PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DEREGULATION BILL

Twelfth Sitting

Thursday 13 March 2014

(Afternoon)

CONTENTS

Clause 37 agreed to.
Schedule 14 agreed to.
Clauses 38 and 39 agreed to.
Schedule 15 agreed to.
Clauses 40 to 43 agreed to.
Adjourned till Tuesday 18 March at five minutes to Nine o'clock.
Written evidence reported to the House.

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Monday 17 March 2014

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 Jim Hood, Mr Christopher Chope

Barwell, Gavin *(Croydon Central)* (Con)
† Bingham, Andrew *(High Peak)* (Con)
† Brake, Tom *(Parliamentary Secretary, Office of the Leader of the House of Commons)*
† Bridgen, Andrew *(North West Leicestershire)* (Con)
Cryer, John *(Leyton and Wanstead)* (Lab)
Docherty, Thomas *(Dunfermline and West Fife)* (Lab)
† Duddridge, James *(Rochford and Southend East)* (Con)
Heald, Oliver *(Solicitor-General)*
† Hemming, John *(Birmingham, Yardley)* (LD)
† Hopkins, Kelvin *(Luton North)* (Lab)
† Johnson, Gareth *(Dartford)* (Con)
† Maynard, Paul *(Blackpool North and Cleveleys)* (Con)
† Nokes, Caroline *(Romsey and Southampton North)* (Con)
† Onwurah, Chi *(Newcastle upon Tyne Central)* (Lab)
† Perkins, Toby *(Chesterfield)* (Lab)
† Rutley, David *(Macclesfield)* (Con)
Shannon, Jim *(Strangford)* (DUP)
† Turner, Karl *(Kingston upon Hull East)* (Lab)
Williamson, Chris *(Derby North)* (Lab)

Fergus Reid, David Slater, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 13 March 2014

(Afternoon)

[Mr Jim Hood *in the Chair*]

Deregulation Bill

Clause 37

Schools: reduction of burdens

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

2 pm

The Parliamentary Secretary, Office of the Leader of the House of Commons (Tom Brake): We resume on the subject of education. The clause removes from the Secretary of State for Education powers under section 19 of the Education Act 1997 and section 102 of the Education Act 2005 to set performance targets in England. The removal of those powers is consistent with the policy intentions of Ministers in England that the requirement for local authorities to set targets should be relaxed and that school-level statutory targets are no longer necessary and should be removed where possible. To that end, secondary legislation made under those powers has already been revoked, and the clause completes the administrative process.

Provisions in subsections (1) and (2) repeal the Secretary of State's power to require, through regulations, that governing bodies of maintained schools in England set annual targets in relation to school performance. Section 19 of the 1997 Act currently applies to England and Wales and enables the Secretary of State, or the Welsh Ministers in relation to Wales, to require through regulations that governing bodies of such schools set annual targets on pupils' performance. Regulations made under that power that applied to England were revoked in March 2011.

Subsection (3) repeals the Secretary of State's power to require local authorities in England, through regulations, to set annual targets in respect of pupils' educational performance at the schools that they maintain. Section 102 of the 2005 Act applies only to England and enables the Secretary of State to require local authorities to set targets relating to the educational performance of those pupils and of any people of compulsory school age who are, or have been, looked after by those local authorities. The repeal of that power will mean that the Secretary of State no longer has the power to require local authorities in England to set annual targets. Regulations made under section 102 of the 2005 Act were revoked in December 2010. Subsection (4) removes the corresponding general interpretation provisions in section 122(3) of the 2005 Act, which apply to section 102 of that Act.

The clause recognises that the Welsh Ministers in the devolved Administration wish to retain powers to make target-setting regulations relating to the governing bodies of maintained schools and the educational performance of their pupils. Provision is therefore made to secure that outcome. I commend the clause to the Committee.

Toby Perkins (Chesterfield) (Lab): The Labour party is keen to support freedoms for schools that will promote higher standards, and we believe that some worthwhile freedoms are being created in the clause and in schedule 14, which we will debate shortly. However, it strikes us as odd that the Government have an agenda of removing certain burdens from academy schools that they continue to place on local authority schools.

Labour's view is that anything that drives up standards should do so across the board, and that is entirely the basis of our "no school left behind" campaign, which highlights the core principles that will underpin Labour's policy. The first is that we will extend to all schools freedoms that drive higher standards. If a freedom is afforded to an academy, it should be afforded to all schools.

Secondly, we understand that no one cares more about a school than the community that it serves, so we support much broader devolution of power from Whitehall. We do not see it as feasible or desirable for thousands of schools to be accountable only to the Secretary of State. We want local communities to have a much greater say about education in their area.

Finally, we want to ensure that every school plays its part in raising standards across its area and meeting the needs of its community, but recognises its role in working in collaboration with other schools, as schools do in the best systems in the world, rather than in competition with them. In the light of those principles, we agree that schools should have some of the freedoms that the clause and schedule 14 will bestow on them. We will support the Government when we come to the vote.

Kelvin Hopkins (Luton North) (Lab): It is a pleasure to serve under your chairmanship this afternoon, Mr Hood. I was not able to be here this morning. I will make a few simple points. It strikes me that these are significant changes in the education system, which would be in an education Bill in the normal course of affairs. Have the Minister and his Department had rigorous consultations with education authorities to make sure that they are happy with these changes? Despite what my hon. Friend the Member for Chesterfield says, we still have problems in education. We have slipped down the rankings in numeracy and literacy. I have just joined the new all-party group for maths and numeracy, which is something we should all be concerned about. Can the Minister reassure me on those points about consultations and explain why this is not part of an education Bill, rather than one of the ragbag measures in the Deregulation Bill?

Tom Brake: I shall respond briefly to the points that have been made by the hon. Members for Chesterfield and for Luton North. The hon. Member for Chesterfield mentioned the Labour party's "no school left behind" initiative. I do not know if he followed what happened in the Chamber in relation to the statement that has just been made on schools, but I am sure he would welcome the fact that the Government are committed to not leaving any schools behind. That is why my hon. Friend the Minister for Schools announced something like £350 million extra for schools from April 2015 onwards. That is very much about making sure that no schools are left behind.

Andrew Bingham (High Peak) (Con): I am particularly interested to know—I am sure the hon. Member for Chesterfield will also be interested to know—that £40 million of that will be going to schools in Derbyshire.

Tom Brake: I am sure that the hon. Gentleman will welcome that shortly, if he gets to respond to the points that I have made. He raised some other points. He asked whether the Government were only in the business of removing burdens on academies and not maintained schools. He will be pleased that the Government intend to take steps that will greatly reduce burdens on a whole range schools, not just academies. That is very much the Government's intention. We believe that schools are best placed to take many, many more of the decisions than is currently the case. We fully support the trend to pass on more responsibility to schools, which I think probably started under his Government.

I am afraid I am going to have to ask the hon. Member for Luton North to repeat his intervention, because I have forgotten what it was—it was very effective.

Kelvin Hopkins: I will just remind the Minister that I was concerned about whether educational institutions, authorities or experts had been consulted about these changes so that they were at ease with what the Government are doing. I also asked why these measures are in this Bill and not in an education Bill, when we could have a full debate at which Members with a particular interest in education could participate and contribute.

Tom Brake: I thank the hon. Gentleman for clarifying that. I am not sure whether I should be reassured by the fact that we are both forgetting the points that were made during the course of the debate. He referred to the subject of consultation. He will be pleased to know that the provisions that we have set out were not opposed by local authorities or schools. Before the revocation of the regulations made under the powers we intend to remove, head teachers expressed the view that target setting was restrictive and bureaucratic.

The hon. Gentleman asked why the provision was not being introduced in an education Bill. As I have set out, it is deregulatory in nature. He is an experienced Member of Parliament, and he will know that education Bills do not come along as frequently as, perhaps, Home Office or Ministry of Justice Bills. Given that the measure is deregulatory in nature, albeit related to schools, it is entirely appropriate for it to appear in this Bill.

Toby Perkins: I will respond briefly to what has been said by the Minister and by my hon. Friend the Member for Luton North.

The Government, following Labour's advice, want to offer some of the freedoms available to academies to local authority schools. That is interesting, considering how the debate on education has gone over this Parliament. If someone had asked the Secretary of State back in 2010 how he envisaged the education landscape, he would have said that he envisaged all schools going academy. It is clear that the Government's drive and financial incentives have pushed many schools that had reservations about going academy down that route. I think he would have anticipated that, by 2014, there would be no maintained schools, certainly not in the secondary sector, as there are at the moment. However, in many areas, including Derbyshire—of course, I welcome any additional funding and investment in Derbyshire's school children—the majority of schools have wished to stay within the local authority's purview.

It is important—Labour is absolutely clear about this—that schools have the freedom to choose either to stay with local authorities, if they think that the services are good and that that is in their best interests, or to go down the parent-led academy route, if that is in their best interests. The fact that the Government are now listening to us and providing local authority schools with some of the freedoms that were previously the preserve of academies is recognition of what we said initially about the drive to force all schools down a different route, and a recognition of the error of that narrow approach.

To respond to the question that my hon. Friend the Member for Luton North asked about why the provision has turned up in this Bill, my opinion is that the Bill is predominantly about perception. It is about the Government setting out a dividing line and setting out what their final couple of years are all about.

Kelvin Hopkins: My hon. Friend seems to be confirming a point that I made in the pre-legislative scrutiny Committee, which is that the Bill is a lot of political window-dressing. The Government want to be the Government of deregulation. I personally believe in regulation and would like a Bill on reregulation in some respects. I think my hon. Friend is reinforcing my point.

Toby Perkins: I think my hon. Friend and I, to an extent, come from different perspectives on some of the issues, but there is nothing wrong with a good debate; it keeps the party healthy. Where he and I would agree entirely is that what the Government have done with the Bill is to say, "We have run out of things to discuss. We are trying to hang on and keep away from the electorate until things turn in our favour. In so doing, we have come up with a few things that create the impression of activity." One of those is to create the impression of deregulation.

The Government recognise that a huge number of the powers, as we have witnessed in the debates, have been about very small things. Whether the Bill is a ragtag or a hotch-potch of a Bill—or, as my hon. Friend the Member for Newcastle upon Tyne Central calls it, a "hodge-podge" of a Bill—is a debate that is beyond our ability to sort out decisively. However, the Bill is certainly an attempt by the Government to say, "Look at all these things we are doing to deregulate." They recognise that many businesses complain about regulation, although frankly, they do not complain about many of the things in the Bill. That is why we find the provision here in the Deregulation Bill rather than where, as my hon. Friend the Member for Newcastle upon Tyne Central sensibly said, it might reasonably have been. *[Interruption.]* I was just referring to my hon. Friend, who has just joined us.

2.15 pm

The Chair: Order. The hon. Gentleman seems to be drifting into a Second Reading speech, not one on this particular clause. I would ask him to address the clause more clearly.

Toby Perkins: I will not debate any longer whether the Bill is a hotch-potch or a hodge-podge. I will complete my remarks by saying we are glad to see that the Government have listened to what we have said about all the need for all schools to have freedoms and

[Toby Perkins]

for there to be a real determination for schools and teachers to be central to their community, work collaboratively with each other and recognise that the success of one is not about the failure of another. On that basis, we will support this clause.

Tom Brake: I am sorry for having a second bite at the cherry, but a couple of new points have been raised to which it would be appropriate to respond. First, as I understand it, 70% of secondary schools are now academies, so the direction of travel is towards academies.

The hon. Member for Luton North accused the Government of window-dressing. I hope he does not think that, because these measures are about ensuring that maintained schools are aligned with academies, which is exactly what the hon. Member for Chesterfield was calling on the Government to do. With those points of clarification, I commend the clause to the Committee.

Question put and agreed to.

Clause 37 accordingly ordered to stand part of the Bill.

