PARLIAMENTARY DEBATES

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Public Bill Committee

EDUCATION BILL

Eighteenth Sitting

Tuesday 29 March 2011

(Afternoon)

CONTENTS

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Saturday 2 April 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 29 March 2011

(Afternoon)

[Hywel Williams *in the Chair*]

Education Bill

Clause 28

Repeal of diploma entitlement for 16 to 18 year olds

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

4 pm

Mr Iain Wright (Hartlepool) (Lab): I welcome you to the Chair this afternoon, Mr Williams.

It is a real shame to repeal the diploma entitlement for 16 to 18-year-olds. Diplomas will wither on the vine. I oppose the repeal and do not think the clause should stand part of the Bill. Let me set out the concerns that various bodies have expressed. The NASUWT has said that the clause

"narrows the curriculum and undermines parity of esteem between academic and vocational courses. It is a retrograde step that will disenfranchise thousands of learners".

The ASCL has said:

"This must not send the wrong message about the future of vocational education. We strongly believe that high quality vocational education must be a key aspect of the education system and, as the government is (rightly) going ahead with the raised participation age, the demand for it is likely to increase. The government must commit to providing quality options for all young people."

Unison has said:

"The repeal of the diploma entitlement is another step towards scrapping diplomas and the vocational education opportunities that came with them."

What is the Minister's view on the quality and value of diplomas? What support will his Department give to ensure that they can prosper and thrive? What assessment has he made of the impact on young people of narrowing the curriculum, both through this clause and through his proposals on the English bac?

I have referred to the raising of the participation age, and it is right that the Government continue with that, but the Minister himself has admitted that the demand for vocational education, and specifically diplomas, is likely to increase as a result of it. Can he assure us that he will provide quality options for all young people, regardless of their interests, rather than a narrow focus on a specific academic route, as is suggested with the English bac? What plans does he have to ensure that diploma supply will match popular demand? On the back of the Wolf report, can he reassure us that, in the absence of diploma entitlement, access to high-quality vocational education in schools will continue?

One of the key things to allow diplomas to thrive is collaboration and partnership with schools and with local authorities. If a young person is in a rural area, and their educational institution does not provide a particular diploma line that he or she wants to pursue, what redress is there to ensure that provision is made? Given the repeal in the clause, how will that young person be able to do the course of his or her choice?

What assessment has the Minister made of the impact of the repeal on levels of NEETs? We discussed this in Committee last week. It is important to ensure that we have positive, enthusiastic engagement from young people in the education and training system. By repealing this valuable qualification, we are losing something in that regard. I would be interested in the Minister's thoughts about the future of diplomas with regard to those concerns.

Mr Graham Stuart (Beverley and Holderness) (Con): I will be brief, as I am sure the Minister will cover all the ground that I would want to be covered.

We all want to see better vocational, practical education offerings for young people, and we recognise that our historical efforts in that regard have been poor. We should also note, though, that the diploma was appallingly ill thought through. It was introduced by a Secretary of State who simply would not listen. I remember representatives of the awarding bodies appearing before the Select Committee, where one of them described it as the most complicated qualification that he had ever seen. As originally laid out, the entitlement was technically undeliverable, not least in rural areas, and it was phenomenally expensive for a remarkably small number of people successfully qualifying for it. It was an expensive promise made by the previous Government that could not be delivered and unfortunately failed to do what it set out to do. As for the respective positions of the Front Benches, surely Labour Members should show greater humility in respect of the diploma because it is not an unalloyed triumph of the previous Administration. On the contrary, it was expensive and ill thought out.

However, the shadow Minister referred to making sure that we have suitable offering and a clear picture of where we are going in the aftermath of the original vision of diplomas and entitlement across the 13 flavours, excluding or including the academic. None the less, we need from the Minister a clear idea of where we are, and I am sure that he will remind us of a few more details about the catastrophic failure of the diploma as introduced by the former Secretary of State.

The Minister for Further Education, Skills and Lifelong Learning (Mr John Hayes): Not for the first or last time the Chairman of the Select Committee is right. The diploma is difficult because of some of the reasons that he outlined. None the less, when it was introduced it was absolutely right that we gave it a fair wind, and I was the shadow Minister responsible for that. We debated the matter at some length when we were in Opposition, and my hon. Friend the Minister and I took the view that the diploma represented an opportunity to provide the quality vocational offer that the hon. Member for Hartlepool describes as being essential to motivate those whose tastes and talents take them down the practical path.

Some of the diplomas on offer are very strong in that respect. The engineering diploma is highly regarded, partly because it was heavily influenced by the engineering industry at the time of its inception. The same can be

true for the IT diploma. Several major IT companies played a key role in helping to shape that qualification. Nevertheless, surely it is not the role of the Government to force local authorities, and through them, schools and colleges, to offer the whole line of diplomas. It would be immensely difficult to offer all 14 diploma subjects in many different circumstances, as my hon. Friend the Member for Beverley and Holderness said.

Those doubts were made clear at the outset. Indeed, we were uncertain whether there would be sufficient resource capacity to deliver all 14 diplomas. It is for schools and colleges to decide which diplomas are appropriate for their cohort, which they have the capacity to deliver effectively and which will deliver the best outcomes for their students. I want that to be at the heart of what we now do and the amendments that we are making to the existing provision through the removal of the entitlements does just that. It places responsibility back into the hands of the professionals to make those judgments.

Such a change has been welcome. The Association of Colleges has always been uncertain about diploma entitlement, and states that

"we have always wanted greater freedom for colleges to offer courses and qualifications which meet the needs of young people."

The Association of School and College Leaders states that

"removing the Diploma entitlement is welcome as it was not practical to offer all lines to all students".

Edge has said,

"It was always going to be difficult to deliver the entitlement, especially in rural areas".

At an early opportunity, the hon. Member for Hartlepool will want to welcome the thoughtful and sensitive statement on the replacement of the EMA made by my right hon. Friend the Secretary of State, which deals particularly with transport issues that are essential if we are to allow provision in rural areas to match the best. It is important that, when people want to take advantage of options that are not in their immediate locality and outside the travel area designated by the local authority, they can do so by being supported by travel. My right hon. Friend made it clear that that was part of the package that he was bringing forward.

I want to make it clear that the clause does not remove diplomas or prevent providers of 16 to 18 education from offering diplomas if they wish. Indeed, the Association of Colleges has also told us that repealing the diploma entitlement will make little difference to many colleges' continuing commitment to the qualification. I do not think that they will wither on the vine, as the hon. Gentleman said, and I do not want them to do so where they deliver a quality product in line with pupil and student expectations and where they can be tested against proper measurements of outcome, especially destination measures. Those measures are a much better way of our judging whether the system is having the effect that it should. That is particularly true of vocational qualifications, where further learning and employment are a key measure of whether those practical qualifications have conferred competencies that have economic value.

The clause will not remove any diplomas or other vocational options for young people. We believe in high-quality vocational education, as reinforced by Alison Wolf's report. I saw her yesterday evening before I had an enjoyable dinner with the hon. Member for Hartlepool. By the way, I put on the record my thanks for his generosity in inviting me and subsequently thanking me for the good meal and the even better discussion yesterday evening. In that spirit, I hope that he will agree to allow the clause to stand part of the Bill.

Question put and agreed to.

Clause 28 accordingly ordered to stand part of the Bill.

Clause 29

REPEAL OF DIPLOMA ENTITLEMENT FOR FOURTH KEY STAGE

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

Mr Wright: I do not want to repeat many of the points that I made about clause 28, but I will anyway. I want to ask the Minister about three or four of those key points. How does he intend to ensure that there is a sufficient supply of diplomas at the fourth key stage to meet the number and variety of subjects for which there will be demand? There is a genuine concern about the Secretary of State's proposals for the curriculum. Does the Minister believe that there will be a narrowing of the curriculum available to young people? Is he concerned that, notwithstanding broader social and economic considerations, the effect will be to drive up NEET levels? There is little point in getting students to do that if they are starting to become disengaged from the more academic, classroom-based approach to learning, but are still ambitious to do things and consider the diplomas to be more interesting and relevant to them and their career. There is no point in pushing square pegs into round holes. Is he concerned that there will be a higher level of disengagement as a result of the provision?

Does he believe there will still be a role for the local authority to work with schools to plan diplomas for the fourth key stage? As it currently stands, the clause seems to remove the basis of the local authority role in developing a wider 14 to 19 strategy. The key point of having the local authority as a strategic body that held the ring to help local education providers was a positive step made as part of our 14 to 19 strategy. Finally, what about the disadvantage and disparity between urban or metropolitan areas and rural areas? Will the Minister's plans not disadvantage students from rural areas who might want to consider doing diplomas? My concerns are very close to those that I raised on clause 28, but I would be grateful if the Minister gave us an outline of his thinking.

The Minister of State, Department for Education (Mr Nick Gibb): Welcome back to the chair this afternoon, Mr Williams.

Clause 28 will remove the diploma entitlement for 16 to 18-year-olds, whereas, as the hon. Member for Hartlepool remarked, clause 29 will remove the entitlement for all key stage 4 pupils to all of the diplomas. As with clause 28, the provisions being amended are not yet in force, but were they to be implemented as originally planned they would give an entitlement to pupils of that age to study any of the diplomas and would have placed a corresponding duty on not only local authorities, but governing bodies and head teachers of all maintained

[Mr Nick Gibb]

secondary schools in England to secure an entitlement for pupils aged 14 to 16 to all 14 sub-diploma subject lines at every level.

That would have placed a huge burden on schools. It would have resulted in all kinds of strange changes to timetables which would have been instituted not for pedagogical reasons but purely for logistical ones, to enable students to travel from one institution to another, so they could partake of those qualifications. As my hon. Friend the Minister said, that would be particularly hard in rural areas, which answers the point made by the hon. Member for Hartlepool. It was never realistic in rural areas.

4.15 pm

We want to have increasing freedom and autonomy for schools, and we want to relieve them of unnecessary duties and burdens, because that is one of the cornerstones of our schools' quality. Throughout the world, the case for the benefits of school autonomy is now well established. The highest performing countries in PISA—Finland and South Korea—are characterised by individual school autonomy, which is why the clause gives schools greater freedom to choose for themselves which qualifications they want to teach.

As with clause 28, nothing in clause 29 prevents schools or any other provider from offering diplomas if they wish to. Nor does removing the diploma entitlement signal a lack of interest by the Government in vocational education, as my hon. Friend so ably demonstrated. High-quality vocational education is crucial to our country's economic future. While it is vital that 14 to 16-year-olds receive a core academic education, Professor Alison Wolf's report clearly sets out the value of high-quality vocational education alongside that core to help prepare young people for further study and the labour market.

Forcing particular options on schools is not the answer. The importance of the clause is the freedom it gives to schools, which should be able to decide for themselves which courses—academic and vocational—to provide to their students.

Question put and agreed to.

Clause 29 accordingly ordered to stand part of the Bill.

Clause 30

Duties to co-operate with local authority

Kevin Brennan (Cardiff West) (Lab): I beg to move amendment 137, in clause 30, page 31, line 27, at beginning insert 'Subject to subsection (5),'.

The Chair: With this it will be convenient to discuss the following: Amendment 138, in clause 30, page 31, line 34, at end insert—

'(5) The Secretary of State must not commence this section until Her Majesty's Chief Inspector of Education, Children's Services and Skills has reported to the Secretary of State on the operation of section 10 of the Children Act 2004, and the Secretary of State has laid the report before Parliament.'.

Amendment 139, in clause 78, page 57, line 31, leave out paragraph (c) and insert—'(c) section 31.'.

Kevin Brennan: Prynhawn da, Mr Williams, croeso 'nôl—good afternoon and welcome back.

We now move to part 5 of the Bill, in which the Government seek to remove a whole series of duties from educational establishments. Clause 30 will remove from the list of relevant partners in section 10 of the Children Act 2004 the governing bodies of maintained schools, the proprietors of non-maintained special schools, city technology colleges, city colleges for the technology of arts or academies situated in the authority's area, and the governing bodies of further education institutions.

You will recall, Mr Williams—although you were not present, I am sure you read the evidence—that the National Children's Bureau told us that the rationale for extending the duty to co-operate to the educational establishments listed was to ensure that all relevant bodies were consulted during the development of the joint local plan. By removing the duty, schools, academies, FE colleges and other educational establishments lose the right to be consulted in the development of local strategic planning for children and young people. That is a matter of concern to the National Children's Bureau.

The Secretary of State does not seem to value partnership and co-operation in his general approach. In addition, Unison told us:

"The removal of schools and colleges from the list of relevant partners in children and young people's well-being drives a wedge between them and other local services and negates the purpose of Every Child Matters".

As we go through this Bill, one begins to wonder whether the phrase "Every Child Matters" has been banned in the Department for Education, given that we never hear it pass the lips of any Minister. Perhaps we can do a word search of all our proceedings to see whether it has been uttered, I may be mistaken. I see that Ministers are just checking between themselves whether it has been banned and struck from the lexicon of coalition speak. It is surprising, because, as I recall, the Liberal Democrats were extremely keen on Every Child Matters, and when we were in government they often pushed us to go further on that agenda, but now they are busily taking out of legislation lots of the things that they pushed us to include. When we do our audit of all the things that they have voted for in the Bill, it will be interesting to consider what they previously urged, in some cases begged, the previous Government to include in legislation. We were, as every Government are, reluctant to impose too many duties on education authorities, but, unfortunately, with the Lib Dems hectoring us to include more, we occasionally had to give way.

Dan Rogerson (North Cornwall) (LD): The hon. Gentleman will be aware that we have a coalition Government and that our party, and indeed our coalition partners, have never pretended that we agree on every single thing. That is why we have a coalition agreement and an agreed programme. Of course, when the hon. Gentleman was in government, his party, as a united vehicle, could have pushed through a lot of the things that they are now seeking to include in the Bill. I will be interested to see whether his work on cross-referencing the work of the last Parliament and this one will consider some of the issues that his party resisted to which it is now suddenly converted.

Kevin Brennan: I think the Schools Minister confirmed earlier from a sedentary position that both parties have sold out, and perhaps he is right.

Our principles are not for sale, but when we were in government we were a listening Government, so we did occasionally accept a proposal or two from the Lib Dems, when they were sensible and progressive. Now, they are busily removing duties from the legislation that they had previously asked us to introduce.

As a result of the clause, there may be too little contact between local authorities and schools. In effect, despite the Government's protestations about being in favour of localism, it could mean cutting elected local councils out of the schools and education landscape. Can the Minister tell me whether the phrase "Every Child Matters" is banned, and clarify how the Government intend to maintain a joined-up policy at the local level, given the implications of the clause?

Meg Munn (Sheffield, Heeley) (Lab/Co-op): I want to remind the Committee of where the duty came from. It has its roots in the horrific murder of Victoria Climbié in 2001. Lord Laming's subsequent report highlighted the lack of priority given to safeguarding by the agencies involved in the case, which made it difficult for professionals to work together effectively.

As the Committee will be aware, in previous sittings I have raised the issue of the importance of keeping children's safeguarding as a priority. The reality always is that the number of staff involved in that work, compared with the numbers involved in educating children, is tiny. It is only when horrific cases occur that the spotlight is suddenly pointed at all the organisations involved, and everyone then says, "What's happened here? Why did the agencies not work effectively together?" After a period of reflection, the world continues, and Governments, whether new or not, put other measures in place. For example, the last Government brought children's services together, and we discovered that, unfortunately, a lot of children's services departments did not have strong leadership in terms of safeguarding, because not unexpectedly, the majority of the leaders of such services had backgrounds in education. It is for that reason that we considered inserting the clause in the 2004 Act.

I have some recollection of the 2004 Act, but as I have said previously to the hon. Member for Grantham and Stamford—I was in his position when that legislation was debated in the House—I was unable to speak and we do not always remember matters as well as when we take an active part in the Committee. But I recall very well the circumstances that led to this. I also recall, from my experience working in children's social services up to 2000, the frustration at times of dealing with others parts of the local authority or schools and getting them to co-operate on very important issues around safeguarding. Of course, that is not the top priority in schools. Education is the reason children go to school and that is what we expect. But unless we recognise that we cannot deliver safeguarding effectively without the involvement of all agencies, children will slip through the net. I therefore ask Government Members to take those concerns seriously, because another child will slip through the net and we will all start to look at the systems and whether there is systemic failure. Please look now and consider how to ensure that we do not lose the real benefits gained over the past decade in children's organisations working more effectively together.

Pat Glass (North West Durham) (Lab): I am incredibly concerned about this. The explanatory notes state that relevant partners—school being one of them—

"will be able to decide for themselves how to engage in arrangements"

for children's well-being. Basically, that leaves it up to individual schools to decide for themselves how they engage with local authorities, health services, the police, probation services and others that they need and rely on to support the well-being of children in their schools.

As we all know, well-being is a huge issue for schools. Children spend up to six hours a day in school. That is 38 weeks out of every 52, and 190 days out of 365. It is a relatively short period of time, and we recognise that the impact that the school can have will be seriously negated if the child's home, family and community is not right. Many of the barriers to learning faced by children and schools exist outside the school gates, and good schools recognise that.

My son sat in this Committee last week. He is a head teacher and I am incredibly proud of him. He was the youngest head teacher in the country for about 30 seconds. He told me that in his school he takes the matter of the child's education and all the other things that go along with that incredibly seriously. Every child in his school has access to food at the beginning of the day. They also have a nutritious meal in the middle of the day, because he recognises that that has an impact on a child's learning and behaviour. He makes sure that every child who wants to has something to eat before they leave school, because he also recognises that many of his children will not eat again until they come back to school the following day.

The police are welcome in his school, as are social workers, parents, school nurses and the whole range of people who contribute to a child's well-being. He is not alone. Most head teachers recognise and respond to the problems in inner-city schools, in schools working in challenging circumstances and in schools where children traditionally had less opportunity to reach their potential. Head teachers deal with the kind of children that the Government are telling us daily in this Committee and in the House that they want to support. But I remind the Committee that it is very often the most successful schools and local authorities that have the biggest gaps in learning and achievement for their poorest children, so it is not only in inner-city schools and in schools where the majority of pupils are on free school meals that we need to be mindful of well-being.

Allowing schools to decide for themselves how they engage in safeguarding with others within the local authority, health services, the police and social services will result, as my hon. Friend the Member for Sheffield, Heeley pointed out, in some schools having major engagement. Most schools will find a way of engaging, but some schools will have virtually no engagement at all. Ultimately, that will result in the fragmentation of services. As a result, young people, their families and communities will be very badly served.

4.30 pm

Mr Gibb: I start by reminding the Committee that the duty we are repealing in clause 30 is the duty on schools and colleges to be part of children's trust arrangements. The arrangements themselves and the duties on other members will remain, notwithstanding the clause. There

[Mr Gibb]

are no plans to repeal the general duty to co-operate, which forms the basis of the children's trust arrangements. We fully endorse the need for effective partnership working to secure better local services for children, young people and families. It is the unnecessary prescription that we are seeking to tackle. While I am on the subject of partnerships, my comments about coalition are that we all have to compromise in a coalition. That is the essence of coalition politics. The Conservative party has compromised on a range of issues and so have the Liberal Democrats. That is what co-operation and working together is all about. I would have thought that Opposition Members understood that.

The amendments would delay removing the duty on schools and FE colleges to co-operate with the local authority through children's trust arrangements until the chief inspector of Ofsted has reported on the operation of the duty under section 10 and that report is laid before Parliament. It is not appropriate to delay removing that burden from schools. First, the duty to co-operate was only placed on schools and colleges on 12 January 2010. Just nine months later, we announced on 31 October 2010 that it was to be repealed. Given that schools and colleges knew that we intended to remove the duty as soon as possible, it would be strange to decide to inspect them on how well they are complying with it in the meantime.

Secondly, and most importantly, we already know that partnership working is effective without a statutory duty. The Audit Commission produced a report in 2008 that showed that, without a statutory duty, schools and colleges were already actively engaged in effective partnership. As the hon. Member for Darlington (Mrs Chapman) said on Second Reading, Ofsted has in fact already produced an evaluation report, in November last year, on the impact of children's trusts in six local authorities. It found that partnership working was already well established within local authorities before schools and colleges were required to co-operate. Much of the field work for that report was conducted before the duty was commenced, and the identified success was through voluntary co-operation. Many of the children's trust board members whom Ofsted interviewed for that report were not in favour of extending the duty more widely, and emphasised the importance of

"winning hearts and minds, of creating a climate and ethos that promoted working together, of building strong relationships, and of working to common ends."

They did not believe that a mandatory approach could help.

Let me turn to some of the comments made by hon. Members. On the comment made by the hon. Member for Cardiff West about Every Child Matters, the duty on schools to promote pupil well-being will remain. Of course every child matters, and because we know that, that phrase will not be banned from the Department. Some phrases will be banned from the Department.

Mr Wright: Such as?

Mr Gibb: When the hon. Gentleman looks at my letters, he will see that certain words do not appear. He will have to try to work out what those words are. I do not like jargon. I am trying to remove jargon from correspondence.

Kevin Brennan: We have an ongoing mission against jargon.

Mr Gibb: We could join together in a formal partnership to do that *[Interruption.]* Yes, or a coalition.

