be quite wide in terms of their long-term implications.

I have been doing a bit of research online and I have not been able to find very easily in the press or the media any examples of someone who was named ahead of a court process or something similar. I am not saying that it does not happen, but I am not aware of that being a particular concern. I understand entirely the issues that hon. Members from all parties are concerned about in terms of staff members having an allegation made against them spuriously and in a way that has significant implications for the person concerned. However, I would like to understand how the Minister sees the measure working and the kind of issues that it will affect. I am also more widely concerned—

The Chair: Order. I understand that the hon. Lady has asked for a stand part debate later on. If you are going to address the clause broadly, perhaps you could confine yourself now to the nature of this particular amendment.

Meg Munn: I am entirely happy to do so, Mr Williams. In fact, as you were not here earlier, I should say that I asked at the time whether there would be a clause stand part debate. I was told that that would depend, so I am obviously concerned not to lose the opportunity to raise matters that are of considerable concern. However, on that basis, I am happy to leave the issue here. I want to understand the way in which the clauses proposed by the Government will work. We need to understand in a lot more detail the points raised by my hon. Friends about why the measure is limited to teachers and does not include the whole work force within schools.

Mr Graham Stuart (Beverley and Holderness) (Con): It is a pleasure to take part in this debate, Mr Williams. I will speak primarily about new clause 5, which has been grouped with clause 13. New clause 5 would include further education lecturers in the restrictions on reporting alleged offences by teachers. As we know, clause 13 gives teachers accused of a criminal offence the right to anonymity until they are charged with a crime. Such protection is in line with the recommendation in the Government's White Paper, which makes it clear that once they are made public, even false allegations can end a teacher's career.

My new clause would extend that protection to further education lecturers, who should, as hon. Members have said in interventions, be entitled to the same safeguards as teachers in schools. I do not believe that treating education professionals differently in that regard makes any sense when we consider that 63,000 young people aged 14 to 15 spend one day a week or more studying or training in a college and the rest of the week in school. Some thousands of young people of 14 and 15 attend colleges full-time. Why should teachers and schools be given such protection while those teaching the same students in a college are not?

[Mr Graham Stuart]

When providing evidence to the Committee, Liz Logie, the head teacher of Beaumont Leys school, and Sally Coates, principal of Burlington Danes academy, both fully supported the anonymity provisions in the Bill. Liz Logie said:

"I certainly agree completely with teacher anonymity. Anything that can stop mischievous accusations is really important. That is almost a no-brainer. I completely support it."

Sally Coates added:

"I also totally concur with teacher anonymity, because it is very easy to make accusations just because you have had an argument or you have a grudge against somebody. The teacher's career could then be ruined by something that is completely false."—[*Official Report, Education Public Bill Committee,* 1 March 2011; c. 44, Q89.]

The 140,000 teachers and lecturers working in FE and sixth-form colleges accept the same risks in the classroom as teachers in schools, and they should be extended the same protections, perhaps even more so because they deal with older students, which may make the issue—

Mark Hendrick (Preston) (Lab/Co-op): I thank the Chairman of the Select Committee for giving way. As a former FE teacher, I have personal experience of being accused of misconduct that fell far short of anything that could be considered criminal. Is he suggesting anonymity as far as criminal allegations are concerned, or anonymity for teachers accused of any misconduct?

Mr Stuart: I was proposing that exactly the same provisions that affect schoolteachers should be extended to those who teach in almost precisely the same way in FE colleges. As we have discussed during this debate, I am delighted that the Government have agreed to allow FE teachers to teach in schools on an equal basis, and it seems unreasonable, if such protection exists for schoolteachers, not to extend it to FE. I am delighted that there will be a stand part debate, as I will want to return to the overall principle.

The Minister of State, Department for Education (Mr Nick Gibb): Just to clarify, the provisions relate only to criminal offences. The kinds of allegation made against children, for the purposes of the anonymity, are those that would carry a criminal charge if proven correct. It is those that are covered in the clause, not any other lesser accusations.

Mr Stuart: During the stand part debate, I will seek to return to the issue of principle. My reaction, and the Select Committee's, to the proposals in the White Paper before we saw the Bill was to think that the measures seemed like a sensible, proportionate safeguard to defend teachers. We talked earlier today about the importance of raising teachers' status and professionalism.

The Minister for Further Education, Skills and Lifelong Learning (Mr John Hayes): I assure my hon. Friend, the distinguished Chairman of the Select Committee, that I am not unsympathetic to this argument about FE, and we will listen to representations. However, the Government are moving ahead with appropriate caution. As my hon. Friend the Minister of State will doubtless say, we hope to take a measured approach. However, as Minister with responsibility for FE, I can say that we are not unsympathetic to the argument, and that we will listen to evidence.

Mr Stuart: I appreciate that intervention, and I sure that the sector will do so. I know that, like me, the Minister is determined to raise the status not only of teachers but of further education colleges, given the tremendous contribution that they make to the nation's education. We should do all that we can do to ensure the status of those who teach in those colleges. The performance of FE colleges is making a great difference to people young and old, and that should be recognised. I know that my hon. Friend shares that enthusiasm.

Kevin Brennan (Cardiff West) (Lab): I support what the Chairman of the Select Committee said about clause stand part, although that should be a matter for you, Mr Williams. However, fundamental issues of principle that concern him need to be aired in Committee, particularly in relation to concerns of the Newspaper Society and others about freedom of speech and so on.

The Schools Minister perhaps meant to speak of allegations against teachers rather than against children. I wonder whether it might be appropriate to say so for the record.

Mr Gibb *indicated assent.*

Kevin Brennan: I see that the Minister is nodding.

Mr Stuart: That is confirmed by a definite "Yes" from the Minister. I shall leave further comment until we come to the stand part debate.

Various other amendments look to extend the provision, as in the submission of the Newspaper Society, which is worth a closer read. It suggests that the provisions may easily spread. Indeed, I am only too well aware that my new clause seeks to do precisely that.

Mr Gibb: Welcome back to the Chair, Mr Williams.

I feel slightly hard done by with this debate, and I am sure that my hon. Friends feel just a tad like that. For six years, a number of Conservative members of the Committee have been campaigning for such a provision to be made statutory in order to give teachers anonymity. It was included in the 2005 Conservative party manifesto, but Labour Members, who are clamouring for more, supported a Government who did not introduce any such provision in those six years. I do not want to make a partisan point—*[Interruption.]* I shall address the specific issues raised in the debate, but I simply say that the best should not be the enemy of the good.

As my hon. Friend said, we are taking a proportionate approach, and I believe that we have the right balance. Having said that, I welcome the support expressed by the Committee for the general principle of protecting teachers in school. The decision to introduce the provisions of clause 13 was not taken lightly. The legislation balances carefully the need to protect the rights and reputations of teachers against the importance of protecting the freedom of the press to report on matters of public interest. I am sure that the Committee will agree that it is a sensitive matter.

I think that there is a broad consensus in the room about the rationale for providing protection for teachers against false allegations. Teachers are lead professionals, being responsible for the discipline of pupils in the classroom and the school. On occasion, that includes the need to use reasonable force to prevent pupils from committing criminal offences, injuring themselves or others, or damaging property, in order to maintain good order and discipline. The increased vulnerability of teachers requires increased protection.

The perception among a small minority of children is that they can make false accusations without any thought to the consequences for the teachers concerned. The reputational damage to teachers of being named in the press before ever being charged with an offence can destroy careers, even when they are later exonerated. Teachers are special in that they have a clear leadership role in the classroom, and that is where we want to get to grips with behaviour.

Meg Munn: I have been looking at the evidence. Does the Minister have any evidence of teachers being named in the press ahead of being charged?

Mr Gibb: I shall come to that point. There is evidence, and that is why we have gone this far and not as far as the hon. Lady and her hon. Friends would like. She is right to raise the point, but before I come to it I want to say why we need this protection for teachers in particular, because the evidence suggests it is teachers who are most affected, not other groups.

4.15 pm

Crucially, the rationale is supported by a range of evidence. The ATL conducted a survey in 2009, in which 50% of members questioned reported that they or a colleague had had a false allegation made against them. The general secretary of the ATL said:

"We are losing good teachers...We all accept the protection of children is paramount, but that should not be at the expense of natural justice."

In response to the Children, Schools and Families Committee investigation into allegations against school staff in 2009—I think my hon. Friend the Member for Beverley and Holderness was a member of that Committee—the NASUWT provided evidence showing that since 1991 the number of allegations had increased, and that the majority of allegations made against teachers were false or malicious.

Amendment 85 and new clause 5 seek to extend protection to lecturers in further education institutions, and amendment 85 also extends that to teachers in sixth-form colleges. Only a small number of sixth-form colleges are 16 to 19 maintained schools, as opposed to college corporations. Those that are maintained schools would be covered, along with those that are the sixth form of a school. All other sixth-form colleges are sixth-form college corporations, which is a form of FE institution—not a school—and therefore will not be covered. As my hon. Friend the Member for South Holland and The Deepings said in his timely intervention, we will consider any evidence that teachers in sixth-form colleges are facing the same behavioural challenges as in schools.

Pat Glass (North West Durham) (Lab): I think I heard the Minister say that ASCL carried out a survey in which 50% of teachers said that they or a friend had had an allegation made against them, and he also referenced the NASUWT. Both those organisation represent teachers but not other school staff. Just because they have not been asked does not mean that the situation does not exist. Have there been any surveys or attempts to find out how many non-qualified teachers have had allegations made against them?

Mr Gibb: The hon. Lady raises an important point. It was the ATL that carried out the survey. There were campaigns by the ATL and the NASUWT for many years, supported by *SecEd* magazine and the Conservative party when we were in opposition. We are concerned about the lack of evidence, and if it is forthcoming we are very happy to look again at whether we can do something, either in another Bill or in due course. It is very important that we have ample evidence, and at the moment we do not have that in sufficient quantities to enable us to take action, notwithstanding the important example raised by the hon. Member for Bolton West involving security staff. We are very sympathetic to individual cases cited, but there is not yet sufficient evidence of systemic problems to merit interfering with the freedom of the press. Therein lies the problem.

Pat Glass: I do not have evidence that I can present to the Committee, but I have been involved in many cases and in my experience these things are indiscriminate—pupils have made allegations against teachers and support staff. May I suggest that the Minister look at whether there is evidence, rather than just leaving things as they are?

Mr Gibb: We have asked other work force unions and they have not yet brought forward equivalent evidence in relation to non-teaching staff. It is very difficult and problematic to propose measures such as this, as the Labour party found in government. That is why we did not have such a clause in the Education and Skills Act 2008, the Apprenticeships, Skills, Children and Learning Act 2009, or the Education and Inspections Act 2006, all of which went through the House and a Committee such as this. Without the evidence, both an important press freedom and human rights legislation are curtailed. The evidence is important because it makes the issue proportionate. If it is difficult to cite more than one or two anecdotal cases, that does not give a Minister or the Government confidence that they are proceeding with the right degree of caution in respect of the wider law and the important freedoms.

Kevin Brennan: Would that concern not be covered if the Minister agreed to amendment 61, which would allow the Secretary of State to introduce new groups into the protection, as and when the evidence arose?

Mr Gibb: In that case, I will turn now to amendment 61, which would introduce an order-making power to allow the future extension of the provision in clause 13. Although the offer that the hon. Gentleman has made is tempting, on careful consideration I have decided to resist it because of the importance of the provision. It would be more appropriate for any such extension to be

[Mr Gibb]

made in primary legislation. Normally, the Opposition say that something should be in primary and not secondary legislation; this time they have moved the other way, and the Government are taking the view that it should be in primary legislation. That power would be an important curtailing of freedom and should therefore be introduced by primary legislation, along with the appropriate level of scrutiny and advance notice to the newspaper industry.

Amendment 86 seeks to extend the provision to include allegations made by former pupils. The extension would not be limited to those who had recently left the school but would cover any former pupil, as long as the teacher remained at the school. I recognise that there are examples in which such an extension would appear reasonable, but to cover allegations from such a potentially wide group of people would significantly increase the extent to which we restricted reporting. It is less relevant to the key issue that clause 13 is designed to address: supporting teachers in the classroom with day-to-day responsibility for the discipline of their current pupils.

Kevin Brennan: There does not seem to be a great deal of logic in the Minister's point. Is he saying that there is no evidence that allegations come from past pupils just as readily as from current ones, including those who have been excluded? Is he saying that teachers are unlikely to be suspended on the basis of such allegations, or that such allegations are less likely to be published if they are made by ex-pupils rather than current ones? I do not think that that is so, and it is certainly not borne out by the evidence we have received from stakeholders interested in the clause. Will the Minister develop his argument a little further?

Mr Gibb: Again, it is about being proportionate on a difficult issue that his Administration found too difficult to deal with. We have given it a lot of consideration and are proceeding extremely cautiously. I understand the point that excluded pupils are the kind of children who might well want to make an accusation against the teacher who caused their exclusion. However, given that we want to confine the provision to as narrow a range of episodes as possible, and that, in theory, it could be never-ending—a pupil remembers something that happened x years ago—we felt that, because the clause is designed to tackle discipline in the classroom, it was better at the moment to confine the provision to existing pupils.

Meg Munn: I am now going to argue against my own side. If I understand the Minister correctly, the situation is that false allegations are more likely to arise in response to an existing situation, and that a pupil who left some years previously would be less likely to make a false allegation—they might raise an issue related to abuse that happened when they were a pupil. The circumstances, therefore, are entirely different.

Mr Gibb: The hon. Lady makes the case better than I did. She is right—these are very difficult issues and there is no definitive answer. It is about being proportionate and cautious in how we proceed with what is a restriction on press freedom.

On the FE sector, and expanding on what my hon. Friend the Member for South Holland and The Deepings said, the Department has commissioned a survey to look at the day-to-day experiences of how allegations are handled in schools and local authorities. That research on support staff and the FE sector will begin at the end of March and finish by the end of August. We are taking that step, and dealing with the measure, very cautiously.