Schedule 14

SCHOOLS: REDUCTION OF BURDENS

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

Tom Brake: Schedule 14 makes provision for the reduction of burdens relating to schools in England. Paragraph 1 concerns the responsibility for determining the behaviour policy in maintained schools. The effect is to remove the requirement for governing bodies in maintained schools, pupil referral units and non-maintained special schools in England to produce and review a statement of general principles on behaviour, which the head teacher must have regard to when determining the behaviour policy. The governing body will still be required to ensure that the head teacher determines the behaviour policy.

Since that legislation was introduced, we have seen a significant growth in the number of academies. Over half of secondary schools are now academies, and it does not apply to them. Furthermore, Department for Education officials surveyed 120 school websites over the summer of 2012. The survey indicated that many schools either did not know of the duty or, if they did, they did not interpret it correctly. New regulations on school governance that came into force in September 2013 set out the core functions of governing bodies. The school inspection body, Ofsted, should now consider whether governors comply with those functions to judge the effectiveness of school governance arrangements.

Those core functions are outlined in the governors' handbook, which was first published in May 2013, and in departmental advice on the regulations, which was published in January 2014. They are ensuring clarity of vision, ethos and strategic direction; holding the head teacher to account for the educational performance of the school and its pupils; and overseeing the financial performance of the school and making sure its money is well spent. The school behaviour policy, which all schools are required to have, is key to the ethos and strategic direction of the school. Governing bodies will therefore still be able to influence the contents of the behaviour policy through that core function, but we no longer think that it is necessary to prescribe how they do so. We will make that clear by amending our advice to schools. Specifically, we will amend the governors' handbook and the advice on school behaviour and discipline.

Paragraph 2 repeals the requirement for governing bodies of maintained schools, city technology colleges, the city college for the technology of the arts and academy schools to adopt home-school agreements and associated parental declarations. The current process of consulting parents, drawing up and monitoring HSAs and obtaining parental signatures is burdensome for schools. Schools are required to take reasonable steps to ensure that parents of registered pupils sign the declaration. That places an administrative burden on schools, because duplicate copies of the HSA are often sent to parents in order to obtain a signature. Furthermore, HSAs are not enforceable. Parents are not legally required to sign them, and there are no sanctions for failing to comply with them. Although many schools have HSAs in place, research in 2008 showed that two in five parents had not heard of them and only 39% said that they had signed one.

I recognise, however, that although HSAs do not give schools additional powers, some schools use them as a lever to engage parents. However, those schools recognise that securing parental engagement requires more than a paper-based exercise, and they use more creative approaches to engage parents based on the particular circumstances of their school.

The change does not mean that schools cannot continue to use HSAs, if they so choose. It simply frees them up from what is effectively a tick-box exercise. We trust schools to use their discretion when deciding whether to have HSAs as one means of engaging parents.

Paragraph 3 amends section 32 of the Education Act 2002, which sets out who has responsibility for determining the term dates of maintained schools. The changes provide that the governing body of a community, voluntary controlled, community special or maintained nursery school, not the local authority, is now responsible for determining term dates.

The Government believe that governing bodies and head teachers are best placed to decide the structure of the school year in the interests of pupils' education. Some schools have changed their term dates, with benefits to pupils, especially disadvantaged pupils, and their parents. We want all schools to have the opportunity to vary terms to help pupils. Schools vary their term dates when there is a compelling need to do so, and with parental support. Schools such as David Young community academy in Leeds, report a real difference in pupils' behaviour and attainment. Such an example would not be possible without innovative schools having a greater say over the timing of their school terms.

Toby Perkins: Can the Minister tell us about the specific example he has raised, for the clarity of the debate? What has the David Young community academy done differently, and what has it discovered as a result?

Tom Brake: I thank the hon. Gentleman for his intervention, and I am sure that before I finish speaking I will be able to tell him precisely how the David Young community academy changed its term dates and how that impacted on the school and its pupils.

I recognise that parents, especially those with children in other schools, and local businesses have concerns. About 70% of secondary and 30% of primary schools, educating almost half—48%—of all registered pupils are already responsible for term dates. There have been no reported difficulties for parents where schools have varied their term dates. Although there will be no formal role for the local authority, we expect that there will still be co-ordination of term dates.

Ultimately, all schools must act reasonably and make informed decisions, which may include considering the impact of their decisions on parents. Schools, and local authorities such as Essex, have told us that they will continue to co-ordinate. I trust that sensible conversations between local authorities and schools about co-ordinating term dates will continue to take place. Likewise, there is already strong parental pressure on schools to ensure broad co-ordination. There are also strong incentives for local authorities to play a key role, as they provide school transport and other services to schools.

I recognise the concerns and agree that there is a need for greater clarity. I can give assurance that our advice to schools will be updated to state that we expect schools to consider parents' needs when setting term dates and to work with local authorities to co-ordinate dates if appropriate.

Andrew Bingham: Does my right hon. Friend agree that schools should also consider co-ordinating dates when they have parents with children at, say, a junior school and a senior school? Does he agree that schools should take that into account?

Tom Brake: Yes, of course I think there are a number of factors that schools should take into account, such as what is happening in neighbouring authorities, as well as what is happening in the primary and secondary sector. As far as possible, schools should take into account the impact on individual families if, for example, there are a significant number of children with siblings at a neighbouring school—perhaps a junior school, a primary school or a secondary school. I agree entirely with that point.

As for the point that the hon. Member for Chesterfield made about the David Young community academy, it operates a seven-term year, starting in June. Six-week terms are followed by a maximum of four weeks' holiday. The school year is about five days longer than in maintained schools. The academy's belief is that shorter terms help to prevent pupils and staff from getting tired, and help to consolidate learning. The feeling is that the shorter summer holiday is particularly beneficial to pupils from disadvantaged backgrounds, who are more likely to fall behind over the holidays. Perhaps that approach to terms is something that the House could also consider.

The schedule allows schools to make changes to their term and holiday dates to benefit pupils and their parents. Crucially, however, schools will also be free to keep the same dates. It is up to them. Paragraphs 4 and 5 of the schedule amend sections 35(8) and 36(8) of the Education Act 2002 to remove the Secretary of State's power to issue statutory guidance, which head teachers and governing bodies of maintained schools and local authorities in England must "have regard to" when exercising their functions in relation to school staffing.

The School Staffing (England) Regulations 2009 provide various requirements on head teachers and governing bodies of maintained schools, as well as local authorities, in relation to school staffing. The repeal of the power to issue statutory guidance and the withdrawal of the existing statutory guidance will not alter the legal position. The Government believe that head teachers, governing bodies and local authorities are best placed to make decisions on staffing matters. They do not need statutory guidance to do that; however, it is important that they have access to the latest information to ensure that their decisions are well informed. That is why we are developing a package of non-statutory advice, which will provide clear and pertinent information that will signpost schools to specialist materials, such as information provided for employers by the Advisory, Conciliation and Arbitration Service. That advice will be for all maintained schools and academy schools, including free schools.

We will work with key stakeholders to develop the new advice and ensure that it is tailored to the requirements of schools. We consider that removing the existing statutory guidance and replacing it with concise advice that streamlines and improves the quality of information available to all schools on staffing matters will strengthen autonomy, better empowering schools to make the right decisions.

Paragraph 6 removes the requirement for governing bodies to provide copies of interim assessment reports from Ofsted to parents, as well as copies of Ofsted reports produced as a result of an investigation of complaints about schools. We are also changing the requirement in relation to providing copies of Ofsted inspection reports made under section 5 of the Education Act 2005; and in relation to religious inspection reports to parents, for designated faith schools, under section 48 of that Act.

We recognise that it is important to parents to know the outcome of inspections before the reports are made publically available, so we are putting in place a requirement for them to be notified of the overall outcome in advance of publication of the reports. These changes emphasise the fact that schools and parents should use school websites as the main source of information about schools. They will also reduce the administrative burden on schools by removing the task of printing and distributing reports to parents, which will also reduce printing costs.

Toby Perkins: My hon. Friend the Member for Newcastle upon Tyne Central might want to say something different, but it is possible that the Minister has just hit on the key point. Will he clarify the key aim of that aspect of the policy he has been outlining? Is it to reduce schools' administrative costs or does he think there is a problem with the reports that are being sent home?

Tom Brake: I do not think there is a problem with the content of reports. As a parent, I welcome information on Ofsted reports about my children's schools. The issue is more about the impact on the school. Trying to send out that information is quite burdensome.

Overwhelmingly, people would nowadays expect to get information from a website, not as hard copy. With schools increasingly relying on e-mail to provide information to parents, they can provide a link to the appropriate report, thereby ensuring that it is flagged up. Parents

[Tom Brake]

will therefore not have to access the website by chance to see the report; rather, it can be flagged up through the means of communication upon which schools are increasingly relying.

2.30 pm

Chi Onwurah (Newcastle upon Tyne Central) (Lab): Although we support the move to increase the dissemination of information through electronic means, particularly websites, will the Minister explain how he is taking account of the increasing digital divide under this Government? In the north-east and Newcastle, for example, the levels of broadband take-up are lower than in other areas of the country. Many people might not be able to afford a broadband connection, yet they deserve to know about their children's education.

Tom Brake: I thank the hon. Lady for her intervention, although it might have been helpful had I not taken it, because the next paragraph of my speech addresses her point.

As not everybody has access to the internet, we are also amending the School Information (England) Regulations 2008 to include a requirement for schools to publish details of section 48 reports. That mirrors the position for section 5 reports, because parents, or other interested parties, will be able to request that schools provide a hard copy of those reports free of charge.

Chi Onwurah: I am grateful for that additional clarification, but requiring schools to provide a hard copy on request is not the same as informing parents.

Tom Brake: The hon. Lady may be right that there is a slight difference between what I have said and what she is seeking; but on the other hand I am sure she would agree with my expectation that every single school in the country will ensure that the existence of a report is drawn to everyone's attention, either through the newsletters that go back with children or through e-newsletters. If that is flagged up in a newsletter that goes back with the child, parents who do not have access to the internet will have an opportunity to request a hard copy.

Schedule 14 makes a number of sensible reductions to the burdens on schools, and I therefore commend it to the Committee.

Toby Perkins: The schedule proposes a number of sensible changes to policy, and we broadly support the general direction being pursued. However, I want to tease out from the Minister how the schedule will work. A minute ago he referred to the number of secondary schools that had gone down the academy route under this Government, but he has so far resisted giving the Liberal Democrat perspective on how things are going. We continue to wait for that: I am interested to know the Liberal Democrat view. There was a clear push at the start of this Parliament to encourage as many schools as possible to go down the academy route. The Secretary of State for Education would come along and triumphantly announce how many schools had done so, but does the Minister think that is something to be pleased about, or is he, as we are, largely indifferent to whether schools choose to go academy or stay as maintained schools?

On schedule 14, the responsibility for determining behaviour policy seems to be a sensible extension of the Labour party's view on giving schools freedom. We are conscious that there will be odd cases where there are concerns about what scrutiny there will be, because a lot of schools policy is predicated on the idea that the market will decide and that schools will have to do the right thing because parents will otherwise not use them. In broad terms, that might be all very well, but as we have seen recently with free schools in particular, there might be examples where, for whatever reason, schools do not do what parents have a right to expect. I am interested to know what scrutiny the Minister thinks will be brought to bear in those circumstances.

On the same sort of theme, the Minister confidently suggested—I am sure he is right—that, in the vast majority of cases, schools recognise the value of home-school agreements and want to take responsibility for children who continue to receive their schooling outside school. This could be for a variety of reasons. Even under the current arrangements, I have seen parents whose children might not go to school because of bullying issues or a variety of other things. There have been occasions where they have come to me and said, "We are very unhappy with the level of effort that the school has put in to maintain the education of my child when he is not actually in school." In those examples, where parents are unhappy with how the home-school relationship is working, what representations has the Minister had about their opportunity to hold the school to account in the absence of this legislation?

A few weeks ago I had the great pleasure of responding to a three-hour debate about school holidays, so the issue of school terms is both fresh in my mind and very timely. There was a huge amount of discussion about the Government's policies on school holidays. The hon. Member for Birmingham, Yardley introduced the debate in Westminster Hall very well indeed. Many members of the Committee might wish me to repeat the entire debate, which was excellent and varied, but I will resist the temptation. However, I would ask the Minister to be mindful of the comment made by the hon. Member for High Peak about parents who have children in junior and secondary schools.

