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House of Lords

Wednesday, 23 June 2010.

3 pm

Prayers—read by the Lord Bishop of Liverpool.

Introduction: Lord Knight of Weymouth

3.08 pm

The right honourable James Philip Knight, having been created Baron Knight of Weymouth, of Weymouth in the County of Dorset, was introduced and made the solemn affirmation, supported by Lord Puttnam and Lord Adonis, and signed an undertaking to abide by the Code of Conduct.

Death of a Member: Lord Walker of Worcester

Announcement

3.12 pm

The Lord Speaker (Baroness Hayman): My Lords, I much regret that I have to inform the House of the death last night of the noble Lord, Lord Walker of Worcester. On behalf of the whole House, I extend our condolences to the noble Lord's family and friends.

UK: International Competitiveness

Question

3.13 pm

Asked By ***Baroness Valentine***

To ask Her Majesty's Government what steps they intend to take to protect and strengthen the United Kingdom's international competitiveness.

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): My Lords, we are committed to maintaining and improving our international competitiveness by restoring macroeconomic stability, helping provide infrastructure, science and research and better linking higher and further education into the economy. We will ensure that regulation is proportionate and will work towards having the most competitive corporate tax regime in the G20.

Baroness Valentine: I thank the Minister for her reply and welcome the Government's recognition that reducing the deficit depends fundamentally on continued economic growth. In yesterday's Budget, the independent Office for Budgetary Responsibility determined the revenue maximising rate for capital gains tax. Given that the top rate of income tax of 50 per cent is a deterrent to attracting talented individuals and investment to the UK, will the Minister support asking the OBR to investigate what top rate of income tax would maximise Exchequer returns?

Baroness Wilcox: The Office for Budgetary Responsibility was established to form independent judgments on the overall shape of government finances, not to provide policy advice on different taxes. Beyond a technocratic assessment of the methodology and central assumptions of measures, including tax, the OBR has no remit on tax policy.

Lord Howarth of Newport: Will the noble Baroness explain to the House how reducing capital allowances, imposing a levy on the banks, increasing VAT and shrinking domestic economic demand at a time when demand in some of our most important export areas—notably the eurozone—is contracting, will assist the international competitiveness of UK firms?

Baroness Wilcox: I am afraid that noble Lords have heard this answer before and will hear it again. We are where we are. Given the fiscal plans that this Government inherited, I am afraid that we would put the recovery at risk if we did it any other way. Threatening higher tax and interest rates would affect not just the Government but families and businesses. The noble Lord could have answered that question himself a few months ago.

Lord Hamilton of Epsom: Does my noble friend accept that one of the reasons why productivity has fallen in this country is the enormous amounts of taxpayers' money that have been thrown at public services which have not been reformed? Following the Budget, the opposite is now true. As funds for government departments fall, productivity will go up and may even match the rises in productivity in the private sector.

Baroness Wilcox: I thank my noble friend for that, and I can only agree with him.

The Lord Bishop of Hereford: My Lords, can the Minister give an assurance that the Government will do their utmost to provide high-speed broadband in rural areas in order not to blunt the competitiveness of key development and employment in that part of our nation?

Baroness Wilcox: Yes. Legislation for this is on the way. Noble Lords must already know that we are keen and concerned to ensure that the regions are kept as up to date as everywhere else. We do not want this to be London-centric or eastern-centric; we want to make absolutely sure that rural areas, such as where I live, have as soon as possible all the infrastructure that they need.

Lord Hunt of Kings Heath: My Lords, if we are to be internationally competitive, surely we should support industries such as the nuclear energy sector, which has great potential in the UK and for exports. Why on earth have the Government withdrawn the loan to Sheffield Forgemasters? That is a disastrous decision.

Baroness Wilcox: What we as a Government want to do is make the conditions right whereby all parts of industry can grow.

Lord Cotter: My Lords—

Lord Jones of Birmingham: My Lords—

Lord Strathclyde: My Lords, there is time for both noble Lords. Perhaps we should have the noble Lord, Lord Cotter, first, and then the noble Lord, Lord Jones.

Lord Cotter: My Lords, the Government are rightly committed to reducing bureaucracy to help competitiveness. Will the Minister look at the hurdles faced by small businesses when they try to borrow? They include new charges and fees along the line, audits, facility fees, reviews, management fees and so it goes on. These are clearly blocks in the way of the ability to borrow. Will the Minister also consider the high rate at which businesses frequently have to borrow through the banks?

Baroness Wilcox: The enterprise finance guarantee scheme has been extended and there will be a Green Paper soon in which we will be looking at all these issues.

Lord Jones of Birmingham: My Lords, our international competitiveness depends on producing a value-added, innovative economy. That calls for skilled people. Will the Minister explain how, after 11 years of full-time, compulsory and free education—which is something that 5 billion people on this planet do not have—half the young people who will take a GCSE this month will not get grade C or above in English and maths, and will therefore be unemployable?

Baroness Wilcox: The noble Lord will of course be delighted that we are bringing forward the Academies Bill and he will no doubt be supporting it. We want to ensure that British higher and further education are better linked into our economy. Our priorities include an increasing emphasis on adult education, stripping out some of the bureaucracy around further education, and putting an end to the outdated distinction between blue-collar apprenticeships and further education on the one hand and university education on the other. BIS has already redeployed £200 million from Train to Gain to fund 50,000 extra apprenticeships and an additional £50 million towards capital spending on colleges.

Lord Pearson of Rannoch: My Lords, does the noble Baroness recall the estimates made by the EU enterprise and industry commissioner, Mr Gunter Verheugen, that EU overregulation was costing us some 6.4 per cent of GDP per annum—around £84 billion today? Why do Her Majesty's Government insist on staying on the "Titanic" when the iceberg of international competition is staring us in the face?

Baroness Wilcox: The noble Lord will be very pleased to know that we have already said that we will look seriously at the gold plating that we have been doing to European Union regulations. I am sure that he will support us in that.

Railways: Crossrail

Question

3.21 pm

Asked By ***Lord Faulkner of Worcester***

To ask Her Majesty's Government what are their plans for the future of Crossrail.

Lord Faulkner of Worcester: My Lords, I beg leave to ask the Question standing in my name on the Order Paper, and declare an interest as a member of the First Great Western advisory board.

Earl Attlee: My Lords, as we made clear in the coalition agreement, the Government support Crossrail. The project will support and enable growth, now and in the future, in London and across the UK as a whole. However, we need to ensure that every pound invested in the project is well spent and that the project remains affordable. That is why Crossrail Ltd is focused on optimising value for money through effective management of risk and best-value engineering solutions.

Lord Faulkner of Worcester: My Lords, I thank the noble Earl for that Answer. I was about to congratulate him unequivocally on its content until the section that began with "but". Can he give an assurance that, in any review of Crossrail, there will be no question either of shortening the length of trains, which would lead to overcrowding almost from the day it opens, or cutting back the route from either Abbey Wood or Maidenhead?

Earl Attlee: My Lords, no decision has been made to reduce the scope of Crossrail. A key point of the Crossrail project is the length of the trains and of the platforms. To alter that would impact on the funding stream for the project.

Lord Bradshaw: I wonder whether the Minister will reflect a little more on the scope for reducing costs. We very much support the central area of Crossrail—and of Thameslink, which I used to call Thameslink 2000 and which the party opposite did very little to advance when they were in government. Will the Minister look very closely at the western extension to Crossrail? It does not provide an express service from Heathrow to the City, it does not do anything to ease overcrowding at Euston and it does not provide a satisfactory service to places such as Maidenhead, Reading and Oxford.

Earl Attlee: My Lords, the noble Lord has great experience in these matters and I will draw his comments to the attention of my ministerial colleagues.

Lord Davies of Oldham: My Lords, will the noble Lord forgive me if I look upon the word "scope" as a somewhat weasel word in this context? If he is interpreting the position as one in which the length of trains and the length of stations are not to be changed, and the range of Crossrail—the areas which it will serve—is not to be changed, where on earth are the economies to come from?

Earl Attlee: My Lords, the economies will come from best-value engineering solutions. For instance, the noble Lord will be aware that innovative engineering solutions were used for the station box at Canary Wharf station. That is a good example of where economies can be made. In 1997, Crossrail was but a faint blip on my radar. I pay tribute to noble Lords opposite for their work on Crossrail, particularly brokering the funding package and obtaining parliamentary approval for the Crossrail Act 2008. We support the project and will run with it.

Baroness Valentine: Does the Minister therefore accept that all parties have done a very good job in supporting Crossrail thus far?

Earl Attlee: My Lords, I entirely agree with the noble Baroness. I thought that she would come in with a slightly different question which I would latch on to, but her support is much appreciated.

Lord Broers: Can the Minister predict whether British engineering companies will be building much of Crossrail?

Earl Attlee: My Lords, the answer is here somewhere in my brief. I assure the noble Lord that British industry is heavily involved in the Crossrail project. Some firms are based outside the UK but the roles are based inside the UK.

Lord Teverson: My Lords, can the Minister assure us that long-distance train services from south Wales and the south-west of England will not be disrupted during the construction of the Crossrail project?

Earl Attlee: My Lords, it will be clear that there must be some impact—I cannot say that there will be none—but the work will be carefully managed to minimise the impact on the travelling public.

Lord Haskel: The Minister spoke about cutting costs. How will he ensure that it is not a matter of cutting corners?

Earl Attlee: My Lords, it is clear that we will not cut corners. It is about finding good solutions to deliver the project to time.

NHS: Budget

Question

3.26 pm

Asked By ***Lord Campbell-Savours***

To ask Her Majesty's Government what assessment they have made of economies available within the National Health Service's budget.

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My Lords, the Government have guaranteed that health spending will increase in real terms in each year of the Parliament. However, it is clear that funding growth will be constrained and, in order to meet rapidly rising demands and to realise our ambitions for improved health outcomes, substantial improvements in economy and efficiency will be required across all areas of health spending. Full plans for delivering these improvements will be developed during the spending review.

Lord Campbell-Savours: My Lords, recognising the relationship between transparency and the economic use of resources, will the Government consider amending the National Health Service pharmaceutical regulations to require manufacturers of prescribed products and appliances to indicate on the label of the packaging the tariff price of a generic product or the manufacturer's list price of a branded product? Can he refer this whole matter to the transparency unit that his Government have set up?

Earl Howe: My Lords, on an instinctive level, I completely understand the noble Lord's concerns and I can tell him that the department has looked very carefully at this whole issue. The worry, based on research, is that labelling medicines with prices has a much more complex impact on patients' attitudes towards their medicines than one might expect. A high or a low price on a medicine could lead to a patient doing the opposite of what one wants in terms of taking medication appropriately. Therefore, I am afraid that we have reached the conclusion that this is not something that should be pursued at the moment.

Lord Walton of Detchant: Does the Minister accept that for some years the National Health Service has been beset by the activities of an intolerable quangocracy? In fact, no fewer than 50 organisations have the right to inspect and assess the performance of health service bodies. In their proposed bonfire of the quangos, will the Government look first at whether it is necessary to continue with the mechanism of looking over the activities of the individual regulatory authorities? Is it necessary to continue with that supervisory body or with, for example, the National Clinical Assessment Authority? Have not these two bodies probably outlived their usefulness?