The hon. Member for North West Durham made a point about child protection and safeguarding. The fact that an allegation made against a teacher will not be publicised should not affect how it is handled by the school and the police, who will still take seriously any such allegations and investigate them fully. Schools already have a statutory safeguarding duty. They have a nominated child protection lead, and all staff receive child protection training. While it is important that we give teachers the right protection from false allegations, there is absolutely no debate about the fact that genuine victims of physical, sexual or emotional abuse must be able to disclose the abuse they have suffered, and the perpetrators must be brought to justice.

Mr Stuart: I wonder whether clause 13 is as the Minister describes in its effect on the police. Surely, the police would have to seek a court order in order to send out an appeal to alert the public that an investigation was under way, so that other victims could come forward and make a report. That is what often happens. The big issue about anonymity in rape cases, as to whether it is only through publicity—

The Chair: Order. The hon. Gentleman is taking the debate rather further than the terms of the amendments. Perhaps the Minister could confine himself to responding within those terms.

Mr Gibb: I will confine myself to the amendments. The anonymity and protection against reporting applies only up until the point when the teacher is charged. The moment of being charged is, of course, when the police can advertise for any other instances of that case. There is an argument for keeping protection until the point of conviction, and that would lead to the problems highlighted by my hon. Friend.

We have the balance right as the clause is drafted. It relates only to criminal offences and only at the point of charging; it is only for existing pupils and only for teachers with the responsibility of a classroom. Of course, we will continue to look at the evidence—I have given that commitment today—from the support staff trade unions, the wider children's work force and the FE sector, to see what we can do in future to help those staff, too, if the evidence presented demonstrates a pressing need to do so. With that, I ask the hon. Member for Cardiff West to withdraw his amendment.

Kevin Brennan: I acknowledge, as the Minister said, that this is a difficult issue. As we have discussed before, I suspect that he finds it more difficult in government than he did when he was in opposition. I am sure that that is a reason why previous Ministers did not legislate on this issue. He is legislating in a limited way, and in a

cautious way, as he put it. The issue raises fundamental questions about freedom of speech, press freedom and so on. I accept that there is a difficult balance to be drawn. It could be argued, by singling out a particular group of professionals for this kind of protection, that we are crossing a boundary into an area that impinges on freedom of speech and of reporting. There may be some contributions that try to tease that out in the clause stand part debate. I am fairly sure that, as the Bill progresses in the months ahead and as the autumn leaves begin to fall—the Committee stage will be over by then I hasten to add—and as it reaches the other place and perhaps comes back to us at some stage, the clause may, in all seriousness, attract the attention of people more erudite and noble than ourselves, who may have a particular interest in its implications. There may well be further debate on the difficulty of the measure and its implications for freedom of speech, freedom of expression, newspaper freedom and so on.

4.30 pm

I understand the Minister's dilemma, as he made a pledge over many years that he wants to fulfil, but, having looked at it in detail and having examined all the advice, he perhaps understands why it was filed in the too-difficult-for-now box for quite a while by the previous Government. It was no more than that, because there are real issues to tease out and to try and solve. I hope that he has got it right in the proposals.

Nevertheless, as I said at the outset, the Opposition are in favour of trying to give teachers and professionals protection from false allegations and their reporting. I welcome the work that the Minister is having done on the way in which allegations are investigated, which is timely and appropriate. Such things should be investigated much more quickly. Teachers should not have their lives and careers put on hold and left under a cloud—to mix too many metaphors—for a long time while the allegations, which could often easily be disposed of, are investigated. I offer the Minister the Opposition's support for that work.

I am, however, a little concerned. I can perhaps understand why the Minister is resisting, at this stage, our extending the measure further in the Bill to offer protection to other members of staff in schools. It is a little less clear, however, why he is reluctant to extend it to teachers in other institutions, such as sixth-form colleges, which are technically designated as part of the FE sector, but to all intents and purposes they are similar institutions to sixth forms in schools and to sixth-form colleges that are designated as maintained schools. That is a bit trickier to understand. If he is prepared to acknowledge the status of qualified FE teachers as equivalent to that of teachers in maintained schools with qualified teacher status, do they not deserve the same protection? Outside the Committee, it will be hard for people representing those professionals and the professionals themselves to understand why they are not being afforded the same protection afforded to teachers more broadly, but I understand his caution.

The Minister rightly identified amendment 61 as an offer from the Opposition. We do not normally go around saying, "Why don't you do this in regulations? Fill your boots, get on with it and make whatever laws you want," but on this occasion there is a case, and the Minister made it himself. He is sympathetic—the White Paper said this, too—to the extension of the protection to other professionals, but he is just not sure that he has sufficient evidence at this point to justify it. His reaction to that is to wait for another suitable vehicle of primary legislation to come along. If the evidence emerges that this protection should be afforded to the other professionals and members of staff we are talking about, when will an appropriate piece of legislation come along? *[Interruption.]* I think that the Chair of the Education Committee wants to intervene.

Mr Stuart: On that point, I sympathise with the Government's position. As we will discuss in the stand part debate, we are talking about limiting the freedom of the press. Therefore, to put in primary legislation the right for Government Ministers to infringe a basic liberty and foundation of our democracy, without first providing the evidence, would perhaps be the wrong thing to do. I think Ministers are showing due respect by refusing to take what on the face of it looks like an opportunity to fill their boots, as the shadow Minister says.

Kevin Brennan: I know that *Hansard* does not print irony in italics, but for the record, I should say that that phrase was meant in an ironic way. It was not meant to be taken literally and quoted out of context by anybody when they felt like it. *[Interruption.]* I can occasionally read the mind of the Chair of the Education Committee. The point I was making was that we could have parliamentary protection around that. For example, if further evidence were collected and examined by the Education Committee and the Minister introduced proposals, they could be disposed of legitimately by the affirmative resolution in regulations.

Introducing this proposal is an attempt to give the Minister an opportunity to go away and consider the evidence carefully and ensure that it is evaluated. He can then return to the House with a statutory instrument, which we could debate on the Floor of the House if we felt that protection were needed because fundamental freedoms were involved. The Government have the power to enable that to happen. It would then make it possible for the Minister, on the basis of evidence, to extend the provisions to others working in schools and colleges as appropriate. On that basis, I beg to ask leave to withdraw the amendment. However, I would like to hear if the Minister has anything further to say on amendment 61, and whether he might consider as the Bill progresses whether that sort of provision might be appropriate for inclusion in a Government amendment.

Mr Gibb: I do not wish to prolong the debate. I am not persuaded by the issue. I think the matter needs to be included in primary legislation and we need to have evidence. In addition, we are going to continue to see how the clause works to enable us to evaluate the impact of the measures, and use those conclusions to decide whether it would be appropriate to extend the provision further. That is a balanced approach, and therefore I do not see the necessity for the inclusion of such a regulation-making power in the Bill. Those things need to be taken cautiously and over time. On that basis, I ask the hon. Gentleman again to withdraw the amendment.

Kevin Brennan: It is only fair that we signal our support, even in this cautious way, for the proposal that these protections are afforded to further education lecturers and other support staff in schools. On that basis, I beg to ask leave to withdraw the amendment. However, I urge my hon. Friends to support me in pushing amendment 61 to a Division.

Amendment, by leave, withdrawn.

Amendment proposed: 61, in clause 13, page 20, line 27, at end insert—

'(10A) The Secretary of State may by order amend this section to include all staff, or a description of staff, working in schools and institutions of further education.'.—*(Kevin Brennan.)*

Question put, That the amendment be made:

The Committee divided: Ayes 8, Noes 9.

Division No. 9]

AYES

Brennan, Kevin	Hendrick, Mark
Creasy, Stella	Hilling, Julie
Durkan, Mark	Munn, Meg
Glass, Pat	Wright, Mr Iain

NOES

Boles, Nick	Hayes, Mr John
Duddridge, James	Munt, Tessa
Fuller, Richard	Rogerson, Dan
Gibb, Mr Nick	Stuart, Mr Graham
Gyimah, Mr Sam	

Question accordingly negatived.

Kevin Brennan: I beg to move amendment 87, in clause 13, page 20, line 33, leave out 'in whatever form'.

The Chair: With this it will be convenient to discuss amendment 88, in clause 13, page 20, line 34, leave out

'or any section of the public'.

Kevin Brennan: Diolch yn fawr, Mr Williams. These are two probing amendments that seek to find out more about the Government's thinking in relation to the reach of the new restrictions, and to clarify what Ministers believe is workable in terms of applying them. The National Union of Teachers has told us that it is concerned that the definition of "publication" is too broad at present and that it may not be clear enough to be properly enforceable. It also says that, if properly examined, the term may not survive the Bill's progress. It is obviously concerned about the issue, despite its support for the general measure.

As currently drafted, subsection (11) of new section 141F appears to allow for the capture of any communication in any form that is addressed

"to the public at large or any section of the public".

Can the Minister give us examples of exactly what that means? Does it cover a letter, e-mail or text message that a parent might distribute to other parents? Would a discussion at the school gates or in the school playground be captured, or is a parent not considered to be a "section of the public", as defined by the clause? Exactly what is captured if conversations take place? We all know that they take place at the school gates, particularly at our primary schools, where parents gather to collect their children. Are they likely to be captured by the clause? Similarly, would any publication of letters, e-mails or leaflets be captured? We have discussed the fact that, these days, we have to talk about cyberspace and social networking sites. Will discussions on sites such as Facebook and Twitter between parents, pupils and others about allegations against teachers be captured under the provisions?

The provisions have been broadly welcomed by teachers. I think that the concern being expressed is not to criticise the intention, but to ensure that what is being proposed is workable. If it is not workable, it will provide teachers with no protection against false allegations. Will the Minister give us a bit more clarity about what exactly is captured in this definition? This is a probing amendment and I hope that he can enlighten us a bit further.

4.45 pm

Mr Gibb: The definition of "a publication" used in this clause is the same as that used in a number of similar provisions, for example, the Sexual Offences (Amendment) Act 1992, which restricts the publication of information identifying victims of certain sexual offences, notably rape, and the Criminal Justice Act 2003, which allows for an order to be made restricting the reporting of proceedings in the interests of justice. The drafting is designed to make as clear as possible the breadth of types and forms of communications that we intend the provisions to cover. We live in a world in which technology is used daily by mainstream media as well as by private citizens and pupils and parents. They can easily publish allegations that they wish to make against teachers via the internet without media involvement, so it is particularly important that the provisions make clear that such forms of communication are covered. Amendment 87 might well serve to make this less clear and lead to legal uncertainty.

Mr Stuart: The Minister may be coming to this and I do not want to take him too far ahead in his speech, but may I ask him about enforceability? Imagine that one is sitting in a classroom and the particularly witty and difficult child at the front causes the teacher to lose it completely and hit the child. I imagine that, given the nature of young people today, they would all be going on Facebook later to talk about the fact that they watched their teacher clock mouthy Kevin—to pick a name. From an enforceability point of view, it is rather hard to imagine that shocked children in a class watching one of their brethren, however deserving—of remonstration, not of being hit—should find themselves criminalised by putting it on Facebook.

Mr Gibb: Let me clarify: private conversations are not covered by this. If you look at things like letters and Facebook entries, it will depend on the details, though in theory, they could be covered.

Amendment 88 would, arguably, exclude from the provisions allegations made on a website that was accessible only to specified members of the public who were able to subscribe to it—for example, a trade union website—or in a free local paper delivered only to a section of the public. It is important that clause 13 covers such

publications. Since the Committee may be concerned that, without amendment 88, the provisions would criminalise private conversations, as my hon. Friend has just raised, I can assure them that this is not the effect of clause 13 as it appears in the Bill. Any publication would need to be addressed to a section of the public, rather than private individuals. I think that that covers all private communications between individuals, whether by text, e-mail or private conversations.

Mr Stuart: Many schools do not require young people to hand their telephones in and I imagine that, during the interim between the clocking of naughty Kevin and the arrival of another teacher to take over, many pupils will already have gone on to Twitter and announced to all and sundry that they have just watched Kevin being clocked by the teacher. Quite a number of people could do that in the class—are they all going to be guilty of a criminal offence under this provision and, if so, will he talk us through the implications?

Mr Gibb: Private conversations are not covered by these provisions. The legislation is intended to cover any publication addressed to the public, or a section of the public, whether this is on the internet, on a social networking site or otherwise. If only friends can see the comment, I suspect that a court would not find that to be covered. It is when it extends beyond what could be regarded as a private conversation that the problem exists. It is newspapers in particular that teachers are most worried about because they are permanent records and have wider circulation.

Kevin Brennan: Actually, newspapers can issue a correction, but it is often difficult to get a correction for something on the internet. Returning to the Minister's point about the definition of a private conversation and what addressing a section of the public is, he seems to suggest if something published on a social networking site was visibly only to "friends", which has a different definition on Facebook than in common parlance, he is confident that that would be unlikely to be captured by the clause.

Mr Gibb: It is unlikely to be caught by the clause. We are proceeding with caution. We cannot have pupils using the internet to post public false allegations about innocent teachers. That is what we are trying to tackle. Therefore, the difference between the domain of private conversation between individuals, conducted through conversations at the school gate, text messages, e-mail or social networking sites, and the domain of public posting is a subtle and important one. It is the latter that we are trying to tackle, and ultimately the courts will have to deal with it.

I do not think it is right to say that we cannot criminalise any children. It is right for such offences to be criminal matters. If children are using the internet to post public false allegations against innocent teachers, the clause does and should apply.

Mr Stuart: The trouble is that the clause does not say what the Minister has just said. If a false allegation were put out and spread about, I suppose it would be libel; I am no expert in this area. However, we are talking about someone who has witnessed something. In my example, the teacher has just hit the pupil, and others are saying what they truly saw, and they would all be criminalised. They have not made a false allegation; they have made an entirely true one and put it on Twitter. I do not know about the Minister, but I think I have 1,500 friends on Twitter, and unlike the shadow Minister, every one of them is one of my closest. Children have hundreds of friends on Facebook and Twitter. We could do with clarity on whether they would be committing an offence if they told the truth about what they had seen.