As somebody who is close to the border, with many parts of his constituency looking more towards Manchester than Derbyshire, the hon. Member for High Peak will be conscious of schools on the Greater Manchester side having different school holidays from schools in Derbyshire. That can cause a problem, either for schoolteachers who teach just over the border and find that their holidays are different to their children's or, as is sometimes the case, for parents who choose to send their children to two different schools, one over the border and one not.

What the Labour party is proposing—giving schools that freedom, which the Government are also taking forward—will allow a school in, say, Glossop to be mindful of what is happening in Manchester, as well as in Derbyshire.

Andrew Bingham: I find myself actually agreeing with the hon. Gentleman, which is rare. I was reassured by the Minister's response, but the point the hon. Gentleman

makes is right. We are very close to the Cheshire border—not necessarily Greater Manchester—and we have pupils who go to school over in Marple. I was quite reassured by what the Minister said and I think the schools can work together. It will not be just the odd pupil; there will be quite a few pupils who will be split over those borders.

Toby Perkins: I thank the hon. Gentleman for his intervention; he knows his geography better than me. I am glad he is reassured, and if he does not object further, I would like to ask for clarification from the Minister about how he sees all that work, what thought has gone into those different circumstances and how we can ensure that what we all want to achieve—giving schools the freedom to take advantage of some of these innovative approaches—does not lead to the unintended consequence of parents being left in an impossible position.

We have discussed the reason for the change in paragraph 6. I recognise that many schools have a huge bureaucratic task in providing the reports in question to all parents, knowing that many parents will just have a cursory look rather than go through them properly. I understand why, in tough financial times, the provision is seen as a sensible reduction in burdens, but I wish to ask the Minister what thought has gone into the effect on parents from more deprived backgrounds, who might be less likely to hold a school to account than parents of more affluent means. That is a generalisation, and I recognise that generalisations are always imperfect, but we know that it is true to an extent.

We would all hate it if "pushy parents", as some people might call them in the vernacular—parents with the best intentions for their children at heart—held schools to account a lot more than other parents. We know that already happens to an extent. If the situation changes from parents being given a report to their being able to see a report if they ask for it, there will be potential variances in who becomes aware of what the school is doing. The Labour party is committed to parents and communities playing a role in their schools, so we are keen to hear the Minister's thoughts on the subject and whether he can reassure us that the important administrative savings that he seeks will not lead to some parents becoming semi-detached from the school, which would be the opposite of what we all want to achieve.

John Hemming (Birmingham, Yardley) (LD): The hon. Gentleman referred to the Westminster Hall debate on flexibility in staggering school terms, which was well attended. It is worth putting it on record that that has worked well in other countries, through terms being staggered on a regional basis. There remains a question about the co-ordination of the process. My view is that some sort of sub-regional strategy would be needed so that we could make use of the freedoms in the schedule. The National Association of Head Teachers supports that approach. However, we should consider areas such as Solihull. Part of it faces towards Birmingham and part of Meriden, which is in Solihull metropolitan district, faces towards Coventry, so the system is not simple. There would also be questions to answer about who would get the sunniest period of the year, which would not be easy to resolve. It is good to see that flexibility is bring brought in, even though there would have to be some co-ordination.

Kelvin Hopkins: School discipline is an issue that I have been seriously concerned about for some time. Pupil behaviour is a major factor in poor performance, both individually and as a school, and in my view it is a particular problem in the UK. If we had addressed discipline problems in schools appropriately, we might not have slipped down the numeracy and literacy scales as quickly as we have. That is partly to do with our philosophy of education in the classroom and partly to do with the lack of resource to deal with the problem. Will the Minister reassure us that the changes will make it more likely that discipline and behaviour will be addressed properly in schools?

Toby Perkins: My hon. Friend has highlighted a couple of possible causes of school discipline problems. Does he agree that another is the huge amount of social breakdown that we have seen over the past 25 or 30 years? At one time, the family unit was a pretty stable, static thing, but de-industrialisation in the '80s changed that for good. There is no doubt that that has had massive social impacts. Far too often we talk about education policy as though it were totally remote from the rest of the world, but it is not.

2.45 pm

Kelvin Hopkins: My hon. Friend is absolutely right. If we had an hour or two to spare, I could wax lyrical on the theme, but you would draw us back, Mr Hood, if we strayed too far from these provisions.

Giving the head to head teachers is appropriate. I have been a teacher myself and have been a governor for a long time—I am currently governor of a sixth-form college—and I draw a strong distinction between the role of management and the role of governance. It is a mistake for governance to get too deeply involved in management. In that sense, the schedule gives more powers to head teachers, which I think is right.

There are other things the Government have to do. I do not know whether discipline and behaviour policy would cover this matter, but when there is disruption in classes, teachers should have the ability to have a child who is causing a problem removed very quickly from the classroom to somewhere within the school. Indeed, two of the high schools for 11 to 16-year-olds in Luton have what they call pupil inclusion units—a better description would be pupil referral units inside the school. A youngster who gets into difficulty because of a behavioural problem can be taken to the unit immediately, calmed down and then dealt with appropriately. That means the class is not disrupted, the other pupils can continue to learn and the stress on the teacher is immediately reduced.

I have been in a situation where we could not remove a difficult pupil from a class. Those situations simply cause discipline problems. The other pupils complain to their parents and the parents complain to the principal or head teacher, but there is nothing one can do about it. We have a duty, and the Government in particular have a duty, to do something about that and to make provision within schools—it will mean extra resources—for youngsters to be taken out of classes where necessary to a pupil referral unit. After that there should be some kind of pastoral involvement, so that the problem that the youngster has can be looked at and the reasons for their misbehaviour dealt with.

[Kelvin Hopkins]

I have seen the problem for myself in my own schools, and it is worrying. In the schools I mentioned the system worked extremely well. The teachers were greatly relieved that they could refer pupils to the units, and the pupils were dealt with in a calm atmosphere. They had a one-to-one relationship with a specialist staff member and when they felt ready, they could go back into their class and be properly integrated. They carry on learning in the units, of course—they do not just sit there. It is a good system.

With A-level and post-16 students there is not so much of a problem, because they are motivated to get their qualifications and go into higher education or whatever. However, at 11 to 16 there is significant proportion of youngsters who, as my hon. Friend the Member for Chesterfield says, come from fractured backgrounds and difficult environments and do not have the aspirations or perhaps the ability to go beyond 16 in education, and who feel very alienated and sometimes misbehave as a result.

There have been wonderful documentaries showing that once a youngster can be taught to read, for example, their behaviour changes dramatically from being difficult to agreeable. There are all sorts of aspects of behaviour that have to be properly investigated and provided for, and that might cost the taxpayer more money, as we might have to make better provision in schools. I hope that the provisions in the schedule will make discipline better in schools, but we need to go beyond that. We need a philosophy that means that, by and large, pupils in class behave themselves quietly and learn, and are not constantly disruptive and misbehaving. Those are my concerns.

Finally, will the Minister say, again, whether appropriate consultation been undertaken with representative organisations from the education sector, including teachers' unions and head teachers' representatives, to see whether they are happy with what the Government are doing? I could spend a lot more time on this theme, Mr Hood, but I think I have probably said enough.

Tom Brake: In some ways I am glad the debate was not prolonged any further, because I have been at risk of being buried in inspiration this afternoon.

Let me start by commenting briefly on the role of governors. Both sides of the Committee agree that governors play an essential role, are very dedicated and invest a huge amount of their time in supporting schools. We all know from our constituencies that there are some schools where the governors work very effectively and others where we need additional governors to come forward to strengthen the existing governing bodies, because of the essential role that they play.

The hon. Member for Chesterfield was hoping, I think, that his persistence would be rewarded in terms of my using this platform to set out Liberal Democrat policy on education. I am going to disappoint him. He will be disappointed to hear that the Government view—the Liberal Democrat view—is very much that we favour a plethora of different schools provided by a range of different providers, with the standards in those schools enforced effectively by Ofsted. That is all he will hear from me today on that subject.

I am not sure whether there is an ideological difference between this side of the Committee and the Labour Opposition. Clearly we believe that head teachers are professionals. We want them to develop the policies that are the most effective for their schools. That is why, for instance, in relation to home-school agreements, we are allowing schools to use their discretion as to whether they think that is something they want to continue to keep in place or whether they want to develop alternatives, in terms of communications. We favour schools and head teachers taking on much greater responsibilities, whether in the academy or maintained sector.

The issue of most interest in the debate on this clause relates to term dates and how they are co-ordinated. I will respond to that now.

Toby Perkins: I do not think there is any disagreement about head teachers being professionals or the fact that we want to give them the opportunity to run their school their way. In the example I raised, where a parent comes to see me and says, "My child is out of school, they have been bullied. I am dissatisfied with the effort the school is making to send work home." Now, I will have to say, "Well, the head teacher knows best."

Tom Brake: I will come on to that. I hope that when I have added to my remarks, the hon. Gentleman will feel that I have suitably addressed his concerns. If not, I am sure he will intervene again.

On term dates, removing the local authority's formal role does not mean there will be no local co-ordination around dates. There are already areas like Darlington, for example, where all the secondary schools are academies, but the majority continue to follow common dates. Schools will be free to make changes if they are in their pupils' interest, or to continue with the existing school term dates.

Another concrete example in relation to co-ordination was the earlier point about the David Young community academy. The Landau Forte told the DFE that they talked to other schools before setting their term dates. These schools ensure that the majority of holidays align. On setting dates across local authority borders, it is already the case that local authorities have to co-ordinate, and they will continue to do so.

The hon. Member for Chesterfield noted the important debate that my hon. Friend the Member for Birmingham, Yardley brought to the Committee about school holidays. He will be interested to know that, although the Government do not have any formal role in relation to the issue and expense of holidays, the Department for Education is exploring the issues raised in his debate with the Association of British Travel Agents and will be meeting them later this month. I hope that that will be a productive meeting and give some succour to parents who are worried about the cost of holidays during school holidays.

I am a bit disappointed that the hon. Member for Derby North is not present. I am not sure what the "Class War" website, from which he downloads his speeches, would have had to say about the fact that there was—how much?

Andrew Bingham: Forty million pounds.

Tom Brake: Forty million pounds granted to Derby schools. I am sure that the hon. Gentleman would have wanted to welcome that, but the website may not have too much to say on it.

Kelvin Hopkins: I am equally disappointed that my good comrade, my hon. Friend the Member for Derby North, is not present, because I always enjoy his speeches. It is a little unfair of the Minister to speak at length about him when he is not here to answer for himself.

Tom Brake: I hope that when the hon. Member for Derby North reads the record of this debate, which I am sure he will first thing tomorrow morning, he will realise that my words were said more in sorrow than in anger, and he will appreciate that I was not having a go at him.

Toby Perkins: I am sure that my hon. Friend will realise that. I am also sure that he will realise that the city of Derby is not part of Derbyshire in terms of education authorities. Therefore, any elation he might have felt about the good fortune that some of us in Derbyshire have had will unfortunately be of no use to his schools in Derby North.

Tom Brake: I am not in a position to comment on the precise geography. As the hon. Gentleman knows from an earlier exchange, I used to live in Mickleover, but that was some time ago. I am not quite sure whether that is within the city of Derby or in its surrounding area.

None of the schools will be disadvantaged by the announcement of the extra £350 million; indeed, four out of 10 will benefit from it.

John Hemming: I note that the hon. Member for Derby North is speaking in the Chamber at the moment, so it is not surprising that he is not here; it is difficult to be in two places at the same time.

I thank the Minister for his comments on the cost of school holidays and on the fact that the Department is talking to travel agents. I have written a number of letters to the Department on the issue, but have not had a response. I would like one.

Tom Brake: I thank my hon. Friend for his intervention. Wearing a different hat, in a different context, I will take that up and ensure that the appropriate Department responds to his outstanding correspondence.