Earl Howe: My Lords, I am very much in tune with the noble Lord's general theme. As I said in the House last week, it has to make sense for us to look at each and every arm's-length body. We need to consider what it does and what it was designed to do, decide how critical those functions are and how well they are fulfilled and then decide whether we can achieve better value for money by doing things differently. I do not want to promise the noble Lord a bonfire, as I have not yet taken any decisions, but I assure him that I will be rigorous in my approach to this whole exercise.

Baroness Gardner of Parkes: My Lords, as a former chairman of a hospital trust, I know that when staff are consulted about the way in which savings can be made they come up with very constructive ideas. Could not the cumulative effect of many hospitals seeking the comments and advice of their staff lead to considerable savings and improved efficiency in running the hospitals?

Earl Howe: My noble friend makes an extremely good point. Much of the thrust of what we are trying to do is to achieve much greater local ownership by clinicians, staff and managers of the problems that we can all identify. The ideas that my noble friend has put forward already operate in many trusts, but they should be imposed more widely.

Lord Warner: My Lords, in his review will the Minister encourage his ministerial colleagues to enhance the coalition Government's reputation for taking tough decisions by looking seriously at the number of acute hospitals that are failing financially and are unsustainable, especially in London? Is he willing to market-test the provider side of PCTs, which the Department of Health has identified as inefficient?

Earl Howe: My Lords, the noble Lord, with his knowledge of London, speaks with great authority and he will know that reconfiguration is high on the agenda in London. Efficiencies can be created, but we

[Earl Howe]
want to see local buy-in to those changes rather than any top-down prescription. On his second point, we are keen on the split between the commissioning and the provision of community services, so that we can get greater plurality of provision in community services.

Baroness Barker: My Lords, have the Government yet managed to conduct an assessment of the NHS IT budget? If so, what conclusions have they reached?

Earl Howe: My Lords, that work is ongoing and we have not yet reached any definitive conclusions.

The Lord Bishop of Liverpool: My Lords, I declare an interest in that the Church of England is a provider of sessional chaplains in the National Health Service. Given the importance of chaplains to the well-being and recovery of patients and given the value of their work with staff, especially those under stress, will the Minister encourage NHS trust hospitals to resist reducing those services?

Earl Howe: My Lords, as I hope was apparent from our debate in the House the other day, the Government attach great importance to chaplaincy in the NHS. The kind of encouragement that the right reverend Prelate speaks of is something that I will consider. I need to be sure in my mind of how best to do that, but his point is well made and I will take it back to the department to see what we can do.

Baroness Wall of New Barnet: My Lords, will the noble Earl assure the House that in looking for economies in the health service—I am sure that there are opportunities to do that—he will safeguard the vanguard policy of the last Government, which is fortunately retained by this Government, to ensure that patients' experience comes first and foremost? Would he also perhaps take an idea from me to look at how we deal with patients who do not attend—DNAs, as we call them—despite having had prior notice? Failure to attend is costly and inefficient for the health service.

Earl Howe: The noble Baroness is quite right that patients who do not attend their appointments cost the NHS a great deal. How do we deal with the issue—I am sure that the previous Government wrestled with it, too—if we are to avoid charging patients for failing to turn up? I would resist the idea of charging because I do not think that it is a road down which we should be going in secondary or primary care. However, the ways in which we can encourage patients to turn up on time should attract greater focus in our efforts towards achieving efficiency.

Baroness Masham of Ilton: My Lords, will the Minister assure us that trained nurses, physiotherapists and occupational therapists will not be replaced by cheaper care assistants?

Earl Howe: My Lords, to ensure that the quality of NHS services continues to improve in a climate of constrained growth, we must achieve greater productivity, but that means designing services for better quality and value for money. It does not mean downgrading the quality of the services. It is for local NHS bodies to decide how services can best be delivered most efficiently. I would be very surprised if that kind of dilution of expertise formed a part of any such plans.

Lord Campbell-Savours: Would it not be quite wrong for the Department of Health to prejudge what the transparency unit might say on the price labelling of prescribed products?

Earl Howe: My Lords, I do not think that we have prejudged it because extensive work has already been done in the department. It found that if, for example, a medicine has a high price attached to it, people might be deterred from taking it because of their fear of being a burden on the NHS. Equally, if a medicine has a low price put on it, someone might wrongly perceive that the lower price was linked to lower quality. That is based on research. It is not simply civil servants reacting to an idea; there is a lot of work behind it.

NHS: Patient Targets

Question

3.37 pm

Asked By ***Baroness Thornton***

To ask Her Majesty's Government how they will ensure that patients will be seen in reasonable time by doctors and other primary care professionals following the publication of the revised NHS operating framework which removes NHS patient targets.

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): My Lords, the revised NHS operating framework stops central performance management of process targets that have limited justification. The NHS must be free to manage services at a local level, and will be accountable to the patients and the public it serves. To ensure this, we shall continue to collect data measuring access. Incentives for timely access such as through the quality outcomes framework, the NHS constitution and the contractual regime remain in place.

Baroness Thornton: I thank the noble Earl for that Answer. He will recall that in 1992 his Government launched their *Patient's Charter*, in which the pledges for patients included:

"to be guaranteed admission for treatment by a specific date, no later than two years from the day when the consultant places the patient on a waiting list".

I might add that his Government did not achieve that. I take it that the coalition Government's objective is not that, but the House might like to know what they think is a reasonable waiting time. We got it down to 18 weeks. What does the noble Earl think it should be?

Earl Howe: My Lords, it is right for me to make clear that the previous Government achieved a great deal in bringing down waiting times—there is no doubt that that was a major worry for patients—and they are to be commended for that. The noble Baroness is concerned that we do not let the situation slip, and I fully share that concern. As I have indicated in brief terms, two main issues will prevent it happening. The first is that the legal duty on commissioners to commission services that comply with operational standards around

the 18-week referral time still applies. The second is the NHS constitution, which contains the right to access services within minimum waiting times, as she knows. Those patient rights within the constitution have not been diluted.

Baroness Pitkeathley: My Lords, the noble Earl emphasises localism in the NHS, and that is very welcome, but is he aware that patients and their organisations have expressed great anxiety about not having enough people and structures to check how their local services are doing, especially—as patients and their organisations know very well—because there are some conditions for which early diagnosis is essential if cure is to be achieved?

Earl Howe: My Lords, the noble Baroness is quite right. For example, on the waiting time targets for cancer referrals, we have made no changes because there is a clinical underpinning to those targets. She is also right to say that there is often insufficient information for patients on which to base decisions. We are very keen to build and develop information channels so that patients can be better informed and are able to make better choices about their care.

Lord Alderdice: My Lords, is my noble friend aware that one of the difficulties with targets for waiting times was that clinicians were forced to ensure that all patients fitted into the waiting times, when they were aware that some were a great deal more urgent and some not so urgent at all? Can he reassure me that in devolving more power back to clinicians and more opportunities back to local people—patients and carers—those differences between people's requirements will be taken full account of rather than simply some artificial and arbitrary time limit?

Earl Howe: My noble friend is right because, when all is said and done, many of the centrally imposed targets were quite arbitrary. For example, why 18 weeks, not 17 or 19? It is worth saying that the targets that clinicians and managers set themselves are often a great deal more stringent than the ones that politicians are likely to set.

Lord Crisp: My Lords, as the chief executive of the NHS in England from 2000 to 2006, I think that I had better declare an interest on this matter. Although what the Government announced recently were some minor and probably quite sensible changes to targets, they also sent a big message. The message is about localness, which is very welcome, but there is also a very risky message, which is that waiting no longer matters. I know that the noble Earl understands very well that the NHS listens to what Ministers say. How will he ensure that people in the NHS understand that waiting is still a very important issue?

Earl Howe: My Lords, the noble Lord is absolutely right. I believe that the message that he wants sent has been sent by the NHS chief executive in his letter to NHS bodies. It is certainly a message that the Government want to send. Timeliness is important. A great deal has been achieved. We do not want to squander that, but we think that clinicians should now be given the responsibility to prioritise patients and treatments for themselves, not have central performance management dictated from above.

Baroness Wall of New Barnet: Does the noble Earl agree that it would be appropriate for hospitals such as Barnet and Chase Farm to carry on with our internal stretch targets, which we do not declare anywhere, but which ensure that our patients are aware that it is a good hospital to go to? They are not arbitrary—trust me, they are not; they are real—and they make a big difference.

Earl Howe: I have always drawn—and I think that my ministerial colleagues do as well—the distinction between targets that are useful for internal management purposes and for patient decision-making and targets that are micromanaged from Whitehall. There is a distinct utility in the kind of targets that the noble Baroness is talking about because, as she knows, they are often very good proxies for outcomes.

Hereditary Peers By-Elections

Announcement

3.45 pm

The Clerk of the Parliaments announced the result of the by-election to elect a Conservative hereditary Peer in accordance with Standing Order 10.

Forty-five Lords completed valid ballot papers. A paper setting out the complete results is being made available in the Printed Paper Office and the Library. That paper gives the number of votes cast for each candidate. The successful candidate was Viscount Younger of Leckie.

The Clerk of the Parliaments announced the result of the by-election to elect a Cross-Bench hereditary Peer in accordance with Standing Order 10.

Twenty-six Lords completed valid ballot papers. A paper setting out the complete results is being made available in the Printed Paper Office and the Library. That paper gives the number of votes cast for each candidate. The successful candidate was the Earl of Clancarty.

Consolidation etc. Bills

Human Rights

Statutory Instruments

Membership Motions

3.46 pm

Moved By ***The Chairman of Committees***

Consolidation etc. Bills

In accordance with Standing Order 51, that, as proposed by the Committee of Selection, the following Lords be appointed to join with a Committee of the Commons as the Joint Committee on Consolidation etc. Bills:

L Acton, L Campbell of Alloway, L Carswell, L Christopher, E Dundee, L Eames, L Janner of Braunstone, B Mallalieu, L Methuen, L Razzall, L Swinfen, L Tombs.

That the Committee have power to send for persons, papers and records.

Human Rights

That a Select Committee of six members be appointed to join with a Committee appointed by the Commons as the Joint Committee on Human Rights:

To consider:

(a) matters relating to human rights in the United Kingdom (but excluding consideration of individual cases);

(b) proposals for remedial orders, draft remedial orders and remedial orders made under section 10 of and laid under Schedule 2 to the Human Rights Act 1998; and

(c) in respect of draft remedial orders and remedial orders, whether the special attention of the House should be drawn to them on any of the grounds specified in Standing Order 73 (*Joint Committee on Statutory Instruments*);

To report to the House:

(a) in relation to any document containing proposals laid before the House under paragraph 3 of the said Schedule 2, its recommendation whether a draft order in the same terms as the proposals should be laid before the House; or

(b) in relation to any draft order laid under paragraph 2 of the said Schedule 2, its recommendation whether the draft Order should be approved;

and to have power to report to the House on any matter arising from its consideration of the said proposals or draft orders; and

To report to the House in respect of any original order laid under paragraph 4 of the said Schedule 2, its recommendation whether:

(a) the order should be approved in the form in which it was originally laid before Parliament; or

(b) the order should be replaced by a new order modifying the provisions of the original order; or

(c) the order should not be approved;

and to have power to report to the House on any matter arising from its consideration of the said order or any replacement order;

That the following members be appointed to the Committee:

L Bowness, B Campbell of Surbiton, L Dubs, L Lester of Herne Hill, B Morris of Bolton, L Morris of Handsworth.