The duty on schools to promote well-being remains. That encompasses the five outcomes incorporated in the Every Child Matters agenda. On the comment of the hon. Member for Sheffield, Heeley, local safeguarding and children's boards will remain and will also do so for schools. Governing bodies of schools must have arrangements in place as part of their obligations under section 175 of the Education Act 2002 to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children. On the comments of the hon. Member for North West Durham about her son, I am sure that he was going way beyond these duties, but they would require him to do some of the things that he is doing in his school.

Meg Munn: Is the Minister therefore expecting Ofsted to inspect that part of the duties, as well? That is not what its consultation proposes.

Mr Gibb: No, we are confining what Ofsted will be judging a school on to those four areas: teaching, leadership, attainment, but also behaviour and safety. Within that last category, a school that was blasé about safety and safeguarding children would of course perform badly under leadership and management, too. If everything it was doing about safeguarding contravened its duties under the 2002 Act—or, indeed, contravened what was expected of a school in the 21st century—it would be difficult for it to demonstrate that it had effective leadership and management. Much of that will be found in Ofsted's current consultation.

On the comments of the hon. Member for North West Durham about schools being able to decide for themselves about well-being and working with partners, we fully support effective partnership working. We do not, however, want it to be a top-down and prescriptive approach, which in the case of schools and colleges too often turns into a box-ticking exercise. They go through the motions of ensuring compliance with a particular duty, but the reality underneath is not of the quality that we want. Many of the past barriers to partnership working have been caused by heavy-handed, top-down performance management systems. We want to encourage flexible and responsible partnership working that reflects local circumstances and has genuine buy-in from all the agencies and partners involved.

That is our approach, and on that basis I urge the hon. Member for Cardiff West to withdraw the amendment.

Kevin Brennan: We are very concerned, as Opposition Members have said. Notwithstanding the Minister's point about there remaining a duty on schools to co-operate with relevant partners locally in relation to the five outcomes in Every Child Matters—I think he used that phrase, but he will correct me if I am wrong—he is simply saying that they do not have to go along to the children's trust any more, because he does not like them and wants to get rid of them. That is my plain-language interpretation. I am trying to avoid jargon and to give him an opportunity to intervene.

Mr Gibb: Which explains why he was grinding to a halt—I am joking.

What I said about the five outcomes was that there is a duty on schools, as he knows, to promote well-being, which came out of the White Paper, and that duty remains. It is that duty that encompasses the fives outcomes, which is why he has raised this issue. How schools implement and fulfil that important duty is up to them, and we do not want to tell them how to do that.

Kevin Brennan: Far from grinding to a halt, I was simply slowing down to give the Minister an opportunity to find the right piece of paper. He says that a duty to promote well-being remains in place, but there is no longer a duty to co-operate via a children's trust as a result of clause 30.

Amendment 137 is obviously a probing amendment, because it asks for a delay while a report is undertaken on the issue, so I will not press it to a vote. I give notice to the Minister, however, that we are extremely concerned about the potential for this clause to undermine a lot of the work that was undertaken post-Climbié to put in place stronger protection for the safeguarding of children, as my hon. Friend the Member for Sheffield, Heeley pointed out. We may return to this subject later. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Kevin Brennan: I beg to move amendment 140, in clause 30, page 31, line 34, at end add—

'(5) Notwithstanding subsection (2), the governing bodies and proprietors of schools and FE institutions must cooperate when asked by a local authority in furtherance of the local authority's duty under section 436A (Duty to make arrangements to identify children not receiving education) of the EA 1996.'.

The well-thought-out position that was reached by April 2010 was that schools should not only have to promote the well-being of pupils on their school rolls, but co-operate to promote the well-being of children across the area in which a school is situated as well. As I have just hinted, we do not believe that the Government have given compelling reasons why that position should be abandoned. There may be dangers in abandoning it going forward. The Minister should exercise care in this area.

Amendment 140 seeks to probe one practical implication of the Government's approach. Local authorities are charged by section 436A of the Education Act 1996—titled "Duty to make arrangements to identify children not receiving education"—to find out how many children in their area are missing education. A narrow interpretation of that provision is that it refers to children who are not on the school roll. The Department for Education does not systematically collect information from local authorities, although *The Times Educational Supplement* used the Freedom of Information Act to find out that, on 11 February 2011, 12,000 such children were known to local authorities. That was an increase from a Government estimate in 2006 of 10,000. The reliability of those figures is questionable. Some 30% of those children missing from education came from one authority. There may be reasons for that. In this case, it was Leicester. That is the background to the reasons for tabling the amendment.

A wider interpretation of the duty that I mentioned is that local authorities should work with schools to identify children who may be at risk of falling out of school attendance. That can be a real problem, as I know from my time as a Minister, as well as a teacher. Local authorities need schools to co-operate if that is to be done. They need to know when a child stops attending school. Staff, particularly in primary schools, because they are so embedded in the community, are likely to hear about children not receiving education in the manner that local authorities want. It is only section 10 of the Children Act 2004 that places a duty on schools to co-operate with the local authority and help it fulfil that duty.

Last summer, Ofsted's report "Children missing from education", published 17 August 2010, stated the following:

"Even when the local authorities had clear policies and processes"—

for identifying children missing from education—

"with a strong emphasis on safeguarding, if schools disregarded them, this could quickly result in children and young people becoming lost to the system. Officers in all the authorities surveyed gave examples of schools which had not followed the agreed procedures for exclusions. The vulnerability of such pupils was significantly increased because they were out of school unofficially and preventative agencies were not aware of their potentially increased exposure to drugs, alcohol misuse, crime, pregnancy or mental health problems. The nine local authorities in which there were academies were struggling to establish consistent communication about children who were vulnerable to becoming missing, despite good cooperation from some of the academies."

Admittedly section 10 of the 2004 Act does not contain any penalties for schools that do not wish to co-operate, but at least it sends an important signal. The problem with the Government's approach is not that it enables schools to decide how they wish to co-operate, but that it gives a green light for some schools to decide that they do not have to co-operate.

4.45 pm

The only course open for a local authority to deal with an unco-operative maintained school is a complaint to the Secretary of State—is that correct? That is how I understand section 496—"Power to prevent unreasonable exercise of functions"—of the Education Act 1996. If so, what standard of proof would be required? What are the arrangements for academies?

This area might not seem central to the Bill, but it has the potential to come back to bite Ministers quite hard if things go wrong. So I ask the Minister for his explanation of what the Bill means for children who are missing or in danger of missing their education.

Mr Gibb: I share the hon. Gentleman's concern about children missing from education, and I fully endorse the need to find better ways to deal with the problems he has highlighted, but the amendment is not the best way to do it.

Children missing education are at greatly increased risk of not attaining the skills and qualifications that they need to succeed in life. They may also be at risk of neglect or abuse. Often they come from disadvantaged families, experiencing multiple risks such as poverty, substance abuse, mental ill health and poor housing. They might be from travelling communities or immigrant families, or they might be unaccompanied asylum-seeking or trafficked children. Nobody should underestimate—the hon. Gentleman does not—the importance of the issue, but it is difficult to see how amendment 140 would help.

[Mr Gibb]

We have legislative provisions in place. Local authorities and maintained schools, further education colleges and sixth-form colleges have safeguarding duties under section 175 of the 2002 Act. Academies are also required to make provision for safeguarding under the independent schools standards and their funding agreement with the Secretary of State. The Children Act 1989 and the Education and Inspections Act 2006 both place additional duties on local authorities requiring them to establish, as far as possible, the identity of those children of compulsory school age who are missing education and empowering them to apply for an education supervision order.

Crucially, under the Education (Pupil Registration) (England) Regulations 2006, all schools are required to inform the local authority: when a pupil fails to attend school regularly; when a pupil has been absent from school continuously for at least 10 days without permission; or when a pupil has been removed from the school roll in specific circumstances. Failure to comply with those provisions is an offence under section 434(6) of the 1996 Act, and if found guilty the proprietor of a school may be fined.

Pat Glass: Does the Minister accept that this is not only about schools notifying local authorities if a child is missing from education for more than 10 days? In many schools, if a child does not turn up at 9 o'clock in the morning, somebody at the school contacts the police, social services and the local authority because there is a known risk to that child, either from being involved in crime or where there are real concerns about the situation in which the child lives. Current legislation does not cover that. It is about co-operation between the school and a range of agencies because of the situations in which children live.

Mr Gibb: Yes, but requiring schools to participate in children's trusts is not the answer to that problem, as the hon. Lady's own son demonstrated. The Government believe in trusting professionals to contact the relevant agencies when they fear for a child's safety. That is what schools do and will continue to do, and all schools that are not doing that should do it. That is absolutely clear. However, the duty to co-operate with other bodies and the way in which section 10 of the 2004 Act is drafted in respect of schools is not the most successful way of achieving that. We are trying to relieve schools of the increasing number of statutory duties that have become a box-ticking exercise. We are trying to get away from that approach and to allow schools genuinely to tackle some of those very difficult problems.

Stella Creasy (Walthamstow) (Lab/Co-op): Will the Minister update us on his conversations about social care with his colleagues in the Department of Health? Often, the issues we are talking about do not originate within a school. Information about what might be happening in a child's background does not originate in the school, but has implications there. Taking away the relationships that mean that sharing takes place has implications for health and social care as well. Will the Minister update us on the conversations he has had about unhooking those joined-up relationships locally and the national consequences?

Mr Gibb: Those relationships should and do occur, and they will continue to occur. Our argument is that we do not need bureaucratic duties, such as section 10 as it applies to schools and colleges, to achieve that. This is about humans dealing with one another in a professional way. There is a range of legislative duties on schools already, which I have highlighted—section 175 of the 2002 Act among them—that require schools to take the kind of action that the hon. Lady is talking about without requiring them to attend meetings of children's trusts. Of course, the health service is still under a duty to co-operate with children's trusts.

We are reviewing the regulations to tighten up and extend the circumstances in which schools must inform the local authority when a child is missing school or removed from the register. We will also revise the statutory guidance to clarify how local authorities can best carry out their duties to identify children missing education. Any problems experienced in monitoring and supporting outcomes for those children is therefore a result of implementation, not of a lack of legislation. A recent Ofsted report, to which the hon. Gentleman referred, made a number of recommendations that the Government are considering seriously, but it did not recommend further legislation to compel schools to co-operate. Children missing education highlights important challenges, and the hon. Gentleman is right to raise the matter, but I do not believe that amendment 140 is part of the solution to the problem.

Kevin Brennan: Will the Minister clarify what the Government intend for local children's trusts? He says the duty remains for the NHS to participate in the trusts, so am I wrong to think that the Government intend to get rid of them?

Mr Gibb: No, it is not the intention to get rid of them. We are removing the duties—I made that point at the beginning of my response to the amendment. The purpose of clause 30 is to remove section 10(10) of the 2004 Act, covering schools and FE colleges, not to remove children's trusts or the co-operation between agencies, including the health service, that happens now. Having clarified that, I hope the hon. Gentleman will withdraw the amendment.

Kevin Brennan: A logician would surmise that teachers and head teachers are to be trusted—in the Minister's words—to do their duty without a statutory duty to co-operate with children's trusts, but doctors and others are not to be trusted, because the duty has to remain upon them to collaborate in children's trusts. I see no logic in the Government's position. So much for joined-up government.

Children missing from education is an important matter. The Minister says that he takes it seriously and I believe him. He knows the complexities of the problem and that it is one of those areas where events can sometimes put Ministers in a very difficult position. I simply advise him to ensure that he has his arguments lined up straight and his facts and statistics ready. He may not have to deal with it—perhaps it will be one of one of his colleagues—but when children missing from education raises its head, and there is no longer a duty to collaborate with children's trusts on that, it might

cause a crisis for the Government. Perhaps I am wrong, but we will see. As it was probing, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Stella Creasy: I beg to move amendment 142, in clause 30, page 31, line 34, at end add—

'(5) The repeal of the requirement on governing bodies and proprietors of schools to co-operate with the local authority by this section is without prejudice to the Secretary of State's duty in section [*Duty to support statutory youth provision*] to require by regulations maintained schools and academies to co-operate with their local authority in the provision of youth services.'.

The Chair: With this it will be convenient to discuss new clause 10—*Duty to support statutory youth provision*—

'(1) The Secretary of State must make regulations with the purpose of ensuring that all maintained schools and academies are required to support local authorities where practicable in discharging their statutory duties under section 507B of the Education Act 1996 (duty of local authority to secure access to educational and recreational leisure-time activities).

(2) Regulations under subsection (1) must include, but are not limited to—

(a) the provision of school-based positive activities as defined in section 507B of the Education Act 1996,

(b) the provision of support for extended schools services as set out in the Education Act 2002,

(c) discharging the duties of local authorities with regard to information, advice and assistance for carers under section 12 of the Childcare Act 2006,

(d) the provision of information regarding the positive activities available within a locality,

(e) the requirement to consult with parents and carers when providing services as set out in Section 28(4) of the Education Act 2002, and

(f) the provision of youth services by both the statutory and voluntary sector.'.

Stella Creasy: Welcome to this afternoon's debate, Mr Williams.

The amendment reflects what I think will be a theme this afternoon—a growing concern among Labour Members that the problems the Bill will inadvertently create in matters that we care deeply about are legion, and our rising fear that those difficulties have not been thought through. I see the amendment and our debate on it as an opportunity to test the consequences for a key service for many of our young people—youth services and their provision locally, as well as the relationships between schools and youth services.

My specific fear is that the Government are selective in their concern about unnecessary prescription and what that might mean for services on the ground. We have just debated safeguarding, and I urge the Minister, if he has not done so, to read the report of the Laming inquiry and to think again about some of the issues we have discussed. In youth provision, relationships between schools and a range of organisations bring benefits for both sides, and that is especially true of youth services.

I see schools as a key part of the jigsaw of providing youth services for young people in any local community, and I know from the countless e-mails that I have received over the past couple of days that many people in the sector share that view. Labour Members therefore feel that it is inconsistent to exclude schools from some relationships while health care services, youth workers or mental health care services remain parts of such relationships. With the amendment, my aim is to explore how we might be able to protect and extend the good work that many schools are doing in partnership with local authorities in the face of the changes that the Government seem intent on making.

The amendment closely reflects section 507B of the Education Act 1996, which is at the heart of this debate. My hon. Friend the Member for Bolton West will talk about that, too. Section 507B ensured that, for the first time, a single body held lead responsibility for securing young people's access to what are called "positive activities." There is a relationship with schools and to the Bill because of the duties the Bill imposes to secure, as far as practically possible, services that promote the well-being of young people through the provision of educational and leisure-time activities. Youth services have a role in supporting those aims, and I want to discuss the two sides of that coin.

First, it benefits local authorities to have an active relationship with youth services in trying to deliver services for young people and to meet those aims. I am sure that everyone in the House sees that as a positive, constructive contribution to our local communities. Secondly, there are also benefits to schools in terms of the learning environment that is created through working with those partners. My concern is that if we start to unhook schools from relationships with local authorities in the guise of removing unnecessary prescription, the public benefits that we get from such relationships may inadvertently be lost. The Bill needs to protect both sides of that coin, which is what the amendment seeks to do.

In how schools are supported, the amendment refers specifically to extended schools. That relationship is comparatively new, but I am sure that many of us have seen the benefits of the extended schools programme beginning to take place in our local areas. In Walthamstow last summer, a number of fantastic youth activities involving schools were provided, which made a real difference to many young people. Pupils or people who knew a school were able to use its facilities for activities that were provided by a range of voluntary and statutory sector organisations.

Such work requires a lot of co-ordination. I am concerned that as we start to unhook schools from local authorities, the relationships that enable such co-ordination, support for youth workers and youth provision in the broader sense deteriorates. To be frank, my local authority found the work frustrating to begin with, because some schools were more keen than others to take part—there was a difference in schools' appreciation of the value of working with the local authority.

5 pm

The amendment also highlights the importance of supporting consultation between young people and parents in deciding what sort of youth provision a local authority will offer. I am concerned that much of the Bill seems inadvertently to remove the voice of parents and young people in determining their services. The belief that professionals will always work with young people in a uniform manner may be mistaken—we cannot be sure of that. One aim of the amendment is to ensure that where local authorities are working actively with young people in determining youth services, they can draw on the support and encouragement of schools in doing so.

The other side of that is how youth provision helps schools. It particularly helps to create the type of environment that the Ministers want in schools, in which young people are supported to achieve. A later amendment, which also reflects my concerns about the implications of the Bill for special educational needs, mirrors a similar concern. When we take away local relationships that help schools to develop a learning environment in which children can thrive, we make it harder for all sides—we make it harder for the young people and for the teachers.

In the past couple of days, I have been deluged with examples from across the country of youth services that are helping schools to achieve good outcomes. In Durham, youth workers are helping to provide sexual health services, which helps young people in their personal health and social education. In Wales, youth workers in the Oasis project are working closely to support schools in dealing with behaviour and attainment challenges. In Devon, youth workers are joining mental health workers within schools to support young people in adolescence who have developed mental health concerns. In Surrey and Halton, youth workers, in partnership with schools, are helping to build the confidence of the young people. Such confidence is critical to their educational attainment in school, but it also helps them to grow.

All of us remember that adolescence is a difficult period of time in the best of cases, so helping young people whose confidence is lacking is important to developing their confidence and the soft skills that will help them to achieve in the classroom. The amendment tries to take the best elements of schools working with local authorities through partnerships, youth services, or mental health services and protect those relationships. Schools could, therefore, draw on the good work that has taken place so far, and build on it in future.

I hope that the Minister will accept that one of our concerns about selective application of the principle of unnecessary prescription is that it can be turned round as unnecessary public benefit. We have seen the relationships that have been developed in partnerships and through forms of co-operation. In other legislation, the Minister and other Departments talk about the importance of co-operation and how it is at risk.

We have talked a lot about the changes that happen after two partners become married in a coalition. The Liberal Democrats have always been strong on the importance of youth services. They have tabled several amendments, as recently as March last year, stressing the importance of protecting partnerships and working at local level, so I hope that they will be receptive to what I and my hon. Friend the Member for Bolton West are trying to do through our amendment. Our aim is to get clarity from the Ministers about how we might protect youth services in this changing relationship.

I hope that Ministers will respond positively and contemplatively to the idea that partnerships at a local level can be good and can offer public benefits. It is right to build in co-operation, which should be built not on individuals, but on institutions. Such co-operation is commonplace in the way people work. Just as we need to do build such relationships around safeguarding, so we need to build them around youth provision. That is the purpose of the amendment, and I look forward to a positive response from the Minister for a change.

Julie Hilling (Bolton West) (Lab): Following on from what my hon. Friend said, I shall talk a bit more about the statutory duty on local authorities to provide positive activities for young people, which by guidance was defined as youth work. Youth workers have a distinct approach to education and many schools have accepted that they make a valuable contribution to the educational support of young people. Many schools have seen the benefit of working in partnership to support young people, not only those who are underachieving and those who have additional social problems, but young people who do not have particular problems apart from those of growing up. The schools also see it as part of their contribution to the integrated targeted youth support service. As a result of the drastic cuts that are being made to youth services, however, they will not be readily available to schools. New clause 10 is about schools having a responsibility to contribute to and

"to support local authorities where practicable in discharging their statutory duties under section 507B of the Education Act 1996"

including the duty of local authorities to consult young people on the shape of the services that should be offered to them, and the duty of schools to address not only the qualifications of students but their mental, physical and emotional health.

A school is not, and should not be, an island. It is part of its community. Often it has the best buildings that the community has to offer. The amendment is not only about allowing the community and young people to use the buildings—although that makes a valuable contribution, particularly to groups such as scouts and guides—but about the fact that shoving more schooling at children does not work for an awful lot of them.

I used to manage a project for young people in public care, and a tension always existed about how we should raise achievement with young people, particularly those in care. The educationalists were pushing for young people to have more lessons and more input in the various subjects, to encourage them to achieve and get better qualifications. From the other side, however, we would say that they actually needed support to sort their heads out. If someone's head is a mush, it does not matter how much a teacher tries to put information into it; that information will not stay. The issue is about addressing the social and emotional needs of young people to enable them to learn and to thrive.

I asked the field to give some examples of some of the partnership work that it is doing in schools. A common strand ran through it. Some of it was about services to all young people, such as Duke of Edinburgh award schemes and sexual health programmes, but there was also the targeted support and services for those who were experiencing personal, social or educational difficulties. I want to talk about a few of those examples.

Bodyzone runs at Wheatley Park school and is advertised as a teacher-free zone, where young people can come in total confidence to talk about their issues. The programme involves true partnership work between a sexual health nurse, school nurse and youth worker, who all deal with their particular field of expertise. The youth worker deals particularly with peer pressure, family problems, bullying and relationships.

In Kent, there is a community room scheme that offers sexual health sessions and a self-esteem programme. Making a difference—I like MAD—is a room where

vulnerable young people can come at lunch breaks to address their issues and make new friends. Youth workers are involved in PSHE lessons, looking at things such as sociology and life skills, youth crime and drugs.

Student voice allows young people to have an input through their school councils into what their schools should be like and to address issues that are important to them. In Milton Keynes, Oasis works with the Milton Keynes academy and various other schools to provide after-school and holiday activities. It works in and out of school hours with young people who are experiencing difficulties.