An issue was raised about disadvantaged parents and how they would know about the information that was available. Every parent will still be informed about the judgment before the report is published. They will be informed of that in writing, as well as how to obtain the full details of the report. They will be in no different a position than they are currently. I hope that the head teachers to whom we have been referring, whose quality and expertise we all value, will ensure that that is communicated effectively and simply, so that all parents are aware of the availability of the report and know what action to take if they are not able to find that information easily themselves.

The hon. Member for Luton North mentioned pupil referral units. As he knows, such units provide alternative education to pupils who have been excluded or do not have a school place for medical reasons. They are local authority-led.

Kelvin Hopkins: I think I specifically referred to in-school units. There are referral units for exclusions, but my point is about avoiding exclusion and having a temporary unit within the school until pupils calm down.

Tom Brake: I agree with the hon. Gentleman. I am sorry that I went down a slightly different route; he makes a valid point. He was underlining the importance of schools being willing to resolve issues within the school. That is the appropriate response. I hope that the hon. Gentleman and all hon. Members agree that it is important that the process of exclusion is used carefully and in a way that does not discriminate against one school community in favour of another.

3 pm

Kelvin Hopkins: My concern is that it is too dramatic to give the alternatives of staying in the classroom or being excluded from school. We want to be able to remove difficult youngsters temporarily from the classroom, but allow them to remain in the school.

Tom Brake: Indeed, yes. I fully understand the hon. Gentleman's point. That is a sensible approach for schools to adopt. I hope that I have covered all the points that hon. Members made. If I have not, I will speak slowly for a few seconds and take a further intervention.

Kelvin Hopkins: The consultation point about unions—the teaching unions and the head teachers' associations.

Tom Brake: I wish I had not given way. *[Interruption.]* I have found inspiration—it has the hon. Gentleman's name at the top. I assure hon. Members that the Government informally consulted on the proposals and seriously considered all the issues that were raised. The Department for Education spoke to head teachers, unions, the Federation of Small Businesses and organisations such as Mumsnet and Netmums following the public debates when we announced our plans in July last year. We have consulted extensively on the proposals that we are considering today. I hope I have addressed all the comments that were made in the debate. I commend the schedule to the Committee.

Question put and agreed to.

Schedule 14 accordingly agreed to.

Clause 38

Temporary event notices: increase in maximum number of events per year

Toby Perkins: I beg to move amendment 16, in clause 38, page 28, line 34, leave out '15' and insert '18'.

The Chair: With this it will be convenient to discuss clause stand part.

Toby Perkins: Our amendment would extend the Government's proposed deregulation—if that is what it is—to allow an applicant a maximum of 15 temporary event notices by increasing the number to 18.

Clause 38 is under the heading "Alcohol and entertainment", so this is a reasonable moment to reflect on the Government's alcohol strategy. Before coming to power, the Prime Minister promised to get to grips with the root cause of alcohol problems, with a strategy to

[Toby Perkins]

attack alcohol harm from every angle. However, we have had a U-turn on minimum unit pricing, which was once the key to the Government's approach; a U-turn on multi-buy discounts, which is one of the causes of binge drinking, pre-loading and the resulting social problems; a failure to bring in significant licensing reforms, despite much talk about their likelihood; a late-night levy that is bringing in a fraction of what was promised. We have had little on education and nothing on advertising aimed at children. What is left is a ban on below-cost sales, which was announced four times and is expected to reduce alcohol sales by less than a 20th of 1%.

This week, we heard the news that only six people have completed the Government's much-trumpeted sobriety scheme. We are approaching Lent, during which many people make the apparently attractive but rather tedious choice of giving up alcohol—I have done it myself before now. They will no doubt have a sober and mirthless laugh at the fact that only six people have taken up the Government's sobriety scheme.

Chi Onwurah: Does my hon. Friend agree that, given the Government's action on minimum alcohol pricing and on plain packaging, it would be helpful if they gave up U-turning to big business for Lent?

Toby Perkins: That is an interesting way of putting it. We could also say that we wish they would give up U-turning to Lynton Crosby for Lent. Where exactly the motivation for some of the policies comes from, or why the Liberal Democrats feel the need to get behind them at every turn, I leave to people to consider.

Turning to temporary event notices, the amendment that we are proposing is a small amendment, just as it is a small clause—

Chi Onwurah: It is a small Bill.

Toby Perkins: It is a large Bill that achieves small things. Our amendment is perfectly sensible. The thing that hon. Members should be conscious of before supporting it is the context of the consultation and of what it is about.

A temporary event notice is a form sent to the licensing authority, police or environmental health officer when the organiser of an event wishes to serve or sell alcohol, provide late-night refreshment or put on regulated entertainment for fewer than 500 people over a prescribed period. Any individual premises may be used for 12 temporary events per year, up to a maximum of 21 days. Once the TEN has been received, the police or environmental health officers have three working days to make any objections to it. If there are objections, the council may organise a hearing to review them.

The measure in itself is a deregulatory one that is designed to support the alcohol and licensed pub industry, which is vital to our economy and our society, and others who wish to have specific temporary events to enable them better to celebrate great occasions. It might be the royal wedding that people want to celebrate and get behind, or the glorious performance of England in the World cup—or even Scotland qualifying. It could be anything. People might wish to have a party to celebrate the latest Labour election victory—rightly predicted by my hon. Friend the Member for Newcastle upon Tyne Central in her intervention. Whatever the cause or happy occasion, the TEN is there to support the general bonhomie and happiness of the area. We need to recognise, however, that there are two sides to that equation. There are neighbours who live next door to some of these establishments, so it is entirely sensible for there to be a limit somewhere. Where the correct limit is will probably be the key part of our debate today.

The existing policy states that there are 12 temporary event notices a year, which is about one a month—that seems reasonably sensible. I noticed that when the Government went out to consultation, of those who responded to the question of what any new limit should be, 66% supported going up to 18, which is what our amendment says, and only 14% an increase from 12 to 15. It is confusing of the Government, having taken the step of allowing more, to consult and get support for the general principle, only to support what the 14%, rather than the 66%, think should happen.

The Minister will get an opportunity to say whether the Government think, on reflection, that 18 would be a better number or whether they will stick to 15, but I am interested in his response on the Government decision. Given that there was a consultation—with cross-party agreement that there should be an increase—and the majority went for 18 rather than 15, why did the Minister choose to go for 15?

The change extends the possible provisions for one venue—there are still personal limits—and that is likely to be a help for small community venues and others. Labour believes that our night-time economies are vital to providing jobs and building growth and prosperity. We recognise the huge contribution to both our economy and our society that pubs make. The average pub or bar employs 10 people, often from those groups in society, such as young people and women, that are finding it most difficult to access employment at the moment. Anything that we can do, within the realms of ensuring that they are good neighbours, to support pubs, we should be looking to do. The Labour party supports any moves that help to grow this sector, while being conscious of the potential impact on the neighbourhood.

In many ways, the clause loosens restrictions on councils, which often want to promote evening entertainment events in certain areas. This minor amendment is a probing amendment. We are interested in what the Government have to say about why they decided to go for 15 rather than 18. It also provides an opportunity for Labour to say that sometimes we think that the Government have not gone far enough on deregulation, rather than too far.

It is important that we have a balance and recognise that it is horses for courses. We are not a party that is always in favour of regulation or always against regulation. We take each case on its merits. We think that in this case the Government could have been a little bolder, so we would like to push them on whether they think, on reflection, that going to 18, which would be one and a half a month or three every two months, is a sensible balance between the needs of the community, the demands on the local authority and supporting pubs. That is particularly relevant as we head towards an exciting

summer of sport in 2014. We want places to play their rightful role in our society, community and, of course, economy.

Kelvin Hopkins: I shall be brief. I acquiesce in the amendment without enthusiasm. I have to say that my one appearance in a court of law was in a magistrates court to apply for the extension of a licence. My hon. Friend talks about celebrating; that was to commemorate or to commiserate with comrades when we had lost an election. It was very sad. I happened to be a candidate in 1983. We have had many celebrations since then, but 1983 was not a good year.

I am happy with increasing the number, but I strongly opposed the liberalisation of the licensing laws and really believe that we should go back to the restrictions that we had in the past. I like to think that both hospitals and police forces would agree with that, because of the appalling Saturday-night behaviour of drunken people at accident and emergency departments and the problems that the police have in dealing with drunks in the street late at night.

All that would be reduced if we went back to the more sensible licensing hours that we had before. This is not about responsible organisations having extensions and having special events and so on, which is fine—especially if it is the Labour party. I think that licensing laws have become far too liberal and we should go back to where we were before. I made it clear to my colleagues in the previous Government that I felt like this, so it is not something new.

Tom Brake: Let me start by commenting on what the hon. Member for Chesterfield said. He accused the Government of U-turning in relation to big business. It is a pity that under the previous Government there were not fewer U-turns in relation to the big banks back in 2008, when they performed so many pirouettes. That has left us in the position that we are in. I think that it was the shadow Chancellor of the Exchequer, who was the Minister for the City at the time, who was responsible for that calamity.

3.15 pm

The focus has been partly on why the Government settled on 15 as opposed to 18 temporary event notices. I will deal with that issue. There was a suggestion that the Government's alcohol strategy has failed. I refute that. I could start by asking the hon. Gentleman why his Government did not introduce any pricing measures.

Toby Perkins *rose—*

Tom Brake: I now give him the opportunity to explain why.

Toby Perkins: I will come back on that point at the end; I have a lot to say about it.

The right hon. Gentleman misquotes me. He said that I thought the Government's alcohol strategy had failed, but I do not detect an alcohol strategy. I am not accusing him of having one; I am saying that there is not one. If they had had one that failed, that would be an improvement on where we are right now.

Tom Brake: I will set out for the hon. Gentleman what the Government's alcohol strategy is. We will be the first Government to introduce measures to ban the sale of alcohol below cost, which the hon. Gentleman's Government did not do. That will tackle the worst excesses.

We are seeing the level of drinking and binge drinking on a downward, rather than an upward, trend. The Government have radically reformed the previous Government's Licensing Act 2003 and we are introducing new local tools and powers. The hon. Member for Newcastle upon Tyne Central may be aware that the late-night levy has already been adopted by Newcastle, Cheltenham and Islington and that other places are consulting. Far from not having an alcohol strategy, we have one that is effective and clearly streets ahead—sober streets ahead—of what was done by the previous Government.

Minimum unit pricing is still under consideration. We do not yet have enough concrete evidence that it would be effective in reducing the harms associated with problem drinking without penalising people who drink responsibly, but we will continue to monitor the situation, particularly as it pertains to Scotland.

There was a question about why we settled on 15 rather than 18 temporary event notices. The hon. Member for Chesterfield suggested that he might be a little confused about why the Government did that. Well, I am confused about something that the hon. Gentleman has done, which I will come to shortly. The hon. Gentleman will be aware that in the consultation, of the 40% who wanted an increase—usually people from the licensed trade and community organisation—two thirds wanted the increase to be at 18, not 15. However, the hon. Gentleman will know that if 40% wanted an increase, 60% did not. He extrapolates from that that the Government should go for 18, which is what he is advocating, so clearly he needs to talk to his hon. Friends and perhaps get an update on some basic maths: the hon. Member for Newcastle upon Tyne Central is in a position to give him that.

Toby Perkins: On the subject of basic maths, the right hon. Gentleman was wrong to say that if 40% were in favour 60% were against. I think that 52% were against. He seems to be saying that the majority thought that the policy was a bad idea and, of those who thought it was a good idea, the majority thought that what they were doing was a bad idea and, therefore, using a double negative, it must be a good policy.

Tom Brake: I think that we are at risk of burying ourselves in statistics. It was 8% who did not know.

Toby Perkins: Exactly—that is what I said.

Tom Brake: We will settle the difference and stick to that.

The Government, having considered the consultation and looked at the responses, decided to propose an increase from 12 to 15. The clause amends the 2003 Act, as the hon. Gentleman knows, to increase the number of TENs that may be given to the same premises in each calendar year from 12 to 15. The hon. Gentleman's amendment 16 would go further, by increasing the annual limit from 12 to 18 per year.