That the Committee have power to agree with the Committee appointed by the Commons in the appointment of a Chairman;

That the quorum of the Committee shall be two;

That the Committee have power to send for persons, papers and records;

That the Committee have power to appoint specialist advisers;

That the Committee have power to adjourn from place to place;

That the Committee have leave to report from time to time;

That the Reports of the Committee shall be printed, regardless of any adjournment of the House;

That the evidence taken by the Committee in the last session of Parliament be referred to the Committee;

That the evidence taken by the Committee shall, if the Committee so wishes, be published.

Statutory Instruments

In accordance with Standing Order 73 and the resolution of the House of 16 December 1997, that, as proposed by the Committee of Selection, the following members be appointed to join with a Committee of the Commons as the Joint Committee on Statutory Instruments:

L Campbell of Alloway, L Clinton-Davis, B Eccles of Moulton, E Mar and Kellie, L Rees-Mogg, B Stern.

That the Committee have power to send for persons, papers and records.

Motions agreed, and a message was sent to the Commons.

Academies Bill [HL]

Committee (2nd Day)

3.47 pm

Clause 1 : Academy arrangements

Amendment 6A

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

6A: Clause 1, page 1, line 6, leave out from "agreement" to end of line 7

Lord Hunt of Kings Heath: I shall speak also to Amendments 14, 74, 79, 96, 124 and 125. I start by offering my congratulations to the noble Lord, Lord Hill, on his ministerial appointment. This is my first opportunity to be able to do so from the Dispatch Box. I have greatly appreciated his approach and his evident willingness to listen to the points put to him and respond in a most helpful way. I hope that the noble Lord will accept that our amendments are in the same spirit. They are designed to be constructive and to probe some of the detailed provisions in the Bill before us.

I am sure we all share the same aim of wanting to enhance and improve state education and to do so in a way that fosters collaboration between schools and has a positive impact on the state education system as a whole within each local authority area. The way schools become academies is an important element of that and is covered by Amendment 6A. The Bill sets out two academy arrangements. They are an academy agreement and academy financial assistance. This probing amendment seeks to remove the latter approach in Clause 1(2)(b).

The reason for an academy agreement is clear: there has to be an agreement and payments under it have to continue for a minimum period of seven years or indefinitely with seven years' notice. There is also the financial assistance route. In discussions on the first day in Committee, the Minister said:

"The point of having two ways of establishing an academy is that in addition to the current funding agreement route, it was thought to be sensible also to have a flexible way of approaching the subject, particularly in so far as the new free schools might be concerned".—[*Official Report*, 21/6/2010; col. 1221.]

The Minister was subsequently asked by the noble Lord, Lord Greaves, whether it is the Government's intention to use the legalisation before us rather than the 2002 Act for free schools. The Minister promised to clarify that, and my amendment allows him an opportunity to do so. Interestingly, in the Minister's statement on free schools policy, in answer to a question from the noble Baroness, Lady Walmsley, he said that in regard to the financial assistance funding arrangements in Clause 1(2)(b), which can apply to all academies, not just free schools:

"The point of having a grant rather than a seven-year funding arrangement is that, particularly with a free school, which is a new and untried school, the Secretary of State might not want to be bound into an agreement for seven years and might prefer something that gives him greater flexibility".—[*Official Report*, 21/6/10; col. 1192.]

The Minister wrote to us on Friday that academies funded through grant funding would have the conditions of their grant outlined in a grant letter, and that it is for the Secretary of State to decide the terms of conditions. I understand the point about flexibility. Indeed, how I would have wished for that type of flexibility in the 20 or so Bills that I have taken through your Lordships' House. Understandably, however, your Lordships have been reluctant to give so much authority to Ministers without effective parliamentary oversight, and I remind the Minister that the theme of yesterday's Budget was the need for rigorous control of cost in the public sector. I would have thought that that would have involved a rigorous process when deciding the merits or otherwise of a free-school application. I question why the Government lack so much faith in the process that they are establishing that they need a get-out clause on funding in case their judgment is wrong, and I suggest to Minister that one way in which to ensure more rigour in the application process is to have proper consultation and a significant role for local authorities.

Both the Bill and the Explanatory Memorandum are remarkably lacking in detail on the financial assistance funding mechanism in Clause 1(2)(b). That is unacceptable, which brings me to my Amendment 14, which seeks to deal with this by proposing that any such financial assistance that is to be given under Section 14 of the Education Act 2002 should be set out in regulations and subject to the affirmative procedure. Noble Lords around the House have consistently called for greater parliamentary scrutiny of the Executive, which, in the case of free schools and the scanty provisions in this Bill, is certainly justified.

My Amendment 79 is in a similar vein. It would provide for the Secretary of State to make regulations on academy arrangements, and would give some measure of parliamentary scrutiny.

My Amendments 124 and 125 continue this theme. The Bill at Clause 4(6) removes the sensible requirement for the Secretary of State to exercise his powers to make academy orders by statutory instrument. Amendment 124 would delete subsection (6), thereby reinstating that requirement. Of course, if the Bill is passed and thousands of independent state schools are created, there will be the practical issue of processing those orders through Parliament, so we have come up with one option to deal with this; Amendment 125 would require the first two orders in each local authority area to be subject to the affirmative procedure. That would not be unreasonable. It would allow each local authority area to be examined, and the impact of academies and free schools on the school system as a whole to be assessed by Parliament.

There may be other approaches, but the substantive point is that the appropriate parliamentary scrutiny must be established, and I hope that the Minister will be able to be positive about this. I should say to him that I find it richly ironic that the coalition agreement promises a radical devolution of power to local government. The reality is somewhat different, as this Bill shows. In essence, Ministers are aggrandising huge powers to themselves and, in the case of free schools, on the basis of rather ambiguous evidence provided today by the Institute of Education. We therefore believe that it is vital that Parliament must be able to scrutinise properly the process of approving the academies and free schools.

Amendment 74 is another probing amendment. Adequate insurance cover will of course be important. I am sure that this point is covered in legislation, but it would be good to have confirmation from the Minister.

On Amendment 96, I declare an interest in that my wife is an assistant principal at Joseph Chamberlain Sixth Form College, Birmingham. Our amendment would place a duty on the Young People's Learning Agency to ensure fair funding between schools at sixth-form level. Colleges educate and train more than 700,000 young people aged 16 to 18 compared with about 487,000 in schools' sixth forms. They provide high-quality opportunities for 16 year-olds from all backgrounds to stay in learning. Their contribution will be critical at the current time. Fair public investment in all young people will further enable colleges to carry out their role effectively.

The previous Government took action to reduce the funding gap from 13 per cent between schools and colleges to 9 per cent. It is also worth bearing in mind that colleges face additional costs related to VAT and capital projects, for which schools receive 100 per cent state funding. The additional funding for schools is given despite evidence that colleges are more successful in helping students to achieve and that they recruit a more disadvantaged cohort of students. Colleges have a more rigorous system of outcome measurements because retention rates are also taken into account.

Of those young people who receive the education maintenance allowance 69 per cent are in college, while official data show that 7.4 per cent of school sixth-form pupils were on free school meals at the age of 15 compared with 10.1 per cent in sixth-form colleges and 15.9 per cent in FE colleges.

[LORD HUNT OF KINGS HEATH]

In debates on the Apprenticeships, Skills, Children and Learning Bill in the previous Parliament, the then Minister, my noble friend Lord Young, said that the YPLA will set out progress in reducing the funding gap in its annual report. Further research would be carried out and a report placed in the House Library once the year 2011-12 has been completed. The coalition agreement states that public funding for colleges should be fair and follow the choices of students. I would welcome confirmation that the Government would still expect the YPLA to report on the funding gap in its annual report. That being so, I hope that the Government could state what action they might consider taking to ensure that all 16 to 18 year-olds are funded fairly. I beg to move.

The Lord Speaker (Baroness Hayman): I have to inform the Committee that if Amendment 6A is agreed, I cannot call Amendments 7 or 8 by reason of pre-emption.

Baroness Garden of Frognal: My Lords, I shall speak to Amendments 7, 11, 15, 16 and 80 in this group. While not agreeing with everything that the noble Lord, Lord Hunt, has said, we share his admiration for the work that is done by further education colleges. Amendments 7 and 11 innocently seek to change "or" to "and" and "and" to "or", but they in fact raise one of central issues in the Bill; that is, the difference between an academy agreement and academy financial assistance. At present the only route to becoming an academy is by negotiating a detailed funding agreement which sets out the terms and conditions under which the academy is to operate. This Bill introduces a new route; namely, academy financial assistance granted under Section 14 of the Education Act 2002, which I think is the one that the noble Lord seeks to delete.

In the guidance issued by the Department for Education to schools thinking about applying for academy status in response to the Secretary of State's recent letter, it is clear that there are two distinct stages in the application. The first stage is submitting an application for approval to convert to an academy, having it checked over by the department and, if approved, receiving an academy order. Only after receiving an academy order can the school begin detailed negotiation over the funding agreement which becomes the academy agreement. This includes such things as negotiating the TUPE arrangements with the unions and leasing land transfer agreements with the LEA. There will be annexes dealing with such things as admissions, exclusions and SEN.

Although the Minister has made it clear in the discussions we have already had that there is now a standard form of the funding agreement on which most funding agreements would be based, it is and will be an individually negotiated contract between the Secretary of State and the academy trust. In his letter of 18 June, the Minister made it clear that academies funded by the financial assistance route would not have a contract as such but would receive their funding through a grant letter from the Secretary of State. The provisions of that letter would be in line with those in the funding agreement, including commitments on admissions et cetera.

There are however a number of questions still unanswered on which I would like to probe the Minister further. First, how far are the two routes exclusive? Is the second route under subsection (2)(b) essentially that by which the new free schools will be set up, whereas subsection (2)(a) is the route for the conversion of existing schools? Alternatively, is it envisaged that the new fast-track procedures for outstanding schools should use the financial assistance route because the flexibility this gives the Secretary of State means that negotiations can be concluded more quickly?

Secondly, I turn to the issue addressed in Amendment 11. Might a school be partially funded by one method and topped up by another? The use of the word "and" in subsection (3)(a) is ambiguous and could imply that funding will be both by agreement and by grant, or does this deal exclusively with academy agreements? Where is the accountability in the financial assistance route when funding is given under Section 14 of the Education Act 2002? Does that not give the Secretary of State remarkably wide powers. A letter dated last Friday, 18 June to the *Times* from Peter Newsam, for example, suggested that whereas the academy agreements give schools the security of a seven-year agreement against arbitrary changes, Sections 14 and 16 of the 2002 Act give the Secretary of State almost unlimited powers to vary the terms of payment. What recourse, if any, would a school have against such arbitrary actions?