Tibshelf school identified that young people who were questioning their sexual identity needed additional support, and we know that young lesbians and gay young men suffer a great deal of bullying in schools. The school formed an LGBT network, which was supported by the youth service, to support young people who were experiencing such difficulties. Young people at that school who are not engaged in school are undertaking a 10-week programme with the youth services' outdoor education programme. The upshot of all these programmes is that young people are engaging better in the schools when they go back.

There has been a lot of evidence from youth workers in Surrey, who talked about peer education and about a year 7 girls' drop-in, to enable girls to look at healthy eating, team building and body image, and to do craft work, helping girls to come together who were not settling easily into secondary school. Warlingham school has done an anti-bullying DVD. Runnymede promotes educational engagements. It talked about one young girl with learning difficulties who had been excluded from school. She attended the PEER group and is now going to achieve OCN qualifications. She would have left school with no qualifications, had it not been for the alternative provision working closely with schools.

Lakers talked about first aid qualifications, ASDAN and OCN life skills. It talked about one young man who would not interact with pupils or staff at the school. He always hid his face and looked down. Now he is engaged in the programme. He actually initiates conversations, and holds his head up high when he walks around the school.

Redbridge enacted "Question Time" debates, seeking to engage young people in the political process. There are many other examples of different projects. I am thinking particularly of one in Oxfordshire, where a youth worker talked about job awareness courses and drug intervention work with young people, and said that many schools were calling on youth workers to work in partnership with them, but that that work would have to stop, because all the youth workers in Oxfordshire were being made redundant.

Overall, young people involved in these programmes either re-engage in school or achieve their qualifications and accreditation in other ways. The Minister talked about the need to trust schools, but I am getting as frustrated with "trusting schools" as I am with some of the other slogans that he used in the Chamber.

However, not all schools are good schools. The best schools engage in the community and with youth services and other agencies—whether social services or whatever else. The best schools see themselves as the centre of their communities. They see that they have a responsibility—not just for academic achievement, but for helping young people to achieve their full potential in life and for improving their communities.

The amendments are saying, "Yes, we want to support the best schools, but we want all schools to recognise that they have a responsibility." It is not enough to shove learning into children's heads and expect them to assimilate it and to achieve. The amendments are saying that different young people have different needs. They do not come to school without bringing all the problems that they may be experiencing at home—whether those are with parents who are drug users, parents who they have to care for because of disability or other issues, or issues that they may have with their own mental health or with their own activities. How do we ensure that those young people fulfil their potential and become rounded human beings without, for example, unwanted pregnancies, or dropping out of school altogether?

Partnership approaches work—bringing in people with different educational skills to take different approaches, particularly towards young people who are not achieving, who cannot accept the normal way of sitting in class and assimilating information. Those young people need additional support. I hope that the Minister will look positively on the amendment and see how we can continue to provide those additional services to young people.

Mr Hayes: Benjamin Disraeli said that opinions alter but characters can only develop. The hon. Lady is right that as characters develop through youth they are influenced by many things, not just by what happens to them at school or even at home. It is absolutely the case that the opportunities we can provide for people to interact both with their peers and with others, adults in particular, have an immense effect on the development of character. That is why the Government fully appreciate the spirit that lies behind the amendment and the context in which it has been set by the hon. Members for Walthamstow and for Bolton West, who speak eloquently with both experience and heart on these matters.

My sons are, respectively, Beavers and Cubs. The youth movements—Scouts and Guides, Brownies and Cubs, Beavers and Rainbows and many others, such as the Boys' Brigade, that we could go on to list ad nauseam—do immense good in building lives and shaping communities. I am not sure whether any of that would be greatly affected by the amendment.

5.15 pm

The hon. Lady described a myriad of virtuous activities and reminded the Committee that these things happened without the duty, which is a very recent addition to the panoply of Government initiatives and directives. Oscar Wilde said—I paraphrase—that when Governments start to take themselves seriously and get involved in things, that is when they really start to cause problems.

The previous Government certainly demonstrated that fault. We now hear from the hon. Member for Cardiff West that it was all the fault of the Liberal Democrats. The previous Government were reluctant to introduce regulation but were prompted to do so, he told us earlier, by the overtures of the Liberal Democrats. I find that hard to believe and untypically ungenerous of the hon. Gentleman. I know that he wants to take his

fair share of the blame for the excessive regulation that emanated from that Government, particularly in their dying days.

Julie Hilling: Does the Minister accept that it will be far more difficult for the best schools that have worked in partnership and had youth workers when youth services disappear throughout the country?

Mr Hayes: I would not want to give licence to that calumny. The hon. Lady knows that this summer the Government are piloting the national citizens service for around 11,000 16-year-olds, offering the opportunity for personal challenge, community service and social mixing. We will evaluate that carefully. I agree with her that its impact needs to be evaluated, but she also knows that we are investing £134 million in capital funding over the next two years to enable to construction of up to 57 new myplace centres, first-class hubs for local services for young people.

The hon. Lady is right—let us find common ground—that the interface between schools and other services and the interaction between all of those who have an interest in and a concern for young people's development are important. But we should not present a parody of what has happened thus far and what might happen from now on.

Stella Creasy: Does the Minister really believe that three weeks of summer outward bound activities, and perhaps a little bit of a follow-up if we are lucky and the voluntary organisation is able to manage that, is comparable to the day-in, day-out work done by many youth services and youth providers, both voluntary and statutory, in our local communities? That work is now at risk and is going in many areas as a result of the cuts.

Mr Hayes: I think that character-changing development can turn on a day, on an hour, on a week, on a holiday and on one single relationship. But of course, the hon. Lady is also right that the continuing work of some of the youth organisations that I have already highlighted is of immense value. I pay tribute to those organisations and all those who make their work possible are also immensely important.

I share the concern that children and young people in a local area should have suitable access to positive activities and youth services outside school, but that does not require a specific duty on schools. Out-of-school activities can be immensely beneficial to young people. My hon. Friend the Member for Beverley and Holderness is not in his place, but I should say that I welcome the decision of the Select Committee, of which he is Chair, to launch a new inquiry into the provision of services for young people— primarily those aged between 13 and 25—beyond the school or college day.

The results of that work will help inform how the Government move forward, but as I have said, in the pursuit of what I think is a shared objective—to provide as rich an experience for young people as possible—much of this work was already taking place voluntarily before the duty to co-operate came into force in January 2010.

The issue of providing youth services highlights some important challenges and I am grateful to the hon. Member for Walthamstow for raising the matter. However, we do not believe that it is necessary or right to place additional duties on schools or academies to co-operate with local authorities or others in respect of the provision of positive activities for young people. I think that schools, rather than being encouraged, might be held back by over-prescription.

Let me see whether I can clarify the position for the hon. Lady. We should look at best practice and at ways of advertising and exporting that best practice. We should remove the barriers that might inhibit the kind of collaboration that we have all celebrated today. However, I do not think that the continuation of that duty would play any significant role in achieving our shared purpose. On that basis and in that spirit, I invite her to withdraw the amendment.

Stella Creasy: Words fail me. Frankly, the Government have a blasé attitude to youth services and to what will happen to the opportunities for young people. I hope that the Minister will look in particular at the scouts and the guides, who are suffering because local authorities are putting up their rates, so scouts and guides will not be able even to hire the huts to take part in activities that might fill the gap before the Bill damages those relationships at local level. The aim of the amendment is simply to protect those relationships, not extend or alter them. I am saddened that the Minister does not seem to be concerned about the future of those relationships. I recognise that there are challenges about how that might be implemented.

Mr Hayes: I do not want to be unkind to the hon. Lady, who is new to the House. I am immensely generous and never patronising, but it is not that I do not care about those relationships. The amendment is specifically about that duty, which came into force only recently. She will be familiar with the Ofsted report that looked at the best practice that I described. It was published after that duty came into force, but dealt with matters that prevailed before it. It identified that much of that good work is happening, so we just do not think that that duty is salient in achieving the outcomes that she wishes to achieve.

Stella Creasy: I, too, would never wish to be patronising to the Minister but I wish that he had actually read the amendment, which is about understanding what implications the repeal of the duty may have. It is not necessarily about the duty itself. If he reads it carefully, it is about protecting the regulations that already exist.

Mr Hayes: That is semantic.

Stella Creasy: The Minister suggests that that is semantic but it goes to the heart of the matter. Our concern is that the Government have not thought through the implications and the unintended, I am sure, consequences of the Bill for the provision of services at local level. I do not doubt that he is sincere in his desire to see youth services thrive at local level. Those of us who have actually worked in the sector and seen the implications of those powers and regulations—not just the consequences of the duty to co-operate but how the powers fit together at local level—are deeply concerned. The amendment was tabled to raise that point.

Pat Glass: The Minister referred to the Select Committee on Education, which will carry out an investigation on these matters. As a member of that Committee, my motivation is to get this matter on the agenda because I am concerned that by the time that report is published, there will not be a youth service to look at.

Stella Creasy: My hon. Friend speaks with a wealth of experience and has actually worked with these organisations at local level. I look forward to hearing from other members of the Committee about their experiences of the sector and the challenges about which we are all concerned. The amendment was tabled to reflect concern about the consequences of the duty to co-operate being repealed, rather than the duty to co-operate being repealed in itself. I appreciate that we have had that debate already. I will withdraw the amendment because it was a probing amendment, but I put the Minister on notice that those of us who represent and have worked—

Mr Hayes: I do not want there to be even the slightest trace of bad blood between the hon. Lady and me. I hear what she says about the Select Committee inquiry. Of course—I put this on record—we will take careful note of the outcome of that inquiry and its recommendations, which will help to shape what we do as we move forward.

Stella Creasy: I appreciate the Minister's recognising that perhaps he misread the amendment in the first place. As I said, the amendment was tabled to probe the Minister about the Government's thinking on the future of youth services and to see whether they really understand the relationships at a local level between schools, youth services and the health care service.

The Opposition are satisfied of the importance of the Select Committee inquiry and the need to press the Government further about how youth services are provided. I put the Minister on notice that no doubt many people across the youth sector will be writing to him shortly to help improve his understanding of those relationships at a local level. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Stella Creasy: I beg to move amendment 143, in clause 30, page 31, line 34, at end add—

'(5) The repeal of the requirement on governing bodies and proprietors of schools to co-operate with the local authority by this section is without prejudice to the Secretary of State's duty in section [Achievement for All Partnerships] to establish Achievement for All Partnerships.'.

The Chair: With this it will be convenient to discuss new clause 8—*Achievement for All Partnerships*—

'(1) The Secretary of State shall bring in regulations to establish Achievement for All Partnerships, which shall have responsibility for designing and directing a whole-family approach to the assessment of the needs of and delivery of services to children with special educational needs and additional learning needs.

(2) Regulations under subsection (1) shall require relevant persons to participate in Achievement for All Partnerships.

(3) "Relevant persons" for the purposes of this section include, but shall not be limited to—

(a) maintained schools;

(b) academies;

(c) the relevant local authority;

(d) relevant health services;

(e) relevant learning and skills improvement services;

(f) the relevant police force; and

(g) relevant voluntary organisations.'.

Stella Creasy: Me again. The amendment follows the pattern of the previous one in trying to understand the connection between what the Bill will do to the provision of local services, the Green Paper on special educational needs and the consequences of the unhooking of relationships at a local level for children with special educational needs. It seeks to build on the evidence that we have about what works at a local level in the provision of services to children with special educational needs. I know that the Minister will respond, although I am not sure which one; I certainly hope it is the one who is actually listening.

Before we look at the consequences of the Bill, and the achievement for all partnerships, it is useful to reflect on what we are talking about. The Committee has talked a lot about special educational needs and the importance of early intervention, a concern that we all share. One of my concerns is how we deal with special educational needs—I am addressing the whole Committee; I am sure that everyone is as deeply concerned about the matter as we are. My concerns are about the onset of special educational needs later on in a child's development, particularly through mental health issues in early adolescence, what services there are to support those people, and dealing with young people for whom special educational and additional learning needs will be a fact of life for a number of years.

Mr Hayes: The hon. Lady is making an extremely important point, too infrequently made when we debate special educational needs. Many such needs, as she rightly says, are dynamic because they are acquired or change their nature over time. Has she considered the code of practice that accompanies legislation on special educational needs, which is critical to determine both the quantification of need and the specification of provision to meet that need? In that spirit, she might invite my hon. Friend the Member for Bognor Regis and Littlehampton to have a look at that too.

Stella Creasy: The wonders of a Tuesday afternoon with Ministers rapidly recognising that there is merit in scrutiny and ideas! I take on board the Minister's point, and I am sure that his colleague will wish to commit on it further.

My concern is about implementation at a local level and the complex and sometimes messy partnerships that need to be put together to support young people with special educational needs—partnerships in both the classroom and the broader community. As a starting point, I would like to put on record the numbers of some of the young people whom we are talking about. The latest data, from 2004, showed that one in 10 children and young people aged five to 16 had a clinically diagnosed mental disorder; 4% had an emotional disorder; 6% had a conduct disorder; 2% had hyper-kinetic disorder, such as attention deficit hyperactivity disorder, from which one could say that some Government Members may be suffering at this point; and 1% had a less common disorder, such as autism. In our previous discussions about special educational needs we looked

[Stella Creasy]

primarily at children with autism, and I encourage the Committee to recognise that there is a broader range of issues and concerns that we might be looking at when delivering for special educational needs. The data also show that the gap between those identified at key stage 4 as having a special educational need and their peers is widening, and the gap in educational attainment is growing as well. People have also been concerned about other issues. For example, eight out of 10 children with a special educational need have been bullied and six out of 10 have been physically hurt.

Of course, schools are a critical place for providing the education support that young people need to achieve, but often people also need support outside the classroom. The relationships that now enable schools to develop that support are not necessarily those that begin in the classroom; they are those that begin with relationships built by professionals working with parents to support a child, with the child often having the opportunity to contribute too. That is why the educational Green Paper offers some interesting ideas for many of the Opposition, and I welcome some of those ideas about how those relationships might be joined up. That is why the amendment that I have proposed refers specifically to the ideas and relationships set out in the Green Paper. I hope that Ministers, and those concerned about special educational needs, find much in it to admire, and recognise the need to take on board how that whole-family approach might be developed.

5.30 pm

I am concerned about the slight contradiction between the mantra of "trust professionals" and "let's not burden local authorities or schools with those relationships," and the desire set out in the Green Paper for relationships built at a local level to deliver services. There is a need for greater collaboration to join up services, in particular the joint commissioning and managing of services, or the combination of services within a single local authority management structure—for example, through sensory support or educational psychology services. My concern is that very often the services that schools might want to draw on to provide a child with special educational needs services will not be those held within schools. Accessing them will require schools to have a relationship with the local authority so that they can identify where to find those services.

I am minded by the Special Education Consortium's contribution to the Bill. They say that they have yet to hear how the Government envisage the new structures in health, social services and schools will work together, and that they want the Government to set out more clearly how that will happen. I think that all of us who are worried about the provision of special educational needs are concerned that the Green Paper was published in the middle of the Education Bill process—perhaps not at exactly 5.37 in the afternoon, but certainly interacting with the process. It is very difficult to see how these systems will work together, not least because there seems to be a juxtaposition between the common assessment frameworks currently used, the Green Paper's proposals—particularly the new powers around an educational health and support plan—and the disconnection between local authorities and schools.

Common assessment frameworks are a key part of delivering services, and as we heard when discussing the previous amendment many youth workers are involved in the provision of common assessment frameworks, alongside health care workers, schools and indeed the voluntary sector. We know that that multi-agency working approach is effective, but I fear that the Bill will hinder the development of that relationship and the noble ambitions in the Green Paper. I am anxious that the Government set out how they think these things will fit together. We see that in the achievement for all partnerships, which I note have been highlighted in the Green Paper as an example of the kind of relationship the Government want to see taken forward. That sets out a very clear relationship for such partnerships—for well-being partnerships to be put together; for panels to work together; for improving the achievement and progress of children with special educational needs; for the involvement of educational psychologists, a service that we know is at risk because of cuts; for the direct involvement of young people in determining the educational environment they wish to learn in; and for the involvement of health care services, particularly with children and adolescent mental health services.

I also want to draw the Committee's attention to my concerns over how other changes that are occurring, particularly in the Localism Bill, might affect the Government's ability to deliver on their ambitions for special educational needs. There is therefore a need to establish a partnership and way of working that protects special educational needs provision. In particular, I have been written to by a number of residents—as I am sure Members on all sides have—about the Localism Bill and the review of statutory duties placed on local government. I think this comes from the proposal that there is unnecessary prescription, which the Opposition see as the public benefit of co-operation.

A mother in Walthamstow wrote to me:

"I have a son of nine months old who has Down's Syndrome and I am profoundly worried about how proposed changes might impact on his future. I believe that local authority duties that cover the provision of services and support for disabled children and children with special educational needs are vital and should be kept. Rights for disabled children and those with special educational needs are not a 'barrier' to the delivery of services—they are vital tools that help families and local areas to make decisions about what support they can provide for families. Local authorities provide services based on their statutory duties. These duties set out what they are legally obliged to provide, and give families and professionals a framework to help decide the services that disabled children will receive. Many disabled children and their families have to fight to get the services they need to lead ordinary lives. Now that overall funding for local services has been reduced, and local authorities are looking for ways to cut costs, there is an even greater pressure on families trying to get support."

I believe that the same criticism could be made about removing those duties on schools to work with local authorities, and that is why I tabled an amendment to try to take account of what is in the Green Paper and of the good practice that the Government seem to want to expand on. I want to hear more clearly from Ministers about that joined-up thinking. There is the partisan concern that we have about the disconnection between different Departments and different reforms, and there is the human, compassionate concern that we all have that says, woe betide all those who, in 18 months' or two years' time, will be filling our surgeries, fighting to get the services that they need for their young people.

We may see terrible safeguarding issues emerging, and the Government must acknowledge that sometimes co-operation is not Stalinist but is about public benefit and securing a better outcome for every child, because indeed every child does matter.

Pat Glass: I support the amendment and want to point out its merits to the Minister. I was involved in setting up the achievement for all projects. There were 15 of them across the country, and I was partly involved in setting up the one in Oldham and, to a lesser extent, in monitoring the outcomes of the one in Sheffield. The Government acknowledge in the Green Paper that it has been a highly successful programme, which should be rolled out across the country. It did exactly what the Green Paper proposes. It reduced the labelling of children with SEN; it clearly identified the difference between children with SEN and those who are under-achieving—there is a huge difference, and many of those children have gone through the SEN sausage machine in the past—and it sought to help both those groups, and was highly successful in doing so. It appears to fit in incredibly well with the objectives in the Green Paper, which I would argue are slightly long on issues and short on solutions—but that is a different issue for a different day.

We had a helpful and positive discussion here last week about the disappearance before our eyes of careers services. I want to make some special pleading for SEN specialist support services, which again are disappearing before our eyes. There are so many highly specialised people taking early retirement and voluntary redundancy on 31 March, and there will be massive pressure on educational psychology, on low-incidence SEN services, and on services for children who are visually impaired or blind, as well as the higher-incidence services such as those for autism and behaviour.

There is much merit in the new clause, which fits in very well with the objectives in the Green Paper. If the Minister intervenes now, it may prevent a disaster in those low-incidence SEN services, which are disappearing before our eyes. From 1 April, many will not be able to be supported.

Mark Durkan (Foyle) (SDLP): The point that I wish to make on the amendment and the new clause could have been made in relation to some previous amendments. It certainly applies to the clause as a whole and to some of the following clauses in this part of the Bill. It relates to questions on which I seek assurance from the Minister. I wish to ensure that the effect of the clauses and of any rejection by the Government of the amendment and the new clause would not be to do injury to the intention of Parliament when it passed the Autism Act 2009 in the previous Parliament. Unfortunately, my point would be slightly too long to make as an intervention, so I am raising the matter now in lieu of an intervention on the Minister. Under the Danny Blanchflower rule, when he was manager of Northern Ireland, we had to equalise before the other team scored. I am getting the long intervention in now.

In the previous Parliament, the Autism Bill was reported on a cross-party basis. Of course, it was sponsored by someone who was then an Opposition Front-Bencher and who is now in Cabinet as the Secretary of State for Wales. Some of the arguments made during the early stages of consideration of the Autism Bill were effectively that sufficient powers and duties already existed, including some of the existing powers and duties that we are discussing in relation to the clause. The case was made persuasively to Parliament that those various pre-existing powers and the duties on local authorities and on others to co-operate with local authorities could be assisted if there was further legislation to provide, in my phrase, bespoke autism Acts. They could be used to complement and give more articulate effect to some of those duties on local authorities, on education authorities and on a range of service providers.

The argument was made that those promoting the Bill—they belonged to all parties—were not trying in any way to minimise the significance of the existing provisions and services; they were trying to complement and reinforce them. It concerns me that the Government may be inadvertently removing some of the provisions on which the assumptions that people had when they voted for the Autism Bill rested. I want assurances from the Government that through the Bill and the attitude they will take in relation to the amendments, such as that tabled by the hon. Member for Walthamstow, they are not taking air out of the tyres of the Autism Act, they are not removing some of the presumptions on which it rested and they therefore will not injure the promise that Parliament thought it was making when it approved that legislation.