Mr Gibb: I think I have spelt out the two domains in that instance. Ultimately, whether a child or parent is prosecuted will be a matter for the Crown Prosecution Service, which will want to take into account whether prosecuting someone in those instances is in the public interest. If an allegation is true and the police charge the teacher with the offence, the restriction will automatically be lifted by the provisions. I think I have covered all the issues raised by hon. Members so far, and I have broadly got them right.

Stella Creasy (Walthamstow) (Lab/Co-op): Will the Minister clarify what discussions he has had about what would happen if someone retweeted a tweet, or if someone copied something from a private Facebook forum, for which one has to be accepted to join, and put it in the public domain? Those forums are not watertight, so I wonder what discussions he has had about instances when those lines get blurred.

Mr Gibb: The hon. Lady is going beyond what is being considered. Those are specific examples. The courts will determine how to apply a general principle, and the CPS will decide whether it is in the public interest to take those issues. Common sense will apply. We all know the intention of the Government and Parliament in introducing the clause, which is to protect innocent teachers from publications printing allegations against them before a charge is brought. That is the purpose of the provision, and the courts may interpret the law in specific cases on the basis of that intention.

Kevin Brennan: I do not want to get into a battle with the Chair of the Education Committee about the relative sizes of our Twitter followings, except to say that I had a look and my figure is currently 3,498. However, they are followers rather than friends, as the hon. Gentleman probably knows, and that does not necessarily denote friendship in any of the traditional terms, although I am sure that his Facebook friends are all personal friends.

This probing amendment has raised many questions which I suspect are far too existential to be worked out here. It has raised questions about where the line will be drawn in respect of what constitutes a private conversation or publishing something to a section of the public. They are matters that need detailed consideration and thought beyond this Committee as the Bill progresses.

It is a tricky question as to when something becomes a publication. My interpretation of what the Minister said is that an e-mail or text message sent to someone would not constitute a publication. If that person posted

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something on their Facebook page that could be viewed only by their "friends", that would not constitute publication. However, if they were to tweet an allegation about a teacher that is visible not only to their followers but to everyone who looked on the Twitter website, that might well constitute publication, so there are fine lines between the different types of social network sites.

Mr Gibb: Just to reiterate something that I said at the beginning of this debate, the definition of publication used in the clause is the same as the one used in several other similar provisions; for example, the Sexual Offences (Amendment) Act 1992 and the Criminal Justice Act 2003. There have been many years of interpretation of the definition since those dates. If the hon. Gentleman needs further details, he should look at the interpretations over those years.

Kevin Brennan: I accept that, but I believe that the Minister will accept that the development of technological changes in communications is very much a moving staircase. It is always worth ensuring that we understand the implications of any provisions of this kind in relation to publication, and I am sure that new case law will develop around things such as Twitter and so on. It is right that we should discuss the implications of social media for provisions such as those in clause 13 which deal with the publication of allegations about teachers to members of the public.

As I said, the amendment is a probing amendment. We have had a good discussion, and I am sure the matter will be aired later in the progress of the Bill. At this point, on behalf of myself and my hon. Friend the Member for Hartlepool, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Gibb: I beg to move amendment 82, in clause 13, page 21, line 24, at end insert—

'(9) Schedule 11B contains supplementary provision relating to an offence under this section.'.

The Chair: With this it will be convenient to discuss Government new schedule 1—*Offence of breach of reporting restrictions: application to providers of information society services.*

Mr Gibb: Amendment 82 inserts a new schedule 11B which will ensure that information society service providers established in England and Wales that publish information in breach of the provision in other member states can be prosecuted under the provision, and that ISSPs established outside the UK that publish information in England and Wales cannot be prosecuted. The amendment is necessary to ensure that clause 13 complies with the European e-commerce directive. I hope that hon. Members have found helpful the note that I circulated last Wednesday at, I believe, 9.29 am, which gave a more detailed explanation of the amendment and the new schedule. However, I intend to make a few remarks now.

Clause 13 imposes restrictions on the publication of information that identifies teachers who are accused of criminal conduct by pupils. A breach of those regulations will be a criminal offence under proposed new section 141G of the Education Act 2002. That offence could apply to ISSPs based in the UK or in other member states providing services to the UK. This engages the European e-commerce directive, and we must take steps to ensure that the clause is compliant with those obligations. Reporting restrictions in clause 13 cover allegations made on the internet and apply to those publishing them, which could include the individual placing material on a website, the website owner and/or the internet service provider.

5 pm

The e-commerce directive and consequently this amendment relate only to ISSPs, the definition of which will cover those providing services normally provided for remuneration via the internet. This amendment does not affect any potential liability under the original clause for individuals publishing information by way of sites on the internet, those publishing information via other forms of publication, such as television or newspapers, or those services providers not within this definition—for example, where the service is one that is not normally provided for remuneration. An individual in England and Wales using a service established abroad to publish information in breach of the clause will still be committing an offence under clause 13. The purpose of the amendment in implementing the directive is to ensure that if an ISSP established in England and Wales commits an offence under clause 13 in another EEA member state, but not in the UK, they will still be liable for that offence. Equally, provision is made that an ISSP established in an EEA member state outside the UK is not liable for an offence under this provision but will be subject to its own domestic law of that European country. This country of origin principle is intended to apply so that, save in exceptional cases, a business operating across the EEA has to comply with the law in the country in which it is established and not with the law in each individual country in which its website might happen to be available.

Kevin Brennan: I am sure that the Minister understood all that.

Mr Gibb: I did once.

Kevin Brennan: At one point at least—when it was explained to him. *[Interruption.]* I am not trying to be harsh on the Minister. I sympathise with him. Does he have any example of where this new schedule and amendment might come into play in a practical sense if an allegation was made against a teacher?

Mr Gibb: If an ISSP, a remunerated internet site established in France or Poland, publishes an allegation against a teacher and it is picked up in England by someone surfing the web, that Polish or French ISSP will not be liable for prosecution under clause 13. That is deliberate. The purpose of the directive is to prevent an ISSP, which may be a very small operation in a member state, having to swot up and understand the different intricacies of the law in all 27 member states plus the EEA member states, which would be a restriction on being able to set up an internet business. The purpose

of the directive is clear, and I just want to ensure that that example does not catch the examples that I have just given.

Kevin Brennan: On that basis, I am happy to ask the Minister just one further question. Does it mean that if a website in France posts an allegation, although the information is fully accessible in the UK, the owner of the website cannot be prosecuted? I think that that is exactly what the Minister was saying.

Mr Gibb: I can confirm that that is what I was saying.

Mark Hendrick: My understanding is that the law would apply in the same way that it would to any other illegal material held on a website. The person or organisation responsible for putting the illegal material on the website, not the ISSP, would be liable, because we do not shoot the messenger; we shoot where the message came from.

Kevin Brennan: I think that the Minister is trying to ensure that it complies with the European directive. Some of the broader questions about responsibility for what is published and who can be sued might be of wider scope. He might have something to say about that himself, if he has anything further to add. On that basis, I am content to say nothing further about the new schedule to the Bill. *Amendment 82 agreed to.*

Question proposed, That the clause, as amended, stand part of the Bill.

Mr Gibb: The Government are committed to ensuring high standards of discipline in the classroom and giving heads and teachers the powers that they need to ensure discipline and promote good behaviour. As part of that commitment, we have considered the problem of pupils making false allegations against teachers.

As I have said, a recent survey by the Association of Teachers and Lecturers showed that 50% of school staff questioned reported that a pupil had made false allegations against them or a colleague. In addition, NASUWT data collected since 1991 demonstrated that the number of allegations had increased and that most allegations made against teachers are false or malicious.

Clause 13 is intended to provide teachers in schools with protection from false allegations by restricting the public reporting of allegations against teachers of criminal conduct made by or on behalf of pupils at their school. The restrictions will remain in place until the matter has been investigated and the teacher has been charged with an offence, minimising the destruction wrought by false allegations. The provisions impose reporting restrictions on the media, preventing the publication or broadcast of any information likely to identify the teacher concerned. Publication covers any communication to the public or a section of the public, and may therefore include social networking sites.

At present, there is no provision in legislation preventing the media from publishing information identifying teachers against whom allegations have been made. Teachers who work intensively with children are responsible for maintaining discipline in their classrooms and schools and are inherently vulnerable to false allegations by pupils, and there is a perception that children can make such allegations with impunity. The reputational damage to teachers of being named in the press can destroy their careers, and indeed lives, regardless of whether they are later found completely innocent of any wrongdoing.

In addition to introducing the clause, the Government are undertaking work to emphasise the need to eradicate all unnecessary delays at every stage when handling such allegations, and ACPO has signed up to it. We are making it clear that suspending staff facing allegations should not be the default option, and ensuring that schools provide effective support, including a named contact, for anyone facing an allegation.

The clause will not affect children's rights to make allegations against their teachers to the appropriate authorities. Of course those who abuse their position must face the full force of the law, but we want to ensure that children are not deprived of good teaching by the consequences of false allegations. We believe that the provisions will protect teachers' reputations while allegations are properly investigated and shield them from the damage done by false accusations, which undermine the profession as a whole. I welcome the fact that the provisions have been broadly supported across the Committee as well as by teacher unions.

Kevin Brennan: As I said earlier, I will ask my hon. Friends to support the clause, as we think that it has had a broad welcome, although some in this debate were concerned that its reach should be extended to cover other professionals and school staff.

A couple of other issues with the clause need to be debated. My hon. Friend the Member for Sheffield, Heeley will probably want to say something about a point that the Minister made earlier. We must not lose sight of the fact that abuse sometimes takes place. Occasionally, true allegations are made against teachers and others who work in schools. It is extremely important to ensure that we acknowledge that. In no way does the inclusion of the clause in the Bill suggest that there are never occasions when adults do not abuse their positions of responsibility in relation to children. We know only too well through experience that a general acceptance of that position, which I know is not the position of anyone on the Committee, can lead to disastrous consequences in terms of the wide-scale abuse of children. By supporting the clause, we are in no way suggesting that that should be the mindset in considering allegations against teachers. As the Minister put it, it is simply a case of making sure that appropriate investigation is done in a timely way out of the spotlight of unfair publicity, which can ruin someone's life and career. That does raise the question of what is the suitable penalty for breach.

I understand that the Minister intends to introduce a penalty of potentially £5,000 for the breach of the provision. Was any consideration given to whether it is possible—it might not be—for there to be a differential penalty depending on the breadth of the publication? A £5,000 penalty for a small local publication is a very different kettle of fish from a £5,000 penalty for News International, for example. Some people have expressed concern that the amount is too low. A national newspaper would pay sums far in excess of the fine that it being talked about for breach of the provision for a salacious story. On the other hand, if a story is published—even inadvertently—in a local area, £5,000 could be a considerable amount to a small local publication. Has

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the Minister any thoughts on that? Has any consideration been given to whether it is possible legally or technically—or even whether it is desirable—to consider having some sort of sliding scale according to the circulation of the publication?

I think that the Chair of the Select Committee might be about to say a few words about the matter as well. I am grateful to him for drawing the Newspaper Society's submission to my attention. The views submitted by the Newspaper Society are worthy of consideration at this stage in discussing the clause stand part. It has made points about the existing protection in law for people against whom false allegations are made in relation to libel law and so on. The Newspaper Society is concerned about how the measure will impact on local newspapers and about whether a complaint could be made by or on the behalf of pupils against teachers that could not be reported, even if the allegation were investigated and upheld. In the absence of any prosecution, that teacher might still be able to prevent the publication of the allegations. Does the Minister have any comments on the points raised by the Newspaper Society in its official written submission to the Committee? On that point, I will sit down and allow others to make their contributions on clause stand part.

5.15 pm

Meg Munn: Before I come to the substantive point that I want to make, to which my hon. Friend the Member for Cardiff West has already alluded, I shall ask the Minister again whether he has much evidence of allegations being reported in the press at an early stage. I am not sure whether he provided that information—he may well have done so when I was not paying sufficient attention, which sometimes happens. I understand the point he is making about the surveys conducted by trade unions and others about the level of false allegations, but I am not clear whether there is significant evidence that allegations have been reported at an earlier stage. I have done a brief search on that and found reporting of false allegations at a subsequent point, but not at a very early stage, in local newspapers, so although I understand that there are issues about discussions in the locality, which in themselves can be damaging, I am not aware of widespread reporting of allegations at an early stage. I may be wrong, but I just wanted to ask the Minister about that.

I welcome the tone of today's discussion, because this is a complex area. The Minister has already said, rightly, that it is important that children who have been abused should be able to disclose that. However, I have wider concerns that our general discussions in this Committee have suggested an overall trust in professionals that perhaps goes beyond what is reasonable. We must always be aware that any professionals may abuse that trust. Indeed, people who want to abuse children will target professions where they have ready access to children and will become teachers and head teachers.

You saw me earlier today in the Library, Mr Williams, where I was doing a quick search—it was indeed a quick search—for a few examples. It is not hard to find examples. I found a reported case of a paedophile priest who was a teacher and an appointed principal of a college who abused children over 40 years and was convicted of many sexual offences. A former head teacher of a school in Suffolk was jailed after admitting abusing young boys over many years. A former teacher from Northumberland was jailed for nine years for abusing boys and girls whom he taught. I have several more examples. Such cases do exist—teachers and head teachers do abuse children.

The other point that we need to bear in mind when talking about the complex area of allegations is that children find it enormously hard to disclose abuse. When I was learning about this as a social worker, I was trained that I could not rely on children to disclose abuse. So a child who gets up the courage to say something and perhaps does not say it very clearly or loudly does not need to be met by an adult who assumes that it is a false allegation. I entirely accept that false allegations are made, but good investigation should take place without an attitude of disbelief. In my experience, good investigation is prompt, examines the whole range of issues and, when done properly, can very quickly uncover a false allegation, which has probably been made in the kind of context that the Minister described, involving issues of discipline and other matters in the classroom. Good investigation should take place without undermining the child who has at last plucked up the courage to tell someone that something is not right.

The plea that I am making is, as much as anything, about providing the balance that we must strike in these situations and putting it on the record that we will not put in place any more hurdles than there naturally already are for children disclosing abuse, because as has been widely recognised, although false allegations wreck lives, abuse of children without question wrecks lives and has far-reaching consequences. We all need to be very aware of that.