4 pm

I turn now to Amendments 15 and 16, the first of which is a probing amendment. The Government have committed themselves to ensuring that schools that become academies will get roughly the same level of funding as they would have got had they remained with their local authority, and in addition, because they are taking on additional levels of responsibility, they will receive their share of the money no longer required by local authorities to fulfil those responsibilities —but how much more, and is the additional amount of money reasonable and commensurate with the additional level of responsibility?

When the grant-maintained schools were set up, little was known about school funding nationally; there was no experience of local management of schools to assess the amount of funding that grant-maintained schools should reasonably have. The then Department of Education veered on the side of generosity to grant-maintained schools which later, when more was known about the local managements of schools, seemed unreasonably generous. In addition, there are fears that when "outstanding" schools convert to academies, local authority moneys, a good part of which goes to fund SEN obligations, will be divided up on a per pupil basis. Because many of these schools have a relatively low proportion of SEN pupils, such an allocation would give them a disproportionate share of that money and leave a lesser amount in the local authority kitty to fund SEN needs.

As the noble Lord said, we all share the Government's wish that schools will not be excessively advantaged or disadvantaged if they choose the academy option. And in a time of limited resources, an advantage for academies will be a disadvantage for maintained schools,

and vice versa. Requiring the Secretary of State through legislation to ensure equality of funding between maintained schools and academies is difficult.

The purpose of these amendments, particularly through Amendment 15, is to make sure that the Secretary of State is advised publicly by a trusted independent body—the National Audit Office—on what is a reasonable level of funding for academies, taking account of what they do in comparison with local authority maintained schools. Amendment 16 requires that the NAO in turn consults the local schools forum, which is the mechanism by which currently such moneys are allocated. The Secretary of State is not handcuffed to follow NAO advice, nor is the NAO obliged to take the advice of the schools forum. Almost like an educational equivalent of the Office for Budget Responsibility, there will be advice from a respected body on what is a reasonable level of funding in comparison with other schools and that advice will take account of local circumstances.

I turn finally to Amendment 80, which states:

"The Secretary of State shall by order specify the mandatory contents of an Academy arrangement".

This is a probing amendment aimed at clarifying those areas of academy arrangements that are mandatory rather than discretionary. Since the main aim of granting academy status is to give schools greater flexibility and therefore discretion over decisions which affect them, it is important to know where the red lines are drawn. Many of the other amendments in this group are seeking to limit that flexibility and ensure that academies fulfil their obligations in relation, for example, to SEN or on admissions. The purpose of this amendment is to ensure that, at the end of the day, the general public know precisely where an academy's obligations begin and end.

Lord Phillips of Sudbury: I rise to speak to three amendments tabled in my name: Amendments 10, 95 and 120A. I am hopeful that the first two at least may improve the drafting of the Bill, though it could be that the Minister will in response say that what I think is set out in the Bill is not as I think it is.

A grouping of this size, which deals with many different, technical and difficult points, is not a way to legislate. I do not know how Members of the Committee can possibly follow a grouping of this scope and technicality. I hope that in future stages of the Bill the groupings will enable Peers who are not experts in education law—and even those who are—to follow more reasonably.

Amendment 10 seeks to insert in Clause 1(3) the phrase,

"(as may from time to time be amended by them)".

This is an attempt to make clear that the academy agreement between the Secretary of State and the other party should be defined not only as the initial agreement but as an agreement which may be amended by them consensually from time to time. I hope that that is helpful, because without those words we might run into trouble.

Amendment 95 seeks to amend Clause 2(4), which entitles the Secretary of State to indemnify those running an academy if the agreement is terminated. The amendment simply adds the word "reasonable" before "expenditure" so that the indemnity would be in respect of reasonable expenditure. Paragraphs (a) and (b) then refer to what the indemnity may relate to. It is a prudent provision because without it lavish and unnecessary expenditure would be indemnified, and that cannot be right.

Amendment 120A seeks to amend Clause 4, which deals with academy orders. I have tabled the amendment for clarification because I do not understand what the words at the end of subsection (3)—

"or a school that replaces it"—

mean, or are intended mean. Are they intended to cover new free schools? I do not think they are because the whole of Clause 4 is confined to existing secondary schools converting into academies.

Lord Lucas: I shall speak to my Amendments 31 and 34 in this very diverse group. Amendment 31 proposes that,

"substantial freedom is given to the school to innovate".

When I am going round schools I notice how hidebound they are by the restrictions that are placed on them in trying new things. Although the previous Government introduced an ability to innovate, it was subject to applications in triplicate to the Secretary of State and an extraordinarily cumbersome procedure. I hope we will now see a pronouncement in favour of innovation. I suggest that where a school does innovate it is merely necessary to inform the Secretary of State that this has happened—this becomes a risk factor for Ofsted in its decision on when and where to inspect—and that there is a requirement on the school to keep proper records so that the benefits or otherwise of the innovation can be judged in subsequent years. The whole tenor should be in favour of innovation. There are many good and experienced teachers out there who are capable of doing a great deal of good for the system if we let them have a go.

On Amendment 34, one of the good things to come out of the past 13 years of government was an increasing interest in schools co-operating with each other. Neighbouring schools will always be a little at loggerheads, but there are good examples—both those induced by the Government and those that have occurred privately—of schools forming networks to share problems and good practice and generally to get together and get beyond the confines of what is possible within a school, particularly a primary school. I am thinking particularly of the transition from primary to secondary and how schools can work together. There have been some excellent examples of that and I would not like the process of becoming an academy to be seen as an excuse to be isolated and a star on your own. It ought to be a process of becoming more co-operative and more linked into schools generally.

Baroness Williams of Crosby: My Lords, I shall speak to the amendments tabled by my noble friends Lady Garden and Lord Phillips of Sudbury and explain what is troubling me about academy orders.

Section 14 of the Education Act 2002 is incorporated into Clause 1(4), therefore enabling academies to be dealt with by what might be called the fast-track process of essentially calling into aid the powers given

[Baroness Williams of Crosby]
to the Secretary of State in that Act. The difference is that only very specific use was made of the power in Section 14; I do not think that it was intended to embrace a whole category of school in the way that will be possible under the Bill. My straightforward concern is that, where we are looking at the possibility of removing many statutory forms of consultation, virtually no restraint will be placed on the Secretary of State, as the noble Lord, Lord Hunt of Kings Heath, said, and that he will be accountable to no one but himself. The combination of Section 14—the powers of the Secretary of State—being incorporated into the Bill with the fast-tracking of the academy orders means that an academy could be approved, or for that matter rejected, with the involvement of virtually no one but the Secretary of State. Within a democratic structure, that is not an acceptable way to go.

We must therefore look very closely at the amendments that have been tabled. They would bring academies back into the structure of the academy agreement—my noble friend Lady Garden referred to this—which would enable us to set conditions and requirements for the schools that have to be met under the academy agreement but that do not have to be met in the same way under an academy order.

I, too, would be very grateful for greater enlightenment from the Minister on what accountability there is in mind. For example, it might be possible to look at the report from the education department on the experience of academies, their standards, their meeting of the admissions orders and other requirements under the academy agreements. That would enable Parliament to debate how far those requirements and conditions had been met and to distinguish between the effects of academy orders and academy agreements.

Perhaps even more significant than the proposals that my noble friends and the noble Lord, Lord Hunt of Kings Heath, have put forward is the need for this Committee to look closely at the level of accountability for academies and at academy orders under the Bill.

The Earl of Listowel: I rise to support Amendment 96 and Amendment 31, which is in the name of the noble Lord, Lord Lucas. I support the former because, as the noble Lord, Lord Hunt of Kings Heath, rightly said, further education colleges can be particularly beneficial to disadvantaged cohorts of pupil. Children in public care may find themselves in a further education college earlier than their peers, meaning that they can carry on with an education that they might otherwise have been denied. The noble Baroness, Lady Sharp of Guildford, has been a strong advocate of equal treatment. I am very pleased to hear that there will be no threat to progress in that area.

The noble Lord, Lord Lucas, asks in Amendment 31 that substantial freedom be given to schools to innovate. He reminds me of the eminent American philosopher and educationalist, John Dewey, who died in the middle of the last century and was very much admired by Bertrand Russell. He moved our thinking on with regard to the gaining of knowledge. He said that we were not simply spectators: we learnt because we had a reason to learn and because there was some impulse to our learning. That is particularly relevant to children who are disillusioned with the mainstream system. Schools need to innovate and find ways of working that engage such children. For example, Lent Rise Combined School in Slough, which has a large Traveller population, works each year to enable young people to work with local businesses to design products and then attempt to sell them at an open day. Those sorts of innovative approaches where Traveller people can see the application of their learning are very helpful. That may be some of what was meant by the noble Lord, Lord Lucas. I look forward to the Minister's reply.

4.15 pm

Lord Adonis: My Lords, I have two points about the funding of academies. I will speak particularly to Amendments 15 and 16, which were tabled by the noble Baroness, Lady Garden.

Reflecting on the experience of grant-maintained schools, the Minister will accept that the perception of unfair funding, as much as the debated reality of the funding position, did a huge amount to undermine the reputation of those schools in the wider education system. To be fair, they did a large amount to discredit the reform. If the extension of academy status more widely, which I support, is to carry public confidence and confidence in the education world, it is vital not only that the funding arrangements for schools transferring to academy status are fair but that they are seen to be fair. The only way they are likely to be seen to be fair is if there is an independent validation process of the overall financial scheme by which the academies are to be funded.

The amendments in the name of the noble Baroness, Lady Garden, are very interesting in that respect, in that she seeks to inject the National Audit Office into the validation of the arrangements for the funding of academies. I have considered very carefully her amendments. To require the National Audit Office to advise on each individual academy, given that we will be talking about a very large number, would be an extremely bureaucratic process that is not conducive to the public interest. However, it would be worth the Committee reflecting on—and the Minister giving us an initial reaction to considering further—whether the National Audit Office might play a role in validating the overall academy scheme in respect of funding. It could concern the principles of action by which the Government are allocating funds to academies, particularly when it comes to a number of the areas that the noble Baroness mentioned in respect of special educational needs funding, which, to be frank, will be contested by local authorities.

That view is given added force by the letter of 15 June 2010 which the noble Lord, Lord Hill, sent to Members of the Committee. He sets out in the annexe the arrangements for the allocation to academies of funding that otherwise, in respect of other schools, goes to local authorities for children with special educational needs. He states:

"Academies do receive a share of funding which is for: funding retained from the Schools Budget for centrally provided SEN support services; behaviour support services; licences and subscriptions …; therapies and other health related services; and education and welfare services".

However, they currently,

"do not receive a share of local authorities funding in the following"—

very important—

"areas: educational psychology services; SEN administration, assessment and co-ordination; parent partnership services …; monitoring SEN provision; SEN transport"—

SEN transport is an extremely expensive item in local authority funding—

"support for inclusion between mainstream and special school; and pupil referral units, education out of schools and excluded pupils".

Those also are very significant items of local authority spending, which have a huge impact on the budgets of individual schools.

It is not clear to me from the noble Lord's letter what course the Government propose to take in respect of those important items of spending. Clearly, they will need to be considered case by case in some detail before a proper funding scheme can be put together in relation to the expanded number of academies that we are considering in this Bill.