The Government are keen to reduce burdens and increase flexibility for businesses and communities wherever they can. However, they are also keen to ensure that

[Tom Brake]

appropriate safeguards are in place, alongside the reduction of these burdens. Safeguards are needed in this instance, so that increasing flexibility can be balanced against ensuring the promotion of the licensing objectives, including the prevention of crime and disorder and public nuisance.

In 2012, the Government carried out their first reforms of the TENs regime. As part of that, we noted calls to increase TENs limits. The Government then consulted on the option of increasing TENs limits. In response to the public consultation in 2013, a slight majority of respondents did not think that the number should be increased at all.

The Government's planned increase to 15 rather than 18 reflects the concerns raised in the consultation responses and takes into account previous reforms to reduce burdens. Increasing the annual number of the TENs allowed per year to 18—half their current total—is likely to cause concern to those who worry about noise nuisance from TENs. Local residents point out that noise from late-night events can cause public nuisance. There may occasionally be issues of crime and disorder. We believe that the higher increase proposed by the amendment goes beyond the purpose of the TENs regime, which is for occasional events only. Accordingly, there is a limit to the number of TENs that can be held annually at the same premises.

Kelvin Hopkins: The issue is not about the numbers of events, but about how they are policed and controlled and what conditions apply. If it was simply about having a proportionate increase in noise and disorder, we would not be pressing our amendment.

Tom Brake: The hon. Gentleman is right. The measure is also about ensuring that events are properly policed, I agree and may come to that later in the discussion about the clause.

By way of safeguarding, we are also retaining the limit of 21 days for the total number of days under which events can be held under TENs in a calendar year. On the subject of Opposition U-turns, I also remind the Committee that the hon. Member for Kingston upon Hull North (Diana Johnson) was previously critical of our plans to increase the number of TENs when they were first announced last summer. Seeking this amendment suggests a lack of purpose and an inconsistency of thinking; at least the Labour party is consistent on that.

We believe that we have taken a measured decision. We feel we have got the balance right. I urge the hon. Member for Chesterfield to withdraw his amendment.

Toby Perkins: First, I would like to come back on a couple of points made by my hon. Friend the Member for Luton North. I recognise his concerns and understand where they come from. We should remember that the policies started from the sense that everyone came out of the pubs at the same time and there was a huge number of problems as a result.

Over the past 14 or 15 months, I have had the opportunity to go back in time. I was in Eastleigh during the by-election. It is not a night I will forget, because I ended up in conversation with Mr Nigel Farage of the UK Independence party. After that I certainly could have done with a drink. It was interesting that Eastleigh had exactly the licensing rules that we used to have in the past—all the pubs in the town centre shut at 11 o'clock. I went into a pub at about 10 o'clock and it was absolutely packed, just as pubs used to be. Frankly, people were a lot drunker than they normally are in Chesterfield.

I left just after 11 o'clock and got in the taxi queue. People were shoving around and I thought, "Yes, this is exactly what it used to be like." We were trying to solve one problem. There may be some sympathy with the idea that it led to another problem, but I do not think it is true to say that all that has happened with alcohol binge drinking is related to licensing changes.

Tom Brake: I thank the hon. Gentleman for giving way. He perhaps made a mistake in mentioning Eastleigh. I wonder if he or his hon. Friends applied for a temporary event notice to celebrate that occasion.

Toby Perkins: A Liberal Democrat victory is so rare that you want more than a temporary event notice. You could call it the Halley's comet clause. I do not blame the right hon. Gentleman for celebrating that victory. I recently witnessed the spectacle of Liberal Democrat officers attempting to find 15 more votes in Wythenshawe. I know that they have had some rough times over the past few years, so they should rightly celebrate only a 14% loss in their vote.

Kelvin Hopkins: Although I believe that we should return to the previous licensing laws, I realise I am not going to win that argument—at least not in the short term. It is only one component of an overall alcohol strategy which I think is a matter of great urgency. Britain has a growing alcohol problem, which the Government are not facing up to.

Toby Perkins: We are entirely in agreement. That was precisely where I was heading. One of the key problems is now the huge discrepancy between the cost of alcohol in supermarkets and its cost in pubs. I am a firm believer that the pub is, on balance, by far the best place for people to be drinking. The people serving can see how much someone has had to drink and when people have gone too far, there is an element of self-regulation, as their friends say, "I think you've had enough." If their friends do not say that, the publican often does. Pubs often suffer because of people who drink at home and arrive in the town centre drunk.

It should be a priority for a future Government to try to ensure that a bigger percentage of all the alcohol that is drunk is bought in pubs rather than supermarkets. If that happened, we would see the overall amount that we drink going down. When somebody goes into a supermarket and buys three three-litre bottles of very strong cider, there is no regulation of how much of that they will drink at what time—they simply go home and drink it.

Just a week and a half ago, I was with a publican in Chesterfield who was reflecting on exactly that fact. He said that there was someone who used to come into his pub regularly who he suddenly realised he had not seen for a couple of months. He saw him out on the street and said, "You've not been in the pub recently." The person said, "I can't afford it no more—I go across to Morrisons." He was going across to Morrisons and

buying his cheap cider. In three months he was dead, because suddenly the amount he was drinking went up and up, and no one was regulating that.

Kelvin Hopkins: My hon. Friend is absolutely right. A minimum price would have no effect on pubs, because pub prices would always be above the minimum price.

The Chair: Order. We are not discussing minimum prices; we are discussing whether we should have 12, 15 or 18 TENs. I am sure that the hon. Member for Chesterfield was about to advise the Committee whether he will press the amendment.

Toby Perkins: I was, precisely—it is very wise of you to notice, Mr Hood. The point made by my hon. Friend the Member for Luton North is valid but is for another day.

I was interested in what the Minister said. He appeared, frankly, to be balancing on the head of a pin somewhat in saying that the policy might be unpopular but at least those who disagree with it think that we should have done more. I thought a move to 18 might have been sensible. However, I recognise that there are impacts on communities and that there is a real need for balance, and on that basis I will be withdrawing the amendment.

Tom Brake: The hon. Gentleman is about to conclude without explaining why, given that the hon. Member for Kingston upon Hull North was critical of our plans to increase the number of TENs when they were first announced last summer, he is now proposing increasing it further to 18.

Toby Perkins: The right hon. Gentleman was in the Chamber a few days ago when a colleague of his argued strongly in favour of something that everyone was e-mailing me to support, yet that colleague of his ended up not voting for it. We have such discussions within parties. We tabled a probing amendment. We have probed the Minister on the topic, and have decided that we are willing to withdraw the amendment and leave it there. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 38 ordered to stand part of the Bill.

Clause 39

PERSONAL LICENCES: NO REQUIREMENT TO RENEW

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

3.30 pm

Tom Brake: Clause 39 and schedule 15, which makes consequential amendments, will remove the requirement for holders of personal alcohol licences to renew them every 10 years. The Government believe that that requirement is disproportionate and unnecessary. The clause is intended to remove a burden on businesses and people employed in the licensed trade. The cost of renewing a personal licence is estimated to be £75, including the licence fee and administrative costs, so the measure will be of great benefit to business.

The system of personal licences, which runs alongside premises licences, was introduced under the Licensing Act 2003. The then Government took the view that the sale and supply of alcohol, because of its impact on the wider community and on crime and antisocial behaviour, carried a greater responsibility than other licensable activities under the Act such as providing late-night refreshment and/or entertainments. That is why the Act requires that sales of alcohol may not be made under a premises licence unless a designated premises supervisor, who must hold a personal licence, is present. Additionally, every sale must be made or authorised by a personal licence holder. There is an exception only for community premises that have successfully applied to remove the designated premises supervisor requirement.

In practice, the personal licence holder is usually a bar, club or restaurant manager or a person who runs or owns a shop licensed to sell alcohol. To qualify for a personal licence, which is granted locally by a licensing authority, a person must have completed an accredited training course and undergone a criminal records check. A further criminal records check, but no further training, is also required when the licence is renewed at the 10-year point.

I assure the Committee that the key safeguards that the system was designed to introduce will remain. Crucially, the courts will retain powers to forfeit the licence of a personal licence holder if they are convicted of a relevant criminal offence. Any personal licence holder convicted of a relevant criminal offence is also required to tell the court that they are a personal licence holder and to inform the licensing authority of their conviction.

Although the clause effectively creates an open-ended licence, personal licence holders will still be required to report changes in their circumstances to the licensing authority. The simplification of the personal licences system is consistent with the Government's approach to safeguarding businesses while maintaining appropriate safeguards to prevent crime and disorder. I commend the clause to the Committee.

Toby Perkins: This is one of the clauses with genuine deregulatory credentials, although it is not without problems. On balance, it is probably a positive step, but it is important to recognise that there are potential downfalls. The question is whether the saving for businesses and local authorities, which we all know are under tremendous strain because of the size of the cuts imposed by the Government, is worth the potential costs.

All alcohol sales have to be authorised by a personal licence holder, which ensures that anyone running or managing a business that sells alcohol does so professionally. Personal licences may be denied to or forfeited from those with criminal convictions for certain offences, as set out in the 2003 Act.

As the Minister said, the purpose of the 10-year renewal was to ensure that there was a moment in time at which the local authority had a positive opportunity to see whether someone had a conviction that they had not declared, rather than relying on an obligation that that person may or may not have known about. The renewal was designed to catch people who might otherwise have carried on working in that environment without the local authority having an opportunity to consider their licence.

By the same token, the impact assessment estimates that the saving to licence holders will be between £30 million and £34.5 million, which is a significant saving. We

[Toby Perkins]

recognise that that will also have a big impact on local authorities, which will not have to process routine renewals—there will be more than 200,000 routine renewals in 2015—so there is a balance to be struck. There were not many objections in the consultation. We recognise that there will be cases in which people retain a licence when they should not, which might have been discovered without the change, but ultimately we have come to the view that the number of such cases compared with the cost saving makes it a valuable change.

It is only fair to say as well that, with the Government's continued failure to bring forward pub company regulations, as discussed in the January Opposition day debate, there is a huge amount of turnover in the industry. The number of people in the industry for more than 10 years is shrinking all the time. The huge number of people who go into it for a few months and then come out again is a significant problem. We need to do much more to change the longevity of and support for publicans from some of the pub companies, as would happen under the regulation that we propose. I understand that the Liberal Democrats, just two months after voting against that regulation, made it their policy at their spring conference this weekend. That shows that consistency is not the preserve of any party. The cost saving that will be incurred from the clause, however, is potentially worthwhile.

I want the Minister to take us through the consultation. On the safeguards that are in place, he said that the law would remain the same. People will still have an obligation to make the authorities aware of any convictions that they have, and the authority will have the right to hold a hearing if the licence holder has a conviction. In these times of straitened local authority budgets, with tremendous pressure on the police as well, what safeguards can the Minister offer us so that if the 10-year safety net is not there, something will be done to ensure that when there are causes for concern because of the conduct going on in a licensed premises or a change in personal circumstances, the authorities will be able to work together to ensure that people remain safe in the premises?

Tom Brake: I welcome the Opposition's support. In this case, they have put their support on record; it not simply that they have nothing to say about the measure, or that they will not table an amendment and do not want to express a view—they are supporting it. That is obviously a welcome acknowledgement that this is a deregulatory measure that will make a significant saving. I suspect that when we get on to the next clause, their view might be different about the impact and the savings that we can achieve, but at least on this clause we are in agreement.

The hon. Member for Chesterfield asked about the consultation that was carried out. We listened to evidence provided by partners last summer about whether to simplify or remove the requirement to renew personal licences. Some respondents were against removing the requirement, but a significant proportion believed that requiring personal licence holders to reapply automatically and undergo criminal records checks every 10 years was disproportionate. As the hon. Gentleman probably acknowledges, if someone were to commit an offence in their first year, for example, the criminal record check would take place nine years later. The requirement is disproportionate, and the Government believe that our reforms retain sufficient safeguards to justify removing the burden.