Mr Gibb: It has been a good, well-informed debate about an important issue, but it has ranged slightly wider than the amendment—although I would not dream of saying so. I welcome the support of the hon. Member for Walthamstow for the Green Paper and I welcome her comments about the breadth of the term "special educational needs", because it covers a huge range of challenges, problems and conditions.

The hon. Member for North West Durham raised the issue of low-incidence special needs. Before coming on to talk about the amendment and without steering too wide of it, I want to discuss briefly the Green Paper and the relationship with the common assessment framework, to which the hon. Lady referred. I shall also mention the multi-agency approach that is outlined in the SEN Green Paper. All those who come into contact with families have a part to play in identifying those children whose needs are not being adequately met by the system so far. Some of those needs can be helped by early intervention and some may need referral to more specialist services, including local authority social care.

Many local areas and services see the benefits where, with the family's consent, an assessment is made using a format that is common to all local agencies and that can be shared, as appropriate, with other professionals. Local arrangements of that kind are appropriate for children who do not require statutory assessments for special educational needs or social care, but who may, for a variety of reasons, need support from other agencies. That might be the sort of assessment that schools would choose to conduct to examine any underlying causal factors—we discussed that under the behavioural clauses earlier in Committee—such as mental health, family problems or where a pupil displays poor behaviour that does not improve despite the effective policies of the school.

5.45 pm

Before I come to the amendment, I want to refer to the comments of the hon. Member for North West Durham about support services. We recognise the important role that local authorities play in meeting children's special educational needs and through the provision of SEN support services. In the schools White Paper, we announced that we will be reviewing school funding, and, in the SEN Green Paper, we ask a question about funding SEN support staff, to inform that school funding review. There is no change to the responsibility of local authorities for SEN services, but we are aware of the changes that will happen as a consequence of wider education policies, and we are consulting on that.

Pat Glass: The direction of travel and what the Minister has said about the White Paper and schools funding are welcome, but the crisis is now. Huge numbers of local authority staff are going, because of Government cuts, and SEN specialist services are part of those cuts. In local authorities that I know well, I am seeing huge numbers of highly specialised and incredibly skilled members of staff, working in low-incidence SEN services, who are going on 31 March or who will be subject to compulsory redundancy shortly afterwards. That crisis is happening now. If we wait until the review of school funding, those people will have gone. I must say that I have not seen things as bad as this since 1997.

Mr Gibb: I do not want to take the debate into a discussion about the state of the public finances, but we have had to take some difficult decisions. Local authorities must make the right decisions, however, because their statutory duties remain in place. The decisions that we had to make in the emergency Budget and in the spending review in order to prevent the country going into financial meltdown take us back to the public spending levels of 2007. It should be possible, with careful husbandry of resources, to manage things, so that the most vulnerable people in our society do not suffer the brunt of the savings that must be made right across the state sector. The Prime Minister, the Chancellor and the Secretary of State have made it clear that they do not expect the most vulnerable to bear the brunt. The spending review has been designed deliberately to prevent that sector of society from suffering. I would be disappointed if there are local authorities that are taking the approach that the hon. Lady has mentioned.

Pat Glass *rose—*

The Chair: Order. I hope that the intervention addresses the amendment and the new clause, rather than the Government's spending priorities.

Pat Glass: I will try to restrict my remarks to the amendment. I just want to say that that does not matter to the parent of a child with SEN. The people who are disappearing now matter to them.

Mr Gibb: Yes, those decisions can only be taken by local authorities at the local level. As I said, the spending review has been configured in such a way that such decisions should not be necessary. Local authorities must be careful in how they deliver the necessary savings, and we expect them to find those savings in other areas.

I want to speak to amendment 143 and new clause 8 on the issue of special educational needs. On the new clause, the hon. Member for Walthamstow has served the Committee well by raising her issues. We had a short and good-humoured debate on a highly sensitive and important matter, which enabled us to discuss the work that schools have undertaken through Achievement for All. New clause 8 would require schools and other bodies, including health agencies and police forces, to participate in Achievement for All partnerships. The partnerships would be responsible for using a whole-family approach to assess the needs of and to deliver services to children with special educational needs and additional learning needs.

Achievement for All, which was introduced under the previous Administration, is a school-based programme that aims to improve both the attainment and progress of pupils who have special educational needs or who are disabled, and their wider outcomes. It has already shown early successes, as we have acknowledged in our Green Paper on special educational needs and disability, "Support and aspiration". However, Achievement for All has succeeded without the need for regulations or a requirement that certain local services such as the police shall participate.

Unlike the proposals in the new clause, the programme is not prescriptive about how a child's needs are assessed. Achievement for All has relied on schools' professionalism to assess their pupils' needs and to make appropriate provisions for them. We agree with that approach. I do not want to make this into a piece of jargon, but we trust schools' professional judgement; school leaders and head teachers know what works for their pupils and parents and we trust them to exercise that judgment.

Stella Creasy: I hope that the Minister will accept that one reason for tabling new clause 8 and the previous new clause was that the environment will change as a direct result of the Bill. Many of the relationships that were put in place through the duties that are being repealed in the Bill will no longer exist. That will make it much harder for the professionals in whom he has so much trust to do the work that these partnerships seek to set out.

Reading the Green Paper, one of my concerns is that the processes in relation to partnership are the very processes that the Bill will unpin. In 18 months' or two years' time a new Bill could be brought before the House to do exactly what the new clause sets out to do and to build those partnerships again so that parents do not have a limited number of options for their children. Will he confirm that there is some thinking going on about how one might deliver the kind of relationships that currently take place within the framework that the Bill is unpinning and that help to make Achievement for All possible?

Mr Gibb: I will come to that point in one moment. Let me continue my argument. We know that the approaches used in Achievement for All can have a very positive impact on pupil outcomes. That is why, alongside the Green Paper, we have launched a tender for bids from external organisations to spread the practices that those involved with Achievement for All have developed. We will ask the successful bidder to work with the voluntary and community sector to develop a quality mark for those schools that are developing excellent and innovative SEN support.

Amendment 143 would require maintained schools and academies to co-operate with the local authority and the partners set out in new clause 8, through the Achievement for All partnerships. Those partners are broadly the same as the current Children's Trust relevant partners. It is a further attempt to place a statutory requirement where none is needed. That is not the best way to deal with the important and sensitive issue of children with special educational needs. We all agree that the early identification of any barriers to learning, including special educational needs, and the resulting provision of appropriate support are vital in ensuring that every young person is able to reach their potential.

In the Green Paper, we set out proposals to ensure that teachers have training to enable them to identify, confidently and accurately, where pupils have special educational needs and to provide appropriate support. We are consulting on proposals under which local authorities and other local services will communicate the range of support available for families with children who are disabled or who have special educational needs. However, there are some children and young people with the most complex needs who will require support across a number of agencies. We also propose, therefore, to trial a new approach to statutory assessment, which in time could replace the current process for providing a statement of SEN.

The new, single assessment process and education health and care plan will bring together the services on which the child and family rely, and set out clearly who will be responsible for which service. The assessment and plan for children and young people with the most complex needs will involve a commitment from all parties across education, health and social care to provide their services.

There is some excellent practice in schools and, as I have just set out, we want that practice to spread. We do not think, however, that the right way to do that is through prescriptive regulations or statutory requirements. I hope that the hon. Member for Walthamstow is reassured by the range of measures that we are proposing to improve the identification, provision and support for children with special educational needs.

Stella Creasy: The Minister talks about proposals for the new early-years education, health and care plans that are being trialled. I would also like the Minister to comment on additional learning needs. There is a lot of talk about special educational needs, but the new clause also mentions additional learning needs and how they will be met without those kinds of partnerships.

On the proposed new plans, if a child has one of those plans and there are statutory obligations within them to schools, health care services and voluntary organisations, will the Minister set out more clearly how they will be enforced without an organisation to pull all that together? What proposal does he have for the delivery of those services without those relationships already being in place?

Mr Gibb: We will learn, from the assessment and planned pathfinders, whether and how those approaches might work best. If the pathfinder suggests that it is necessary, we will introduce all the measures required to bring about cross-sector working by a multi-agency planning process by 2014, for both special educational needs and additional learning needs.

I hope that, without allowing the debate to become a major debate on the contents of the SEN Green Paper, the hon. Lady will withdraw her amendment.

Stella Creasy: The Minister said it all when he mentioned that the Government will have to learn. They may well end up having to introduce new powers to do exactly what the amendment aims to do—reconstitute those relationships. At that point, I am sure that that will no longer be unnecessary prescription, but a recognised public benefit to get organisations to work together to deliver services for young people, not just in the early years when they have special educational needs, but throughout their educational lifecycle.

This probing amendment is an attempt to understand how the Government's thinking on the Education Bill and the Green Paper will fit together. It has been shown very clearly that they do not yet fit together. I will withdraw the amendment, but I put on the record my deep concern for the future of special educational needs as a result of the proposals. I hope and pray that the Minister will rapidly do some homework to figure out how they will fit together, because there are many young people, not just in my constituency but across the country, whose educational, social and personal outcomes will be damaged. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: Earlier, the Minister anticipated what I am going to say next. We have had a full debate on clause 30 already and I am minded not to have a stand part debate.

Kevin Brennan: I beg to move amendment 145, in clause 30, page 31, line 34, at end add—

'(5) The repeal of the requirement on governing bodies, proprietors of schools and FE institutions to co-operate with the local authority by this section is without prejudice to the Secretary of State's duty in section [Duty to Participate in Health and Wellbeing Boards] to require by order maintained schools and academies to co-operate in the work of their local authority's Health and Wellbeing Board.'.

The Chair: With this it will be convenient to discuss amendment 141, in clause 31, page 32, line 22, at end add—

'(5) Notwithstanding subsection (2), the governing bodies and proprietors of schools and FE institutions must cooperate with any relevant provision of the local Health and Wellbeing Stategy published under section 116A (Health and social care: joint health and wellbeing strategies) of the Local Government and Public Involvement in Health Act 2007.'.

New clause 11—*Duty to Participate in Health and Wellbeing Boards*

'The Secretary of State shall require by order maintained schools, Academies and FE institutions to—

(a) be represented on Health and Wellbeing Boards established under section 178 (Establishment of Health and Wellbeing Boards), of the Health and Social Care Act 2011; and

(b) participate in integrated working in the provision on health and social care services under section 179 (Duty to encourage integrated working) of the Health and Social Care Act 2011.'.'.

Kevin Brennan: These are probing amendments to find out the Government's thinking. The Health and Social Care Bill introduces new local bodies, health and well-being boards, that have to produce a health and well-being strategy—a new planning requirement. The valuable role that schools can play in promoting child health, and future adult health, can sometimes be easily forgotten. I have seen some very good work on that and I am sure that the Minister has, too.

I accept that the Minister may not have the answers, but it would be useful to know the Department's view on those boards and on school participation. Is there an expectation that schools will co-operate with the new boards? Does the Department for Education expect schools to be represented on the boards? How will the boards fit in with local safeguarding boards for children? Do the Government have a view on what is left of children's trusts becoming accountable to health and well-being boards?

Given that there is no clause stand part debate, I shall make a general point about duties. It really took from the Children Act 2004, with no duties on schools, until the Apprenticeships, Skills, Children and Learning Act 2009 for it to become clear that gentle persuasion was not sufficient. That is why duties were put in place and we certainly believe that the removal of those duties sends a powerful signal that the Government do not think that even gentle persuasion is required. The amendments are probing and I ask the Minister to answer those questions.

6 pm

Mr Gibb: I will try to do what the hon. Gentleman asks. The health and well-being boards were discussed next door on 10 March during Committee discussions of the Health and Social Care Bill. I do not want to stray inadvertently into the territory of another Public Bill Committee, but perhaps I can reassure the hon. Gentleman that the needs of children, young people and their families are at the heart of the NHS reforms.

The core purpose of the new health and well-being boards is to encourage joint commissioning across the NHS, social care, public health and other services, such as education, that are related to health. The Government have consulted widely on the membership arrangements of the board and there is broad support for the proposals, which will include directors of children's services as well as GP consortia, the director of adult social services, the director of public health, at least one elected member and local healthwatch as statutory members. Beyond that core, boards will have the flexibility to invite other members, including schools and FE colleges, as they think appropriate. But the determining principle should be whatever makes sense locally. We will leave it to the local authority and health and well-being board to decide who to invite.

We have already debated our removal of the requirement on schools and colleges to co-operate through children's trust arrangements. It would be a mistake to require all schools and colleges to be represented on health and well-being boards and to compel them to co-operate with those boards. It is neither practical nor necessary.

Schools and colleges vary enormously in circumstances, size and capacity, and they all act in the best interests of their pupils and students and have long recognised the need to tackle issues that get in the way of young people's education. They work with partner organisations to do that. But we need to recognise that the small rural primary school, the schools delivering specialist education for young people with communications needs, the inner-city academy, the sixth form and the FE college are all very different from one another, so it is not possible or sensible to try to prescribe a one-size-fits-all rule on how they should engage with local partnership arrangements—and, indeed, with the boards.

The boards will, of course, have an interest in encouraging the involvement of schools and colleges. The board may in particular encourage people who arrange for the provision of any health or social care services and health-related services to work closely together, and this means that where it makes sense locally for schools and colleges to be represented on local health and well-being boards, they will have a voice in encouraging close working arrangements for the provision of those services for children and young people. Quite rightly, arrangements for such representation should be determined locally in a way that is proportionate and appropriate.

I would like to add that, in the reformed system, the joint strategic needs assessment will take on much greater importance, providing commissioners access to expertise so that deep and productive partnerships, including with schools and colleges, can develop new commissioning solutions for the vulnerable people we are discussing today.

Amendment 141 would require schools and FE colleges to co-operate with any relevant provision of the new health and well-being strategies that are currently being legislated for during the passage of the Health and Social Care Bill and which will be published by the local health and well-being board. I understand the intention behind the amendment tabled by the hon. Member for Cardiff West, which is to ensure that schools and colleges are involved in local strategic planning. That is a principle that all members of the Committee agree with. Schools and colleges should always be considered by those in a planning or strategic role, but I do not believe that the amendment, which would legislate to force schools and colleges to co-operate with the strategies and indirectly give health and well-being boards the power to direct what schools and colleges should prioritise, is the right approach.

The new joint health and well-being strategy will be a concise summary of how organisations will address the health and social care needs of a community, including children's health, and will help to reduce health inequalities. I hope that I have persuaded the hon. Gentleman that his amendments are not necessary.

Kevin Brennan: It is curious that the Government should on the one hand be setting up new duties to participate in health and well-being boards and on the other be removing duties to participate in similar institutions for schools and education. However, this was a probing amendment, as I indicated at the outset. 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.

The Committee divided: Ayes 10, Noes 7.

Division No. 16]

AYES

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

NOES

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

Question accordingly agreed to.

Clause 30 ordered to stand part of the Bill.

Clause 31

DUTIES TO HAVE REGARD TO CHILDREN AND YOUNG PEOPLE'S PLAN

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

Kevin Brennan: We touched on planning in the debate on amendment 141. Government requirements on local authorities to produce plans, which affect schools, about how they intend to provide education and children's services are not new. The word "plan" appears 40 times in the Education Act 1944. That Act principally required local government to produce two plans to be approved by the Education Minister; one was a successful use of central planning and the other was, perhaps, not so successful.

The 1944 Act required every child to be provided with a secondary education. Local government had to follow a plan approved by the Minister, and by the early 1950s, that provision had been achieved through central planning. However, it took another 10 years for the last all-age elementary schools to be converted. The other requirement was to plan for county colleges—the forerunners of what we would know as further education colleges. That is sometimes thought to have not been as successful, because it did not provide a proper legal basis for the development of further education in the following 40 years.

The Minister may correct me if I am wrong, but the effective removal of the children and young people's plan through clause 31 will remove the last Government requirement for a local authority children's service to have a plan that is specifically required by legislation. The Department of Health, as we have heard, will require local authorities to help with health and well-being strategies, with which certain bodies must comply. For clarity, will the Minister state whether his Department requires other plans from local authorities? Does he feel that there are any risks of removing the plan to local authorities and schools? Why does health need plans, but not education?

Mr Gibb: Clause 31 will remove the redundant requirement on governing bodies of maintained schools and local school forums to have regard to the local children and young people's plan prepared by the children's trust board. The simple reason why is that local areas are no longer required to prepare a statutory children and young people's plan.

That does not mean that those bodies should stop planning, but that central Government will not tell them how to do it or who should have regard to such a plan. We revoked the highly prescriptive Children's Trust Board (Children and Young People's Plan) (England) Regulations 2010 in October last year to free local partners from the burden of having to produce and publish a local strategy by 1 April, a strategy that would have owed more to central diktat than to local priorities.

The regulations set out in considerable detail not only what the content of the plan should be, but how and where it should be published, the 16 different categories of partners, boards, forums and groups to consult, and even when to review and how to revise the plan. Needless to say, compliance with the regulations added considerably to the bureaucratic burden on local authorities and their partners, including schools and colleges. It resulted in many local areas having an impossibly large number of top priorities—in other words, no priorities. It restricted the freedom of local partners to work together in innovative ways, and it discouraged local creativity and solutions to meet the challenging circumstances that we all faced.

I want to make it clear that the removal of the clause does not mean that we are opposed to planning. On the contrary, we want to support effective planning that genuinely reflects local priorities and the worries of local people. Under the clause, we intend to free local partners and partnerships from the micro-managements of central Government and let them produce genuinely local plans.

Clause 31 ordered to stand part of the Bill.

Clause 32

DUTY TO PREPARE AND PUBLISH SCHOOL PROFILE

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

Kevin Brennan: We do not dispute the need to do something about the duty on school governing bodies to publish a school profile. A significant proportion of schools do not publish a profile and parents are denied detailed comparative online information about schools. When we were in Government, we were about to repeal the school profile provision, but that proposal was removed at the behest of the then Opposition in the wash-up last year. The difference between us is that we wanted to replace the school profile with a nationally provided school record card. Alternatively, the Government's proposal will deny parents useful information, a point to which I shall return in a moment.

In case members of the Committee have forgotten, the school report card would have mainly contained information already held nationally, including school performance data matched with information about the characteristics of pupils, with a small amount of additional information produced by schools on the perceptions of pupils and parents. A two-year pilot of the report card started in September 2009 and to quote the then Minister for Schools, my hon. Friend the Member for Gedling (Vernon Coaker),

"it will be a fundamental and radical reform that will answer the demand of schools up and down the country, which is, 'Do not let

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our school be judged on just the raw attainment scores'".—[*Official Report, Children, School and Families Public Bill Committee,* 4 February 2010; c. 464.]

The view of the present Minister for Schools at that time, which is the view of the Government now, is that all the data currently held in schools should be published, whether it is the proportion gaining five or more GCSEs, the proportion gaining eight or more GCSEs at grades A to C or the proportion gaining an A or B in physics GCSE. He said then:

"Different parents have different priorities about what they want from a school for their children, and we do not believe that it is possible to provide an overall score, which will inevitably involve a very subjective judgement."—[*Official Report, Children, Schools and Families Public Bill Committee,* 4 February 2010; c. 463.]

Will the Minister explain what the Government intend to do if and when they publish proposals, rather than bringing changes through the back door as they did with the ex-post publishing of information in accordance with the strictures of the invented English baccalaureate?

6.15 pm

One thing that the Government have found in office is that they can—this is true—publish school-level information in any way they like. I do not recall any formal proposal to show the proportion gaining an A or B in physics GCSE, but, as I have just mentioned, we now have information on each secondary school published in accordance with the Secretary of State's rather antique view of what secondary education is about—the so-called English baccalaureate.

In the space of a few weeks, the Government have done more to interfere with the key stage 4 curriculum than any number of initiatives. The Minister knows that, for better or worse, people tend to value what is measured—in this case what the Government are measuring—rather than the things that ought to be valued.

Secondary schools, as ever, need to demonstrate their position in the league table of what the Government decide is worth measuring—the officially approved table, we might say—and are changing their curriculum to meet that publication requirement, whether or not it is right for their individual pupils. We are not talking about the

"soft bigotry of low expectations".

The Secretary of State borrowed that quote from George W. Bush, although I doubt that George W. Bush thought of it himself—I may be being unfair to him, but I doubt it. It is about having a broad and relevant curriculum with real choice for students that is fit for the 21st century.

Could the Minister tell the Committee a bit more about the information the Government intend to publish? In what form will it be published, and how will it fit in with the Minister's previous utterances?

Mr Gibb: Clause 32 removes the duty for every maintained school in England to prepare and publish a school profile.

At the moment, schools are required to produce a profile by completing an online template that allows for the provision of quantitative and qualitative information about the school. The aim of the profile was to allow parents to compare the information on different schools in a consistent way. Since its introduction, however, only 30% of schools have completed a school profile; 70% of schools have failed to publish a profile, preferring instead to use other means, such as their own websites and newsletters, to communicate information to parents.