Mark Hendrick: Does my hon. Friend believe or does she accept that it is easier for a child who is not being abused to make a malicious complaint than it is for a child who is being abused to make a complaint that is genuine?

Meg Munn: I am not sure where my hon. Friend is leading me with that. Children make malicious complaints for a number of reasons. Children who have been abused need to be confident that an adult to whom they disclose the abuse or, indeed, a friend to whom they disclose it—that is sometimes the route through which disclosures come—will take it seriously. That is my plea.

There is nothing worse, as I know from experience, than hearing that children tried to disclose, but the abuse continued; only subsequently were they believed and someone put an end to the abuse. The abuse does not stop there, because we know that it involves not just the physical implications; the severe psychological consequences may continue. The circumstances that we are talking about involve not just physical or sexual abuse but abuse of trust.

Mark Hendrick: That is my point, particularly given the traumatic effects that genuine abuse would have on a child. They would be much more reluctant to come forward than someone who had not suffered any psychological trauma because no offence had occurred. A child might have a grudge against a teacher and want to make such a complaint maliciously.

Meg Munn: Indeed. My point is that prompt and professional investigation of any form of allegation can usually identify whether there are other reasons why a child might be making a complaint, such as the circumstances, and the details that they are giving. Again in my experience, it was fairly unusual that a false complaint would reach social services, but that did happen occasionally, and I was somewhat reassured that the social workers in my team felt uneasy about it from the start, and that it did not ring true for various reasons. Although we accept that false allegations are made, a position of belief does not prevent good investigation which gets to the bottom of it. I should be grateful for the Minister's comment so that we can try to get a difficult balance as right as possible.

My final point relates to the point at which knowledge about allegations may become more public. The Minister said that that would be at the point of charge. That comes back to a point that the Chair of the Select Committee made earlier that the police may be investigating what seems to be a genuine allegation against a teacher, and may want to give other pupils and former pupils the opportunity to raise any concerns. In my experience, that is done not by putting an advert in the paper—that would not be the best way of doing that—but by approaching pupils directly and asking them whether they have any concerns or issues. That was done in a situation in which I was involved some years ago when a child was asked whether the head teacher had ever done anything that the child was unhappy about, and the child said that he given him out at cricket when he was not LBW. A genuine opening question to a child who has not been abused will give rise to a simple, straightforward response, but it might give the opportunity to say otherwise. How does the Minister see that working in such a situation?

I want to protect against false allegations, and I have known teachers who have faced malicious allegations. Equally, it is sometimes only when allegations have been made by more than one child that the police can be confident that there is a pattern, and that there is sufficient evidence to proceed with a charge. That may need to take place before an alleged perpetrator is charged, and I shall be grateful if the Minister will respond to that point.

Mr Stuart: Thank you, Mr Williams, for allowing us to have this stand part debate. I should declare an interest as a publisher of magazines, websites and, indeed, a newspaper. I put that on the record, although they are fairly specialised and do not involve general news, so are not immediately relevant.

Mr Iain Wright (Hartlepool) (Lab): Tell us more.

Mr Stuart: Sailing and motoring. I do not think those who teach sailing are covered by the provision.

The shadow Minister referred to the Newspaper Society, and I now want to address most of my words to its submission, but first I should like to say that I entirely agree with the intent of clause 13 and entirely recognise the issues that the Minister has raised and his long-standing desire to ensure that teachers are protected because of the peculiar nature of their jobs and their exposure when controlling classes. The ease with which allegations can be made against teachers can have a devastating impact. I fully support the Minister's direction of travel, and the Select Committee on Education was of a similar view. I have been caused to think again by the submission from the Newspaper Society, and will go through a few of its arguments, to which I hope the Minster is able to respond as fully as possible.

The Newspaper Society's submission states:

"The reporting restrictions and threat of prosecution may well be exploited by schools, education authorities and others with their own interest in deterring publication and in maintaining secrecy about any alleged incident, in order to avoid public examination of matters of legitimate public interest concerning their own procedures and action, which might expose them to public criticism."

The hon. Member for Sheffield, Heeley referred to her own looking-up of various cases, and we are all aware that systematic abuse has gone on in certain institutions. In the East Riding of Yorkshire, there was a school—which I will not name but which received much publicity—at which one, then another, and possibly even a third teacher was found to have had relationships with under-age pupils. It is important that the local public should know what is going on. No member of the Committee would want to discover that those who were abusing their position of trust and abusing young people could continue to do so because it was not possible to communicate suspicion to the local public and thus find any other victim.

The Newspaper Society has expressed disappointment that there was no pre-legislative consultation on the detailed proposals, despite the concerns that it had raised with the Minister with responsibility for schools, the Department for Education and the Ministry of Justice. It says:

"This is contrary to the assurances given by Parliamentary Under Secretary of State for Justice Crispin Blunt to the NS prior to the publication of the Schools White Paper:

'Whilst we have mentioned the possibility of reporting restrictions in this area, we are not yet in a position to provide further details of the measures that we will take to protect teachers, but as we develop proposals we will do so in discussion with organizations such as yours.

I do recognize the important role of the media to ensure that the public are made aware of issues of interest to them, and note the measures you point to as already being in place to protect those accused from being inappropriately identified in the press'.

However, to date, no such specific discussions on the proposals have taken place with media organizations whose members' press, broadcast and online activities would be affected by such restrictions such as the Newspaper Society, Newspaper Publishers Association or Media Lawyers Association. We are very willing to discuss the potential problems of both principle and practicality arising from Clause 13 of the Bill."

The society states that the current law is sufficient and questions whether new reporting restrictions are necessary. It touches on the general law of defamation and talks about the law of contempt and the code of practice upheld by the Press Complaints Commission and goes on to say:

"There is no need for the introduction of reporting restrictions, backed by criminal sanctions, which in practice would place indefinite automatic bans upon the publication of anything which might lead to the identification of the accused as the subject of the allegation, which, as outlined above and below, in practice may well extend to publication bans upon pupils, parents,

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allegations, staff, school, education authority, irrespective of the truth of the allegations, concerns of the victim or complainant or their representatives, or the wider public interest… The potentially far ranging remit of the Government's anonymity proposals, could even prevent the release, exchange, sharing, dissemination, publication of material and material which would otherwise be made publicly available by relevant official bodies and investigation authorities inquiring into the matters alleged, or reports of their meetings and findings, in addition to media reports of such matters"—

which ironically, given the intent of the clause, could—

"prevent public exoneration of the teacher, at the earliest stage possible to dispel any rumours or gossip."

I would be interested to hear from the Minister that that is not the case or, if it is, what can be done to alter it.

5.30 pm

The society says that the proposals could

"obstruct proper public oversight of the school system or even of an individual prohibited from working as a teacher, in the event of findings to the contrary."

It speaks of precedents, saying that

"The Clause sets a worrying precedent by its introduction of a new concept of the 'protected professional'".

As I said earlier, that could be extended by

"automatically and indefinitely banning the identification of a person by reference to their occupation and employment as the alleged perpetrator of a criminal offence against someone in their care by the victim or others in their care."

It is legitimate for us to scrutinise this precedent. Could it be extended? Opposition Members have suggested that it should be extended to cover others in the schools' work force or the children's work force, and there may be others whom we have not considered for whom allegations could be particularly devastating. Are we moving towards the principle that, if a person was particularly vulnerable to allegations being made against them because of the nature of their employment, it should be presumed that legislative protections would be put in place? Are we slowly unpicking the basis of our open and free society? However much we as politicians may be frustrated with its inaccuracies and may rage against the way that it sometimes reports stories in such an inane fashion, the press none the less plays an important role in ensuring that the public can judge those in authority, whether in schools or in Parliament.

Mark Hendrick: We need to ask ourselves not only why the newspapers are saying it, or whether it is in the public interest, but whether it is in the newspapers' interests. If the person is found guilty, all that information would become public knowledge in any case. Why should people be tried by the judge and jury of public opinion before the real judge and jury have had the chance to hear about the case?

Mr Stuart: I thank the hon. Gentleman for that intervention. If he accepted that as a general principle, he might want to apply it to all allegations of actions that could be considered a criminal offence. If it covered absolutely everyone, it would transform society and our ability to report news, because suddenly only on conviction could newspapers and others report such cases. I am not sure that the hon. Gentleman wants to go down route; I certainly do not.

I continue with the Newspaper Society's argument. It claims that

"The Bill does not define who a teacher is for the purposes of this clause"—

I hope that the Minister will confirm that it does so satisfactorily—

"and it is quite likely that pressure will be applied in practice for a liberal interpretation in its application, followed by a request for legislative extension."

We have already dealt with that aspect. Continuing from my remarks about the possible ironic outcome of providing exactly the opposite of what the Government desire, it then states:

"In practice, publication bans could in fact fuel unfounded speculation rather than prevent it as the Government intends. Without waiver or a court order, exoneration of a teacher could not be publicised."

That is an important point.

In paragraph 16 of its submission, the society goes on to state:

"The outcome of complaints containing the allegations made by or on behalf of pupils against teachers could not be fairly and accurately reported and the teacher identified even if the allegation were investigated and upheld in the absence of any prosecution or the teacher exonerated. The teacher would enjoy anonymity during their lifetime and after their death, unless the teacher gave written consent, which is unlikely, or a court agreed to dispense with the restrictions in the interests of justice, which may also be unlikely in the absence of any other court proceedings in respect of the allegation. Victims could not tell their own stories, even if their allegations had been substantiated and vindicated by formal admissions of liability and out of court settlements."

Not every action that could be criminally prosecuted necessarily leads to criminal prosecution. It is possible that somebody has done something wrong and they are not prosecuted. However, their offence, which they might even admit but have not been prosecuted for, could never be publicised by anyone. Those are serious issues.

Perhaps, as the shadow Minister says, those of a lawyerly disposition in the other place will be best placed to examine the measure further. However, the Newspaper Society's submission raises some serious issues that need further consideration. I look forward to the Minister's response to as many of those points as he can manage to deal with now. Given the seriousness of the Newspaper Society's submission and the issues that it raises, I ask the Minister whether it would be possible to have a response from him—perhaps a letter—on these issues? I would certainly find that useful. Perhaps those in the other place would, too.

Dan Rogerson (North Cornwall) (LD): I have not contributed to the debate on the amendments the Committee has just discussed and the various groups associated with the clause. However, in this stand part debate, I simply want to express my support for the step the Government are taking with the measure. As hon. Members from all parties have said, the matter is problematic, in that it is a step forward in a direction that members of the teaching profession have been seeking for some time. However, I accept that, as was debated in relation to one of the groups of amendments, others may feel that they should also be afforded the

same protection. Given that we have moved on to the stand part debate, all that can be said to them is that if the Committee approves the clause—and I hope that it will—a principle has been established that can be explored if further evidence comes to light giving grounds for extending the measure to other groups.

As in many of the other areas we have already explored, and as I said in a previous debate, we have a continuum. We want to ensure that, as the hon. Member for Sheffield, Heeley said, young people feel they have absolute protection in coming forward to disclose anything that is unfair that could be attributed to a teacher. The clause will ensure that while such investigations are taking place, nothing could unfairly be attributed to a professional who is working with those young people. Of course, we can explore the matter beyond the confines of the Bill with regard to all sorts of allegations—I think the hon. Member for Preston was seeking to raise that possibility. There are particular concerns about how the teaching profession has to engage with groups of and individual young people. The evidence suggests that the provision is necessary for them, which is why I am happy to support the clause and I hope that other members of the Committee will be minded to do the same.

Mr Gibb: I thank my hon. Friend the Member for North Cornwall for his support, and it is a pleasure to follow on from that. I shall run through some of the issues raised as quickly as I can. The hon. Member for Cardiff West made the important point that we must not lose sight of the fact that real abuse occurs. If he looks at the evidence from the NASUWT, he will see that it cites the figures on all the allegations made since 1991. To pick a more recent year at random, in 2006 there were 185 allegations, and in 171 cases no further action was taken. Fourteen cases went to court, and in five instances no further action was taken after the court case; however, in eight cases there was a caution or a conviction. We should not lose sight of the fact that there were eight such cases in 2006, and the hon. Member for Cardiff West was right to make the point.

Meg Munn: I am sorry to be pedantic, but it is hard to get convictions, particularly of sexual abuse, so I would not want the Minister to make the point that there were only a few convictions. There may well be a larger number of cases. Clearly, from the point of view of someone saying that a person was convicted, those are the figures, but one abused child is one too many.

Mr Gibb: That was my point. The hon. Lady is misinterpreting why I cited the figures. I did so to demonstrate that the number is not zero, and that eight is a large number, albeit a small proportion of 185, which is why we are introducing the clause. None of us should lose sight of the fact that there were eight cases in just one year. That is important.

The penalty in the clause is in line with other similar provisions—for example, breach of restrictions on newspaper reporting of family proceedings; and, under the magistrates courts legislation, the offence of identifying information about a child involved in proceedings under the Children Act. We discussed this while the clause was being developed, and we are satisfied that the level of fine and the reputational damage that will be caused by a successful prosecution should be a sufficient deterrent to prevent publication of information, but such issues will be monitored.

Convictions for libel and defamation are all well and good—my hon. Friend the Member for Beverley and Holderness cited the Newspaper Society—but they are too late because the damage has been done, and no amount of compensation or apology can make up for that damage to a reputation. The hon. Member for Sheffield, Heeley asked where the evidence is and where the stories are in local newspapers, saying that she could not find any when she went on the internet to look for them. I picked out three relatively recent ones, but I will not cite them because I do not want to commit the very offence that we are trying to close down; however, *The Telegraph and Argus* reports that a teacher has been told to stay away from a school after being accused. Another story is that in Liverpool, a teacher was suspended after being accused. Another in Lancaster is that a senior teacher has been suspended amid claims. Those are all recent stories, and I am sure that with more time one could find more to match the numbers from the NASUWT.