Checks will remain in place to ensure that someone who is not a suitable and appropriate person does not hold such a licence. The courts will still play a vital role in revoking a personal licence where a holder has been found to have committed a relevant offence, and the police may object to new applications. Under the current system, at the point of renewal, applicants have to declare any relevant convictions, if received during the lifetime of the licence. It will continue to be an offence not to declare a relevant conviction to a licensing authority to which a person has made an application for a personal licence. If a personal licence holder does not declare a personal licence to the court when they have been convicted of a relevant offence, they may be fined and the court is under a duty to notify the relevant licensing authority of the conviction.

The police can also seek a review of a premises licence at any stage after the appointment of the designated premises supervisor, who must be a personal licence holder, on grounds relating to the licensing objectives if problems arise relating to the performance of a DPS. They may seek to remove the named DPS from the premises licence if it appropriate to do so based on the licensing objectives. The Government have made it easier for the police to do that. I hope that with that clarification, principally about the powers that remain in place to ensure that people who sell alcohol are suitable to do so, I commend the clause to the Committee.

Question put and agreed to.

Clause 39 ordered to stand part of the Bill.

Schedule 15

AMENDMENTS CONSEQUENTIAL ON SECTION 39

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

Tom Brake: Schedule 15 makes amendments in consequence of clause 39, and I commend it to the Committee.

Question put and agreed to.

Schedule 15 accordingly agreed to.

Clause 40

SALE OF LIQUEUR CONFECTIONERY TO CHILDREN UNDER 16: ABOLITION OF OFFENCE

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

Tom Brake: I hope that this will not have a flavour of the knitting yarn clause to it. This is an important proposal in front of us. This clause abolishes the provision which makes it an offence to sell liqueur confectionery to a child aged under 16. That is an unnecessary burden on businesses and provides little if no protection to children. Of course, the sale of alcohol to under-age children is a serious offence that the Government are keen to crack down on. We have doubled the fine for persistently selling alcohol to children from £10,000 to £20,000. However, liqueur confectionery is not a risk to children and places undue burdens on businesses.

Gareth Johnson (Dartford) (Con): I support the clause, because in my experience retailers are unaware of the current provision, and, as the Minister said, it does not seem to offer much protection. Can he confirm that the sale of liqueur chocolates to children under the age of five will still be against the law?

Tom Brake: I will seek confirmation of that. My understanding is that the provision relates to those under the age of 16, which presumably would include children under the age of five. Hopefully I will get some clarification of that, although I imagine that the prospect of children under the age of five actually buying liqueur chocolates is quite remote. May I also say to the Committee that one of the earliest questions I asked about this clause was whether it was possible for a child under the age of 16 to get drunk on chocolate liqueurs. I was assured that the child would be sick long before they could get drunk, because they would have to consume so many.

Kelvin Hopkins: The only concern that I would have is if confectioners or purveyors of alcohol find devious ways of disguising alcohol for children in some kind of confectionery. It is a stupid argument, but perhaps an Easter egg full of alcohol might be considered confectionery when it is actually an alcoholic drink.

Tom Brake: I suspect that there are separate regulations that would ensure that a retailer could not disguise a Cadbury's egg or something that contains vodka. If that is not the case I will get back to the hon. Gentleman, but I am confident that the clause will not provide a loophole for manufacturers to produce something laced with alcohol disguised as an Easter egg or something similar.

Chi Onwurah: The Minister may rest assured that we consider this clause to be just as important as the clause on knitting yarn. I am interested in his assurance that children would be sick before they consume enough alcohol to become drunk. Have there been studies or tests that he can share with the Committee? I have seen small bottles of American bourbon in chocolate. I do not know whether we produce them in this country, but how would they be treated under the clause?

3.45 pm

Tom Brake: Again, I hope to get some clarification on that issue. I can confirm to the hon. Lady that although in the past some politicians thought it appropriate to use their own children as a means of assessing the impact of policies, I have not tested this policy with my children. However, other experiments may have been conducted.

I have some clarification on the issue of how much alcohol there is in chocolates. Liqueur confectionery does not fall within the definition of alcohol in section 191 of the Licensing Act 2003. It is defined as:

"confectionery which…contains alcohol in a proportion not greater than 0.2 litres of alcohol (of a strength not exceeding 57%) per kilogram of the confectionery, and…either consists of separate pieces weighing not more than 42g or is designed to be broken into such pieces for the purpose of consumption".

In other words, it does not contain much alcohol. I hope I have satisfied the hon. Lady's inquisitiveness.

Liqueur confectionary is not a risk to children, and we believe that the regulation places an undue burden on businesses, which do not know that there are rules that affect the sale of liqueur confectionery. It is not an illicit source of alcohol for children, but business must train their staff to comply with the current prohibition. The Government are committed to preventing the proliferation of unnecessary new criminal offences and taking unnecessary offences off the statute book. The clause will repeal the offence of selling liqueur confectionery to children under 16, thereby removing an unnecessary offence and simplifying the age-restricted sales law. Retailers and enforcers alike will be able to concentrate on compliance with the rules that we really need, such as the criminal offence of selling alcohol to children.

Anyone will be able to buy liqueur confectionery regardless of age. The Government are committed to reducing the burdens on businesses, and the repealing of the offence does that without undermining the important safeguards against alcohol-related crime. I commend the clause to the Committee.

Toby Perkins: On the subject of how much alcohol is in liqueur chocolates, I am told that a person would have to eat the equivalent of nine Mars bars of liqueur chocolates—450 grams—to consume the same quantity of alcohol as in a bottle of wine. To put that in context, if a person ate the equivalent of a Mars bar and a half, they would have consumed the equivalent of a glass of wine. Therefore, it is not an insignificant source of alcohol, but none the less it is not huge.

Chi Onwurah: Does my hon. Friend share my concern that that is not consistent with the Minister's conviction that a child would be sick before consuming enough alcohol to be drunk? I know many children who could eat one, two, three or four Mars bars without being sick.

Toby Perkins: That is true. One of the interesting things about the clause is that in my experience children are unlikely to like liqueur chocolates. It is almost like tabling a clause to allow them to have Werther's Originals. It seems unlikely that we are going to free up lots of children to start enjoying liqueur chocolates.

Caroline Nokes (Romsey and Southampton North) (Con) *rose—*

Toby Perkins: We might be about to hear from somebody who loved a good liqueur chocolate in her teens.

Caroline Nokes: I would like to reinforce the view that if there is one thing that will guarantee to make a child spit out a chocolate as quickly as possible, it is to make sure that it is a liqueur one.

Toby Perkins: Precisely. Something that is worth considering, when we get past Christmas, and we have those chocolates, and the kids are always raiding them, is to move the map and tell them that there are a couple of liqueur chocolates in there. That would probably keep them off all of them. So we are debating allowing people to do something they do not want to do in the first place and whether that should be allowed in the interests of deregulation.

[Toby Perkins]

Interestingly, the issue has been debated before. In 1961 it was actually a Conservative Government who first made it an offence to introduce liqueur chocolates. During the passage of the 2003 Act, the Conservative MP for North East Cambridgeshire at the time, Mr Malcolm Moss, tabled an amendment to increase the age at which a person was allowed to eat liqueur chocolates from 16 to 18. That was the view of the Conservatives at the time—not that we should free five-year-olds to be able to enjoy a nice whisky, but that we should stop 17-year-olds, who were allowed to join the Army or ride a moped, from being able to have a liqueur chocolate. The more things change, the more they stay the same, but that was where the Conservatives were at the time.

We think that the clause will have a tiny impact on business, and an even tinier impact on the number of liqueur chocolates eaten. None the less, it is not in our interests to stand in the way of the tiny number of children who wish to eat liqueur chocolates if they do. On that basis, we will support this minuscule clause.

Tom Brake: Let me respond to some of the points that have been raised. There is clearly a very low risk that children use liqueur confectionery as a source of alcohol, so the clause will not result in under-age alcohol misuse. The impact assessment did cover the issue of children being sick before getting drunk, apparently. I do not know how that was done, but that is the case.

The hon. Member for Luton North raised the interesting issue of lacing chocolate eggs with alcohol. For the purposes of today's debate, it is worth noting that alcohol in chocolate eggs is not considered to be liqueur confectionery, so that might have to be covered under separate legislation.

On the subject of under-fives, just to be clear, liqueur chocolates are not alcohol. The Children and Young Persons Act 1933 bans the giving or sale of alcohol to all children under the age of five, but under the Bill, under-fives, if they did go into a shop, would be able to buy liqueur chocolates.

Question put and agreed to.

Clause 40 accordingly ordered to stand part of the Bill.

Clause 41

Late night refreshment

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

Tom Brake: Currently, all providers of late night refreshment must have a licence. The clause will give new powers to licensing authorities to exempt certain activities from those requirements. The new powers are in line with the Government's aim to free up businesses from unnecessary costs and bureaucratic burdens. The clause will also give licensing authorities greater flexibility to target their resources and enforcement efforts.

Under the Licensing Act 2003, late night refreshment means the supply of hot food or hot drink to the public between 11 pm and 5 am. The provision of late night refreshment is regulated because it is often linked to alcohol-fuelled crime and disorder in the night-time economy—for example, fast-food shops where late night drinkers congregate.

The Government agree that, where there are risks of crime, disorder and public nuisance, it is quite right that we have the safeguards that licensing gives us. The police, the public and others should have a say on whether and how such late night refreshment businesses in their communities should operate and what conditions should be imposed on them. However, in some areas and for some types of late night refreshment businesses, there is no need for such safeguards.

Does a service station on a motorway or busy A road with no pubs or clubs near it, or an all-night café on an industrial estate, really need a late night refreshment licence? The Government believe that decisions to exempt such cases are best made with local knowledge. Therefore the clause gives licensing authorities powers to introduce three types of exemption from the regulation of the provision of late night refreshment in their areas: first by designating a particular area where there is no need for businesses to obtain a licence; and/or, secondly, choosing to exclude a particular type of business or premises, such as all-night bakeries; and/or, thirdly, changing the times when the regulation of the provision of late night refreshment applies in the licensing authority's area.

The package of local powers in the clause provides for greater local flexibility and potential savings for many late night refreshment businesses, which would otherwise have to pay application fees of £100 to £635 and annual renewal fees of between £70 and £350 a year, as well as administrative costs.

I commend the clause to the Committee.

Toby Perkins: I am reminded of a close friend of mine whose first sale, when working previously in advertising sales at a newspaper called the Sheffield *Star*, was to Fat Tom's Kebab Ambulance. I was thinking about late night refreshment and wondering whether Fat Tom's Kebab Ambulance would be covered by the clause. I consider that Fat Tom, or Tom, as I shall call him from now on, would probably not be covered, due to his mobility, given that the definition relates to premises being in a specific area. A kebab ambulance could be in various areas, so that would probably mean that it would not be covered. I should be interested to hear the Minister clarify that.

Chi Onwurah: Just for clarity, Fat Tom's Kebab Ambulance served kebabs; it did not save kebabs and heal them, and take them off to hospital somewhere.

Toby Perkins: No, my hon. Friend is right, although customers of Fat Tom's Kebab Ambulance believed that some of his wares were only a good vet away from being back on their feet. However, we will not dwell on that; we will move on.

This is a sensible new piece of deregulation. One reason why we support the clause is that it does not compel councils to use the power. Councils are able to choose to apply the power only to limited areas where they think it will work best.

We must recognise that late night refreshment sellers play an important part in the night-time economy, but there can be significant antisocial behaviour and disorder

in those places, such as can be seen in "Police, Camera, Action!"-type programmes, which seem to be on Pick TV at 11 pm every night. If people get home on a Monday night, for example, they can watch people fighting in the kebab shop. Such places can be a source of antisocial behaviour, so it is important that local authorities have that freedom. It fits in entirely with Labour's principle of devolving powers to local government and communities. Councils, which know their areas best, will be able to decide where the power will be useful, where it will be genuinely deregulatory and, indeed, where it will be problematic.