In a public consultation carried out by the previous Administration alongside their 2008 White Paper, 84% of respondents agreed that the requirement to complete a school profile should be ended. Respondents, who included head teachers, teachers, governors and other stakeholders, commented that parents rarely used the school profile, which was evidenced by the lack of hits on the site.

One person, for example, said:

"Please get rid of the School Profile. It is difficult to complete, parents don't look at it and it is a real burden to head teachers and governing bodies".

Another commenter said:

"Parents don't value it; most heads do not bother to complete it."

In a nice comment, someone else said:

"Nice idea but a waste of time. Parents don't look at it."

It is estimated that it takes schools a minimum of half a day, and a maximum of two days, to complete and upload a profile.

We believe that parents, governors and the public should have access to information about their children's school and schools in the local area. Currently, parents are able to access information about a school's performance in a variety of places. That includes the school and college performance tables, school and local authority websites, as well as the online school profile. We will make available much more information and data about schools in local areas and bring together in one place data about school performance, finance and work force, and school and pupil characteristics. That will make it easy for parents and others to access and compare school performance in local areas and so use that information to hold schools to account and make better informed choices.

Already this year, and for the first time, parents have been able to use the Department's website to create their own performance tables to rank schools and compare them with others. We will continue our policy to release in reusable form as much as possible of the statistical information the Department holds. We want to free schools from unnecessary bureaucracy and legislative burdens. Replicating information that is widely available elsewhere is a waste of school resource time. Schools should be free to focus on their core business of teaching children.

To respond to the comments of the hon. Member for Cardiff West about what we want to publish, we said in the White Paper that we want to require schools to publish comprehensive information online. That should include, for example, admission information and oversubscription criteria, the school's curriculum, the school's phonics and reading schemes, arrangements for setting pupils, the behaviour policy and home school agreements, the special needs policy, information about how the school uses the pupil premium and clear signposting for parents who would like more detailed information. We also expect key performance tables to focus on a range of measures, including the English baccalaureate,

the percentage of A to C in English and maths and so on, along the lines that the hon. Gentleman discussed when he quoted a comment from me in a previous Bill Committee.

I hope that with that full response to the hon. Gentleman's comments, we can press on and agree that clause 32 should stand part of the Bill.

Question put and agreed to.

Clause 32 accordingly ordered to stand part of the Bill.

Clause 33

DUTY TO APPOINT SCHOOL IMPROVEMENT PARTNERS

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

Kevin Brennan: Clause 33 deals with the duty to appoint school improvement partners. They grew out of work that the previous Government started in 2003 on the new relationship with schools, and in a short period have become a part of the schools landscape that is valued by schools and local authorities. This Government have decided to kill them off, and have done so by withdrawing funding from local government, which is why the duty finishes on Royal Assent, according to clause 78.

It is worth noting some functions of school improvement partners. They provide support to school governors in the performance management of the head teacher, which is an extremely important task if we are to be able to help head teachers to grow and develop in the demanding role that they play in school leadership. We know that that is required of a highly successful head teacher for a highly successful school. Perhaps the Minister could say what support he envisages will be available to school governors in that task.

I thought it might be useful to quote from a letter that I received earlier this month from Councillor Nickie Aiken, the cabinet member for children and young people on Westminster City council, about school improvement partners. She states:

"I also have specific concerns about school improvement and how slipping standards can be identified quickly and effectively. The provision of a School Improvement Partner will soon become discretionary; most local authorities will no longer continue to provide this service. It must be noted that without a formal school improvement partner the capacity for a local authority to ensure the quality of education in its borough is limited so problems will only be able to be dealt with once schools are already underperforming."

For fullness, I should tell the Committee that Councillor Nickie Aiken has added, in her own writing at the bottom of the letter:

"Not that I'd want to teach my former teacher to suck eggs!"

I know Councillor Aiken from a previous life—I used to teach her in Cardiff many years ago. It is right that I should declare that, but I do not think that it undermines her point. She makes a good point. There is a real concern that

"problems will only be able to be dealt with once schools are already underperforming."

She goes on to talk about a need for clarification of

"a clear mechanism for referral for a school which has slipping standards or is beginning to fail".

We will look at some of those issues in our discussion of later clauses and Ofsted's role. She also said:

"It would be useful to understand how any slips in standards at an 'exempt' school"—

that is a school that will no longer have to be inspected—

"might be spotted if the School Improvement Partner no longer has any contact and Ofsted inspections are halted."

There are some real issues being raised, and not in a party political sense. The issue of school improvement partners has been raised by a local government cabinet member in the Minister's party. In replying to this clause stand part debate, I would be grateful if the Minister would make it clear how he will overcome that problem.

Stella Creasy: I just want to add my concerns on the removal of school improvement partners. One of the mantras that we are taking away from this Committee is the concept of trusting professionals. Many professionals are fantastic at their jobs and we heard from some of them in the evidence sessions. We are trying to square that with the concern about school standards and the ability of schools to rise to the challenge that the Government want to put to them.

School improvement partners—I declare an interest as the daughter of someone who has been a school improvement partner—have been described as the "eyes and ears" of the local authority within a school, and they are the people who could spot early on if problems were developing. For example, if a head teacher was unable to implement policies or to deal effectively with issues of behaviour or attainment, or if there were new challenges arising within a school, that SIP can provide support and assistance in developing proposals to deal with the issues, before they came to the attention of Ofsted and a more formalised intervention became necessary. From a value-for-money perspective alone, those eyes and ears are worth their weight in gold in being able to address problems early on.

The other thing that I learned today is that people are concerned about early intervention. Sometimes early intervention is a principle that we should apply to how we work with schools, as well as how we work with young people with challenging behaviour. The shadow Minister is right to ask what alternative mechanism local authorities and parents will have, so that they have the confidence that they do not have to be there 100% of the time watching what is going on in schools like eagles. With SIPs, they have the confidence that there are people with experience, understanding and solutions—that is the critical point. They have ideas on how to address some of those problems and are part of the school's fabric, and they do not only come in to inspect, but to challenge and support. That is what school improvement partners have done, where they have been effective.

I would hope that the Minister will reflect on the clause, and perhaps think about how a different regime of school improvement partnerships could be brought in to support achievement within schools and bring them to the standards that he wants them to reach, where professionals do not meet his high expectations. I am sure that the Minister will accept that there may be that rare occasion when that needs addressing.

Pat Glass: I remember many years ago visiting a school that almost never got in touch with the local authority, had high standards and the head teacher got on with things. We saw each other rarely. I was visiting the school on a specific issue on a Friday afternoon. It was going to take little time. We went through the business, and as I got up to leave, the head said, "Sit down, because I need to talk to you." He explained to me that, in his position, he had no one to talk to. He found it really useful to have someone who listened to him, whom he could trust and who was of a professional standing, so he could share some of the concerns within his school. That was 20 years before SIPs came along.

It was the kind of role that head teachers were looking for. It was someone to look at the issues within a school, to challenge and to monitor their self-evaluation form—I know that the SEF is not required any more, but many head teachers I know find them useful and are going to continue with them—and to look at the school priorities and listen to their issues and their problems. Many times over the years I have had phone calls from head teachers saying, "I have got this issue." I would say, "I will come out and see you", but on the drive there I would think, "I don't know what to say. I don't have an answer to this insurmountable problem." However, when I would get there, the head would talk through the issues. In fact, they would not be looking to me for a solution, but for someone whom they could professionally trust, who would listen to them, and whom they could talk to, and they would find their own solutions. That was largely the role that SIPs subsequently played.

6.30 pm

I accept that where SIPs are good, their worth to schools is high. Equally, where SIPs are not so good or less than good, their worth is less positive. I also accept that SIPs have been much more successful in primary than in secondary. A lot of that was because it was much harder to get head teachers to come out of their successful schools and work as SIPs in other schools, which it was much easier to do in primary. The feedback that I get from head teachers is that overall SIPs have been a positive influence in schools and are seen as worth while. What consultation has the Minister held with head teachers on that, and if he has done so, can we see it? Certainly, the feedback I get is that despite the variability, SIPs generally have been seen as worth while in schools.

Mr Gibb: I do not want to teach the shadow Minister to suck eggs, but he will have read, as shadow Ministers do when they serve in Public Bill Committees, the briefings that are sent to us by various interested parties. One of them was sent by Westminster city council, as it happens.

Kevin Brennan: I have read it.

Mr Gibb: The hon. Gentleman says that he has read it, but he did not quote it. By his wide smile I think he knows that he ought to have quoted it. It said:

"The removal of the need for all schools to appoint a school improvement partner for all schools they maintain is broadly welcomed by Westminster City Council as it allows highly-performing schools to be independent and focus on the quality of teaching they are providing our children and young people".

I could quote a number of head teachers. Patricia Sowter, a primary school head, said:

"I felt that it was a complete waste of my time to be sitting down with a local authority adviser or SIP five times a year to tick their boxes."—[*Official Report, Education Public Bill Committee,* 1 March 2011; c. 4, Q1.]

The National Union of Teachers said:

"The repeal of the requirement on local authorities to appoint school improvement partners…for every school is welcome".

The National Association of Head Teachers said:

"The School Improvement Partner initiative has met with mixed reviews, with some schools finding the SIP an invaluable aid to improvement in the way that they support and challenge the school appropriately. Others found the degree of challenge inappropriate and unhelpful, with very little…support".

The SIP initiative does not carry with it widespread support among head teachers.

The hon. Member for North West Durham commented on the loneliness of, not the long-distance runner, but a head teacher. Nothing will stop a head teacher from appointing an improvement partner, and they did not need legislation to force them to do so. Our direction is towards encouraging more mentoring and peer-to-peer and school-to-school support, so that it becomes a default approach for delivering school improvement, which I think partially answers the comments made by the hon. Member for Walthamstow. That is why we are building capacity in the system for a growing network of teaching schools. We want to double the number of national leaders and local leaders of education, and we are identifying the best subject and specialist leaders working in schools to designate them a specialist view of education. That is the direction—more co-operation between experts and people who have a proven track record. None of that will be delivered by a whole range of new statutory duties being imposed on schools.

Stella Creasy: Has the Minister done any work on when head teachers might appoint a SIP or someone to support them? What evidence does he have that people who want to challenge the way in which schools are run—they need support or need to acknowledge that they are perhaps falling down in areas—will do so? One benefit of the school improvement partnership system is that it picks up things that people may not have identified themselves. He is asking an awful lot of a head teacher to admit that they have failings. I appreciate that he has been listening to head teachers who do not believe that they do anything wrong. However, occasionally they slip up, although they might not realise it—I can say that as the daughter of a head teacher who is watching now, so I know that I shall be in trouble when I leave. What mechanism does the Minister expect will take account of where head teachers might not recognise the value of mentoring or of critical friends in helping them to improve the provision of services?

Mr Gibb: Well, we want to foster that culture of co-operation, although it is not the case that we need to, because it is live and flourishing out there among schools. Schools co-operate with one another, and we want to help that along by creating more national leaders of education and local leaders of education. Schools will continue to have a relationship with the local authority—the phrase "an island unto themselves" has been used, but our school system is not made up of that. We want

autonomy, but not isolated autonomy. The schools are not all seeking to be islands unto themselves without any co-operation. Opposition Members are painting a picture of schools today that does not reflect the reality or the quantum of co-operation that takes place between schools and professionals.

Turning to the clause, it removes the duty on local authorities to appoint a school improvement partner to each of their maintained schools. For too long, schools have been the focus of highly centralised, top-down approaches, leading to the stifling of creativity and innovation. Some of the world's best education systems operate an autonomous school system and, if we are to achieve world-class status and compete with the best, our approach to school improvement needs to change.

We are committed to creating a self-improving school system that empowers schools to become fully responsible for their own improvement. Alongside that, we will make much more information about schools available in standardised formats, to allow parents and others the ability easily to compare school performance. We want to see our best leaders, teachers and schools take on greater responsibility for leading school improvement.

In 2008, a York Consulting evaluation of the previous Government's new relationship with schools policy highlighted several areas for improvement, including the need for clarity about the role of school improvement partners and schools' perception that that role was duplicated by other local authority staff. The majority of local authority respondents surveyed as part of the evaluation did not agree that their decisions on intervention in schools were more effective as a result of the school improvement partner programme.

In conclusion, we believe that schools need to be free to take responsibility for their own improvement by defining their improvement priorities and accessing the most appropriate support themselves, either from other schools or from the marketplace, which is why clause 33 should stand part of the Bill.

Kevin Brennan: I am afraid I cannot explain why the Minister got mixed messages from Conservative Westminster city council, but I was simply reading the letter sent to me. However, I do not want to get anyone into trouble.

The experience of history, I am afraid, is that some schools act as islands if we do not put into the system a requirement for them to co-operate, collaborate and act together. We saw that very well in the 1980s, when grant-maintained schools were introduced. I well remember where I taught, some school heads decided that they would act in a singularly unco-operative way, which was not in the interest of children in the whole of the area, and despite the majority of heads disagreeing with them. Sometimes we have to put in a requirement for co-operation.

My hon. Friend the Member for Walthamstow said as the daughter of a head teacher, so I can say as the son of a dinner lady, that heads slip up sometimes. My mother often told me about such occasions—never on a floor she mopped, but they do occasionally slip up, make mistakes, act in a high-handed way or get out of line. As my hon. Friend the Member for North West Durham has pointed out, they occasionally find themselves under a lot of stress and pressure and in a position in which it is difficult, as the "captain of your ship" to quote the Secretary of State, to reach out and ask for help. In such circumstances, it is important to have a school improvement partner in place and to have a requirement on the local authority to appoint one.

I will not force the Committee to a Division on clause stand part, but I hope that the Minister will think more about the provision, because he might come to rue it. His continual assertions that every head teacher everywhere can always be relied on to do the right thing on every occasion is a bit naive or—I will not accuse him of naivety; that would be unfair—is not borne out by experience and history. Even if he dislikes, as I think he probably does, regulation and prescription—I respect his political philosophy or ideology—he sometimes needs to have a realistic view of human nature. Head teachers are not perfect creatures. They are highly qualified professionals and mostly act professionally, but they may make mistakes and they are not perfect, so sometimes they will need help. As I have said, we have discovered from bitter experience that having that attitude towards people in positions of authority around children is not wise. It is regrettable that the Government have included the clause, but I will not ask the Committee to divide on it at this stage.

Question put and agreed to.

Clause 33 accordingly ordered to stand part of the Bill.

Clause 34

Duties in relation to school admissions

Kevin Brennan: I beg to move amendment 147, in clause 34, page 32, line 34, at end insert—

'(1A) In section 84 (Code of practice) after subsection (2) insert—

(2A) In framing the code, the Secretary of State must require each admission authority in agreeing admission arrangements to ensure fair access to educational opportunity.".'.

I say at the outset that we do not agree with the Government about the clause, because we have deep concerns about what they are doing on school admissions. We hear a lot about that subject. Recently, the press reported that the school adjudicator is going to stand down. Mysteriously, he will leave his post early, I suspect because of the Government's work in that area. Frankly, we are concerned that the clause is all about giving schools more wriggle room—the phrase has been used outside the Committee—on admissions. That will be the practical effect of the provision, even if the Minister shakes his head. I hope that the Lib Dems are listening, because they should pay close attention to what the Government are doing.

The Lord Commissioner of Her Majesty's Treasury (James Duddridge): They are part of the Government.

Kevin Brennan: Well, I mean the Liberal Democrat Back Benchers in Committee. They should pay close attention and discuss this issue at one of their group meetings, because the provision is about creating more wriggle room for schools to get out of fair admissions. That is what we are extremely concerned about and why we have tabled amendments.

Amendment 147 relates to a policy that we tried to introduce in government, which was to put fairness and access to schools firmly at the centre of the school

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system. That is what parents, schools and nearly all teachers want, and I hope that it is what we all want in Committee. I know we will hear many professions of a desire to achieve that from members of the Committee. If possible, we want all children to be able to attend schools, and we want all those schools to be good schools. We worked very hard in government to try to realise that ambition, and I think that the Government sincerely want to improve schools and to have good schools for children to attend. However, it is still the case that some schools are oversubscribed. I suspect that, however long the coalition Government last, some schools will still be oversubscribed at the end of their period in office. That is why it is so important to ensure fairness in the allocation of state school places. Some schools are grammar schools and can select on ability, but we are talking here about schools that are not supposed to select on ability or any other criteria, but to accept pupils on a fair basis. In this amendment and those in the three groups to come, we want to show what can be done to improve the Bill and why changes are needed if we are to guarantee fair access for all children.

6.45 pm

The Government say they want to simplify and improve the schools admission code. That is fine. I have a copy of it here. It has a nice cartoon on the front which the Department abolished when the Minister came into office. Our concern, and I will put it frankly to the Committee, is that rather than simplifying it, they may want to dilute its impact on fair admissions. We must therefore scrutinise very closely what the Government are doing in this clause. Paragraph 1.9 of the code states that the Education Inspection Act 2006

"requires local authorities to promote fair access to educational opportunity, promote high standards and the fulfilment by every child of his educational potential, secure choice and diversity and respond to parental representations. These duties, together with this Code, underpin a modernised role for local authorities as the commissioners of school education, ensuring the quality of provision for all in a system that is responsive to the needs of parents and children."

The Government claim to recognise the importance of fair access to schools. The White Paper, "The Importance of Teaching" states that

"local authorities have a critical role in securing fair access to schools."

But can a local authority do that all by itself? How important is the admissions forum? How important is the schools adjudicator? How important is the schools admission code? How important is the local authority's annual review of admission arrangements? The Government's changes to the legislative framework since the 2010 election require a revisiting of the local authority role to secure fair access to schools, particularly with the significant increase in the number of academies that the Government envisage. I know the Government have something to say about that later in the Bill.

I hope that the Committee will not mind if I quote Councillor Nickie Aitken one more time. She writes:

"As the admissions forum is also to be abolished, it is unclear whether or not the local authority will have sufficient levers over academy admissions to ensure fair access to school places and will be able to place children within a suitable time frame."

That is another serious point that she makes there. In contrast, the local authority will have to set the admissions arrangements for community and voluntary-controlled schools with a view to ensuring fair access to educational opportunity. Amendment 147 will require all admission authorities, be they foundation, voluntary-aided or academy, to set their admission arrangements on the same basis as local authorities.

Hon. Members will know from their constituency casework of the deep disappointment felt by parents and children on not getting into the school of their choice. Although it affects some areas more than others, we have all probably heard parents saying that admissions arrangements are not fair. Local newspapers are often full of stories of disappointed parents. Even with the changes to the code following the 2006 Act, admissions can still be complicated, time-consuming and stressful for parents. Admissions arrangements will almost certainly become even more complicated as more and more schools become their own admission authorities under this Government's education plans.

There are 152 local authorities acting as the admission authority for their community and voluntary-controlled schools, but there are thousands of voluntary-aided, trust and foundation schools, and academies—a growing number under the Government's plans—all acting as their own admission authority. As a result, large numbers of governing bodies go through the process of setting and consulting on admission criteria, organising appeals and responding, if necessary, to the adjudicator.

The fear is that, with this large number of admission authorities, covert selection and complexity will be given a stimulus. There is evidence that when schools become their own admission authority, it gives them the opportunity to exercise covert selection and unfair admissions practices. Although it has not been featured in a letter to any member of the Committee from the Minister, or in a departmental statement, press reports at the weekend suggest that the Government intend to limit the use of lotteries for admission to individual schools, rather than to allow local authorities to conduct them. I do not know whether the Minister can confirm whether the report in the weekend edition of *The Telegraph* is true.

In his research in 2008, Professor John Coldron of Sheffield Hallam university—

Meg Munn: A wonderful university.

Kevin Brennan: As my hon. Friend the Member for Sheffield, Heeley says, it is a wonderful university.

In his research for the Department in 2008, Professor Coldron found that schools that were their own admission authority were more likely to select covertly, leading to more socially segregated schools and a greater number of parental appeals. In her research in 2009 into secondary schools' admissions criteria across the country, entitled "Secondary Schools Admissions in England: policy and practice", produced for the charity, Research and Information on State Education Trust, Professor Anne West, from the London School of Economics, said:

"Despite improvements, our research suggests that the system is still too complex, particularly for parents and carers who are not highly educated or proficient in English, and especially where there are schools responsible for their own admissions. The complexity is exacerbated by some schools seeking additional information from parents, often of a personal nature and unrelated to the admissions criteria."

A report for the Sutton Trust in 2010 by Smithers A and Robinson P, entitled "Worlds Apart—Social Variation Among Schools," found that the most socially selective schools were those that controlled their own admissions.

What can be done to reduce the difficulties of introducing more own-admission-authority schools? Part of the answer must lie in requiring a specific objective to be included in the schools admission code for those schools when they set their admission arrangements. Namely, the admission arrangements should ensure fair access to educational opportunity. That would mean that all admission authorities have the same objective. Amendment 147 is designed to achieve that, and I would be grateful if the Minister could respond to that suggestion.

Pat Glass: Anyone who has ever had anything to do with school admissions will know that it is an aspect of education that greatly exercises parents. The three largest areas of complaint to the local government ombudsman are, and have been for many years, planning, special educational needs and admissions, and that was when the local government ombudsman only had powers to investigate admissions in relation to local authorities, and not in relation to schools.