The conclusion of that annexe has a wonderful sentence of the kind which I fear to say I signed off on so many times when I was a Minister, but to which the House should pay very great attention. It says:

"We want to work with local authorities on what these changes will mean for local authorities, and the important … role they have to play".

Let us be clear—that means that we do not have the foggiest idea at the moment what the actual arrangements are that we are proposing, and a great deal of work will be needed before we will be in a position to give any detailed guidance on what that will mean. That further strengthens the case for having some independent process of assessment and reporting on the overall scheme for funding academies. Having the National Audit Office or some other independent body—although the National Audit Office is clearly eminently equipped for the work—giving independent validation to the overall scheme being used for academies, and advising Parliament that the scheme meets the commitments that the Government have given, that academies will be fairly funded in relation to other maintained schools, could be a very important element in ensuring that these arrangements command public confidence.

Baroness Perry of Southwark: My Lords, it is apparent that academies will have more money in their fist, so to speak, than community schools. As the noble Lord, Lord Adonis, has just made clear, an enormous amount of money can be withheld by the local authority, which will now come into the academies' own purview for them to spend. The difficulty with having an outside agency to lay down frameworks or even to observe the frameworks is that there is enormous variety from one local authority to another in the amount that they hold back and the amount of these services—the noble Lord read them out—that they provide. Authorities such as the London Borough of Wandsworth, where I live, withhold less than 5 per cent from school budgets for their central services, whereas others withhold well over 20 per cent to provide centralised services. The inequality will be very apparent. I share the wish expressed by the noble Baroness, Lady Garden, and the noble Lord, Lord Adonis, to have some way in which to demonstrate that fairness is being exercised and is being seen to be exercised, but it would be difficult to do that, given the huge disparity at present. Of course, it will be possible for schools, once they become academies, as they do now, to contract back with the local authority for some of these services, which will return that money to the local authority. However, in many cases—it is the case in Hackney, for example—very few of the academies do that.

Lord Desai: My Lords, I rise to support my noble friend Lord Hunt. I apologise to the Committee that I did not speak at Second Reading, so I shall keep my intervention short. There is a great desire on the part of the new coalition Government and the Secretary of State to free lots of schools, but there is a paradox in that that requires his dictatorial powers to free everybody—he will lay down what freedom means to everybody. Our task is to ensure that the Secretary of State makes it clear to us in the legislation in what sense he is not taking away powers from your Lordships and another place. We need to scrutinise that, because there are a lot of anxieties about the scale and ambition of this project and the haste with which it is being implemented. There is also a worry that there might be some unintended unfairness to schools left outside the academies field or to local authorities. It would be good if the Minister could make it clear that considerations of fairness and equity and not taking powers away from the legislature arbitrarily will be adhered to.

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): My Lords, I am grateful for the contributions—

Lord Phillips of Sudbury: My Lords, would it help the Minister and the Committee if I were to say that the score is England 1, Slovenia 0?

The Earl of Listowel: I apologise if this has already been covered but the noble Baroness, Lady Perry of Southwark, pointed out that the academy schools will have considerable additional funds. I am sure that we will have discussed this; it is something that I should have given more attention to sooner. Could the Minister, in replying or in correspondence, give as much detail as possible on exactly how much academies can expect to be given? That would be helpful. I thank the Minister.

Lord Hill of Oareford: My Lords, I should probably speak now while England is ahead in the football; on past form that may not persist. I thank the noble Lord, Lord Adonis, for his insight into ministerial life. I know that many will recognise what he says, as I have discovered over the last three days. I also thank the noble Lord, Lord Hunt, for his kind welcome. I am sorry that the noble Baroness, Lady Morgan, is not here, but I am grateful for the noble Lord's words.

Some interesting and important points have been made about transparency. It is important not just that everything should be fair. It is absolutely clear that our intention is that our approaches to funding should be fair. However, I take the point that they also need to be seen to be fair. Funding is a fiendishly complicated area, as I am discovering as I try to get my head around it. I recognise the need for greater clarity. I say

[LORD HILL OF OAREFORD]
at the beginning that I undertake to reflect on whether there are ways in which we can better demonstrate that, without going down some of the routes that have been suggested in a range of amendments, which, for various reasons, may be slightly overcomplicated and bureaucratic.

I start by summarising some of the main points that have been made and by responding to the opening points raised by the noble Lord, Lord Hunt. The Bill, as he said, would allow the Secretary of State to fund academies either by contractual agreement—as now—or, for the first time, through grants. The purpose of that is to give the Secretary of State greater flexibility. To respond to the point made by my noble friend Lady Garden, it is not intended to be a bit of both; it is a case of either/or. There would be no top-up from one to the other. As the noble Lord, Lord Hunt, set out, it is our view that the vast majority of academies will continue to be funded by the route with which we are familiar—the contractual funding agreement, which runs for seven years. The proposal for the grant, as the noble Lord summarised, is to give a greater degree of flexibility, probably in a small number of cases where having that—particularly in the case of a new school being set up under the academy model—might make more sense. The requirements on academies relating to admissions, exclusions and special educational needs will be the same, whether they are funded through a grant or a funding agreement. I hope that that provides some reassurance to the noble Lord, Lord Hunt of Kings Heath.

On Amendment 79, the Government have made it clear that they will apply a rigorous "fit and proper person" test in approving any sponsors of an academy or promoter of a free school. The Secretary of State will publish on the department's website the criteria for deciding applications from schools that are not outstanding. In some ways I recognise the point that there is a need for greater clarity on these issues. Part of the answer to the points that have been raised on both sides of the Committee is that, if we publish more information to make clear what the criteria are, we may be able to reduce some of the uncertainty.

We are keen that there should be flexibility in the criteria that the Secretary of State can use, so that he makes the best decision in each case. The Secretary of State expects to approve all applications from outstanding schools other than those where there are exceptional circumstances—for instance, if a school has a significant financial deficit. As the programme develops, it may be necessary to adjust those processes in the light of experience, particularly with regard to free schools. We are keen to ensure that we have the flexibility to do so.

Amendments 14, 79 and 80 all require that the conditions of academy arrangements should be set out as statutory instruments. The noble Lord made that point. Again, we are keen to try to maintain as much flexibility as possible. We will publish a revised model funding agreement, some elements of which I have circulated, although not as early as I would have liked. They are now in the Library. That will make clear the standard terms and conditions under which an academy will be funded.

An academy agreement is a contract between the Secretary of State and an academy trust under which the academy trust agrees to establish and run an academy and in return the Secretary of State agrees to provide funding for the academy trust. Amendment 11 would mean that an academy agreement could put in place only one half of these arrangements, so the contract would not be properly made. Clause 1(3) has been drafted to ensure that future academy agreements will, as now, need to contain both those elements. Amendment 10 would allow the Secretary of State or the academy trust to amend the terms of the funding agreement at any time. That is already the case: the funding agreement can be amended by mutual consent of both parties, via a deed of variation.

Amendments 124 and 125 would require that academy orders be made by statutory instrument—in the case of Amendment 125, subject to the affirmative resolution procedure. The making of an academy order is an administrative process on the way to becoming an academy. While it is important for the school in question, there is not necessarily a wider public interest in an individual decision by an individual school that would make it necessary or appropriate to bring each and every one of these before Parliament.

4.30 pm

Baroness Williams of Crosby: The Minister has eloquently defended flexibility in relation to Amendments 124 and 125. As regards accountability, those amendments would create a statutory structure that could be questioned in Parliament. Will he say a little more about accountability, which for many of us is absolutely cardinal?

Lord Hill of Oareford: I was about to make a point that relates to the issue that the noble Baroness has raised. The Delegated Powers and Regulatory Reform Committee of this House, which has reported on the Bill, has made it clear that it does not consider it necessary or appropriate for these orders to be made by way of statutory instrument. It made that clear in its first report of this Session, published on 17 June.

Lord Hunt of Kings Heath: My Lords, I am sure that many Ministers have read out the advice of the Delegated Powers and Regulatory Reform Committee when it suits the Government's case. However, you cannot look at the orders or the suggested regulations in isolation from the whole process, which takes local authorities and formal consultation out of the procedure. Essentially, the Secretary of State is taking to himself considerable powers. That is why there is considerable support round the Committee for ensuring that there is parliamentary scrutiny. I am happy to concede that the amendments before us may not fit the bill, but there is a principle here in relation to the Secretary of State taking to himself certain powers that are held by local authorities. A formal consultation process will not be allowed; it is certainly not in the legislation. Therefore, there has to be some form of additional scrutiny. As that scrutiny will no longer take place at local level, it can take place only in Parliament.

Lord Hill of Oareford: I am grateful to the noble Lord for making the point that these ways of dealing with the issue may not be the right ways forward. I

also take the point on the core question of consultation, which we have debated already in Committee, and the question on accountability, which my noble friend Lady Williams raises. We recognised at an earlier stage in Committee that there is a tension when one is seeking to give greater responsibility at a very local level—to teachers or parents, which is a more local level than the local authority level. I recognise the tension between the very local level and what goes on in the centre and the force of the points made by the noble Lord and others. I will reflect and see whether there is any sensible way in which to take those points on board. I have, in passing, touched on the point that an academy would not need to receive funding through both routes.

Amendment 66 would remove exceptions to the prohibition on academies to charge for education provision. Academies would not be able to charge for and, in many cases, run after-school education such as extra-curricular music or drama lessons. I want to reassure the Committee that academies will not be permitted to charge for education provided during the usual timetabled school hours. In respect of charging for education, academies will have to do exactly what any maintained school would be expected to do.

In resisting Amendment 74, I do not mean to imply that insurance is unimportant for academies. Of course it is important and, under existing arrangements, academies are required to have insurance relevant to their responsibilities. However, that kind of matter does not need to be in the Bill. The same applies to Amendment 95, which would ensure that the Secretary of State's indemnity covered only reasonable expenditure. The Secretary of State is bound by a duty to act reasonably in all matters. He would therefore offer indemnities only in respect of expenditure that was reasonably incurred.

At the beginning of my remarks, I touched on the need for funding arrangements to be fair and to be seen to be fair. That issue was raised by my noble friend in talking about Amendments 15 and 16, on the National Audit Office. Our view, which the noble Lord, Lord Adonis, would share, is that the NAO would not necessarily be the right body. However, as I have said, I will certainly reflect on the underlying principle of making sure that there is transparency and trust in these arrangements.

On Amendment 96, we are not suggesting that the YPLA should be able to spend disproportionately on sixth-form provision in academies. However, there is no need for this vague duty to be in the Bill. Under the national commissioning framework, local authorities are responsible for commissioning sixth-form places in maintained schools. In addition, there is a consultation process in which academies should take part. Ideally, their sixth-form provision will be agreed with the authority. It may be that in some cases such an agreement is not reached. In that case, the YPLA will step in to make a decision. Its regional structure will enable it to reach these decisions on an informed basis. We are not convinced of the need for a general requirement.