On the difficulty of disclosing abuse, we must not put in place hurdles for children to clear in reporting it. There is of course no room for any child abuse in schools, and all allegations must be treated seriously, but outside the glare of ill-informed publicity, which may skew perceptions and introduce bias. On the question of whether reporting restrictions would prevent witnesses or other victims from coming forward, if the police believe that in certain circumstances there is a public interest argument for a suspect's identity being disclosed prior to being charged, they may apply to the court to have the restrictions lifted, but in most cases there would be sufficient time to publicise the case when the charge has been made, and there will be time between the charge being made and the court case to find out whether there are other victims.

Meg Munn: I am inquiring whether that can be done pre-charge, not between the charge and the court, because of the evidence.

Mr Gibb: I understood that, and my point was that the police may apply to the court to have the restrictions lifted, and I went on to say what would happen if they were not lifted—that there would still be an opportunity to publicise the case to elicit other instances. A police investigation involving individual pupils will not constitute publication for those purposes when wider publicity is appropriate, and the police may apply to the court.

I shall briefly respond to some of the issues raised by my hon. Friend the Member for Beverley and Holderness. He said that the Newspaper Society is worried that the clause could be exploited by schools to avoid public examination and criticism. No, because when charges are brought there is no restriction and the school would be subject to all the scrutiny that the newspapers would want to bring. It is worried that there will be no pre-legislative consultation, but this was a six-year, long-standing commitment, reaffirmed in "The Coalition: our programme for government". I am willing to meet the Newspaper Society; however, although I understand its concerns, I do not share them. It appears to be out of step with the feeling among MPs and the teaching profession. I mentioned earlier that we are mindful of the need to

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protect freedom of expression. Hopefully, the Newspaper Society will be reassured by the measured approach we are taking, despite having been pressed to go further. I have resisted those pressures to go further precisely because of the concerns expressed by the newspaper industry.

I think I have covered all the important points raised in what has been an interesting and well-informed debate. Before I sit down, I give way to my hon. Friend.

5.45 pm

Mr Stuart: I can see why, with other letters, the Minister may resist. Some of the examples given in the Newspaper Society's submission are worrying. I wonder whether we can get a written response from the Government to this submission. If the Minister is right—I share his aim and desire to bring in a provision such as this—I want to see these examples and the unforeseen consequences; that is the whole purpose of our scrutinising legislation. The danger, when we are all agreed on the objective, is that we give insufficient attention to any perverse outcomes. I would welcome further detail from the Minister to put our minds at rest.

Mr Gibb: Who can resist any request from my hon. Friend, particularly given his 1,300 followers on Twitter? I will therefore write to him along those lines.

Kevin Brennan: Will the Minister also ensure that he copies in the rest of the Committee, because the hon. Member for Beverley and Holderness has made a positive suggestion?

Mr Gibb: Yes—the hon. Gentleman has 3,000 followers on Twitter—I will of course copy in other members of the Committee.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 14

Abolition of the Training and Development Agency for Schools

Mr Wright: I beg to move amendment 62, in clause 14, page 22, line 3, at beginning insert 'Subject to subsection (2),'.

The Chair: With this it will be convenient to discuss amendment 63, in clause 14, page 22, line 4, at end insert—

'(2) Before the Secretary of State exercises the power to commence this section under section 78, he must lay before Parliament a report which sets out arrangements to maintain the standards of entry to initial teacher education, and the promotion of teaching as a career.'.

Mr Wright: It is a pleasure to serve under your chairmanship, Mr Williams. We now come to consideration of the abolition of the Training and Development Agency for Schools. These amendments would delay the abolition of the TDA until satisfactory arrangements have been brought forward on the transfer of its functions. It is worth citing the primary legislation on the TDA—the Education Act 2005. Section 75 of that Act states:

"The Agency are to exercise the functions conferred on them by or under this Part or any other enactment. The objectives of the Agency in exercising their functions are to contribute to raising the standards of teaching and of other activities carried out by the school workforce, to promote careers in the school workforce, to improve the quality and efficiency of all routes into the school workforce, and to secure the involvement of schools in all courses and programmes for the initial training of school teachers."

All those functions are important, and should not be allowed to slip off the political radar, but in abolishing the TDA, I am not certain how those functions will be exercised.

The winding down of the TDA this year has meant that its promotional campaigns—successful and effective campaigns—to attract new entrants to the profession have been axed. That was at least part of the reason for the fall in teacher training applications this year. According to the latest graduate teacher training statistics, almost 10% fewer students are applying to become secondary school teachers in 2011, compared with the same time last year. Some subjects are witnessing a fall of nearly 40%. That runs contrary to what one might expect in the economic cycle. When the economy is contracting, there tend to be more teaching applications. We are not seeing that in the current downturn that the Government are presiding over and exacerbating. In the NASUWT's written submission, it stated in respect of the abolition of the TDA that removing the power to impose conditions will

"impact adversely on recruitment of students…jeopardise consistency and quality of provision; and…downgrade the status of teaching and teaching qualifications by reducing, or removing entirely, the key role of HEIs in ITT."

Professor Ebdon in his oral submission to the Committee stated:

"The abolition of the TDA means that there will be direct departmental funding. That raises concerns due to the temptation to make some kind of a political interference with education."—[*Official Report, Education Public Bill Committee,* 3 March 2011; c. 125, Q253.]

Confusion about the future of initial teacher education following publication of the White Paper and the late announcement of funding for initial teacher education in 2011-12 has also not helped recruitment. Abolition of the TDA will have the additional consequence of dropping important targets for increasing the number of black and minority ethnic teacher trainees. Again, assurances would be welcome on where this function will sit, and that the targets will be restored.

Equally important is the active engagement of all schools in ITE. The Government's new initiative—this is a key part of their White Paper—of teaching schools may overshadow the importance of involving all schools in training for the benefit of the individual trainee, the host school and the education system as a whole. Restricting training to teaching schools would limit the experience of trainee teachers as only a small number are in challenging circumstances or the inner cities.

The White Paper mentions in several places that the professional standards framework for teachers will be revised, particularly in terms of the standards for trainee teachers, advanced skills and excellent teachers. We have touched on that on a number of occasions in terms

of professionalism and enhancing the status of teachers, but there is no mention of the Secretary of State taking on that work directly following abolition of the TDA. The TDA has been responsible for leading on the last two revisions to the framework, and that important aspect of its functions should not be left to regulation alone, as it influences both ITE and continuing professional development, as well as shaping career progression and performance management.

These probing amendments allow the Minister to put on the record the possibility of greater clarity. Following the abolition of the TDA, what will happen to those functions? Will they continue, should they continue, and what was the thinking behind the decision to abolish the TDA, which seemed to be working well and effectively in helping to enhance the status of teaching and attracting more recruits into the teaching profession?

Mr Gibb: I understand that the hon. Member for Hartlepool is worried that with the abolition of the Training and Development Agency, its current functions, specifically on maintaining the quality of trainee teachers, and promoting teaching as a high-status profession, will not continue to be performed effectively. I assure him that that will not be the case. The TDA has made a significant contribution to delivering improvements in teacher training and development, and to standards of education. In particular, it has taken on important work to drive forward improvements in recruitment and the quality of teaching.

We have stated previously that the key functions of the TDA will continue to be carried out by an executive agency of the Department directly accountable to Ministers and through them to the House. Abolition of the TDA will not, therefore, stifle plans to encourage more high-quality applicants into teacher training, and to promote teaching as a high-status profession. In fact, abolition of the TDA is a vital step in ensuring that we deliver on these plans. It will remove functions given to an arm's-length body, and devolve as many decisions as possible to the front line while increasing transparency, making the Secretary of State directly accountable for those key functions that need to continue centrally.

The hon. Gentleman need not wait for us to lay before Parliament a report setting out how we will maintain the standard of entry to initial teacher training, because the White Paper "The Importance of Teaching" sets out clearly our plans on those issues. They include raising the bar for Department for Education-funded initial teacher training for graduates with at least a 2:2 degree, and reviewing the current basic skills test and other aspects of the selection process. We also plan to encourage the best and the brightest into teaching by providing funding to double the size of Teach First and develop new programmes, including Teach Next—a new employment-based route to attract high fliers from other professions—and the troops-to-teachers programme.

On the active promotion or marketing of the teaching profession, there will, of course, be a continued need to promote teaching as a career to undergraduates, graduates and careers changers. We envisage that, in the future, the marketing and promotion of teaching will form part of the remit of the new executive agency of the Department, which, as has been mentioned, will take over the TDA's key functions. The new Administration froze marketing when we came in. We had to make decisions about how to tackle the deficit, so that immediate freeze was imposed, but it has been lifted.

Mr Wright: Does the Minister recognise that, according to the Central Office of Information, the TDA is the most efficient recruiter in Government? The teacher recruitment campaign provided a return of £85 of benefit for every £1 spent on marketing, which is an astonishing return. Will the Minister give a commitment that that will continue?

Mr Gibb: I have said that we will continue advertising. In fact, as the hon. Gentleman knows, advertising has resumed. Although the recruitment for teacher training places opened a month later this year than in previous years, catch-up has taken place and overall applications to initial teacher training are currently only 3.9% lower than at this time last year.

There is more, however, to promoting teaching as a profession than a marketing campaign. The White Paper's title, "The Importance of Teaching", shows our commitment to making changes across the education system to improve the status of the teaching profession and thereby the quality of teachers and teaching. The White Paper sets out many ways in which we are seeking to achieve that. We have already discussed some of them, including dealing with bad behaviour and violence, which is a common reason why some graduates choose alternative careers. We have, therefore, proposed measures to remove barriers that are blocking heads and teachers from taking decisions to address those issues in the classroom. I hope that I have addressed all of the issues raised by the hon. Gentleman, but, if he wants to respond, I will try to address any that I might have missed out.

Mr Wright: I thank the Minister for the manner in which he explained the reasoning behind some of his thoughts, but I am not sure that he has properly set out the reasoning behind the abolition of the TDA. It is a successful organisation and model that is helping to raise, enhance and increase recruitment to the teaching profession. It does not seem to be broken. Other than centralising powers into the hands and the authority of the Secretary of State, I do not understand the reasons behind the decision. I had hoped that the Minister would explain the reason for the abolition. It might be an issue for the clause stand part debate, but I am not certain what your ruling would be in that regard, Mr Williams.

I would like to know why the decision has been made, given the massive increase in the success of the TDA's work in recent years, and given the statistical dimension of £85 of benefit for every £1 spent on recruitment. That astonishing return would be the envy of any sort of investment appraisal. I do not understand why the Government feel the need to abolish the TDA. It would be useful if the Minister could explain why, or will he wait until the clause stand part debate?

Mr Gibb: I am happy to do that now. We had a review of all the arm's length bodies, in line with the Government's commitment to increase accountability and, where appropriate, to rationalise and reduce the numbers of

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arm's length bodies and overall costs. We concluded that the TDA's continuing functions should be carried out by an executive agency of the Department that was directly accountable to Ministers. There has been a proliferation of arm's length bodies in recent years, with 17 in the education and children's sectors alone. Those organisations, including the TDA, have done much valuable work, but, frankly, there are just too many of them. Furthermore, arm's length bodies are expensive and, by removing responsibility from Ministers and handing it to unelected officials, they reduce Parliament's ability to hold Ministers to account. We are therefore clear that where functions need to be taken at the national level, we are properly accountable for them. That is the reasoning behind abolishing the TDA and moving its functions to an executive agency of the Department.

6 pm

Mr Wright: I understand the reasoning behind it, and I do not wish to press the amendment to a Division. There is an element of disagreement between the Government and the Opposition on the issue. As I said, the TDA is a successful organisation that was helping to boost numbers and entrants. I do not see the need to change things, other than a centralising tendency on the part of the Secretary of State. Bearing in mind what the Minister has said and given the concerns that I have raised in Committee and on the Floor of the House about how difficult it is to press the Government and this Department in particular on scrutiny because of unanswered questions, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Stuart: I beg to move amendment 99, in clause 14, page 22, line 4, at end add—

'(2) The Secretary of State shall ensure that all teacher training data collected by the TDA prior to its abolition is safeguarded and maintained.'.

I suggest that amendment 99 is as attractive as the ice cream of the same name. Of course, on the part of the Opposition Whip, we even have a flake to go with it. The amendment would ensure that data on teacher training collected by the Training and Development Agency for Schools will be safeguarded and maintained when the agency is abolished. Earlier in our discussions, I raised the issue of ensuring that data that are held by such various arm's length bodies will be retained where valuable. I have already said that we must not throw the baby out with the bath water, and that remains true.

Labour Front-Benchers—this view may not be widespread among Labour Back Benchers—are opposed to the streamlining and the reduction of costs of the various quangos, the proliferation of which they presided over with such enjoyment. However, I am glad to say that I and the Education Committee agreed that a rationalisation of the number of quangos was a good thing. It is a reasonable step. I support the decision, but I want to ensure that everything of value is retained. As I have already commented, I am delighted that Ministers have said that they are taking great care to ensure that that which is of value in arm's length organisations is retained.

The purpose of the amendment has to do with teacher training information. I will not rehearse the arguments on the importance of teaching, which is the title of the White Paper and something on which there is complete agreement across the House and the Committee. We must not lose any useful research that the TDA has put together in that regard. Advisers to the Education Committee told us that there were useful data globally, and, in particular, the TDA collected excellent data on teacher training, published annually as the teacher training profiles. I would be delighted if the Government accepted the amendment, but assuming that they do not, I seek further assurances that the Government and the Minister will do everything possible to ensure that the information is retained.

I have one further request of the Minister. I accept his assurances and am delighted to hear of the understanding of that which is valuable and that the effort to ensure that it is not lost is being conducted and taken seriously by the Department and by Ministers. My question is: how can the Education Committee, for instance, best scrutinise that action? How do we ensure that not only is the intent there, but there is a way of providing parliamentary scrutiny of the effectiveness, so that we can make an evaluation of whether we feel that the Government have made the right choices when they carry out their assessment, as all of us would wish to see? We all know that parliamentary scrutiny helps to ensure a better Government, and if we have that, we are less likely to make mistakes and throw away things of value.