As we know, the position differs across the country, and there truly is a postcode lottery. The establishment of local admissions forums was an attempt to combat that. Fair access is very important to parents, and as my hon. Friend the Member for Cardiff West has said, every year at the same time, television programmes on BBC and ITV and the press are full of stories of parents who are extremely angry that they have not got their first, second or sometimes even third choice of school for their child. I have to say that, in the main, parents understand fairness, and will accept arrangements, as long as they feel that they are fair or, as one parent said to me, equally unfair to everyone.

I have worked in several parts of the country. In the north-east, where I worked for many years, up to 98% of parents get their first choice of school for their children because their first choice is the local school, which is often a good school. That is what parents want. They are not looking for something special or different; they are looking for a good school for their children. I have also worked in parts of the country where 50% or less of parents get their first choice of school, and many do not even get their third or fourth choice. Understandably, that makes them angry and frustrated. The local admissions forum was a way of giving parents the opportunity to become involved in admissions locally, and they will be angry at its abolition.

Changes to school admissions under the legislation, and the proposed simplification of the code of practice on school admissions have worried many parents. Those who live in areas where there is a shortage of schools, or where parents perceive, rightly or wrongly, that there is a shortage of good places, and parents of children with special educational needs are extremely worried that simplification will mean "more opaque," and that it will be easier for schools that want to keep their children out if they want to.

I have seen press speculation that lotteries will be banned, and that preference will be given to those who live nearest to a school—in other words, those who can afford to live nearest to a school, or to move into a catchment area. That is all extremely worrying for parents. I said in the Education Committee, and I am happy to say here, that as a practising Catholic, when I was working in London and saw some of the practices that went on with admissions and exclusions among London Catholic schools, I was frankly ashamed.

I have been contacted by the Special Education Consortium, which told me that it often hears from parents when schools are reluctant to admit their children. The local admissions forum provided an opportunity for parents to be involved in the scrutiny and challenge of admissions arrangements in their areas. The Special Education Consortium told me that it is worried that the schools adjudicator will no longer be able directly to change admissions policy, even when it is judged to be unlawful. It cannot understand that and, frankly, I cannot understand it. The Education Committee recently interviewed the schools adjudicator, and it was clear that he was particularly unhappy about that proposal. I understand that he will leave his post early, which says clearly what he thinks about the Government's proposals.

I do not understand the proposal that local authorities will no longer be required to submit their annual review of local admission arrangements to the schools adjudicator. That will not save bureaucracy or money, because my understanding is that local authorities will still have to carry out their annual reviews; they just will not have to send them on to the schools adjudicator. The purpose cannot be to save the cost of a stamp, because e-mail can be used. If the Government are serious about openness, transparency and fairness in admissions, why on earth would they not want to gather such information together, publish it, and look at the good and the bad—there is good and bad out there. That seems to go against the Government's avowed policy of openness and transparency.

I welcome the proposal to bring academies' admissions arrangements into the remit of the schools adjudicator, but other parts of clause 34 will weaken accountability in schools admissions, make it easier for schools that are reluctant to admit pupils with additional needs to keep them out, and severely weaken parents' position.

6.59 pm

Sitting suspended.

8 pm

On resuming—

Mr Gibb: First, let me say that I agree with the sentiments behind amendment 147. Since coming into office, his Government have tackled the growing inequality in our education system through the introduction of the pupil premium, the SEN Green Paper "Support and Aspiration" and, crucially, freeing schools from the weight of regulation, bureaucracy and centralised control that prevents them from focusing on one thing, namely raising educational standards for all children, especially the most disadvantaged. Choosing the right school for their child is one of the most important things parents can do, and I agree with the hon. Member for North West Durham that going through that process is hugely stressful for some parents. It is right that admissions authorities should be mindful of their communities when setting admissions arrangements.

[Mr Gibb]

Let me respond to the comment made by the hon. Member for Cardiff West about whether there is a hidden agenda to introduce covert selection through revisions to the admissions code. Absolutely not. There are more than 660 mandatory requirements in the current code—too many to follow—and the chief adjudicator says that the code needs to be more accessible, That is what we seek to achieve with the revisions. We require admissions authorities to consult their communities, because we want to ensure that access to schools is fair and helps to achieve our agenda of closing the attainment gap. When they amend or set regulations, we will continue to require admissions authorities to consult their local communities.

The school admissions code contains a clear framework for schools and local authorities to set clear, fair and lawful admissions policies. The code ensures that admissions arrangements do not discriminate on the basis of race, sex or disability. It also prevents admissions authorities from asking for information that might lead to children being discriminated against based on their background, and through fair access protocols it ensures that the most vulnerable children are given extra help in securing a school place.

The independent schools adjudicator is available for parents who are concerned about the admissions policies of their local schools and it can decide on the lawfulness and overall fairness of those policies. As hon. Members will know, local authorities are already under a duty to exercise their education functions with a view to as far as possible ensuring fair access to opportunity for education and increasing opportunities for parental choice. All members of the Committee share a commitment to fair access, and successive codes have built on that, so the effect the amendment would have is already in place. I am confident that the codes in force that govern school admissions and admissions appeals already set out the parameters of a system that ensures fairness and that priority and support are given to those who need it most, including looked-after children and those with statements of special educational needs.

The Secretary of State announced a review of the admissions process and I assure hon. Members that the draft codes on which we will soon consult will continue to have fairness and equality as their guiding principles. As I said in the policy statement that we circulated to the Committee, we shall require the local authority to report on the effectiveness of fair access protocols.

Kevin Brennan: I think the phrase used in the White Paper was that that draft code would be available for consultation early in the new year. We are well past the ides of March, so will the Minister tell us when we will see it and why it has not yet appeared?

Mr Gibb: It is imminent. I have a good track record on these things.

Kevin Brennan: The last time the Minister said something was imminent, it appeared the next day, but we are discussing it now. If it is so imminent, why have we not had it in advance of this debate?

Mr Gibb: We have sent round a detailed policy statement on the code. It is difficult to time these things precisely to coincide with the Committee stage of the Bill. However, it is certainly imminent and will certainly be available before many of the future stages of the passage of this Bill for the hon. Gentleman to scrutinise. However, that is a separate process from many of the measures in the Bill.

The policy statement given to the Committee says that we shall require the local authority to report on the effectiveness of fair access protocols for children with special needs and children in care. We will retain prioritisation for SEN and looked-after children. Although I agree with the aims and sentiments behind the amendment, as I do with those of a number of the amendments on admissions, I hope that I have demonstrated that the codes, rather than legislation, are best placed to give effect to the aim expressed in the amendment. I hope that with that reassurance and the fact that the revised draft codes are imminently available, the hon. Gentleman will withdraw the amendment.

Kevin Brennan: Welcome back to the twilight zone, Mr Williams. I hope that you enjoyed your egg and chips over the way—I enjoyed mine.

I think I know now what the Minister means when he says that something is imminent, but it is not good enough that we have not had sight of the code, not least because the White Paper said that it would be consulted on early in the new year. However, as we have quite a few amendments to get through, I will not prattle about that now.

All that the amendment asks the Secretary of State to do is to require admissions authorities to ensure fair access in agreeing admissions arrangements. I should have thought it would be the easiest of amendments to assent to. I will not press it to a vote, as the Minister has put on record that he believes that that is what should happen, but I reserve the right to return to the issues relevant to the clause and the amendments to it. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Kevin Brennan: I beg to move amendment 148, in clause 34, page 32, line 35, leave out subsection (2).

The amendment is about admissions forums, which we have discussed under a previous amendment. Their abolition will remove a level of local scrutiny working to ensure fair admissions, in which representatives of schools, including heads, governors, parents and diocesan authorities, are involved. They are a good example of localism—even, I dare say, the big society. Such a move is unwise at a time when the number of schools that set their own admissions criteria is increasing. In a few years' time, we could have more than 20,000 schools setting their own admissions criteria. Now is not the time to remove an effective local mechanism working in favour of fair admissions.

As has been mentioned, the Sutton Trust study found that the most socially selective schools were those that are their own admission authority. There is well-researched evidence for that. In "Unlocking the Gates: Giving disadvantaged children a fairer deal in school admissions", Barnardo's drew on its experience of working with poor families and called for greater scrutiny of school

admissions, also drawing attention to the increasing number of schools which are their own admission authorities.

The Government have provided no evidence of the need to make the proposed change. The White Paper supports the local authority role to ensure fair access, but then demolishes the support that helps authorities to do that work. Establishing and working with an admissions forum is dismissed by the Government as a bureaucratic requirement, yet the Department for Education's impact assessment states sets out only a tiny cost saving from the abolition of admissions forums. That shows that they are not much of a bureaucratic burden, especially when balanced against the loss of scrutiny to ensure that admissions are fair.

Perhaps the Government think that the combination of the local authority scrutinising local admissions, along with the powers of some parents, schools and the local authority to complain to the adjudicator at national level, is sufficient, but that is to neglect the importance of those local groups working out fair arrangements, often dealing collaboratively with sensitive issues, such as in-year admissions and the fair access protocol, which are of great importance to parents and schools. It needs to be borne in mind that it is far more efficient to deal with issues locally, involving local stakeholders, than to refer every contentious case to the schools adjudicator. Although important, the latter should be the last resort, used efficiently as the final arbiter when a local agreement cannot be reached.

A key theme of the Bill, as stated in the impact assessment, is to

"give parents a greater role in the system."

In fact, abolishing admissions forums will reduce the role of parents in admissions, because parents are part of the required membership of the forums. Furthermore, forums can and do invite parent groups to come to their meetings to make representations. Parents, regardless of where they live, are entitled to have an effective, independent monitoring body in each local authority to ensure fair admissions criteria and processes, as laid down in the school admissions code, and to ensure they are operated by all admission authorities. Voluntary forums would not have the same powers, for example, to refer objections to the adjudicator. Voluntary forums were introduced in 1998, but they were soon made mandatory under the Education Act 2002, to ensure that good practice where there was active leadership could be spread throughout all local authorities. Later departmental consultation in 2008 included a proposal to make admissions forums voluntary, but that was rejected by respondents.

The adjudicator, Ian Craig, supports the retention of admissions forums—perhaps that is why he has to go. In his latest report, for 2010, he recommends changes to the content of the local authority annual report and that, before sending, it should be

"discussed, reviewed or possibly approved"

by the admissions forum, allowing the forum to continue to produce its own report or make supplementary comments. He reported that some local authorities had found the restriction to 20 members difficult and that that may need attention. He was disappointed that very few forum reports had been sent, but said that some of those that had been sent represented best practice as a strategic document. He repeated that view in his evidence to the Select Committee on Education, saying:

"As you can see from the recommendations in my annual report last year, I believe, and I committed myself to believing, that admissions forums are good things. It commits all admissions authorities in an area—however we define the area, it doesn't necessarily have to be a local authority area—to sit around a table and talk over their problems."

Sound, good work is being done by local people across the country and that should be supported, not abolished. Instead, the Government should be giving those bodies more support, consulting them on their work and finding out how good practice can be spread. The Oxfordshire Governors' Association has informed the Committee, in associate memorandum 52, that,

"Admissions forums provide a vehicle for local admission authorities and other key interested parties to discuss the effectiveness of local admission arrangements, consider how to deal with difficult admission issues and to advise admission authorities on ways in which the arrangements can be improved. All parents are entitled to know that the local admissions forum is open to them to make representations, as many have."

The association goes on to note that clause 34, if enacted, will make it more likely that breaches of the admissions code will be missed. It concludes

"that reducing accountability in the way that clause 34 suggests risk adding to the social segregation and stratification of schools, it will erode the principle of fair admissions to schools and reduce the accountability of schools to parents and communities."

8.15 pm

Many organisations have expressed concern about what the Government are doing on admissions. The Minister will have read Comprehensive Future's press release, embargoed for one minute past midnight this morning, on its survey of admissions forum chairs. Their comments on the proposed changes to admissions arrangements included:

"Admission processes will become more school-centric rather than parent-centric".

There will be a

"free for all on admissions",

and abolition will lead to

"less transparency in the admissions system"

and

"Schools will select by ability, the weak and disadvantaged will lose out."

Abolition will cause

"chaos and unfairness and go against the concept of the Big Society".

It will

"result in a more piecemeal approach losing an independent and representative body. This could conceivably impact on fairness and equity of access."

and

"lead to inequitable, opaque admission arrangements that would in turn produce poor outcomes for many children and parents".

There is powerful evidence of the usefulness of local admissions forums. No doubt the Government will say that they just want to get rid of any bodies that they regard as bureaucratic, but if they are serious about equality of opportunity and fairness in admissions, they should not sweep away important bodies in the name of removing bureaucracy when there is not a

great deal there. The forums help to achieve at local level the very fairness that the Government profess to support. I would like to hear from the Minister the rationale for the changes to admissions forums, and how the Government expect the new system to be fairer than the current one, or rather, how they will stop the system becoming less fair.

Julie Hilling: I have only a few brief points to make. First, how on earth are we having this debate without having seen the draft admissions code? It is outrageous that we are looking to make wholesale change to legislation without seeing what will replace it.

Mr Gibb: The debate is about the admissions forum; it has nothing to do with the admissions code. We tried to get the codes ready for this debate, but they are not actually connected. All the proposals are set out in the White Paper, and the Bill implements those aspects of the White Paper that need legislation. There will be plenty of time to consult on the draft codes when they are published, and publication is imminent.

Julie Hilling: The problem for me is the Government's direction of travel. Where do they intend to go? This part of the Bill takes away what I consider to be safeguards for parents and children. We know how easy it is to have covert selection. We have to ask why, nationally, faith schools have fewer pupils on free school meals than non-faith schools. One faith school that I know of told parents that if their child had an SEN statement, which would of course attract money for the school, or was really bright academically, their school was a really good to choose; but if the child was just in the middle or less academically bright, it was not the school for them to choose.

Like all hon. Members here I have people who come to my surgery because they did not get their children into the school that they wanted. The closest school to me, which is just outside my constituency, has been closed to those living in one part of it. The next nearest school, just down the road, is talking about becoming an academy because the local authority is trying to rejig the school's boundaries, which the school does not want, because it does not want to have to take children from the council estate. That high-flying school is now saying that it will become an academy, so that it can have its own admissions criteria and set its own boundary.

In memorandum E 95 submitted to the Committee, Richard Harris says:

> "If it is accepted that fair admissions means children choose schools rather than schools choose children why should any school wish, or need to be, its own admission authority?"

If our diverse system of schools is to maintain a broad and balanced intake of young people, there should be only one admissions policy, common to all the schools in a local authority area, and there should be an admissions forum to monitor it.

Mr Gibb: Before I address the amendment, it is worth clarifying precisely what clause 34 does in relation to admissions forums. It removes the duty on local authorities in England to establish admissions forums, but does not ban or abolish them. We are advocating not their abolition, but their adoption only if that is the right local solution. Local authorities and the communities they serve must be allowed to make their own decisions on what systems will work for them. It is disproportionate and bureaucratic that legislation should set out such requirements.

Admission forums have no substantive powers; they are advisory groups made up of voluntary members. It is true that they have the power to request information to help them compile a report to the schools adjudicator, should they choose to write one, as well as the power to object to admission arrangements. Such reports contain a forum's analysis of the extent to which admission arrangements in its area ensure fair access to educational opportunity, as well as any recommendations the forum wishes to make. Despite all that, last year only 14 out of 152 forums actually wrote a report; of those 14, seven were late and missed the deadline, meaning that no action could be taken on the issues highlighted. The role of forums' reports is better filled by local authority reports that are required annually. As we will discuss later, local authority reports will now be published locally, so that the local community can see and make use of the information provided by the local authority.

Later this year, we shall change the regulations on powers to object, so that anyone with an interest or issue can object to admission arrangements in their area. That gives the public and parents greater powers than those in current legislation. That is far more powerful than a limited and prescriptive list of possible objectors and further reduces the need to mandate such forums. Admissions forums are therefore a duplication of effort and expense, which is not a good use of taxpayers' money.

In some areas, forums work well, and partners want to work together. We support that voluntary approach, but some local authorities have told us that the arrangements cost them £10,000 a year. If we scale that up across 152 local authorities, we find that £1.5 million a year is wasted. On top of that, ensuring that forums are quorate is often challenging, with poor attendance from the local authority and partners, and those who do attend are often not representative of the local community; in particular, forums have had problems getting parental representation. Other local authorities have told us that their forum is useful in helping to ensure that admission arrangements are fair and non-discriminatory. We therefore have a rather mixed bag. Arrangements should be made locally that work for that locality.

Admissions forums can refer an objection to the adjudicator, but having the forum as a check on arrangements is not reliable. Last year, only five objections of the 151 made to the schools adjudicator were made by a forum, and four of those were made by the same forum, Northamptonshire—three cheers for Northamptonshire on getting its reports in and having its objections taken seriously. However, that raises the question of why only one other forum—Bromley—made any objections. Where forums are effective, they will be continued, but where they are disbanded, local people will still be able to contribute to admissions consultations and to make objections to the schools adjudicator if they feel arrangements are unfair.

As hon. Members will know, clause 60 extends the remit of the schools adjudicator so that he can consider and adjudicate on the admission arrangements that academies adopt. That ensures that parents will need to

approach only a single body when they have concerns about the arrangements of any state-funded school. With those fairly killer arguments, I hope that the hon. Gentleman will withdraw his amendment.

Kevin Brennan: We will be the judge of whether they are killer arguments. I have detected no sign that Government Members will ever disagree with anything that the Minister says.

In the interests of making progress, I will not press the amendment to a vote. I will reflect on what the Minister has said about his plans to change the regulation on objections to include the possibility of objecting to admissions arrangements in certain areas. I will look closely at his statement about that on the record, and we may return to the matter on Report. For the time being, however, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Kevin Brennan: I beg to move amendment 149, in clause 34, page 33, line 2, leave out subsection (3).

The Chair: With this it will be convenient to discuss amendment 151, in clause 34, page 33, line 3, at end insert—

'(3A) Notwithstanding subsection (3), in the case of a school which is its own admission authority, whether maintained or an Academy, the local authority of the area in which the school is situated may direct the school to amend any aspect of the admission arrangements consistent with a binding judgement of the Adjudicator made under section 88E (Variation of admission arrangements).'.

Kevin Brennan: We now get on to the school adjudicator, and some of the associated perils. As I have said, a deep suspicion exists that the Government are trying to create more wriggle room around admissions to allow schools to get out of their responsibilities on fair access. The saga of the adjudicator suggests that there may be something to that concern. As we have heard, we have had no opportunity to look at the draft admissions code, which—whatever the Minister says—would have informed our debate about whether the Government intend to simplify or dilute the admissions code, and whether they intend to dilute the adjudicator's ability to do his job.

Clause 34(3) removes the adjudicator's most important powers over school admissions. At a stroke, it seriously undermines the ability of the Office of the Schools Adjudicator to fulfil its primary purpose as expressed through the schools admissions code. That power originally appeared in section 90(6) of the School Standards and Framework Act 1998, which provided for the adjudicator, where he upholds an objection, to

"specify the modifications that are to be made to the admission arrangements in question."

Early experience showed that that power was a bit more limited than was originally intended. Following judicial reviews, it became clear that the power of the adjudicator to review and change admission arrangements was restricted by the terms of the original objection. It transpired that objectors frequently and understandably focused on a single aspect of the arrangements that particularly affected them and their families, but adjudicators inevitably read the arrangements as a whole and began to notice other matters that were inconsistent with the code, which really needed to be rectified. A number of schools that did not want to comply with the code managed to avoid doing so, however, because of the unduly narrow drafting of that power.

It was further discovered that because admission arrangements are re-determined every year, any changes that were made following a successful objection remained in place only for the year in question. Schools who wanted to subvert the will of Parliament were able to revert to another version of their previous non-compliant arrangements the following year. It became necessary for the original objector or some other eligible person to re-object, and for the adjudicator to consider the matter again, forcing all parties to go through the whole process all over again.

8.30 pm

That led to a number of what might be called wars of attrition about admissions—perhaps we should call them wars of admission—between schools and objectors. It was a total waste of time and money and it was clearly not in the public interest, because it was completely against what Parliament had intended. In the light of that experience, the 1998 Act was amended—first by the Education and Inspections Act 2006, and subsequently by the Education and Skills Act 2008—to produce section 88J as it now stands. That section sets out clear powers for the adjudicator whenever admissions arrangements are under consideration to specify any appropriate modifications to the admissions arrangements—whether they arise from an objection or otherwise—and to protect the modifications from being changed back for up to three years. The section also obliges the admissions authority to comply with those decisions forthwith—not to drag its heals, but to get on and change the admissions arrangements. The present arrangements include powers for the adjudicator to specify any appropriate modifications and protect them from being changed back.

The amendment seeks to keep the adjudicator's powers to make modifications. Analysis of the cases that have been determined on the Office of the Schools Adjudicator website shows that the adjudicator's available powers have been used sparingly, sensitively and appropriately. Adjudicators have invariably consulted admission authorities on the substance of necessary modifications. In many cases where schools have indicated their willingness to comply with the code, they have been given the opportunity to make the necessary improvements, and it has not been deemed necessary to use the three-year power of protection. However—and this goes to the root of the Minister's argument that always and everywhere things are perfect in the world of school management—in a small number of cases it has been necessary to use the powers to enforce specific wording and to protect changes. The adjudicator has, quite rightly, been prepared to do so.