Late night refreshment has always been a licensable activity, because of its potential link with alcohol-related crime and disorder. Indeed, there is a responsibility on the providers of late night refreshment to do everything they can to protect their staff and make sure that theirs is a safe environment. Where there is a clear link with or a history of antisocial behaviour, there should still be licensing.

The definition of late night refreshment is fairly broad. It covers everything from a cup of tea in a garage to fast food late at night. We think that the clause strikes the right balance, and we look forward to hearing whether the Minister sees it as a first step or the full extent of deregulation. In that context, we offer our support.

4 pm

Tom Brake: I thank the hon. Gentleman for his support for the clause. When he referred to Fat Tom's Kebab Ambulance, I initially thought he was talking about an ambulance that took people to hospital after they had eaten one of Fat Tom's kebabs. I am glad that he confirmed that that was not the case, and I am sure that his experience of eating kebabs has always been positive and uplifting.

The hon. Gentleman asked for more details regarding Fat Tom's Kebab Ambulance. Although we already know quite a lot about the kebab ambulance, I would need to know a little more about the specifics before I could tell him whether it would be exempted. That is exactly the sort of issue that the Government will properly address in regulations. If he wants to send me more information about Fat Tom's Kebab Ambulance and how it operates, I will be happy to confirm the circumstances in which it would fall under the legislation.

Toby Perkins: There is a serious point here about the licensing of mobile refreshment vans, which may operate in different places. Would Tom need to have a licence depending on where he was going to drive the kebab ambulance, or would the very fact that it was mobile mean that it definitely needed a licence?

Tom Brake: As I said, I will clarify for the hon. Gentleman precisely whether the kebab ambulance would fall under the legislation, because he made a very valid point, albeit with an amusing little anecdote about Fat Tom's Kebab Ambulance. There are many such establishments; one might be on an industrial estate in the middle of nowhere while another might choose to locate itself in a town centre at 11 o'clock on a Friday night. We will need to provide the hon. Gentleman, and indeed the Committee, with some clarity about how the rules would apply in those circumstances. Subject to my ensuring that he receives that information fairly promptly, I commend the clause to the Committee and welcome his support.

Question put and agreed to.

Clause 41 accordingly ordered to stand part of the Bill.

Clause 42

REMOVAL OF REQUIREMENT TO REPORT LOSS OR THEFT OF LICENCE ETC TO POLICE

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

Tom Brake: You will be pleased to hear that we are getting close to the end, Mr Hood. The Licensing Act 2003 prescribes a system of authorisation for licensable activities, which include the sale by retail of alcohol, the supply of alcohol by a club, the provision of regulated entertainment and the provision of late night refreshment. It is a criminal offence to carry on or attempt to carry on a licensable activity on or from any premises without an appropriate authorisation under the 2003 Act, such as a premises licence, a club premises certificate or a temporary event notice.

The 2003 Act imposes a requirement on premises licence holders, club premises certificate holders, temporary event notice users and personal licence holders to report the loss or theft of their licence documents to the police as a precondition of obtaining a copy of the licence from their licensing authority. Clause 42 removes that requirement. Licence holders already have to report lost licences to licensing authorities, and there is no additional benefit to be had from reporting losses to the police as well. Removing that requirement will reduce unnecessary burdens on businesses and the police without removing any safeguards that protect the public or promote the licensing objectives.

Question put and agreed to.

Clause 42 accordingly ordered to stand part of the Bill.

Clause 43

EXHIBITION OF FILMS IN COMMUNITY PREMISES

Toby Perkins: I beg to move amendment 15, in clause 43, page 30, line 43, leave out '500 persons' and insert '250 persons for an indoor screening and 1,000 persons for an outdoor screening'.

The Chair: With this it will be convenient to discuss the following:

Amendment 14, in clause 43, page 31, line 27, at end insert—

'(7A) Prior to the enactment of the Act, the Government will provide a clear definition of what sites qualify as "community premises".'.

Clause stand part.

Toby Perkins: Amendment 15 is a probing amendment through which we seek to understand the reason for the 500-person limit on the number of people allowed to view a film in the absence of a licence. When we drafted the amendment, we considered that the danger of being in a dark indoor environment might be more significant than the danger of being in an outdoor, unrestricted environment. Perhaps a reduction in the number of people who may attend an indoor screening and an increase in the number who may attend an outdoor

[Toby Perkins]

screening would be a more sensible balance. The Minister may have given considerable thought to why 500 persons is the correct limit, but that is what our probing amendment seeks to draw from him.

Amendment 14 is an important amendment that asks the Government to clarify what exactly will be classified as a community premises. Will it include a pub or a house from which a business is run? The amendment gives the Minister an opportunity to expand on how the clause will operate.

The clause is well meaning, and we recognise what the Government are attempting to do, but both now and on Report we will seek to explore a number of questions on the possible implications. The Department for Culture, Media and Sport says that the licensing of film is "largely unnecessary and disproportionate," citing examples such as pre-school nurseries that require a licence to show children's DVDs or clubs that are unable to host tribute nights showing a recording of the 1966 World cup final because they do not have a licence. In those two examples, removing the regulatory burden of having to hold a licence is entirely sensible, but what will be the implication for copyright legislation?

I am sure the Government, like all Governments, would want all organisations to comply with copyright legislation. I imagine that the BBC owns the copyright of the 1966 World cup final, so a public showing of that final will presumably flout copyright legislation. The Minister seeks to remove the regulatory burden for something relatively small, but have the copyright implications been considered? If the Committee sends the message that people can show such films with impunity, will that lead to further breaches of copyright in the future because people think that they are free to do so?

We all recognise that breaches of copyright happen on occasion, and that there will be situations in which copyrights are flouted. We would not want the Government to send any sort of message that implied that they were looking to encourage that. I am therefore interested in the relationship between copyright restrictions and the current need to have a licence to put on that kind of show.

Upon consultation on the provisions in the clause, it was found that there was "near universal" recognition that children must still be protected from age-sensitive content and so the idea of blanket deregulation in this area was dropped. What studies has the Minister done on the age restriction aspect? If there is no need for a licence for a community group, where will the responsibility lie for maintaining such protection for children? The legislation is clear that a group cannot show a 15-certificate film to a 12-year-old just because it is exempted from having a licence for the show—nothing has changed in that regard. If there is no need for a licence, where does the burden of responsibility fall? What if someone was found to have flouted that by putting on a 15-certificate film at an event for their local scout group at which there were some people who were over 15 but some who were not? How will protection against that be maintained under the clause?

We recognise that the deregulation in the clause is not blanket but limited, and has the aim of benefiting film societies, film clubs and other local social groups. The clause states that different conditions should be considered. The first condition is that

"written consent for the entertainment to take place at the community premises has been obtained".

The clause goes on to specify that that must be obtained

"by or on behalf of a person concerned in the organisation or management of the entertainment…from the management committee of the community premises"—

that is pretty clear—

"or…where there is no management committee, from…a person who has control of the community premises (as occupier or otherwise) in connection with the carrying on by that person of a trade, business or other undertaking…or…where there is no such person, an owner of the community premises."

Let us think about what that actually means. Our amendment seeks clarification about what a community premises is. If it is a premises without a management committee—many we might consider would not have one—and is not a local authority premises, but instead has a single owner, what kind of premises can it be? We are seeking serious information from the Minister about what constitutes a community premises. Would something such as a public house or a community room above a post office be considered a community premises? How exactly are organisations supposed to know whether they are in a community premises, if the premises has a single owner rather than being run by a management group?

Some concerns have been raised about the possible admission of children to inappropriate films. We are satisfied that the Bill as drafted does not change the requirements in that regard in any way. However, people may well get the sense from this particular provision that the Bill has done that and that the expectations on them are now different. What steps will the Minister take to ensure that the meaning of the Bill as drafted is properly communicated to people, so that, having been told, "Great news—you can now show a film without a licence," they do not end up flouting other legislation because they might consider themselves to have been exempted from it, when in fact they have not? None of us wants the outcome of the legislation, which we understand is positive, to have the negative impact of reducing child protection and allowing children to view things that have not been classified for them.

4.15 pm

I am also interested to know whether the Minister can clarify the status of home movies in the law. For example, if I hired a community hall for a christening and I decided that I wanted to show my wedding video as part of the event, would I be allowed to do that? Proposed new paragraph 6A(6) of schedule 1 to the Licensing Act 2003 states:

"The fifth condition is that the film classification body or the relevant licensing authority has made a recommendation concerning the admission of children to an exhibition of the film".

That suggests to me that if the film has not been classified by a film classification body, it is not exempted from the rule, which would bring in home videos or anything that has not been classified, for whatever reason. Will the Minister clarify that the Bill means that if a film does not have an age-appropriate certificate, or has not been recommended and certified by the relevant licensing authority, it would not be exempted from the

legislation? Do people with a home video that they want to show therefore need a licence to do so? Has there been any change to the law? If so, did they need that licence previously?

We seek to promote independent movie-making and do not want to place unnecessary limitations on anyone who wants to show home videos to family and friends in whatever circumstances, but I am interested to know how that would work exactly. We assume that existing decency laws and those against the dissemination of pornography would ensure that people showing inappropriate, private movies to children would still be committing a criminal offence. In the context of the licensing, how does that operate from a child protection perspective?

Chi Onwurah: My hon. Friend is making a number of important points. I am sure that the Committee is aware of the competition "Film the House", which encourages constituents from throughout the country to make short films. MPs choose which ones win a prize. Would a constituent making such a film that was shown here be able to show it afterwards on community premises, as my hon. Friend outlined?

Toby Perkins: That is a good question. As I read the legislation, there would be no exemption to the licence, because one condition is that

"the film classification body or the relevant licensing authority has made a recommendation concerning…the film".

If the film has no such recommendation, I guess it would not be exempted.

We recognise the principles of the Bill and what the Minister is attempting to achieve, but I have another point to make to him. For example, a community trust might set up a cinema that to all intents and purposes, and to everyone else, looked like a cinema and was covered by all the cinema-relevant legislation. If, however, that community trust was non-profit making—that is one of the conditions of the legislation—would it in effect be able to exempt itself from the same expectations that apply to a Cineworld or any of those companies? Even though it might look much the same, would it be exempt because it was a non-profit-making body?

Has the Minister given any thought to the exemption of organisations whose main purpose is not to show films, such as the Women's Institute, or scouts or cubs groups, which exist for other purposes, but on occasions show films? It is perfectly sensible for them to be exempt, but did the Minister consider whether organisations whose main purpose is to show films should still be covered by the same legislation as other organisations that make profits and whose purpose would be to show films? We would be very grateful if the Minister could clarify those points, and we look forward to returning to them in more detail.

Finally, I am particularly keen for the Minister to explain how he came to an audience consisting of no more than 500 persons, because that is a pretty arbitrary level. Any statistical limit of that kind will be arbitrary; however, 500 people in a hall—which, by necessity, is likely to be dark because the lights are turned down for the film to be shown—is a fairly substantial number. Why did he choose that number and why did he decide that an outdoor performance—we are seeing more and more of that sort of thing as the costs get smaller—should not have a larger limit than an indoor performance?

Tom Brake: I hope to respond shortly to the various points that the hon. Gentleman has made, but just in case it is pertinent to my response, I was not sure whether he was proposing to charge people for seeing his wedding video. Was there going to be a charge for watching it, or is it gratis?

Toby Perkins: It certainly was not profit-making—I would be lucky if I got them in without charging—so probably not.

Tom Brake: I hope that intervention will make my response to that particular query easier.

The purpose of the clause is to remove the requirement for an authorisation under the Licensing Act 2003 for small-scale community film events. The hon. Gentleman's amendment 15 suggests that the third condition in the clause, which relates to audience size, is incorrectly set at no more than 500 persons. Under the 2003 Act, licensing authorities must carry out their functions with a view to promoting four statutory objectives: prevention of crime and disorder; public safety; prevention of public nuisance; and the protection of children from harm. The promotion of these four objectives is of paramount importance in considering the design of the clause. In particular, the audience is limited to 500 persons for public safety reasons.