Amendment 31, tabled by my noble friend Lord Lucas, would put in the Bill academies' freedom to innovate. I am sympathetic to his broad case on innovation, but it would seem slightly odd to specify one particular freedom—the freedom to innovate—when the whole purpose of the academy programme is to deliver freedom more generally. We believe that those freedoms are best delivered by an absence of regulation wherever possible. I know that my noble friend agrees that head teachers and staff know best how to run schools. We think that the Bill gives them those freedoms. The academies that I have seen are already full of innovation and they have done that without the specific legislative freedom to innovate.

Amendment 34 would make it an absolute requirement on all academies to work in partnership with other schools. I very much agree with my noble friend Lord Lucas about the excellent examples of partnership that we have already seen in academies. The Government have the strongest possible expectation that that should continue and that every outstanding school that acquires academy freedoms should partner with at least one weaker school. We hope that this will raise performance and support across the system, to mutual benefit. I agree that outstanding schools are in a strong position to do this. We are asking all prospective academies to provide details of their plans to support another school as part of their application process.

My noble friend's amendment concerns a core theme to which we keep returning: to what extent do you get the best out of people by trusting them and setting high expectations, or should you instead impose an absolute obligation on them? My instinct has been, and remains, that often one gets further by going down the route of trusting people. We believe that there is a potential problem of the unwilling conscript. One can see that there could be perfectly good reasons why in certain circumstances—perhaps for reasons of geography in a remote rural area—an absolute requirement would not be practical. This might also be the case with schools converting that are not outstanding. The case for a requirement for those schools would be even less convincing than the case for a requirement for outstanding schools. Schools that are currently good or satisfactory and that want to become academies may not be in the best place to form a partnership with a failing school.

Amendment 120A would make it impossible for an academy conversion to be taken forward in circumstances where, for example, it was intended that a single academy should replace more than one maintained school as part of sensible local reorganisation proposals. As noble Lords will appreciate, we want the conversion process to be sufficiently flexible to take account of, and allow for, such reorganisation.

I hope that I have picked up on the main points raised and provided some reassurance. I undertake to reflect further on one of the core themes of this set of amendments and urge noble Lords not to press them.

Lord Hunt of Kings Heath: My Lords, I thank the noble Lord for that response. Of course I will be happy to withdraw the amendment. Perhaps I may just say that the noble Lord has offered to reflect on the issue of parliamentary accountability relating to decisions made by the Secretary of State and I am very grateful to him for doing so.

Amendment 6A withdrawn.

Amendments 7 to 11 not moved.

Amendment 11A

Moved by ***Baroness Royall of Blaisdon***

11A: Clause 1, page 1, line 12, at end insert ", provided that the other party shall not be in financial deficit nor hold an excessive financial surplus"

Baroness Royall of Blaisdon: My Lords, I will speak to the other amendments in this group as well as to this one, which was tabled by my noble friend Lady Morgan of Drefelin.

We discussed earlier our concerns about the impact of the Bill on local communities, and in particular on the local communities of schools. These concerns are particularly acute when it comes to finance. My noble friend Lord Adonis said in a previous debate that funding arrangements must be fair and be seen to be fair, and this was reiterated by the Minister. They are absolutely right. Unamended, the Bill runs the risk of causing great difficulties with the finances of schools in the area of an academy, to the detriment of the education of children in the maintained schools and to the detriment of the cohesion of the local community. Our amendments in this group seek to require academies to make good any financial deficits in existence at the time of conversion and prevent consequential financial loss to the other schools.

4.45 pm

The amendments also propose two alternative approaches to dealing with any surpluses held by a school converting to academy status. Under the first, schools would not be permitted to transfer balances when converting to academy status; under the second, schools would be prevented from retaining excessive balances which are in breach of government guidelines and which would otherwise be subject to reclamation by the local authority.

Clause 6(5) already provides that regulations made under subsection (4) should deal with provisions requiring the repayment of sums by proprietors. Amendment 159 would insert a new clause to make provision for statutory payments to include the making good of deficits that have previously required financial support from the local authority. Where a school is in deficit, it receives financial assistance from its local authority to support that deficit, using funding which would otherwise be available to the authority to support schools generally. The local authority and school governing body are required to agree a financial recovery plan for returning the school to a balanced budget and repaying any financial assistance received. It would be inappropriate and unfair for a school to be able to avoid its obligations under such a recovery plan by conversion to academy status. If it did so, other local schools would lose access to that funding. The effect of this amendment would be to maintain the legal obligation to make good that deficit.

In recent years, there has been consistent concern over schools holding excessive balances which are not retained for any planned or specific purpose but which should be used for the intended purpose of supporting young people's educational achievement. The most recent government data for 2008-09 showed that schools held a total of £1.92 billion in surplus balances, of which £495 million were classed as excessive balances. Local authorities are required to take action to prevent the retention of balances for which schools have no planned use.

These amendments are intended to stimulate a debate and to encourage the Government to explain how they propose to deal with the problem of surpluses. The amendments offer different approaches to the transfer of balances to academies. First, Amendments 158, 152 and 153, like Amendment 151 in the name of my noble friend Lord Whitty, seek to ensure that all surplus balances are retained by the local authority. It might be argued that this measure is a little too harsh, as from time to time some financial flexibility is necessary within any organisation. However, the amendments would have the merit of ensuring that any academy started life with a clean financial sheet—as it were, financial independence. The Government surely cannot complain about that, as independence for academies is one of the key stated objectives. Alternatively, Amendment 157 seeks to ensure that only excessive surpluses are transferred, and it sets out a formula to govern that.

It is a laudable aim to ensure that money allocated for children's education is used for that purpose, and it would run completely counter to that aim if schools were allowed to retain excessive balances and avoid action to reclaim them simply by taking on academy status. This approach would provide for the transfer of only those balances that fall outside the category of excessive. The definition of what would constitute "excessive" appears in current government guidelines to local authorities. This approach would ensure that academies were treated consistently with local authority maintained schools with regard to balances, as they are with regard to other aspects of funding. Like local authority maintained schools, they would be permitted to retain balances set aside for identified purposes and non-excessive balances. Amendment 142, tabled by my noble friend Lord Whitty, would ensure that a surplus held by a local authority could be transferred to an academy on conversion only with the permission of the local authority concerned. We support that amendment.

Baroness Garden of Frognal: My Lords, in this group I shall speak to Amendments 154, 155 and 156, which would alter the subsection that provides for a review by the Secretary of State of a school's surpluses. Of course, we would also seek clarification on any school deficits that might be involved. These amendments provide for review by the Secretary of State. He or she may be predisposed to the establishment of an academy, and this would give the academy proprietor leave to appeal to a local commissioner or local government ombudsman—again getting a third party who might bring more transparency to the discussion. It would secure a degree of independence in the determination of the surplus to be made available to the academy, and would avoid any suggestion of political interference and bias with that determination. The amendment would give equal status in the appeal to both the academy proprietor and the local authority. Replacing "review" with "appeal" would follow on from those changes.

Baroness Morgan of Huyton: I wish to speak against the amendments proposed by my noble friend Lord Whitty, as they would take us completely in the wrong direction. It is in everybody's interests that schools should be encouraged to run and manage healthy budgets and to build up sensible surpluses if they are planning for developments perhaps two or three years ahead. I have always felt strongly that head teachers of whatever school—an academy or a normal community school—have to be able to manage their own budgets for several years ahead. If you are moving towards the provision of single sciences when you have been doing a joint science course, for example, it will inevitably take real investment, particularly in teaching but probably in facilities too. The amendment would be a retrograde step. My concern about the package in general is that in some way I would like the freedoms that are being talked about regarding budgets to go across the piece for all schools, whether they are academies or not. I should declare an interest as normal as working for ARK and city academies.

Lord Adonis: I support what my noble friend Lady Morgan has just said, with particular reference to Amendment 11A. We need to distinguish sharply between deficits and surpluses. At the moment, unless the policy has changed in the past 18 months since I was in the department, schools with deficits are not allowed to transfer to academy status. The deficit must be written off before the school can transfer. I remember many long and very difficult negotiations with local authorities about how deficits would be dealt with.

The issue of deficits then becomes very important if not clarified. Schools with deficits, particularly those with difficult relationships with their local authority because it quite rightly is seeking to get to grips with the deficit, might regard the opportunity to transfer to academy status as a way of evading their responsibilities to deal with the deficit. It can be in no one's interests that that should happen. If a school is being poorly managed, its budget may be suspended under Section 66 of the Education and Inspections Act 2006. It is not clear under the current Bill what will happen to schools whose budgets are suspended. I should welcome clarification from the Minister on that point, perhaps in writing. There is a statutory procedure for a school's budget to be suspended, which has to do with very poor management, so will such a school be allowed to transfer to academy status? I imagine that it would be allowed to apply but would not be allowed to transfer. I think that the general principle should be that schools with appreciable, non-trivial deficits should not be enabled to transfer to academy status until the deficit is dealt with. In the early phases of the expansion of academies I find it inconceivable that a school with a large deficit would be able to transfer in any event, as I cannot see how it could be rated as outstanding if it has a non-trivial deficit. That is an important point in terms of taking the policy forward. Will the Minister confirm that it is not the Government's policy to allow schools to transfer to academy status as a way of evading responsibility to manage their budgets properly if they are currently in deficit?

On the issue of surpluses I take the view entirely of my noble friend Lady Morgan. I do not believe it right that schools should be penalised for being well managed and accumulating surpluses. I can see no reason whatever for a school that has a surplus to have that surplus seized by the local authority if the school chooses to become an academy.

That raises the issue of excessive surpluses. As I know only too well, an excessive surplus is a much debated concept. It may seem excessive to the local authority but, generally, it does not seem excessive to the school, which regards the fact of the surplus as a testament to its excellent management of its own affairs. I am sure that if you ask a school about the purpose for which it has maintained that surplus, it will give you 100 good reasons why it needs the surplus and 100 good reasons why it should not be seized by the local authority.

Therefore, I do not have much sympathy with the notion that schools with surpluses should not be able to transfer to academy status, but I believe that there is an issue about deficits which the Government need to address.

Lord Hill of Oareford: My Lords, before I respond to the detailed points on the amendments and pick up directly on deficits, perhaps I may draw noble Lords' attention to the published policy statement setting out our intention regarding deficits. In a nutshell, it makes clear that no school with a substantial deficit, which is defined at around £100,000, will be able to convert. However, I will go on to explain what we will do about deficits, because the purpose of the policy is absolutely to prevent any school evading its financial responsibility by converting to academy status and thereby writing off any kind of deficit.

Basically, it would work as follows. If a school had a deficit of less than £100,000 and the Secretary of State therefore decided it was able to convert, the Department for Education would compensate the local authority for the sum of the deficit. The academy would not get a financial advantage out of it as it would have to pay the amount of the deficit back through reduced levels of grant. That is how we would deal with the deficit problem.

Overall, the aim of all these arrangements is to try to ensure that they are fair and reasonable to both the converting school and the local authority. Amendment 11A would mean that the Secretary of State would not be able to enter into academy arrangements with a person with an excessive surplus or deficit. We do not believe that that is necessary because we would put in place arrangements for dealing with surpluses and deficits.