The Minister might suggest that if the powers are rarely used, they will not be missed. He might choose to deploy such an argument. There are two key reasons why it is important that the powers be retained. First, the cases in which it has been necessary for the adjudicator to use the full enforcement powers have invariably been made against schools that have deliberately sought to manipulate their intake in the schools' interests, whatever

those might have been. Such schools subvert the rights of parents and children to secure fair access to their preferred school.

Secondly, and more significantly, the existence of suitably strong enforcement powers bolsters respect for the code and the willing compliance of the majority. Such powers help the majority to comply fairly. Repeal of the provisions will make it difficult to compel an unwilling admissions authority—and there will be many more of those as a result of the Government's policies—to comply fully with the code. It may take two or more objections spread over different admission rounds to make an appropriate change. Such a change would be in place only for one year before the admissions authority could revert to its previous arrangements in the hope that potential objectors would not notice, or would lack the stomach or resources for a further battle—another war of attrition on admissions.

Again, there would be an unnecessary proliferation of bureaucracy, which I know the Minister is allergic to. A determined school would be well placed to win any war of attrition that might develop between it and objectors. The work of the Office of the Schools Adjudicator would simultaneously be multiplied and made less effective. At a time when all public offices are seeking to work more efficiently, the Bill, in effect, will impose not an efficiency gain but an inefficiency loss in relation to the work of the adjudicator.

It is difficult to see what the Government expect to achieve by the repeal. The Minister has said that the new, streamlined code, as he calls it, is imminent, which will be easier to understand and to apply. We have not seen that yet, so we cannot judge whether his words are true. The point is that if the Minister wants to see a revised code implemented, he needs a schools adjudicator with the existing powers to assist in the effective implementation of any new code. I ask the Minister, therefore, to think again about diluting the powers of the schools adjudicator. Accepting amendment 149 will ensure not only that the measures are efficient, but that the revised schools admissions code in its imminent, but as yet unseen, form is implemented in the way that the Government claim they want it to be.

Mr Gibb: May I explain to the Committee again what this part of clause 34 does? It removes the adjudicator's power to directly modify admission arrangements as part of his decision in relation to objections received from parents and other persons. We believe that that is the right step. It should be for schools to implement such decisions, giving them the freedom to decide how and what to change to comply with the adjudicator's binding decision. We should trust schools to set their admission arrangements and to respond appropriately to any decision made by the adjudicator. Admission authorities and schools will be held accountable for changes to their admission arrangements. They will no longer be reliant on the adjudicator to modify their arrangements, nor should they be reliant on the local authority to check that they have done so. We must allow schools and others to get on with such changes.

Clause 34 does not affect the adjudicator's scope to receive objections and consider admission arrangements. For example, it leaves in place section 88I(5) of the School Standards and Framework Act 1998, which allows the adjudicator to consider and determine any admission arrangements that he suspects do not, or may not, conform with the requirements of admissions law. Such decisions, like those made in response to objections from parents, remain binding for admission authorities. I do not accept, therefore, the idea that the clause constitutes a weakening of the admissions system.

Pat Glass: If a parent's appeal is upheld by the adjudicator and the school does not amend its admissions criteria accordingly, what would the Minister advise the parents to do next?

Mr Gibb: The adjudicator's decision is binding, so schools have to do so. They have to correct their arrangements in the way that they see fit, and not in a prescribed way by the schools adjudicator. The remedy is in place, even if the clause amends the relevant provisions of the 1998 Act.

Although such decisions would be binding for an admission authority, under clause 34, the adjudicator could no longer specify the changes, as I have said, that an admission authority has to make its arrangements. That is as it should be, and the removal of section 88J means that it is for the admission authority to decide what action is necessary to give effect to the adjudicator's decision to uphold a complaint, as I have just explained to the hon. Lady.

Where an objection falls within the schools adjudicator's remit, it is of course right that the adjudicator should consider and decide on that matter. He may also consider other matters in respect of complying with requirements, and he may make binding decisions on such matters where he considers that there is an additional, legitimate concern. Again, admission authorities must comply and implement such decisions as they would with the primary decision. It is for schools to make any necessary changes as a result, and they will have the freedom to decide how and what to change, knowing that the Government trust them to get it right. The adjudicator can still comment on or recommend changes to the admissions policy, which admission authorities are expected to consider carefully in line with a shorter, simpler admissions code, which will ensure that action is prompt.

I therefore consider amendment 151 to be disproportionate, because it would give local authorities the powers to direct schools to comply with a decision made by the schools adjudicator. The amendment refers to decisions of the adjudicator made under section 88E of the 1998 Act. The section applies where admission authorities of maintained schools propose to change their determined admission arrangements after they have been determined for a school year, but before that school year ends. Those are commonly referred to as in-year variations. Such changes are likely to be infrequent, as the hon. Member for Cardiff West said, but where they are made, a school has to refer the proposed changes to the adjudicator, who will determine whether they should have effect until the end of the school year and whether any modifications are required.

On academies, in-year variations to their admission arrangements are made in accordance with their funding agreements and subject to agreement with the Secretary of State. In each of those situations, there is simply no need for the local authority to have an additional power to enforce. I think I have covered all the points made by the hon. Gentleman and therefore I ask him to withdraw his amendment.

Kevin Brennan: What the Minister has said relates to the concerns of many people in Committee and outside because he says that he is happy just to let schools get on with admissions themselves. He wants to take away any ability for the adjudicator to direct schools to comply with any amendment that is required in relation to a breach of the code.

Mr Gibb: I assure the hon. Gentleman that the removal of section 88J—the power to modify admission arrangements—makes no difference to the legal obligation of the admissions authorities. If no timely action is taken in response to an adjudicator's decision to uphold a complaint, legal consequences could swiftly follow.

Kevin Brennan: If it makes no difference, why remove it? That is the point. Of course, it makes a difference because there are going to be many more admissions authorities in place and there is no ability for the schools adjudicator to step in and forthwith make sure that schools are complying and that their admissions code is rewritten to be compliant. I accept that, in most cases, there is some wriggle room to try to avoid that. That is what currently happens. The bit of grit that is in the system means that, in most cases, schools will probably comply and will probably comply in full. The Minister is putting some more wriggle room back into a system that there has been abuse of in the past. He is multiplying the opportunities for that abuse to occur in the future because there are going to be many more admissions authorities and he is weakening and diluting the role of the adjudicator.

Mr Gibb: May I assure the hon. Gentleman that that is not the case? Schools are legally obliged to implement the binding decision of the adjudicator. The question is about who makes the change. Under these arrangements, the school makes a change rather than the adjudicator spoon-feeding and dictating precisely what the change should be. Fear not, they are required to make a change to ensure that the admissions arrangements comply with the code. If they do not, legal consequences follow.

Kevin Brennan: The use of the indefinite article is very telling: the Minister said that schools are required to make "a" change. The point is that, in most cases, "a" change or "the" change required will be made because schools know that if they do not do so, the admissions adjudicator can compel that change or put it in themselves. The point of having that stick in the system is to ensure that the schools do what they are supposed to do, rather than making a change that might go some way towards moving the admissions code in the right direction without meeting all the needs required. I am afraid that the measure is a dilution because, in practice, it will mean that schools are more able to avoid the full implementation of their obligations forthwith, when they are found to be operating an admissions code in an unfair fashion.

For that reason, we are very concerned about what the Government are doing in the clause. I respect the Minister's sincerity, and I understand his desire to reduce bureaucracy, but he has to accept—this has been a real problem in the past—that the system must include the ability for swift action to be taken forthwith to ensure that schools are being fair to all children and parents. He will know that there have been many instances in recent years where that has not been the case and where it has been difficult to get that turned around.

8.45 pm

The system has been reformed to get rid of some of the loopholes and wriggle room that schools have had. The Minister is effectively turning the clock back on that. The proof of the pudding will be in the eating. We do not believe that what the Government intend to do can be achieved. If they were serious about this, they would not be changing and weakening the role of the adjudicator.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 9.

Division No. 17]

AYES

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

NOES

Boles, Nick	McPartland, Stephen
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 150, in clause 34, page 33, line 4, leave out subsection (4).

The Chair: With this it will be convenient to discuss the following: amendment 152, in clause 34, page 33, line 8, after 'admissions', insert

'which must require the local authority to issue a report once every school year on the effectiveness of in-year coordination of admissions and the willingness of each admission authority to report to the local authority the availability of places'.

Amendment 153, in clause 34, page 33, line 8, after 'admissions', insert

'which must require the local authority to issue a report once every school year on the effectiveness of the Fair Access Protocol arrangements in the local authority area'.

Amendment 154, in clause 34, page 33, line 8, after 'admissions', insert

'which must require the local authority to publish its response to any proposal by an admission authority in its admissions area to change the school's admissions arrangements including whether the proposal complies with the School Admissions Code and the Equality Act 2010'.

Kevin Brennan: Amendment 150, which seeks to keep the system of reports from local authorities to the adjudicator, attempts to correct another provision in the Bill that tinkers unnecessarily with an existing law that is working well. Subsection (4) changes the requirement that local authorities report annually to the schools adjudicator about compliance with the school admissions code in their area. The reporting duty is not removed altogether, but existing arrangements are removed and a new duty to report as

"required by the code for school admissions"

[Kevin Brennan]

is created. Will the Minister clarify what his intentions are? It would perhaps be easier to understand what is intended here if, again, we had sight of the imminent new draft school admissions code. Be that as it may, if the Bill becomes law, we will certainly see an extension of the Secretary of State's power to determine whether and, if so, to whom any report should be made. If the Government are concerned that the existing duty, as prescribed in regulations, is too onerous, the regulations could be simplified without the need to amend primary legislation.

Subsection (4) removes the current certainty of a clear duty in primary legislation for local authorities to report to the independent adjudicator and replaces it with, as in so many parts of the Bill, an extension of ministerial power. Once again, the role of the independent adjudicator is undermined, and one mechanism whereby the school admissions code can be implemented and enforced is removed. It is difficult to see what the Government expect to achieve through a change to a system that is understood and is beginning to work well in many areas. I am sure that the Minister will try to explain what he is trying to achieve. There is no doubt that many changes could be made to streamline and improve the working of the system. However, if he does not wish to see it implemented, why has the Minister gone to the trouble of reforming the code? Without the reports, that objective will be weakened.

Amendments 152 and 153 seek to ensure that the admissions code requires reporting of in-year admissions arrangements and on the operation of the fair access protocol. The explanatory notes to the Bill indicate that the school admissions code will contain the requirements for local authority reports on admissions. Again, without sight of the code, it is difficult to judge its contents and likely effect. That is why the Committee should have seen a draft code before this debate. It is a failure on the Government's part that they have not managed to give us one, not least because they said in the White Paper that they would.

The amendments would ensure that local authority reports provide information about children who are in need of a school place either because their parents are newly moved to the area or because they have been excluded from a school due to challenging behaviour. Requiring such reports specifically to include reporting of in-year admissions arrangements and the fair access protocol will mean that that information is collected and a check made on children who might be out of school. Does the Minister intend the admissions code to contain the reporting requirements that I have outlined? I was going to ask him when he will publish the consultation on the admissions code, but I think that he will just say "imminently" again. I take it that that means tomorrow.

Mr Gibb *indicated dissent.*

Kevin Brennan: The Minister shakes his head; it does not mean tomorrow. The definition of "imminent" has changed. It meant within 24 hours the last time. Perhaps he means soon rather than imminently. I am not sure that he is not nodding, anyway.

Where an admission authority decides to make changes, at least eight weeks' public consultation must be held before formal determination of its admission arrangements, which must happen no later than 15 April in respect of admissions for September the following year. Under current legislation, the local authority, along with its admissions forum, is a statutory consultee for all such arrangements in its area. The Bill removes the statutory requirement to have a forum, which will leave only the local authority in a position to take an overview of what is happening across all admission authorities in the locality. It is vitally important that somebody takes such an overview, as individual schools' decisions, although reasonable in themselves, can interact so as to produce a situation highly detrimental to some parents or groups of parents and children.

The current schools admissions code—I have it here, although not the one that the Government promised us—makes it clear in paragraphs 4.7 to 4.9 that local authorities are expected to take steps, either by negotiation or by using their powers of reference to the adjudicator, to ensure that all admission authorities in the area comply. The removal of the local authority duty to report to the adjudicator and the removal of the admission forum to provide expert local accountability on the report mean that that important aspect of securing compliance with the admissions code will effectively go by default. Of course, it is possible for the requirement to report on in-year admissions and for the fair access protocol to be written into the revised school admissions code, but it is difficult to comment further until we have seen what was the imminent but is now becoming the soon-to-be-released draft of the code.

Amendment 154 is an attempt to ensure that the standards set for reporting continue. The amendment would require the local authority to ensure that its analysis of and response to the admission arrangements for individual schools is published. That would be of great assistance to parents, as it would prove a ready source of practical advice to help them confirm whether the arrangements for any particular school comply with relevant equality legislation and the code.

Adding the new requirement would have a dual purpose. As well as making it possible to check whether local authorities are properly discharging their primary duty to act as commissioners of high-quality school services on behalf of the local population, it would also provide a ready source of information and practical help to parents, therefore helping create a system in which parents are the main drivers of improvement because they are better informed as consumers.

Mr Gibb: We have been wading through 138 pages of guidance that affect millions of children. Simplifying the appeal code and the admission code is a large task. We want it to be right, which is why we have not rushed the work. It will be available for consultation imminently.

Kevin Brennan: But not tomorrow.

Mr Gibb: The hon. Gentleman has his own interpretation of "imminent" based on one precedent, but there are many precedents for the word "imminent". However, may I give him one assurance? We shall ensure that the Committee has sight of the document before the launch of the consultation, which is the right thing to do.

I agree entirely with the spirit and principles that amendment 150 seeks to address. Local authorities should be reporting to their communities and constituents

about admissions arrangements in their area. Under amendment 150, the current reporting arrangements are retained so that local authorities report annually to the schools adjudicator on school admissions.

Let me refer the hon. Gentleman to the policy statement that was circulated to the Committee on 25 March because it answers some of his questions. Paragraph 5 states:

"The intention behind this change is that this reporting requirement on local authorities remains in place, but is focused on key issues for the locality rather than imposing uniformity of reporting to the centre. Local authorities are accountable to local people, and we believe communities should be the primary audience for such reports. In accordance with the Bill provision, the revised draft Code will therefore require local authorities to publish their report locally, rather than to the Adjudicator. The Code also sets out the minimum requirements for the report."

Section 88Q of the 1998 Act will remain, so admissions authorities of maintained schools and academies continue to be required to provide relevant information requested by local authorities.

As for the hon. Gentleman's question about what will be required in the report, paragraph 10 of the policy document sets it out:

"Local Authorities must produce an annual report on admissions for all the schools in their area for which they coordinate admissions, to be published locally by 30 June following the admissions round. The report must cover as a minimum;

(a) information about how admission arrangements in the area of the local authority serve the interests of looked after children, children with disabilities and children with special educational needs and details of where problems have arisen;

(b) their assessment of the effectiveness of fair access protocols and coordination in their area, including how many children were admitted to each school under them;

(c) the number and percentage of lodged and upheld parental appeals; and

(d), any arising issues - such as objections to the Schools Adjudicator - affecting admissions for the newly-determined year."

I think that I have fully answered the hon. Gentleman's question. As a Government we have been clear—we were clear even before the election—that our schools and local authorities were simply too burdened with forms, paperwork and targets. Their focus was distracted away from their core purpose of educating young people.

We agreed with Opposition Members that having local authorities produce a report on admissions arrangements in their areas, especially on how it supports our most vulnerable groups, is important local information for local people. Where we disagree, and this amendment highlights that, is that we believe we should continue to force every local authority to report centrally—in this case to the office of the schools adjudicator. The report will be much more effective as a local accountability tool, enabling parents to see and comment on the service that they are being given.

Amendments 152 to 154 would place great detail in primary legislation. They would require every local authority to report on the effectiveness of fair access protocols and the in-year co-ordination of admissions in their area, and to publish their response to any proposed change of admissions arrangements for a school in their area, including whether it complies with the school admissions code and the Equality Act 2010.

We made the commitment in the White Paper to simplify the school admissions code. We will shortly be consulting on the revised code and making it available to the Committee. Clause 34 provides that the requirements in relation to local authority reports will be set out in the code.

Given that I have circulated the quality statement and quoted from it in the Committee, and have answered the hon. Gentleman's questions, I would ask him to withdraw the amendment.

9 pm

Kevin Brennan: I sympathise with the Minister. I understand that if one is doing a piece of work on revising a code, it should be done properly, but that was not what he said in the White Paper. The point I am making is that he said in the White Paper that he would produce the draft code well before now. Even by the normal standards of vague language, I think that "early in the year" would require it to be produced in at least January or February. There would have been plenty of time for the Committee to consider it, had the Government stuck to their timetable. I shall say no more about that, but I look for its imminent arrival—I hope it is sooner rather than later.

I shall not press the amendment to a vote, but I will want to say something on clause stand part, if the opportunity arises, Mr Williams. I believe that by resisting amendment 150, accountability will be reduced and an opportunity to monitor admissions in the system properly will be lost. However, at this point, given the need for us to make progress, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Kevin Brennan: The Opposition are extremely concerned about this clause. I have tried to make that as obvious as possible to the Committee, and I believe that Members have got the message. Perhaps the Government do not realise the potential damage that the clause will do to fair admissions. That is the charitable position for the Opposition to take, and, as a charitable person, that is the position that I am taking. I believe that Ministers are sincere in what they say about fair admissions, but perhaps they cannot see that the outcome of what they propose could, at the very least, result in a dilution of fair admissions across the country.

If someone were being uncharitable, they would say that the Government deliberately wanted to give schools more wriggle room to be able to avoid carrying out fair admissions. I genuinely do not think that that is their intention, but somewhere along the line, some of the Government's colleagues, Back Benchers, peers or whoever have to wake up to the potential damage that will be done by clause 34 and start scrutinising their Government's proposals a bit, rather than just nodding them through.

I have appealed previously to Liberal Democrat colleagues, and I praise Back-Bench Conservative Members who have participated in the Bill, some more than others. They have made an attempt to participate and ask appropriate questions from time to time. Whatever happens to the vote on clause stand part, I would urge them to look at the clause again thoroughly and consider

[Kevin Brennan]

its implications, because problems will develop in their areas, too. The admissions system will be diluted in schools in every constituency that is affected by the Bill, but it will be too late. It will be impossible to help parents and constituents who come along to our surgeries because the power will no longer be there to compel schools effectively to adhere to the code.

We are reading a great deal about admissions and the promised code of practice in the press. We read in one press story that free schools will be able to admit the children of those involved in their establishment, which is an interesting back-door way of gaining admission to a school: one just has to join the committee that sets it up and be guaranteed a place for their child. Another story at the weekend detailed the proposal to reduce the use of a lottery to allocate school places. I ask the Minister again to tell the Committee, which should have first sight of such proposals, whether that is the Government's policy. Is that a bit of the code they have leaked to *The Daily Telegraph* but which we have not seen yet in Committee, saying that lotteries may be used only by individual schools while local authorities will be banned from using them? I am interested in the Minister's response.

I am not sure that the Government have come fully clean on the implications of their proposals for school admissions. Everything we hear of through the press—second-hand information, admittedly—seems designed to undermine fair admissions. The Government say that their aim will be to maintain fairness as the code's guiding principle, but the clause puts that aim to the test.

I want to hear the Minister's response and what assurances he can give about the concerns expressed by people such as the those at the Sutton Trust and experts such as Chris Waterman, who has published a series of pamphlets on the dodgy practices that primary schools, in particular those that are their own admission authorities, have employed to ensure that their intake gives them a high place in the performance tables. The opportunity for such practices to continue or to be brought back ought not to be increased by the provisions of the clause.

Mr Gibb: The clause makes three important changes in respect of admissions. First, it removes the ability of the adjudicator to modify any arrangements he finds to be in breach of the law by repealing section 88J of the School Standards and Framework Act 1998. It does not, as some have tried to claim through the press, weaken admission arrangements. The adjudicator may still make decisions binding on all parties and exercise his discretion where he finds issues other than the specific objection to be unlawful.

Our only major change is to place the responsibility to make admission arrangements compliant with the code back with the admission authorities. Admission authorities must act on the adjudicator's decision to uphold a complaint, but it is up to them to decide how they should change the arrangements to make them lawful. We are committed to strengthening the powers of parents and communities and to reforming how admissions work so that more children, especially those from low-income families, can have more opportunities and not fewer.

Secondly, we are removing the requirement on local authorities to report to the school's adjudicator on admissions in their area. They will still be required to produce and publish a report, but to their local communities instead, ensuring that those who manage and deliver local services report to those who should benefit from the services.

As the Committee will have seen from the policy statement, the revised code will specify some important elements of those reports, as we believe it right that special educational needs and looked-after children should form at least part of every local authority report. Beyond that, however, it will be for each local authority to decide what it should report. The adjudicator may, if he so wishes, do what everyone else does and download the reports from the internet.