Mr Wright: I rise briefly to support the hon. Member for Beverley and Holderness with regards to amendment 99. In doing so, may I quote from something he takes very seriously: "The Good Teacher Training Guide 2010"? There are a number of glowing references regarding the quality of the teacher database in that document, for example:

"England has assembled through the Training and Development Agency for Schools a very rich database. The teacher training system can be described with some precision and changes over time charted. The data available is an excellent evidence base for policy making."

That document also points out and pleads with the Government:

"we would also urge it against attempting to make savings on the Training and Development Agency's database. England has probably the best data in the world on the running of its teacher training system and it is an invaluable resource for policy making. It would be even better if it were extended to include entry to teaching from the employment based routes."

On that basis, given the language that has been used by a very respected guide, I hope that the Minister will look favourably upon the hon. Gentleman's amendment.

Mr Gibb: The amendment would place a legal requirement on the Secretary of State to preserve all the data that the TDA collected prior to its abolition. There is a range of data that the TDA currently collects in relation to the initial teacher training process, such as the details of all applicants for teacher training places and those who go on to undertake teacher training, together with the results of surveys of newly qualified teachers that seek their views on the quality of their training courses. I have seen some of those surveys and they have been very helpful in developing quality in the Department.

I assure my hon. Friend the Member for Beverley and Holderness that we fully recognise the importance of maintaining those records and of continuing to understand the background of those who are training to become teachers. It is of interest not only to the Department, but to schools and heads alike. However, it would be premature to require us to retain or, indeed, continue collecting all the data that the TDA currently holds before we have had an opportunity to review our wider data requirements for the future. Schedule 5 allows the Secretary of State to make property transfer schemes, under which we will be able to make provision for the transfer of any data that the TDA holds to the Secretary of State.

On the second part of my hon. Friend's amendment and the maintenance of those data, we are looking at all our current and new sources of data, including a new school work force census, in defining what will be needed by schools and the Department for the needs of the system before we make decisions about what data to gather in the future. We will consult with the profession and consider demand alongside the need to minimise burdens on teachers and schools and to deliver value for money for the taxpayer. We need to consider that alongside related issues on all work force data held by the Department and all its arm's length bodies, not just the TDA. We need to consider what data should continue to be held centrally and in what form. I would be very happy for my hon. Friend to contribute to the consultation process, so that we can hear first hand his views about what his Committee thinks should be retained by the new work force agency that is being established to replace the TDA.

Mr Stuart: I appreciate the Minister's offer, although the Committee tends to report only on that which it has investigated and we have not formally investigated that matter. May I repeat my desire for the Minister to inform us what the Department is planning to do and to give us as much notice as possible of when it might do it, so that we can better scrutinise the performance of Government?

Mr Gibb: I am happy to provide my hon. Friend and his Committee with some written evidence about our assessment of which TDA functions and activities we will continue as part of the executive agency. Perhaps I can liaise with my hon. Friend about the timing of that evidence later this year once the exercise has been conducted. With those few words and the commitment that my hon. Friend has skilfully extracted, I believe that to place a legislative requirement on the Secretary of State about the data he should keep would be inappropriate, so I urge my hon. Friend to withdraw his amendment.

Mr Stuart: I thank the Minister for those assurances and look forward to receiving from the Department an idea of when these decisions will be made because that will make it easier for us, if necessary, to hold meetings or, indeed, call the Minister before us. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question put forthwith (Standing Orders Nos. 68 and 89), That the clause stand part of the Bill.

Question agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Clause 15

Training the school workforce: powers of Secretary of State and Welsh Ministers

Mr Wright: I beg to move amendment 105, in clause 15, page 22, line 7, at beginning insert 'Subject to subsection (10),'.

The Chair: With this it will be convenient to discuss amendment 106, in clause 15, page 24, line 23, at end insert—

'(10) Before the Secretary of State exercises the power to commence this section under section 78 as respects England, he must lay before Parliament a report which sets out arrangements which demonstrate he has put in place sufficient resource and expertise to carry out school workforce training functions which are transferred to him by this Act.'.

Mr Wright: Clause 15 sets out the new functions of the Secretary of State in relation to exercising the powers of the TDA and confers functions on Welsh Ministers in relation to teacher training. Amendments 105 and 106, tabled in my name and that of my hon. Friend, would ensure that the Secretary of State has sufficient resources and expertise to carry out the new functions.

It is unclear whether TDA staff currently involved in carrying out the functions will be transferred to the Department to continue using their experience and expertise. Given that uncertainty and our debate earlier on the General Teaching Council for England, it would be useful for the Minister to set out his thinking on the issue. The amendments provide a safeguard. Parliament would need to be satisfied that the Secretary of State was demonstrably capable of taking on the functions before they were transferred to him. We have debated the Department for Education ministerial team's capability and capacity to take on the new functions. Will the Minister outline to the Committee how he will ensure that he has sufficient resource and expertise to undertake the new functions following his decision to abolish the TDA?

Mr Gibb: I understand that the hon. Member for Cardiff West—

Mr Wright: Hartlepool.

Mr Gibb: Sorry, Hartlepool. It says here "Cardiff West". I know that the hon. Member for Hartlepool is concerned about the abolition of the TDA and the functions that it currently carries out, specifically in relation to training the school work force. He is concerned that they will not be performed effectively after being transferred to the new executive agency. I reassure him that that will not be the case. The functions will be carried out effectively.

The TDA has made a significant contribution to delivering improvements in teacher training and development, and thereby in standards of education. In particular, it has taken on important work to drive

[Mr Gibb]

forward improvements in recruitment and the quality of teaching. We have stated that the TDA's key functions will continue to be carried out by an executive agency of the Department directly accountable to Ministers. I assure hon. Members that the abolition of the TDA will not stifle our plans to encourage more high-quality applicants into teacher training and establish a strong culture of professional development within schools.

We will, of course, ensure that we retain the resource and expertise needed for the new executive agency to carry out its role. We are already working closely with colleagues at the TDA to ensure that that expertise is retained and smooth transition plans are developed and delivered. A transition board already exists that includes the TDA chief executive and members of its senior management team, as well as officials from the Department who are managing the transitional arrangements. We will continue to work closely with the TDA to learn from its experience.

To anticipate the hon. Gentleman, I am sure that hon. Members will appreciate that I am unable at this stage to give a view on how many staff from the TDA will transfer to the Department, but I assure them that detailed discussions with the TDA are taking place and are, obviously, at a sensitive point. There is no need to wait for us to set out what we will do, as it is all in the White Paper. I ask him to withdraw his amendment.

Mr Wright: I will ask leave to withdraw the amendment, but given what else is going on within the Department and the large-scale centralisation of many functions of different agencies into the hands of the Secretary of State, I am concerned that the good work that the TDA has been doing will be lost. As for the criteria for success or failure, we have seen already, as a result of some of the first decisions by this Department for Education, a tail-off in teacher recruitments, which goes against the tide of what has happened in previous years and of what we would expect in respect of the current economic cycle. On that basis, there has been a bit of failure with regard to the transfer of functions.

Pat Glass: As we consider this, may I ask that the Secretary of State look at two particular reports? One came out from the chief inspector of schools after the publication of the White Paper.

The Chair: Order. The hon. Lady can make a speech on this point, but she should not refer questions to the Minister through her hon. Friend.

Pat Glass: Would my hon. Friend agree with me about two particular reports? First, the chief inspector's report, which came out after the publication of the White Paper, which showed clearly that higher education and initial teacher training is twice as likely to be good or outstanding in higher education institutions than in school-based provision. Secondly, the Institute of Education report, which clearly identified that the more time a pupil spends with a support assistant and the less time with a qualified teacher, the less progress that child will make.

6.15 pm

Mr Wright: I would agree with every word that my hon. Friend says with regards to education, but on these specific points, I certainly would agree with her. This came out clearly in the evidence sessions at the start of our deliberations, and I commend her for raising them again. I have virtually finished my remarks. As I said, I am concerned that the good work of the TDA will continue. Perhaps that is something that the Select Committee could consider to ensure not only the quality of the data that is collected but that the functions have been transferred to the Department in an efficient and effective manner. Although I do not want to add to the workload of the Select Committee, it could be something that it considers in the future. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Wright: I beg to move amendment 92, in clause 15, page 22, line 13, at end insert

'and shall ensure that in distributing funding to such persons there is fairness between persons employed in the maintained and Academy sectors'.

This is a brief amendment designed to probe the Government on tuition fees with respect to teacher trainees working in the maintained and the academy sectors. I am sure that the Minister will agree that it is important to ensure that teacher and other staff trainees in academies benefit from the same financial support as those working in the maintained sector and vice versa. Briefly, I would be grateful for the Minister's clarification on that point.

Mr Gibb: The amendment allows the Committee to discuss the current arrangements and future plans for financial assistance for initial teacher training students. As hon. Members will be aware, financial assistance for teacher trainees is not distributed according to the type of school in which these teachers will do their work. As with all undergraduates, student loans cover tuition. Living costs, funded by the Department for Business, Innovation and Skills, are available to all trainees through Student Finance England, while grants, also available through Student Finance England, are distributed on the basis of income. On specific financial assistance for initial teacher trainees, the TDA currently distributes bursaries for teacher trainees according to the subject that they specialise in regardless of the school in which they are training or any future school in which they will teach.

In 2011-12, trainees undertaking ITT in the priority subjects of physics, chemistry, engineering and maths will receive a £9,000 bursary, while those training to teach biology, combined general science and modern foreign languages will receive a £6,000 bursary. As previously stated, this financial assistance is not based on the institution in which they are training. The White Paper set out clear plans for the future financial assistance for trainee teachers, specifically how we will use these financial incentives to raise the quality of entrants into the profession. It set out the Government's intention that in order to receive funding from the Department, anyone starting PGCE teacher training will need to hold at least a second class first degree from a UK higher education institution or an equivalent qualification.

It also stated that we would seek to offer financial incentives to attract into teaching more of the best graduates in shortage subjects. We also announced the introduction of a new competitive national scholarship scheme to support teachers in their continuing professional development. I assure hon. Members that that scheme will be open to all teachers on an equal footing, wherever they are employed.

Mr Wright: I did not quite catch what I think was the Minister's key point on the amendment. If he is saying "wherever" teachers are employed, that would give me great reassurance. Is that correct? Is that the phrase that is now on the record, because that would ensure that I have satisfaction about my amendment?

Mr Gibb: Yes, I assure the hon. Gentleman that the new scheme will be open to all teachers on an equal footing, whether they are currently employed in an academy or in a maintained school.

Mr Wright: That is what I wanted to hear.

Mr Gibb: That is what the hon. Gentleman wanted to hear and he can be reassured that that is the case.

Mr Wright: I thank the Minister. That is exactly the phrase that I wanted to hear, so I beg to ask leave to withdraw the amendment.

Mr Wright: I beg to move amendment 93, in clause 15, page 24, line 23, at end insert—

'(10) The Secretary of State as respects England must publish each year information showing that he had complied with his duties under the Equality Act 2010 with respect to the functions he has acquired under this section.'.

The amendment, which is in my name and that of my hon. Friend the Member for Cardiff West, would ensure that the Secretary of State published information showing his compliance with the Equality Act 2010. "The Importance of Teaching: The Schools White Paper 2010" and the Bill show a disturbing lack of emphasis on race equality and the duties to which schools must adhere under the 2010 Act. There is a real danger that some of the good work of recent years on equality obligations on schools may be minimised or even entirely dropped.

The abolition of the Training and Development Agency for Schools will result in the dropping of commitments to increase the number of black and minority ethnic teacher trainees. It would be helpful if the Minister informed the Committee about where that function as regards equality and BME trainees will now sit. The equality impact assessment does not refer at all to the importance of a diverse teacher work force in providing positive role models for children from more disadvantaged backgrounds. Increasingly, teacher trainees and NQTs do not feel properly prepared to support pupils who have English as an additional language, and they are concerned about not being adequately trained to work in multicultural classrooms.

In 2008, the TDA-funded National Association for Language Development in the Curriculum undertook a national audit of training to inform the five-year national strategy on English as an additional language. That audit, which included information from more than 200 courses involving 11,000 staff in 2007-08, found an inconsistent picture. It found very limited provision for EAL early professional development. Some evidence of the absence of nationally agreed content areas has led to reactive rather than proactive continuing professional development and vocational provision.

Our amendment proposes a regular report by the Secretary of State, which would help to give everyone concerned a clearer picture of his compliance with his duties under equality legislation. It would be helpful if the Minister set out his thoughts on the matter, and I would be grateful for his comments.

Mr Hayes: I recognise the importance of the issues that lie behind the amendment, which the hon. Gentleman has articulated with his usual style. He will know that the 2010 Act imposes on public bodies the obligation to comply with the general equality duty, which will commence on 5 April this year. To be clear, for the benefit of the whole Committee—the hon. Gentleman will know this anyway—section 149(1) of the 2010 Act defines that general duty as the requirement to have regard to the need to "eliminate discrimination", to "advance equality of opportunity" and to

"foster good relations between persons who share a relevant protected characteristic".

However, the hon. Gentleman has made an additional point about different groups being unrepresented in the profession. I emphasise that we take that situation seriously, and I have listened carefully to his comments. We have made it clear that the new agency will continue the salient work of the TDA. The principles that he described, of ensuring that unrepresented groups in the teaching profession carry on being advanced—BME groups for example—will continue under the new agency. It is absolutely right that in the selection, training and regulation of teachers we have a mind to that under-representation and to what we can do to address it. The function of the TDA in those terms will continue under the new arrangements, and the Secretary of State will have the duty, under the Equality Act 2010, to make clear what he has done to comply with the Act. I know that the hon. Gentleman will understand that that existing obligation for the Secretary of State to publish information annually on how he is meeting his duties under the 2010 Act, as well as the commitment that I have given today to continue that work in respect of the new agency, will satisfy the hon. Gentleman's perfectly proper concerns. We are not neglecting the responsibility that we have for equality or the underlying principles, and I hope that on that basis the hon. Gentleman will withdraw the amendment.