As regards schools applying to convert to academy status—particularly the first wave of outstanding schools, which tend to be pretty good at running their financial affairs, as the noble Lord, Lord Adonis, said—they are retaining their same leadership and management. It is not like the original model for academy conversion whereby one is starting a new school. Therefore, we think it only fair that what is essentially the same school keeps the same money it has put aside as part of its long-term financial planning, the point made by the noble Lord, Lord Adonis, and the noble Baroness, Lady Morgan. However, to underline the point, we think it also right that if a school converts when it has a deficit, it should deal with that deficit.

[Lord Hill of Oareford]

Amendments 140 and 141 would require the local authority to determine whether a school had a deficit, as well as whether it had a surplus. In our view, those amendments are not necessary because if the local authority is making a calculation to determine whether a school has a surplus, by definition it will have determined whether it has a deficit.

Amendment 142 seeks to maintain the current position when a school closes and becomes an academy. That approach had considerable logic when original academies replaced predecessor schools and gained new management and governance. In effect, in that case an institution was closing and a new one was opening. But in this case, the school is continuing, and if it has put money aside as part of its long-term financial planning it should be able to keep it.

Amendment 143 would prevent the academy from retaining a surplus, and the same argument applies. The local authority will not be losing out from the approach as the money is already accounted for in current surpluses. Therefore, it is not an additional charge on local authorities from which other schools will suffer.

Amendments 144 to 149 would treat a converting school's surplus as a loan from the local authority which the academy would have to pay back over time. Again, we do not want schools to be disadvantaged financially. Maintained schools can carry forward their surpluses from year to year; we think that the same principle should apply to academies. To pay back a loan over a long period would set up a whole new bureaucratic process, which we do not think would help.

5 pm

Amendments 150, 158 and 159 are all to do with deficits. I explained, and hope that I made clear, our approach to deficits. Amendments 151 to 153 would prevent regulations being used to define the arrangements for payments of surpluses to academies or to outline the process for determining and paying a surplus to a school converting to an academy. We think it appropriate to set out in regulations additional administrative detail about the process for the determination of payment of surpluses, and we have provided draft regulations to show how we intend to do that. They also set out how the academy will be informed by the local authority of the determination, the process by which any appeal can be made and the time limits for payments.

Amendments 154 to 156 would change the process whereby an academy can ask the Secretary of State for a review of the local authority's determination, so that the academy can appeal to the local government ombudsman rather than to the Secretary of State. As I said, we have set up the draft regulations to demonstrate the Government's intentions. We think that those decisions should rest with the Secretary of State and that it would not make sense for there to be a new extension of the role of the local government ombudsman.

Amendment 157 would limit the surplus which transfers to the level set out in the guidance on clawback of excess surplus balances issued to local authorities. Again, we are not convinced that that is necessary, because local authorities will still have power to claw back excess surplus balances until the date of conversion, in accordance with locally agreed arrangements.

I hope that that provides greater clarity about the government's intentions, particularly on the important matter of deficits, in the light of which I urge the noble Baroness to withdraw her amendment.

Baroness Perry of Southwark: Before the noble Baroness speaks to my noble friend's response, might the Government consider the arbitrary nature of the £100,000 cut-off for the deficit? For a very small primary school, £100,000 is a very high proportion of its total budget, whereas for a large secondary school it is a very small proportion. Would not a percentage of the budget be a better benchmark for an acceptable deficit than an arbitrary sum?

Lord Hill of Oareford: I will reflect on that. The point of the figure is to provide some benchmark. My noble friend Lady Perry is quite right to say that individual circumstances vary greatly from school to school, and each of those circumstances would need to be taken into account in forming a view as to what is a sensible sum. That figure has been included as a rule of thumb, but I take the point that one may need to exercise discretion.

Baroness Royall of Blaisdon: My Lords, I am very grateful for the clear response from the Minister. It is extremely helpful to have clarification on deficits and surpluses. The point raised by the noble Baroness, Lady Perry, is extremely important. That would not have come out if she had not raised it, so I am very grateful to her. With that, I beg leave to withdraw the amendment, but before I do that, I should inform the House that we won 1-0.

Amendment 11A withdrawn.

Amendment 12

Moved by ***The Lord Bishop of Lincoln***

12: Clause 1, page 1, line 12, at end insert—

"and will ensure in respect of Academies with a religious designation that existing legislative provisions for maintained schools designated with a religious character, as they relate to admissions, the employment of staff and the curriculum, shall apply"

The Lord Bishop of Lincoln: The amendments in this group standing in my name are Amendments 12, 60, 107, 121,122 and 166.

One of the themes running through this debate is the powers that will be undertaken by the Secretary of State and the way that reassurances need to be very clear, perhaps even need to be in the Bill, to enable those who feel a little anxious about accountability issues to feel much more confident about the way forward. My amendments are in that spirit.

I speak as chair of the Church of England's board of education and therefore declare an interest. As I have said in your Lordships' House before, the Church of England is the leading provider of academies. It has

34,000 students in its academies, virtually all of which are in areas of social deprivation. That is why the Church of England is involved in academies and wishes to go on supporting them. It has good will towards the philosophy of academies and what they stand for, but does not want to compromise its commitment to improving standards in deprived areas or the fact that its academies are denominational academies with a faith character.

These amendments try to ensure that the Church of England feels confident in encouraging the many denominational schools in which it has a care to explore this possibility. They are sympathetic amendments and seek to be friendly. We are grateful for the reassurances that have already been given by the Minister. If the way that he has dealt with those of us who have raised concerns with him in personal interviews or in letters is indicative of the way that the business of this Government will proceed in this House in future, we are extremely glad. However, I think it was Bismarck who said that laws are like sausages: you really do not want to be there when they are being made. I have a sneaking feeling that the Minister is beginning to understand what he meant.

Certain clauses need to be clear for the avoidance of doubt. We do not doubt the intentions—many of them are good intentions—but we need to have clarity. I am reminded of the interesting exchange on Monday between the noble Lords, Lord Adonis and Lord Phillips, about how much clarity terms need in order to justify their place in the Bill. One of those phrases could be a "school of religious character". What does that mean? Quite clearly, it means its ethos and values, and we cannot legislate for them, but it means other things too, the things to which Amendment 12 refers: religious character or designation—whichever term we use—admissions, terms of employment of staff, curriculum and governance, which has appeared elsewhere in this Committee. Those dimensions can be secured by legislation.

Admissions have been debated on other amendments, and one of my other amendments addresses the curriculum and collective worship. We could do with some clarity on terms of employment. Are we proceeding on the basis of the School Standards and Framework Act 1998 in relation to Sections 58 and 60, which apply to voluntary aided schools and voluntary controlled schools, or are we subject to the provisions in that Act that relate to independent schools? Academies are declared to be independent schools and are presumably subject to those sections, but we need some clarity. What do the Government intend to secure their commitment, articulated in the gracious Speech, to maintain the religious character of schools that convert to academies.

I shall be briefer on my other amendments. Amendment 60 refers to the curriculum and the provision for religious worship that define a school as being of a religious character. We need more than assurances; we need clarity on those matters.

My remaining amendments in the group, Amendments 107, 121, 122 and 166, all contain the same phrase, "relevant religious authority". For the Church of England, that is a diocesan board of education, and I do not think that anyone who has any real acquaintance with these matters would dispute that the family of church schools is maintained by the diocesan boards of education. I believe the same to be true of Roman Catholic schools and of Jewish schools. There are authorities operating within the denominational organisations that have a relationship with schools that is precious, treasured and to some extent essential if those schools are to deliver to the high standards with which we have become familiar. I therefore want to ensure that the Bill secures the interests of the "relevant religious authority"—in our case, diocesan boards of education—in any consultation and commission. I have to say to the Minister that Roman Catholic authorities, as well as Anglican ones, are expressing a good deal of anxiety at the moment that we may well not encourage schools to take this step without the assurances that these amendments seek. I beg to move.

Baroness Massey of Darwen: My Lords, I will speak to my Amendment 61 on participation in collective worship and religious education, and in doing so declare an interest as a humanist and a vegetarian—so I do not do sausages.

I shall comment in passing on the concerns of the noble Lord, Lord Lucas, and will also speak to my Amendment 133 on the status of state-maintained schools if they become academies. I recognise that Amendments 134 and 135, which were tabled by Members on the Benches opposite, relate to the same matter, so I will not spend too long on them. I also wish to comment on Amendment 12, which was moved by the right reverend Prelate the Bishop of Lincoln.

On Amendment 61, the noble Lord, Lord Lucas, wants the precepts of all major religions in the UK to be taught. I agree that collective worship and RE should be balanced and broad. This education should also include the precepts of humanism and secularism. Sixty-five per cent of 12 to 19 year-olds, according to surveys, are not religious. All children need to learn about non-religious as well as religious beliefs, as we live in a diverse society.

As I said, I am a humanist, and I know that humanism has moral and ethical precepts and a compassionate culture. I respect those from other cultures and other religions, and I hope that they will respect mine. Will the Minister confirm that it is the Government's view that schools, including academies, should teach non-religious world views as well as religious ones? Will he also confirm that the recent spiritual, moral and cultural non-statutory guidance for independent schools, which was worked on by a wide range of stakeholders, will also apply to independent religious academies? Will previous government guidance that creationism and intelligent design should not be taught in science lessons apply to academies? I realise that I am asking a lot of questions, and I will be happy to receive more detailed answers in writing, but perhaps the Minister has some quick responses.

All state-maintained schools are required to hold a daily act of collective worship and provide religious education. We all know, of course, that many schools approach this with a broad perspective and provide a forum for moral perspectives that are not necessarily religious. At maintained schools, parents are legally

[Baroness Massey of Darwen]
entitled to withdraw their children from collective worship and religious education, while sixth-form students can withdraw themselves from collective worship. It is not clear whether these rights of withdrawal will extend to the new academies. Will these current rights be retained?

I will say a brief word on my Amendment 133 to leave out subsections (7) and (8) on page 4, lines 14 to 19. This amendment would remove from the Bill a new provision that automatically converts state-maintained schools with a religious character into an independent school with the same religious character once an academy order has taken effect. However, there is no guarantee that community schools becoming academies will automatically become secular and inclusive.

5.15 pm

This new provision would remove choice and freedom from schools and their governing bodies. It would permanently remove the possibility for state-funded religious schools to become inclusive academies and they would not be permitted to return to maintained school status. That would have a profound effect on primary schools. Around one-third of all state-funded schools are faith schools and the majority are primary schools. This Bill will permit high-performing primary schools to become state-funded religious academies. In my view, that would be a disastrous move, placing many state-funded schools into a largely unregulated sector with no public consultation and no entitlement for children to the national curriculum.

Amendment 12 is tabled by the right reverend Prelate the Bishop of Lincoln. During the course of this Bill, the right reverend Prelate has talked a lot of sense, but I cannot agree with him on a number of the amendments that he has proposed. They simply seek to increase the power and control of religious groups running the new academies, which I do not think is in the best interests of children or parents. There is no guaranteed protection against unsound principles being taught. The amount of money paid by the public purse to religious schools will be increased, even though the majority of the public do not support the idea of state-funded faith schools. Do we really want—

Lord Phillips of Sudbury: Perhaps the noble Baroness will explain. Under existing arrangements for a current secondary school with a religious identity, surely, the principle that she wishes to apply to academies is present in existing maintained schools.