The Government have consulted widely on the issue of risk in relation to all four of the licensing objectives. In 2011, a broad-ranging policy consultation sought views on a proposal to remove licensing requirements for entertainment activities, including exhibiting a film, for audiences of no more than 5,000 people. In responding to the consultation, local government, police and the emergency services generally felt that a limit of 5,000 people was not tenable as a means of promoting public safety and the prevention of public nuisance as licensing objectives. The Government listened and agreed with certain respondents that, especially on public safety grounds, an audience number of 500 was a more suitable general upper limit for deregulation of premises providing entertainment.

In July 2013, the Government launched a consultation on deregulatory changes to licensing for community film exhibition. In response to a question about eligible premises, some respondents suggested that 500 was too high a number, as it was not reflective of the capacity of most community premises. In response to views on audience size, the Government said in their consultation response that 500 struck the right balance. An exhibition of a film is a low-risk activity, and having an audience limit of 500 maximises the cultural benefit for community groups while ensuring that the number of people who attend does not—in the opinion of the Local Government Association and others—give rise to particular public safety concerns.

Setting the limit at 500 also meant there was a read-across to the 499 audience limit for an event authorised by a temporary event notice. The 499 limit is generally regarded by local authorities and the emergency services as an appropriate audience ceiling for the lighter-touch process of authorising temporary entertainments, such as a one-off film event. By deciding to set the audience number at 500, the Government were conscious that they could be removing one-off film events from the licensing regime and its associated fees. The Government

[Tom Brake]

accept that many community buildings do not have the capacity to host film events for anything close to 500 people. However, licensing is about audiences, not venue capacities.

The clause will not remove any necessary public protections in relation to closely seated audiences, because the owners of premises will remain responsible for fire safety under the Regulatory Reform (Fire Safety) Order 2005. The Government consider 500 to be generally the right number for a performance of a play, a performance of dance, a performance of live music, the playing of recorded music or the exhibition of a film within the terms of the clause.

It would be very odd indeed if a community premises could put on a pantomime for 500 people without the need for an authorisation, but the amendment would mean that it could show a film of that pantomime only to an audience of no more than 250 people.

Although an outdoor screening may be lower-risk in terms of public safety, setting the figure at 1,000 would not be lower-risk in terms of the prevention of public nuisance, which is another of the licensing objectives. An outdoor event on community premises for up to 1,000 people carries a significantly higher risk of noise nuisance to nearby residents than one of up to 500 people. There are also likely to be knock-on nuisance impacts from motorised or pedestrian traffic associated with an event of that size.

The Government consider that outdoor screenings to audiences of 500 should continue to require authorisation under the Licensing Act 2003, so that local residents and the police have an opportunity to make representations to the licensing authority with regard to the licensing objectives. This is a deliberately narrowly drawn licensing exemption, with an audience limit that ensures that public safety concerns are addressed. The provision will remove the licensing burden from film societies, film clubs and other local social groups that use community premises otherwise than for profit and are endeavouring to bring culture to rural communities, where there is often limited access to cinema.

Before I come to the definition of a community premises, let me respond to some of the other points. I should underline the point that this measure is about the deregulation of entertainment licensing. It is not about licensing to show copyrighted material: any film content that is screened must be appropriately licensed from the copyright holder. That does not change as a result of our proposals.

Andrew Bridgen (North West Leicestershire) (Con): Will my right hon. Friend provide the Committee with some clarification? On defining the audience limit of 500, obviously there could be other people present. There might be the people putting on the film, people in charge of safety, and people providing refreshments in addition to the 500 in the audience.

Tom Brake: I thank my hon. Friend for that intervention. Certainly that would be my understanding, but if I am wrong, I will ensure that he is made aware of that.

Various concerns were raised about other lawful duties that the organisers of such events might have. I can confirm that anyone involved in the organisational provision of entertainment activities must comply with their lawful duties under any other legislation. The hon. Member for Chesterfield quite rightly talked about the protection of children. A film is not eligible for the exemption unless the British Board of Film Classification or local licensing authority has issued a recommendation as to whether children may be admitted. Those responsible for the exhibition of a film on community premises must have in place operating arrangements that would ensure that the recommendation made for that film by the BBFC or local licensing authority was implemented where necessary by means of a suitable child admission policy.

Toby Perkins: Will the right hon. Gentleman give way?

Tom Brake: I was coming to the hon. Gentleman's wedding video—I do not know whether that was the point he wants to intervene on. Obviously we would all like to see it. I do not know whether he is proposing to organise a screening of his wedding video in the House. I think we would all like to attend, as long as there was not a fee that we had to pay to attend. A home video or a wedding is not classed as entertainment.

David Rutley (Macclesfield) (Con): Can the Minister clarify whether that is true on all occasions? By all accounts it was a cracking wedding, and it could have been great entertainment.

Tom Brake: I am afraid I do not know. We would have to organise a screening of said wedding to see the entertainment quality it presented. I am sorry that a wedding video, if shown privately without charge, is not deemed to be entertainment. If it is exhibited to a public audience in a community premises, the conditions and the exemptions would apply. If it was exhibited as entertainment, it would need an age classification to satisfy the exemption. I am sure the hon. Gentleman's wedding video would not need an age classification; I am sure it is all appropriate and in order.

Chi Onwurah: I suspect that a wedding video is not classified as entertainment because it is real life and a very special moment in someone's life. Could the Minister clarify the case for the "Film the House" videos and other films made by amateurs for their own creative purposes?

Tom Brake: I would assume that that was in the same category as the home video or the wedding, in that no charge was being made for it and the measure would therefore not be applicable, in the way that a wedding video would not be deemed to be entertainment.

4.30 pm

Toby Perkins: I am somewhat confused by that. Clearly, even though an amateur video has not been classified in the context put by my hon. Friend the Member for Newcastle upon Tyne Central, it is designed for entertainment and is a video, although it has no classification. It is an amateur film, but it is a piece of art. It is hard to understand why sub-paragraph (6) is written in this way if there would be no need to have a licence for something like that. Why is it written to suggest that the key thing a video must have is a film

classification or a licensing authority recommendation? If, in fact, anything is eligible, it is strange that the sub-paragraph was written in that way.

Tom Brake: It may be about the distinction between something that is shown privately and something that is shown in public at a community venue. I will respond to a couple of further points. On the criminal offence committed by exhibiting a film inappropriately, a film is not eligible, as we know, for the exemption unless the BBFC has issued a recommendation as to whether children may be admitted. It is a criminal offence to exhibit a film under the exemption unless it is in accordance with the recommendations made by the BBFC or the licensing authority.

There was a question about whether the limit of 500 included just the audience, or whether it included those present in a technical or organisational role. That limit does not include any person contributing in a technical or organisational way in substantial support of the film's exhibition. One assumes that volunteers there to show people in who then sit down to watch the film themselves would probably be included within the 500, but the projectionist and the people who perhaps took no part in watching the film would not need to be included within the 500.

There was a question on how the Government would ensure awareness of the change, and we will issue statutory guidance in due course. It will include clarification on copyright licensing and the need to maintain a child-appropriate admissions policy. There was a question about whether commercial operators or independent film producers will be at a disadvantage if they do not have a rating issued by the BBFC. Student films and films that are a work-in-progress currently need an age classification from the local licensing authority. The clause will not deregulate such film products, because of the licensing objective of protecting children from harm. Such producers of non-cinematic films will be no worse off than at present under the Licensing Act 2003.

Further clarification was sought on whether a wedding video is entertainment or a work of art. A regular video of a wedding is not entertainment that would be of interest to a wider public audience, so it is not a product that would be caught by the Bill. I am sorry if that disappoints the hon. Member for Chesterfield.

Toby Perkins: No, it does not at all. The point that my hon. Friend the Member for Newcastle upon Tyne Central was making was not about wedding videos, but amateur film made for entertainment.

Tom Brake: I think I would be right in saying that amateur film would be covered by the same measure. While "Film the House", which was mentioned by the hon. Lady, might be of interest to Members of this House and the House of Lords, I suspect that there would not be a much wider public audience for that particular production.

Amendment 14 suggests that enactment of clause 43, or perhaps the whole Bill, should require the Government to have provided a clear definition of what sites qualify as community premises. A definition of community premises exists in section 193 of the Licensing Act 2003. It states that

"'community premises' means premises that are or form part of—a church hall, chapel hall or other similar building, or a village hall, parish hall, community hall or other similar building".

That definition was introduced by the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009. The Government consider that definition to be sufficiently clear, but we are aware that some consultation respondents had concerns about the potential scope of the phrase "other similar building" in the definition. I will explain why the Government do not share those concerns.

The meaning of "other similar building" will be limited to the more specific categories of building that precede that general phrase in each limb of the definition. The word "community" conveys that premises must be made available for the use of people in the local community—most likely on a hire basis. While community premises will be generally available for the use of one or more communities, that does not mean that community premises must be available for their exclusive use. We expect that, in addition, such premises will be able to point to a history of community events, or be new premises built for community purposes.

The Government consider that the definition goes far enough in detailing the types of multi-functional premises that can be considered community premises without being too rigid. We do not believe, however, that the definition can be stretched ordinarily to include a public house, a bingo hall or other business premises or private property. As we said in the Government response to the consultation, where doubt remains on whether a particular venue qualifies as "other similar building", a person responsible for exhibiting a film, or operating a premises, can discuss that with their licensing authority.

Toby Perkins: Will the Minister return briefly to child protection? He made it clear that there is no exemption from the regulation and requirement that the people in charge may not allow children to watch age-inappropriate films. If a cinema was regularly letting 12-year-olds into an 18-rated film, it could lose its licence. If someone breaches this law—there is no licence now—what sanction is there? How is it likely to be applied to someone who flouts what is clearly the intention of the law?

Tom Brake: I thank the hon. Gentleman for that question, which is clearly important. I may need to respond to him in some detail. We want to ensure that appropriate action can be taken, and there may well be existing legislation under which such action can be taken. If, as he suggests, someone is exhibiting films in a community premises and is not enforcing the age classification, thereby allowing children to view inappropriate films, of course we would want action to be taken on that front. I will write to the hon. Gentleman to set out precisely what actions can be pursued if such an incident should occur. With that, I urge the Opposition to withdraw amendment 15.

Toby Perkins: It has been an interesting debate. On amendment 15, I hear what the Minister is saying and I think that the consistency of a limit of 500 persons across a broader series of different areas is an important issue. I maintain that the risks associated with having 499 people inside a building are greater than the risks of

[Toby Perkins]

having 501 outside. None the less, I am willing to give the Government the benefit of the doubt and withdraw amendment 15.

On amendment 14, I accept entirely what the Minister said about the definition being used, but I am slightly surprised that—this may be something to consider at a later stage of the Bill—when someone reads it there will be a definition of what a child is, what a film classification body is, and what an owner is, but there will not be a definition of what community premises are. The Minister is saying that it is there, but it is not in the Bill and that would have been helpful.

Tom Brake: It may be helpful if I put on the record again that community premises are defined in section 193 of the Licensing Act 2003. The definition is clearly set out there.

Toby Perkins: I understand that, but it is not in the Bill. Sub-paragraph (8) of the clause we are discussing defines children, film classification bodies and owners, but it does not define community premises. I recognise that it is in the background information, but it is not in the clause and it would be helpful if it was. None the less, the Government have provided a clear definition of what sites qualify, so I am happy not to press amendment 14.

On clause stand part, we have asked valid questions about child protection. The Minister is unable to respond to them at this stage, and the issue is important. We will not vote against the clause, but we will return to the matter at later stages of the Bill's passage, when we will seek further clarification to enable us to support what we consider to be a well-intentioned Bill. However, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 43 ordered to stand part of the Bill.

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

4.42 pm

Adjourned till Tuesday 18 March at five minutes to Nine o'clock.

Written evidence reported to the House

DB 11 National Housing Federation
DB 12 David Rice
DB 13 Local Government Association