Mr Wright: I thank the Minister for his customary positive and helpful contribution. He has gone much further than I thought he would, and I thank him for his reassurances. I am happy about what he said about the new agency continuing the functions of ensuring that we have appropriate representation. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 15 ordered to stand part of the Bill.

Clause 16 ordered to stand part of the Bill.

Schedule 4

ABOLITION OF THE TDA: CONSEQUENTIAL AMENDMENTS

Mr Wright: I beg to move amendment 94, schedule 4, page 69, line 9, leave out paragraph 19.

The purpose of this probing amendment is to ask the Minister to explain the purpose of paragraph 19 of schedule 4. I do not understand that paragraph, and I hope that the Minister can explain it in simple language.

After the abolition of the TDA, the Secretary of State, as I understand it, will directly fund the Higher Education Funding Council for England for the provision of initial teacher training, for entry into the teaching profession. Proposed new section 23, which the Bill would insert into the Higher Education Act 2004, appears to enable the Secretary of State to impose a condition on HEFCE relating to the provision of grant, loans and other payments, which it in turn must impose on universities and other relevant institutions. Is that correct, and if so will the Minister give examples of conditions that might, through HEFCE, be imposed on higher education institutions? For my own benefit rather than the Committee's, I would be grateful if the Minister could give a clear and simple explanation of the proposed new section, so that I can understand exactly what the Government intend.

Mr Gibb: The amendment would remove from the Bill an amendment to the Higher Education Act 2004 that is consequential on the abolition of the Training and Development Agency for Schools. The amendment to the 2004 Act is required to remove the TDA from existing legislation that deals with the capping of tuition charges for university-based initial teacher-training courses, and to require the Secretary of State to impose a condition of a maximum tuition charge on the grant that he provides to institutions specified in the 2004 Act, which will include university initial teacher-training provision. The part of schedule 4 that the amendment would remove is simply a consequence of the abolition of the TDA under the Bill. I assure the Committee that it does not change the policy on tuition charging for university-based initial teacher-training, or for any undergraduate higher education course. The ability to charge the higher fee will remain, subject to the institution having in place a plan approved by the Office for Fair Access. Section 23 simply reflects the abolition of the TDA. I hope, therefore, that the hon. Gentleman is reassured that this part of the Bill is simply consequent on the previous clause.

6.30 pm

Mr Wright: That is incredibly helpful. The Minister has explained it in much simpler language, and my limited intelligence means that I now understand it. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 4 agreed to.

Clause 17

ABOLITION OF THE TDA: TRANSFER SCHEMES

Question proposed, That the clause stand part of the Bill.

Mr Wright: Again, I will be brief. I want to press the Minister on this matter, as I did in respect of the General Teaching Council for England. In particular, there are three main aspects of the clause, and they relate to staff, property and liabilities.

The Minister has already mentioned not being able to provide any degree of certainty over compulsory redundancies, voluntary redundancies, and the redeployment of the 300 or so staff from the TDA. I want to press him on that: can he provide any degree of reassurance? Will there be compulsory redundancies? I understand the sensitivity of negotiations, but it would be helpful both for the Committee and for wider stakeholder involvement, particularly in terms of staff, to get a clearer indication of what is going on.

On property, I understand from reading the TDA's annual report from last year that it recently moved to an office in Manchester, which has been refurbished, presumably at some considerable cost to the taxpayer. What will happen to that? Will the functions of the agency still be carried out in that Manchester office? Will any lease relating to that office be the responsibility of the Department? It would be helpful if the Minister indicates to the Committee what is going on there.

That leads me to my final point, which is about liabilities. From the balance sheet of the TDA, I know that it has a net liability of about £4 million. Presumably, the Department will have to take that on board. Has that been taken into account in respect of the impact assessment, where it states that there will be a slight benefit from the abolition of the TDA—a saving of about £2.4 million per annum is estimated? To what extent has the £4 million liability on the balance sheet been addressed?

Mr Gibb: Clause 17 introduces schedule 5, which is about schemes for the transfer of staff, property, rights and liabilities from the TDA to the Secretary of State. Given that it is our intention to abolish the TDA and transfer its continuing functions to the Secretary of State, it becomes technically necessary to enable the transfer of any staff and property from the agency to the Secretary of State. Once the legislation that established the TDA has been repealed, we will have staff and property that, in principle, belong to a body that no longer exists. That is really the purpose of the clause and the schedule.

To address the hon. Gentleman's specific questions, the changes we propose to make to staffing are still a year away, so we are not yet in a position to provide the detail that he is looking for. I can assure him, however, that we are working very closely with the TDA on all issues relating to staff and premises, with a view to ensuring that the transition will be as smooth as possible. There will, of course, be implications for staff, but it is important to remember that we expect many of the TDA's functions to continue. The Department and the TDA, therefore, will work closely to ensure that appropriate implementation planning takes place, redundancies are

minimised and that staff are treated fairly and sensitively. The TDA will also work closely with its union and it will consult staff, involving the DFE as necessary.

The hon. Gentleman also asked about Manchester. Where best to locate any ongoing functions will need to be considered, but decisions will need to be made in light of a separate review of the Government's overall estate. We will work closely with the TDA to minimise redundancies and ensure that staff are properly treated.

On liabilities, we would take on any residual liabilities, but we are working closely with the TDA to manage down the net liability that would transfer to the Department.

Mr Wright: I am particularly interested in the Manchester office, although I understand the Minister's point about the wider review and evaluation of the Government estate. It would be helpful if, as the Bill progresses, the Minister could keep us informed of developments. I understand that the Secretary of State could decide that he wants the functions to continue, and that he wants the existing staff to be able to continue to exercise those functions, but that the efficiency of the Government estate would best be served by having them do it in London, or possibly even Darlington, where the Department has another office.

Meg Munn: Or Sheffield.

Mr Wright: I have been to the office in Sheffield and quite enjoyed it. Would the Manchester staff, who presumably are based and live in the north-west area, become superfluous to the Department's needs? It would be helpful if, as the Bill progresses, the Minister could tell us how he is going to marry up the offices with where the staff are located.

Mr Gibb: I am happy to give the hon. Gentleman that assurance. If there are developments as we take the Bill through the House, I will be happy to inform the hon. Gentleman.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Schedule 5 agreed to.

Clause 18

Abolition of the School Support Staff Negotiating Body

Kevin Brennan: I beg to move amendment 101, in clause 18, page 25, line 7, at end add—

'(3) The Secretary of State may not bring this section into force by an order under section 78(3) until the end of the period of 18 months beginning on the day on which this Act is passed.'.

The abolition of the School Support Staff Negotiating Body is the last substantial issue that we face in part 3 of the Bill. The body was established by the Apprenticeships, Skills, Children and Learning Act 2009. It was some years in development and was established to design a national framework of pay and conditions for support staff at maintained schools in England, combining national consistency and local flexibility.

Perhaps I should declare a sort of interest here, because my mother was a school dinner lady and I therefore feel extremely strongly about any support staff being treated as second class citizens in our schools. I am afraid that this is an area in which we seriously disagree with the Government. This abolition is an abolition too far, given all the work that was put in.

You will be aware, Mr Williams, that we tabled another amendment that was not selected. It appears in the amendment paper and would have struck out the clause. I understand that, in a sense, it is not an amendment, but an argument for voting against the clause, which I am pretty sure we will be doing, although we will listen to what the Minister has to say.

If the Government are intent on abolition, amendment 101 at least tries to restore some sanity to the situation. We want to delay abolition by 18 months, not to drag our feet nor in some hope that the body might be rescued, but because there is a good case to argue that, if the Government insist on abolition, the body should at least be allowed to deliver on the job profiles that it was set up to produce.

One of the Chancellor's announcements in last year's Budget was that a £250 payment should be made to lower paid public sector workers, including support staff. We know that that payment will be made to teachers who fall into that category, but there is no guarantee that it will be made to support staff. If the School Support Staff Negotiating Body were kept in place, there would perhaps be some chance that that payment could happen.

The School Support Staff Negotiating Body was set up with the support of teachers, head teachers' organisations, governing bodies and parents' organisations, which are all aware of the value of support staff and the contribution they make to improving standards and the learning environment in our schools. Ofsted's fifth report evaluating the impact of school work force reform, which was published in 2010, found that 80% of schools visited provided evidence that the wider work force had contributed to improved learning outcomes. Ofsted also identified several areas in which it had concerns about the wider work force and, in particular, how effectively they were being managed and developed. Page 5 of the report states:

"Members of the wider workforce and their managers were confused and uncertain about the pay and conditions attached to the increasingly diverse roles that have developed as a result of workforce reform."

It goes on to recommend that the Government

"provide guidance on appropriate levels of pay and conditions for the increasingly diverse roles that have been introduced as a result of workforce reform."

That was the intended outcome of the School Support Staff Negotiating Body's work.

The body identified more than 100 support staff roles with profiles that schools could use as benchmarks to assess their own jobs. A school-based job evaluation scheme had been designed and a pay and conditions model was under discussion, including a working time formulation that would help schools to arrive at appropriate pay levels fairly and consistently. Before the Government's announcement, the job profiles had reached the testing-in-schools stage, a handbook of minimum conditions

[Kevin Brennan]

of service was a work in progress and employers and unions were moving towards an agreed expression of working time. Tremendous work had been undertaken.

The School Support Staff Negotiating Body agreement should have been finalised by January 2011 for phased implementation by April. It would have recommended a national framework and provided guidance to schools—I stress this point—without prescription. It would have reduced the burden on self-governing schools of having to create their own job descriptions and pay structures and would have significantly reduced the exposure of schools and local authorities to future equal pay claims.

Richard Fuller (Bedford) (Con): Just as a point of clarification, the hon. Gentleman said that the national job descriptions were at the testing stage. Does that mean that the job descriptions are available for schools to use and that it is just a question of whether they are suited to a particular role?

Kevin Brennan: My understanding is that the profiles had reached the stage of being tested in schools. Given that all the work has been knocked off kilter by the Secretary of State's announcement last autumn of the abolition of the negotiating body, whether they are fully developed is a moot point. That is why, if abolition is the Government's intention, extra time is required to complete the body's work. Abolishing the body is a wasteful thing to do.

The Government have identified the value of pay review bodies, including those for teachers and head teachers. In the abolition of School Support Staff Negotiating Body, the Government have made school support staff, who are predominantly women working in the local economy, an exception to the right to have a negotiating pay review body. There is also a legacy of equal pay liability. Around 35% of local authorities with schools have not carried out a pay review and face an equal pay bill of at least £214 million for their school support staff.

In addition, last year, the Chancellor announced a two-year pay freeze in the public sector, but he promised that all staff earning less than £21,000 would receive at least £250 in each year. The Secretary of State has submitted evidence to the School Teachers Review Body recommending that that should be paid to any teachers earning under that threshold, but he says that, despite having the power to direct, he has no way of delivering that to school support staff. That is a potential problem that could have been resolved by the School Support Staff Negotiating Body.

A lot of Government rhetoric about wanting to help hard-working ordinary families and about supporting equality for women will ring hollow if they do not even allow the body to complete the first phase of its work before its abolition. It is beyond the resources of most individual schools to develop and collectively bargain pay structures and job evaluation processes that will recruit and retain professional staff. For that reason, academy chains, and a significant number of local authorities and sixth-form college employers, have been waiting in the wings to draw on the SSSNB job profiles and evaluation system, and local authorities will continue to be vulnerable to equal pay challenges.

School support staff will feel that the long-awaited acknowledgement of their professional contribution, which has almost arrived with a fair and consistent award, has been taken from them by this measure. The amendment would ensure that their hard work does not go to waste. We therefore intend to oppose the abolition. If the Government are intent on pursuing this line, they should at least delay it for sufficient time to allow the SSSNB to complete its work.

6.45 pm

Julie Hilling: Approximately 490,000 people are currently disappointed and despondent that the Government propose getting rid of this body. They are generally low-paid workers, predominantly women, and they feel very let down by the Government. Before a vote is taken to get rid of the body, we ought to consider what it does and what we will miss if we do so.

Concern has been expressed over a number of years by workers and employers that a common framework was needed to deal with job roles and pay for school support staff. If we consider the evolution, and even the revolution, of school support staff over the last 10 years, we see that there was an even greater a need for some structure. The need was identified, and a group of workers got the Government and employers to agree to set up a national negotiating body—no easy task. That proves that there was a need for the body.

There has been a rapid growth in the range and depth of skills and responsibilities being exercised by school support staff. They were crucial in delivering the remodelling changes to teachers' contracts. They were the key to providing extended services for schools and professionalising the running of schools. The deployment of school support staff varies widely in the different institutions. Some schools have gone too far, and classroom support staff are regularly teaching whole classes. That is why we need to ensure a standardisation of roles. There is also confusion as to who is responsible for school support staff. Is it the local authority, the heads or the governors? There was a growing recognition that the national joint council for local government services was not suitable to deal with school staff. The job evaluation system and the pay structure for local authority staff are not designed to meet the needs of school staff, or of those working with children and young people.

In 2003, we had the remodelling agreement for teachers in schools. In 2005, the Government set up the schools staff working group with a remit to come up with proposals for a structure on pay and conditions. In 2006, the working group reported to Ministers, recommending the development of proposals for a new negotiating body and the recognition of facilities. In 2007, the working group presented its findings and it was agreed to set up a national body. In 2009, the SSSNB was set up under the Bill as a negotiating body and a non-department public body. On the employer's side, we have the Local Government Association.

Richard Fuller: I am not familiar with this area. I am listening intently to what the hon. Lady has to say about the chronology. Does she think that the four-year span from 2005, when the working group was set up, to 2009 and the Bill was time well spent, or does she believe that there was some delay and that we could have moved

forward much more quickly? It seems on the face of it to be a long time between the working group's recommendations to the Bill.

Julie Hilling: I do not disagree with the hon. Gentleman. The process took far too long, and I think that my hon. Friend the Member for North West Durham would like to intervene to explain why.

Pat Glass: Very few things reduce me to tears, but this is one. The absolute frustration was like walking through treacle. The thing was a complete mess, and it will go back to being a mess. The sword of Damocles hanging over all of this, is equal opportunities legislation and single status. It will cost schools and local authorities millions if we do not sort this out—and soon.