Thirdly, the clause removes the duty on local authorities in England to establish admission forums. I do not advocate their abolition but, rather, their adoption only if that is the right local solution. Local authorities and the communities they serve must be allowed to make their own decisions on what systems will work for them. It is disproportionate and bureaucratic for the legislation to set out such requirements.

Removing forums does not mean a bad deal for vulnerable children. We shall still require, through the code, all local authorities to create a fair-access protocol, and we will require all schools, including academies under the Bill, to participate. The clause is a small but important addition to our changes, which reduce bureaucracy, increase accountability and ensure that parents can have increasing confidence in the system.

Kevin Brennan: Can the Minister tell us about the Government's plans for lotteries?

Mr Gibb: As I have said, we will be publishing the draft admissions code and the revised draft appeals code soon, and we will send those codes to members of the Committee before they go out for consultation. With those assurances, I support the clause to stand part of the Bill.

Kevin Brennan: It is pretty deplorable that we have to rely on reports from *The Daily Telegraph* to know what is in the draft admissions code. I am afraid that is typical of the Government and their news management strategy, despite protestations that they are not interested in spin. It is an absolute disgrace that although we do not get sight of the draft admissions code, the Government use the pages of *The Daily Telegraph* to run those stories.

As the Minister confirmed, the clause weakens the role of the school adjudicator in two important ways, but particularly in the way outlined earlier during discussions on amendment 149. I therefore ask my hon. Friends to oppose the clause.

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

The Committee divided: Ayes 9, Noes 7.

Division No. 18]

AYES

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

NOES

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

Question accordingly agreed to.

Clause 34 ordered to stand part of the Bill.

Schedule 9 agreed to.

Clause 35

DUTIES IN RELATION TO SCHOOL MEALS ETC

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

Mr Gibb: The clause removes the present restriction on schools that means that where a school charges for a meal, it must charge the same price for the same quantity of the same item. Current arrangements permit meal price flexibility only when a school or local authority uses the power to innovate procedure, which can involve months of planning and paperwork. The Bill will make pricing more responsive to local needs and free schools from bureaucracy. It will enable schools to make special offers, for example to pupils during the early weeks or first term at a new school, to increase the take-up of school lunches and help form the habit of eating a healthy lunch. Alternatively, schools may choose to help working families on low incomes who do not qualify for free school meals, or families that have several children at the school.

Flexible charging is optional, and there is no requirement to use it. Those that want it, however, will have the freedom to market lunches to those who need extra encouragement to eat well, or to target those in need of financial help. At the same time, if schools wish to increase their take-up to make the service more sustainable, they will be free to do so without the burden of applying for the power to innovate.

Authorities such as Bolton and North Yorkshire have obtained the power to innovate and have used flexible charging. They have chosen to invest in order to increase the take-up of lunches or to help those in need of additional support. The clause also provides the safeguard of a ceiling for meal prices based on the locally defined cost of producing the meal in that school or local authority. It will mean that no pupil can be charged more for a meal than it cost to provide. Although I am sure this will not happen, that will prevent a school from attempting to overcharge some pupils to subsidise others. Schools want to increase the take-up of meals. It is not in their interests to over-charge, so they will not want to. In many cases, doing so would jeopardise the service itself.

This is a simple measure, which will benefit families, teachers, caterers and local authorities. Research shows that healthy school meals help pupils' concentration, behaviour and ability to learn. If schools persuade more children to take a school lunch through this measure, their meal service will become more cost-effective. For those reasons, I hope that members of the Committee will be happy for the clause to stand part of the Bill.

9.15 pm

Kevin Brennan: I could not agree more with the Minister about healthy school meals and their importance in helping children's concentration and education. I simply reflect on the deplorable decline in standards after my mother's retirement as a school dinner lady. I do not associate the two things, although previous Government policy might have something to do with it. I had not revealed to the Committee that my mother was a dinner lady in the primary school that I attended, so I am afraid I was forced to eat that tapioca, which I despised, but that is another story.

I want to ask the Minister a few questions. He gave a couple of examples of schools that might choose to charge flexibly. What will be the impact on schools' finances if they choose to charge less than cost price to some of their pupils? Does he have any views about where schools might obtain the funds to subsidise meals for some of their pupils? Is there an increasing bureaucratic burden on schools that choose to charge flexibly? How will schools determine eligibility for reduced price meals, for example, for children from families on low income? Barnardo's told us in evidence to the Committee that household income is a difficult variable to track and can be fairly easy for better-off households to misrepresent.

Will the Minister explain why academies will be exempt from the cap? The NASUWT told us that exempting academies means that their ability to charge what they feel is appropriate could exclude some children and young people not only from participating in school meals but from going to the school in the first place. The cost of a school meal is an essential determining factor for many parents on low incomes when considering the choice of schools for their child, particularly if they have large families. I would be grateful for any reassurance from the Minister.

Mr Gibb: The hon. Member for Cardiff West is right that I was going to cite Bolton, for example, as evidence of how this can work. Bolton used the power to innovate, and the take-up levels increased to record levels as a consequence of what it did to 86% of the targeted group, which was 37% higher than the average take-up in all the year groups in Bolton primary schools. Its subsequent £1 meal deal produced a 69.9% take-up, which was some 21% higher than the norm. Bolton's initiative also produced a significant increase in statutory free school meal take-up.

The hon. Gentleman asked a good question: if we are not allowed to over-charge others to fund cutting the price to some groups, where will the money come from in these strapped times? Schools that use the flexibility have chosen to invest funding to increase take-up to build a better, more sustainable and cost-effective service. Therefore they have used their school funds deliberately to make their school meal service more sustainable, and that in turn will have led to a higher take-up, which, if the food is healthy, will have a direct effect in leading to better attainment and concentration levels and behaviour.

The hon. Gentleman asked how eligibility will be determined. It will be determined by the school. The school is free to do so, provided it does not charge more than the cost of the food. The provisions of the Education Act 1996 do not apply to academies or free schools, so they do not need to apply for a power to facilitate

[Mr Gibb]

innovation prior to pricing their meals flexibly for different pupils. They are already free to make special offers to groups of children, as they judge appropriate, to increase take-up. Such an approach will be available in academies, and free school meals apply in academies. No academy will charge exorbitant fees for their school meals if they expect anyone to buy them. It is a simple market mechanism. With those assurances, I hope that the hon. Gentleman will support the clause standing part of the Bill.

Question put and agreed to.

Clause 35 accordingly ordered to stand part of the Bill.

Clause 36 ordered to stand part of the Bill.

Schedule 10

ESTABLISHMENT OF NEW SCHOOLS

Kevin Brennan: I beg to move amendment 157, page 82, line 6 [Schedule 10], leave out paragraphs 2, 3, 4 and 5.

The schedule introduces the presumption that a new school will be an academy and restricts the power of local authorities to determine the most appropriate form of school when a new school is needed. It provides that, before publishing proposals for a competition for the establishment of a new school, the local authority must obtain the consent of the Secretary of State. It also provides for the Secretary of State or the local authority, with the consent of the Secretary of State, to be able to halt a competition at an early first stage before the closing date for proposals to be submitted and that academy proposals under a section 7 competition will no longer need to be submitted to local authorities for approval. They will instead be referred to the Secretary of State for him to decide whether he wishes to enter into academy arrangements with the proposer.

Why does the Minister consider it necessary to introduce new powers for the Secretary of State? How will the Secretary of State have sufficient local knowledge to make decisions that in every case are in the best local interest? The NASUWT has told us:

"This prevents public and local community decisions on the nature of school provision in their area. Its prevents elected local authorities from responding to local needs as they consider appropriate. It restricts parental choice of the type of school for their child."

Does the hon. Gentleman agree that such a provision will effectively take away parental choice?

The NUT said that, under the schedule, there is

"a danger that a poorly managed choice agenda—or one which offers no 'choice' at all—could accelerate both the flight of pupils and drain much needed funds from schools in deprived areas. This would further disadvantage those who are already disadvantaged in education."

What assurances can the Minister give us about that?

Richard Fuller (Bedford) (Con): On a point of order, Mr Williams. Will there be an opportunity to comment on the substantive part of the schedule? I have something to say that does not particularly relate to the amendment.

The Chair: Yes. We will be discussing schedule 10 after the amendment.

Mr Gibb: The schedule is meant to increase choice. I am slightly surprised that the hon. Member for Cardiff West seems to be hostile to our proposal. Tony Blair, in the previous Government's White Paper in 2005, first sought to change the local authority role from being a provider of education to being a local commissioner, so it could champion parental choice pushing for improvement rather than interfering in the day-to-day running of schools. The hon. Gentleman has asked whether the provision will restrict parental choice. No; the intention behind the schedule and the general thrust of the Government's education policy is to increase parental choice by diversifying provisions and ensuring that parents have a genuine choice of school to which they send their children.

Amendment 157 would remove the presumption for new schools to be academies and, as Committee members will be aware, that would include free schools, which are underpinned by the same legal framework. It would remove the requirement on the local authority to seek academy proposals, and to inform the Secretary of State of the steps that it has taken to do so, before holding a competition for bids from proposers of all types of school.

Amendment 157 would remove the presumption for new schools to be academies. As Committee members will be aware, that would include free schools, which are underpinned by the same legal framework. It would remove the requirement on the local authority to seek academy proposals and to inform the Secretary of State of the steps that it has taken to do so, before seeking a competition bid from proposers of all types of school. It would also enable a local authority to continue to submit its proposals in a competition for a foundation or community school. It would effectively undermine the changes that we are trying to make to the process for establishing new schools.

The hon. Member for Cardiff West asked how the Secretary of State will have local knowledge. The Secretary of State has a team of advisers who work with local authorities, and they will bring the local knowledge with them.

There is cross-party support for the academies programme and its expansion under this Government. For example, Lord Adonis has described the number of academies as "a phenomenal achievement". Recently, he said in an interview with *The Spectator*:

"Neither I nor Tony Blair believed that academies should be restricted to areas with failing schools. We wanted all schools to be eligible for academy status, and we were enthusiastic about the idea of entirely new schools being established on the academy model, as in Michael Gove's free schools policy."

The academies programme has proved to be a genuine revolution in raising standards in schools across the country. A recent Public Accounts Committee report found that the latest GCSE results show that standards in academies continue to improve faster than the national average. It was on the basis of evidence about the effectiveness of academies and of international evidence from the USA, Sweden and from the far east about the benefits of school autonomy, that the Government moved quickly to introduce the free schools programme and expand the academies programme, including by allowing existing maintained schools to convert to academy status and gain greater freedoms. There are now more

than 450 academies, half of which have opened since September 2010, and nearly 200 of them were schools that chose to convert.

Stella Creasy: As the Minister has quoted the Public Accounts Committee, of which I am a member—I took part in its debate on that subject—will he update us about his Department's discussions on one of our other recommendations, which was that the Department was not ready for a rapid expansion in the number of academies, because it was struggling to deal with those that it already had?

Mr Gibb: We are ready, people are working very hard, and we now have a special system for judging free school applications. The hon. Lady can be assured that we have the capacity and the systems to ensure that the programme continues to roll out.

Stella Creasy: Just for clarity, will the Minister confirm that he is disputing the findings of the Public Accounts Committee, so that I can feed that back when we look at whether these proposals offer value for money?

Mr Gibb: I am not sure where we are on a response, but the Government will respond formally. I assure the hon. Lady that the Department is coping extremely well with what has been far higher demand for free schools and academy converters than anybody—particularly on the Opposition Benches—anticipated.

The free schools programme will allow the diversity, innovation and commitment demonstrated by teachers, parents and others to be brought into the school system. We have already received 323 proposals, which demonstrates the unmet demand from parents for better provision in their local area. Of those proposals, 40 have been approved to move to business case and plan stage, of which 11 have been approved to move to the pre-opening stage.

There is evidence from the United States that support for schools in the Knowledge is Power Program is strong, with more than 85% of students going on to college despite more than 80% of students on the programme coming from low-income families. In New York, charter schools have dramatically closed the gap in performance between students in inner-city neighbourhoods and those from the wealthiest suburbs. The vast majority of those who have benefited from those schools are the poorest children—90% are on free or reduced-price meals.

On that basis, I urge the hon. Member for Cardiff West to withdraw the amendment.

Kevin Brennan: The Minister is right. Of course, there is cross-party support for academies, which, as he has pointed out, were introduced by the Labour Government. We had some support from Conservatives, but none from the Liberal Democrats, whose conference voted against having any academies whatever—they will no doubt vote for them now. He is right that that there was cross-party support between Labour and the Conservatives about the programme to establish academies. In that programme, the Government focused relentlessly on bringing academy status to underachieving schools, where other things had failed. We focused our attention, laser-like, on trying to raise standards for children who had not been given the right kind of opportunity by the poor performance of schools, which were often in deprived areas. It was right to do that, because those children were most likely to benefit from such input given the sponsorship and leadership that comes with academy status. The Government's academies are very different; they are a watered-down version in which sponsorship is not required—a different kind of animal, albeit with the same name.

9.30 pm

The Minister referred to free schools. I have visited charter schools in America and so-called free schools in Sweden, and I have also considered the research. The evidence is mixed. The Minister rightly points out that, on occasion, a local school system can fail and that some sort of autonomy via a charter school can work. As a generality, however, the evidence suggests that it makes no difference to overall standards. These kinds of school remain a small part of the system rather than being a major component of the national or state education system.

Clearly some are extremely concerned that these clauses will increase Government control over the establishment of new schools, contrary to what the Minister suggested. Unison said exactly that in evidence, and went on to say that they weaken the local authority's ability to plan an education strategy in its area. If local authorities are to commission schools, options should be available to them. At this late hour, I shall not press for a Division, but we will look closely at what the Minister has to say. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the schedule be the Tenth schedule to the Bill.

Richard Fuller: It is a great pleasure to speak at this late hour on a long day. I welcome the warm words of the hon. Member for Cardiff West. It is a continuing journey of academies, which enjoys cross-party support—hopefully and encouragingly including Liberal Democrat Members. That is very noble to hear, and it reflects the generally warm debate that we have had today. There was a frisson of tension earlier between the hon. Member for Walthamstow and my hon. Friend the Member for South Holland and The Deepings, but in general it has been a warm debate. We have focused on positive values. In some of our amendments, we tried to flesh out the value of positive local authority involvement in our schools, in a section that would generally reduce their role.

I seek some reassurance from the Minister that the measures that he has put in place, particularly regarding the setting up of new schools, go far enough and that they provide the opportunity and space for inspired educational leaders, and that impediments will not be thrown in their way left, right and centre as they try to fulfil their mission of educating some of our neediest children. I am inspired to ask because of experiences in my area.

The hon. Member for Cardiff West cited Chris Keates, the general secretary of the NASUWT. I found some of her comments confusing. This covers the point of opposition that some entrenched forces have, and why it is so important that the Minister goes as far as he can to clear these impediments. I asked Ms Keates,

"Is it correct for your members to hold strikes against plans to become an academy?"

[Richard Fuller]

Ms Keates answered:

"I think it is entirely correct given the profound implications of the irreversible decision to become an academy." [*Official Report, Education Public Bill Committee,* 1 March 2011; c. 64, Q125.]

I asked her whether an academy was a local school, but the general secretary of the NASUWT was not able to answer a straightforward question. Her answer was about 15 lines long, but it did not include yes or no. That just connotes the lack of sympathy and understanding in some elements of our educational infrastructure for what the Government are trying to achieve. That is why it is so important that the Minister has done everything he can to provide every opportunity to overcome some of these impediments.

In my community, we have two schools that for a number of years have failed to meet the minimum standards expected of five GCSEs, including maths and English. The percentages of children reaching that minimum standard in one of those schools in the past few years were 32%, 28%, 39% and 33%. In the other school, those percentages were 9%, 20%, 20%, 29%. Those schools are in areas of economic deprivation and educational challenge. Those are the areas that are crying out for new schools to be set up by inspired teachers, who have a vision to provide educational strength and inspiration to students and families in those areas.

I want to ensure that we do not see repeats of some of the impediments that we have seen in my area. We have to understand that local authorities have an enormous remit of official and unofficial powers in doing that. We have been engaged in discussions where local authorities have decision rights over land, over whether they would take a meeting and over how political votes can be used to create impediments. I find that incredibly disheartening. If this is a shared journey that we are taking—I did listen to some of the comments made earlier, and there is always caution when change is made—and if we want to have inspired teaching with freedoms, let us ensure that we have made radical enough change so that inspired head teachers will not find themselves worn down by the intransigence of bureaucracy, which wants to use any weapon at its disposal to extinguish the choice and opportunity that those inspired teachers can provide.

Julie Hilling: Does the hon. Gentleman recollect evidence given to us by the supporters of academies? When I asked what they could do as an academy that they could not do as a maintained school, their answer was, "Nothing."

Richard Fuller: I appreciate the hon. Lady's intervention, but I do not have that evidence in front of me either.

Stephen McPartland (Stevenage) (Con): Does my hon. Friend agree that one of those academy providers said that one thing she could do is give her teachers a bit more of a pay rise, as opposed to having that private time to study lessons, which they found quite disruptive? They felt empowered as teachers to do what was best for the children.

Richard Fuller: That is a very good suggestion. That there are record numbers of schools stepping forward, wanting to become academies, is another sign that they see that they can do things differently. In fact, Goldington middle school in my constituency will become an academy on 1 April. That is another school stepping forward to take advantage of the measures.

Another important point is that these schools must not operate in isolation. The academies programme may create islands, which is why it is important that if we loosen local authority control, we have to have confidence that the other schools will be there to embrace the new schools that are created. As I mentioned on Second Reading, I am proud that, in my community, the Bedford borough learning exchange, which is a collection of local head teachers, has said that it will welcome the head of a new free school set up in Bedford. That is incredibly important. This is a fantastic opportunity, offering people in the poorest parts of our community a choice of two great comprehensives that they can send their children to. That opportunity will not be taken, because the impediments are so great. If the Minister has not used this opportunity to clear all the impediments—every single one—to enable teachers to take up this opportunity, in three or four years' time he will rue the day that this opportunity was missed. I am seeking his reassurances that, when I vote for this, he has done all he can to give that inspiration to teachers in our country.

Dan Rogerson: It is a great pleasure to follow my hon. Friend the Member for Bedford. I was a councillor in his constituency, and my good friend, Dave Hodgson, is doing an excellent job as elected mayor of that new unitary authority. My hon. Friend and I may have different hopes as to who will be elected to that position in May. I hope to see Mr Hodgson re-elected, but we could perhaps discuss that at length outside the Committee.

I do not share my hon. Friend's obvious enthusiasm and unadulterated passion for academies. Parties often talk about how they are broad churches, and the coalition is, I suppose, an ecumenical movement, where two churches work alongside each other, looking for things on which they agree. It is fair to say, as has been pointed out by the hon. Member for Cardiff West, that in my party, there is somewhat less enthusiasm for a proliferation of academies, although there are members of my party who are enthusiastic about the process. I recall that during the passage of the Academies Bill last summer, the hon. Member for Gedling (Vernon Coaker), who was then the shadow Minister, while sharing the aspirations for being laser-like to which the hon. Member for Cardiff West referred to, betrayed an enthusiasm for a growth in the number of academies. At the time, the Labour party said that the academies that it brought in were different from the ones that this Government are now seeking to bring in. The enthusiasm of the hon. Member for Gedling for a proliferation of academies at the time shows that he was perhaps less like a surgical laser and more like one of Mr George Lucas' extravaganzas. I suspect that had his Government been returned to office, we would have seen an expansion of the academy programme.

I accept what the Minister says about choice, and I can imagine that in an area without academy provision where parents believe that it would be more beneficial to have it, a local authority might want to use the provision in the schedule to explore that option. However, I can also imagine a number of academies in an area, and people and parents yearning to see a more traditional relationship between a new school and a local authority.

I can see things from both sides, and I hope that the Minister will consider those factors in an area where there has been a big expansion in the number of academies, which I accept he is passionate about and wants to see.

Stella Creasy: Would the hon. Gentleman also like the Minister to consider the strong evidence about the difficulties of financial control with academies, particularly with their rapid expansion? We have already seen evidence that a number of academies struggle to achieve value for money. Their rapid expansion will pose another challenge there. One of the things that local authorities can do is to help with financial controls. Perhaps some of his colleagues in unitary authorities might have severe concerns about schools spending large amounts of money and about passing that money to schools without those controls in place at such an alarming rate.

Dan Rogerson: I have a great deal of confidence in the Minister and his colleagues being able to preside over that. That is not an area of concern to me. I want to make sure that there is an element of choice in areas where there has already been a great transfer of schools to academy status, and that there is the possibility to explore another option if there is demand for that.

I note that the Government have sought to ensure that schools will have no huge financial benefits from achieving academy status, unlike the previous Government, who gave a clear advantage to academy status by providing schools with more money for participating in the process. This Government are saying that schools would need to look at it for other reasons—the community wants a debate, for example—and there would not be any financial incentive. I welcome the fact that the Government are delivering greater transparency to the funding formula.

Ordered, That the debate be now adjourned.—*(James Duddridge.)*

9.44 pm

Adjourned till Thursday 31 March at Nine o'clock.