Julie Hilling: I thank my hon. Friend for that intervention. As I was saying, the employers' side was the Local Government Association, the Foundation and Aided Schools National Association, the Church of England's Education Division, and the Catholic Education Service. On the staff side was Unison, Unite and the GMB, in attendance in a non-voting capacity was the Department—whatever it was called at the various points—and the Training and Development Agency. I would be lying if I were to say that this was welcomed by all of the employers in the Local Government Association. However, a number of employers—particularly the faith employers—did welcome a framework in which to work. The Labour Government recognised the need and the employers got on board with the work, even before the Bill was in place.

The body has been working on a core contract of employment to cover remuneration, duties and working time, with a national job role profile to cover core school support roles. It is developing and producing a method of converting the job role profiles into a salary structure, a strategy to implement a national pay and conditions framework in all maintained schools. However, there was no carte blanche to increase the pay as staff. The Government had said that there had to be regard to minimising the additional administrative burdens and cost implications for employers; that all agreements had to be affordable; that equality and diversity had to be addressed and best practice adhered to; and that there had to be consideration of the need to recruit and retain sufficient numbers of high-quality support staff.

Contrary to popular belief, that is not just about classroom support, as my hon. Friend the shadow Minister said. It actually created five job families—teaching and learning support; administration and management; facilities; specialist and technical; and pupil support and welfare—covering all the support staff who would be working in a school. It has drawn up 100 role profiles. It is an enormous piece of work: one is talking about nearly 500,000 staff doing a variety of jobs in schools. It has made huge progress and has drawn up 100 job role profiles. As my hon. Friend the Member for Cardiff West said, it is now at the stage of testing those in school.

The body also has a working-time formula. One concern for support staff, over a number of years, was that teachers are paid for 52 weeks, while other staff working in schools are often paid only term-time or term-time plus, or variations of that. It has been working on a formula for working time, to account for those differences of whether it is term-time only or not. It has also drawn up a suitable job evaluation system. Those people who have been involved in job evaluations will know that there is a variety of systems, with different weightings on different roles. Is manual the most important bit, or is intelligence?

The body was due to report this April and there had been a delay. Initially, the Labour Government said it wanted a report by last year. It was given an extension to this April, with a view to be totally up and running. Last May, of course, it was put on hold, when the new Government said it did not want this body to be in place. All of that work is sitting there but on hold. I want to ask the Government what they think will happen now. Anybody who employs staff knows the difficulty of determining salary. Whether in the private or public sector, one finds out the going rate in the industry. What is the going rate for the architect or painter and decorator? The best employers do job evaluation. They find a system that works and do that job evaluation for themselves. The Independent Parliamentary Standards Authority has done that for us in the House, and it has declared a scale of pay that we are supposed to pay our staff. With many employers in different jobs, it is up to the employer where to pay within that scale, but one has an idea of the value of the work.

This proposal means that individual schools or local authorities now have to create this framework for themselves. The individual schools have said that they want the framework; the ASCL has said that getting rid of the SSSNB is a retrograde step; the academy chains were interested in the work and wanted to see the results in order to be able to use them; and the faith schools wanted it. Even now, Unison gets frequent phone calls from schools and other employers to ask what they should be paying their employees.

As my hon. Friend the Member for North West Durham has said, employers are now more susceptible to equal pay claims. Where are the comparators? They were not addressed in the local government pay claims. Pay claims will continue to be looked at. Employers were concerned about the costs, but those costs are potentially higher without the SSSNB. A vacuum will be left. The Opposition ask that if the Government will not keep the body, they will at least allow it to complete its work so that all workers can be put on a professional footing.

The average primary school has 11 support staff, and the average secondary school has 40. As I have said, individual job evaluation is not feasible or cost-effective. The Government will be letting down nearly half a million workers. As my hon. Friend has said, those staff will not even get the £250 that the Chancellor has promised to low-paid workers in the public sector during the two-year pay freeze, because there is no machinery to allocate it. I ask the Government to rethink the proposal and at least allow the body to continue its work until a national framework exists, even if they do not want it to impose any pay terms and conditions on local authorities or other employers.

Pat Glass: As my hon. Friend the Member for Bolton West has said, 490,000 people are desperately disappointed at the Government's decision to abolish the SSSNB,

[Pat Glass]

and I am one of them. As an assistant director, I sat in meeting after meeting with unions, head teachers and representatives of different groups of people trying to find a way through this, for what seemed like years. It was like walking through treacle.

There was a time when the local authority set all pay and conditions in schools, and support staff were paid the same in secondary schools across the city or the borough. All that changed when governors started to set pay scales, and different head teachers employed different people. We now have a range of people in schools; we have learning mentors, technicians, support assistants, non-qualified teachers and nursery nurses—some of whom are working in secondary schools and in sixth forms—not to mention the cooks and the cleaners.

That has huge financial implications, because even though the Government are looking to move away from local authorities being employers in schools, ultimately the Government employ all these people. Where we have equal opportunities legislation, and where different people are doing the same job in different situations, there will be claims, which the Government will face as well as schools. The establishment of the SSSNB was manna from heaven for people in local authorities who had been struggling with such issues for years and getting no further forward. If the Government do nothing else, for the sake of the Minister's sanity I suggest that he looks at allowing the body to complete the work that it is doing. If it does not, that will come back and bite him big-style.

7 pm

Mr Gibb: I believe that all of us in this room value school support staff and recognise and appreciate the important contribution that they make to our education system by supporting teachers and pupils. I am sure that those of us who visit schools have seen the high regard in which head teachers and school governors hold the support staff that they employ.

There is also a degree of consensus about the need to reduce central prescription on schools. Head teachers consistently tell us that their ability to lead their school is constrained by the burdens of bureaucracy, legislation and central guidance. They also say that central Government directives constrain their ability to do what is right for their school and its pupils within the specific and individual context of their local environment.

In that context, the Secretary of State decided the future of the SSSNB. He concluded that the expected outcome of its activities, the development of a statutory national pay and conditions framework for school support staff, would involve creating and imposing additional rigidity on schools. That would be at odds with this Government's commitment to reduce central prescription and give heads greater autonomy to manage the resources available to them as they see fit.

Head teachers have expressed their support for my right hon. Friend's conclusions. Carlo Cuomo, head teacher of Christ the King school in Arnold, Nottinghamshire, said:

> "I want to reward staff for their contribution without being told I can't pay a particular grade because a school down the road doesn't pay it. We have seen how much of a straitjacket teachers' pay and conditions have become. I don't want the same for support staff."

The hon. Member for Cardiff West raised a couple of issues. On the £250, we are aware that local government employers recently announced that they do not intend to make a pay offer to their employees for 2011-12. That decision will affect all local authority employees, including school support staff who work in community and voluntary-controlled schools. Obviously, I cannot comment on the position for the remainder of school support staff in maintained schools or those working in voluntary-aided schools. The Government set the overall policy on public sector pay, but decisions about the pay of local government work forces are taken at local level by councils. Central Government have no role, but we expect them to exercise similar restraint to that applied in the public sector.

The Minister will be aware—*[Interruption.]* The shadow Minister; I beg pardon. Nine months in, it is still hard to relinquish old titles. We appreciate the time and effort that has been put into the development of a pay and conditions framework for school support staff by members of the SSSNB. The Secretary of State has made it clear to trade unions and support staff employee organisations that he believes that there is a clear argument for completing some elements of the work begun by the SSSNB, on the basis that the outputs might be of some use to employers and schools.

Dan Rogerson: I welcome that comment from the Minister. When we took evidence from a range of people, including head teachers, there was some concern about duplication of the work that Opposition Members have discussed. I am sure that it would be welcome if the Secretary of State's suggestion that some of that work be made available were followed.

Mr Gibb: I am grateful for my hon. Friend's intervention. Those elements include the set of support staff job profiles, for example, and the associated job evaluation scheme. Should trade unions and employers deem that it would be a useful way to proceed with support staff pay and conditions to continue with that development work independently of the Government, I believe that that would be a positive outcome. I hope that that goes some way towards reassuring the hon. Members for Bolton West and for North West Durham.

It is paramount that such guidelines are developed independently so that employers of support staff are allowed the freedom to choose to use what any voluntary arrangement might produce. It is planned for me to meet with trade unions and employer organisations after they have had the opportunity to discuss further the possibility of a voluntary arrangement. The Government have already indicated that we will actively support such an arrangement by contributing towards any funding that might be necessary to help enable the completion of the job role profile and job evaluation development work. I understand that there have been some informal exploratory talks. I am currently waiting to hear about progress before arranging the meetings.

With those few words and reassurance for my hon. Friend and other hon. Members, I hope that it will not be necessary for the Opposition Front-Bench team to press to a Division the amendment to delay implementation by 18 months.

Kevin Brennan: I am afraid it will be.

The easiest way to complete this would be to accept the amendment and to allow the job profiles to be completed. The Minister described prescription to schools, but no prescription is involved. As I said, the SSSNB was all about guidance without prescription. I find his citing of a comment about the straitjacket on teachers' pay rather disturbing, because it makes me wonder whether teachers are next in line for the abolition of a national pay body.

Obviously, national teachers' pay will be influenced by the fragmentation of the education system that the Government are planning, and I rather suspect from their approach that it will not only be support staff, but teachers next and head teachers after that—the complete dismantling of any sort of pay review structure in our state education system. Describing the pay review body for teachers as a straitjacket is a fairly indicative comment. I accept that he was quoting a head teacher, but I presume he was quoting that comment because he felt it fitted in with his own views. Perhaps I was wrong and the Minister disagrees with the head teacher he quoted.

Mr Gibb: I was quoting the head teacher. I wanted to give the full quote and the context in which it was given.

Kevin Brennan: That is undoubtedly the case. Of course, quoting one head teacher is one thing, but the head teachers' organisations are in favour, and they support the SSSNB, so the greater number of head teachers is supportive. We see the measure as a straightforward attack on hard-working families, low-paid people and, mainly, as pointed out in the debate, women, who work in a lot of the roles. In some senses, the clause is the most ideological one that the Government have in the Bill. The negotiating body is supported right across education, and would save time, money, bureaucracy and legal challenge.

The SSSNB created the right message about schools and the people who work in them—the team who work in a school together, around the child, in order to promote education for our young people. The jobs affected might typically be described as pink-collar ghettos—jobs done mainly by women, and often for low pay. The negotiating body was an important step forward, but the message, loud and clear, from the Government to teaching assistants, office staff and the other roles my hon. Friends mentioned, including dinner ladies, as my mother was, is that they are a second-class part of the teams working in our schools.

I do not propose to say anything on clause stand part, but I do propose to make clear our opposition to such a retrograde step.

Richard Fuller: The hon. Gentleman is making a strong set of assertions about motivations, which has no foundation in terms of discrimination against or of an attack on or a sense of no consideration for those on low pay from the Government side. Those assertions are without foundation.

I listened intently and understand that the process was complex, but if the hon. Gentleman's rhetoric was as strong as his actions, it would not have taken five years for the Labour Government to have progressed things from when they set up the working group. His rhetoric ought to fit the history.

Kevin Brennan: The opposite is true. That process was testament to a lot of hard work going into putting the system together. It is now being dismantled at the whim of the Secretary of State, because of his ideological desire to sweep away any form of national pay bargaining or national pay structures. What is particularly offensive is that he has picked on those at the bottom of the pile as his first target for such an approach. The Minister earlier talked about his enthusiasm for monetarism, and getting rid of such structures fits in with a free market ideology. The Government will rue and regret doing so. It is possibly the worst measure in the Bill. I therefore ask my hon. Friends to support me in pressing the amendment to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 10]

AYES

Brennan, Kevin	Hendrick, Mark
Creasy, Stella	Hilling, Julie
Durkan, Mark	Munn, Meg
Glass, Pat	Wright, Mr Iain

NOES

Boles, Nick	Hayes, Mr John
Duddridge, James	Munt, Tessa
Fuller, Richard	Rogerson, Dan
Gibb, Mr Nick	Stuart, Mr Graham
Gyimah, Mr Sam	

Question accordingly negatived.

Question put, That the clause stand part of the Bill.

The Committee divided: Ayes 9, Noes 8.

Division No. 11]

AYES

Boles, Nick	Hayes, Mr John
Duddridge, James	Munt, Tessa
Fuller, Richard	Rogerson, Dan
Gibb, Mr Nick	Stuart, Mr Graham
Gyimah, Mr Sam	

NOES

Brennan, Kevin	Hendrick, Mark
Creasy, Stella	Hilling, Julie
Durkan, Mark	Munn, Meg
Glass, Pat	Wright, Mr Iain

Question accordingly agreed to.

Clause 18 ordered to stand part of the Bill.

Clause 19

STAFFING OF MAINTAINED SCHOOLS: SUSPENSION OF DELEGATED BUDGET

Question proposed, That the clause stand part of the Bill.

Kevin Brennan: Will the Minister give the Committee the briefest explanation of the Government's intentions in the clause?

Mr Gibb: I am happy to say that it is a technical clause. It remedies an omission that was made when the Education and Inspections Act 2006 was brought into force. I am sure my hon. Friend the Minister and I were on that Committee and I am sure we spotted it, but we decided not to raise it.

In 2002, the Education Act was brought into force and parts of the School Standards and Framework Act 1998 relating to staffing matters in England and Wales were repealed and replaced in the Education Act by sections 35 and 36. Sections 35(7) and 36(7) of the Education Act make provision for the effect on staffing in circumstances where the delegated budget of a maintained school in England or Wales is suspended by virtue of section 17 or schedule 15 to the School Standards and Framework Act. Subsequent amendments made by the Education and Inspections Act 2006 meant that section 17 of the School Standards and Framework Act no longer applied to schools in England. We therefore propose to rectify this by amending sections 35(7) and 36(7) of the Education Act 2002 to include a reference to section 66 of the Education and Inspections Act 2006, which replaced section 17 of the School Standards and Framework Act in its application to England.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —*(James Duddridge.)*

7.14 pm

Adjourned till Thursday 24 March at Nine o'clock.