Baroness Massey of Darwen: Which principle does the noble Lord mean?

Lord Phillips of Sudbury: I thought that the noble Baroness was anxious about the principles by which one of these religious schools when converted to an academy would continue on its path. Have I misunderstood?

Baroness Massey of Darwen: Perhaps I could come on to that in what I am about to say, but if the noble Lord still wishes to ask questions perhaps I or someone else can respond to them.

Lord Kilclooney: The noble Baroness did not refer to principles; she referred to "unsound principles". I was wondering what these unsound principles were.

Baroness Massey of Darwen: Again, perhaps I may come to that in a moment. I have talked about the public purse and principles. Do we really want in any of our major cities, side by side, a Church of England school, a Roman Catholic school, a Muslim school, a Hindu school, or any other variety of faith school? What is the price for community cohesion or a balanced curriculum? What is the price for a discussion of different values in society? These are some of the principles to which I am referring.

On admissions and on a potential expansion of faith schools, I can do no better than recommend reading the speech made by the noble Lord, Lord Baker of Dorking, during the passage of the Education and Inspections Bill in 2006. He happens to be in his place—and this is not a plot. The noble Lord was a previous Conservative Secretary of State for Education and is, I believe, an Anglican. His made warnings as regards faith schools with reference to the "shape of our society", "isolated communities" and,

"the fine line between religious teaching and indoctrination".—[*Official Report*, 30/10/06; col. 108.]

All his words I think are worth heeding.

I wonder whether the right reverend Prelate has foreseen the consequences of his amendments. Are we to have restrictions on admissions and staffing for every type of religious school? This would be a detriment to pupils and a disadvantage for staff. Again, this is one of the principles about which I was talking. Surely pupils in a school should have the advantage of the best teachers from whatever faith or no faith. Someone serving school meals or doing administration needs to be able to do just that. Yet sadly I have heard of several cases where staff have been dismissed or not promoted because they are of a different faith from the school. No academy should be able to discriminate with regard to admissions and employment.

Further, which maintained schools are referred to in this amendment? If it is a voluntary aided school, it may allow for more discrimination than is presently allowed. Voluntary aided schools have a wide remit to discriminate against teaching and other staff. Academies must surely apply a genuine occupational requirement to posts because they are private businesses and not public schools in law. Independent schools with a religious character are able to show preference in connection with the appointment, remuneration and promotion of their staff on the basis of religion or belief, and of course they can also discriminate on pupil admissions. Voluntary controlled faith schools, about 40 per cent of faith schools in England and Wales, do not have these powers to discriminate. However, when they become independent academies with a religious character, I assume that they will be able to discriminate, which refers back to my previous amendment.

In a Question for Written Answer tabled on 16 June, the noble Lord, Lord Alton of Liverpool, asked Her Majesty's Government how they will,

"'facilitate inclusive admissions policies in as many [faith] schools as possible'".

The noble Lord, Lord Hill, replied:

"The department has strong and productive working relationships with all faith groups founded on respect for the high quality education they have provided for many years".

He went on to say:

"To support our new expansion of the academies programme we have made it clear that existing faith schools that convert to become academies will retain the ability to set their own admissions criteria and may continue to use faith-based criteria in line with the admissions code".—[*Official Report*, 16/6/10; col. WA124.]

I think that we are in dangerous territory here. First, some faith schools which could be set up are completely untried in relation to quality and procedures. I accept that Church of England, Roman Catholic and Jewish schools mainly have a good track record, but not always. How long-standing are the records of other faith schools? Will they be able to make things up as they go along?

The statement made by the Minister earlier this month that I have just repeated makes it clear that religious discrimination is here to stay, going against what was implied in the coalition agreement, which recommends inclusive admissions policies. State-funded faith schools that discriminate in their admissions divide communities and may go on to do so even more—along religious, socio-economic and often ethnic lines, creating huge social problems now and in the future. I hope that there will be more discussion of these issues before we rush into unknown territory.

Baroness Walmsley: I have two amendments in this group, Amendments 134 and 135. Their purpose is to allow schools to change their religious designation if they wish and to prevent new faith schools appearing merely as a consequence of this legislation. Noble Lords will know that I have considerable reservations about faiths running schools. However, if we must have faith schools, they should be set up only in response to need and the requirement of parents to have their children educated in their faith. It should not be in any way accidental.

During our meeting, the Secretary of State made it clear that the purpose of this legislation was not specifically to create a lot of new faith schools, although of course we accept that many current faith schools may wish to become academies. That is why Amendment 134 inserts the word "only" so that the protection of the current faith designation applies only if the school is already a faith school. Amendment 135 goes on to require the governing body to pass a specific resolution to have the school maintain its religious character. This requires it either to reaffirm the religious character of the school or, if it wishes, to decide to make a change. For example, a Church of England school could become a multi-faith school, or a Roman Catholic school could add some other religion to its current designation; or it may become an all-inclusive academy. This might apply to the many primary schools referred to by the noble Baroness, Lady Massey, in her speech just now.

We heard on Monday from the right reverend Prelate the Bishop of Liverpool about the joint Church of England/Roman Catholic schools in Liverpool. These multi-faith schools are welcome, bringing together as they do children from different faith households. This can only be good for community cohesion. My amendment would make it possible for schools to decide to go along this route at the point of their "conversion", if I can use an appropriate word, to an academy.

Lord Northbourne: I greatly respect the position of the noble Baroness, Lady Massey, with regard to the Humanist Association and the humanist view of the world, but does she not accept that that also is a faith? It is a world view which certain people take—and they may well be right—but I do not see why it should be treated differently from any other faith. I wonder whether the right reverend Prelate agrees.

Baroness Massey of Darwen: I would not call humanism a faith; I would call it a belief.

Baroness Thornton: My Lords, I declare that I share the same belief as my noble friend Lady Massey.

I wish to ask some technical questions about employment and equalities law. The right reverend Prelate's amendments are not innocent and possibly not sympathetic. I was the Minister who helped to take the Equality Bill through your Lordships' House earlier this year, and I took part in many of the discussions on issues to do with the application of equalities legislation and employment law to religious schools and other establishments. I would like reassurance that the right reverend Prelate's amendment does not seek to undermine or change what I thought was the agreement about the application of employment and equal opportunities legislation to all establishments and their employment practices. I am not completely happy with the agreement but it is the one that we came to in the course of that legislation,

I also seek reassurance from the Minister and the Government that they do not intend to accept the amendment and change the existing policy and practice, and that these schools—free schools, academies or whatever the Government decide to call them—will be expected to abide by the existing legislation in their employment practices.

This House has sometimes waxed lyrical about the number of guidance missives from what is now the Department for Education to schools on how they should undertake their employment practices. There is no question but that all maintained schools in this country have a clear idea about what their duties are as employers and how they should comply with them. Will the new schools be expected to find out for themselves what they should do? How will we ensure that they also abide by the law on employment practices and equal opportunities?

Lord Baker of Dorking: The noble Baroness, Lady Massey, referred to a debate that took place in this House some three years ago. At that time, some of us sought to move amendments to ensure that if new faith schools—not existing ones—were established, 25 per cent of the pupil roll should come from outside the faith or from no faith. For a fleeting moment the Labour Government supported us, as those who took an interest in these matters will remember; but as a result of a campaign by the Catholic Church which was—I cannot use the word deceitful—imaginative, shall we say, the Government ran away from that

[LORD BAKER OF DORKING]
commitment. They sought to extend the threat to all existing Catholic schools and not only to new ones—the Catholic Church had established only two small new primary schools in 30 years—but the debate was about new Catholic schools. Anyway, as a result of that campaign, the Government ran away from that commitment.

However, the Anglican Church made a statement in the House—I see the right reverend Prelate nodding—which I completely support. I went to a Church of England primary school and I am not against church schools as such. There was nothing too emphatic about going to an Anglican primary school; it was not too passionate. It had all the attractive characteristics of the Anglican faith; it did not ask too much but it gave reassurance. The right reverend Prelate who spoke for the Church of England at that time said that, irrespective of the fact that the amendment had not been passed, when the Anglican Church established new faith schools it would ensure that 25 per cent of the intake would come either from outside the faith or from no faith. I would like some assurance that that undertaking is still in place. I do not expect the Minister to reply, because nothing is on the statute book, but reassurance from the right reverend Prelate would be most welcome. I maintain that it is sensible for children of different faiths to sit, play and eat alongside each other in school and to go home on the bus together, but I appreciate that sensitivities still exist. However, I still hope that that undertaking of the Anglican faith survives.

5.30 pm

Baroness Williams of Crosby: Foundation schools, both Anglican and Catholic, are allowed to appoint a majority of governors, and those schools in turn have the right to be admissions authorities for their own schools if they are voluntary aided. It is a very important power that currently exists. It is not clear from the Bill—perhaps the Minister can tell us—whether the foundation retains the right to appoint a majority of governors. Does it retain the right, if it is a voluntary-aided school, to be involved in the admissions process? Can he tell us broadly whether that situation is expected to continue?

Baroness Murphy: I support the amendments in the name of the noble Baroness, Lady Massey, and of the noble Lord, Lord Lucas, although he has not yet spoken to them. I also support the amendment of the noble Baronesses, Lady Walmsley, Lady Garden and Lady Sharp.

We have not yet addressed this fundamental problem relating to faith schools. My questions at Second Reading about the status of faith schools, and the Government's approach to encouraging the development of faith schools, have not been responded to. Does the Minister have the teeniest anxiety that a quarter of academies are presently faith schools and that the Bill will encourage more?

I shall recount a tale of two schools. I am delighted to see the noble Lord, Lord MacGregor, in his place, because I am going to talk about Brockdish primary school. He and I are probably the only two people in this Chamber who know where Brockdish is. It is my local school, serving the entire community of Brockdish. It is a Church of England school that has received an outstanding report and will be in the running to become an academy. It is an extraordinarily good school. I love it dearly and hope very much that it does become one, for all those reasons.

It was established in 1843 in the parish workhouse for the children of paupers. The curriculum then was the Catechism and the Ten Commandments for half the day. In the other half of the day, when they were not at work—they had to do some work in the fields as well—they did the three Rs. That was 160 years ago. During the past 160 years, the curriculum at Brockdish Church of England Voluntary Controlled Primary School has changed dramatically. As it is the only school in the village, it is entirely inclusive. If you ask people in Brockdish about the school, they will say that they do not really think of it as a religious school. Its teachers come from all faiths or none; it has a non-denominational assembly; and it gives the most brilliant education.

However, according the Bill as far as I understand it, the school has two choices when it becomes an academy. The first is that it could become more religious and more faith-based, which would be an imposition on our local community. The Minister looks puzzled. The school might have to stay with the religious denomination which it has adopted historically but from which it has gradually been moving away. Under the Bill it would have to stay like that and would have no option to become a more generalist school. There would be no choice for those of us who live in the community because the other schools are too far away. It is our local school. It is a good one and we would like it to stay as it is.

Now take the case of the Ebrahim Academy in Whitechapel, an academy school for boys. It is highly selective and employs only male Islamic teachers. The school day is, again, just like 160 years ago in Brockdish primary school, divided into two sections. The school day begins with Tahfeez, which is reciting the Koran and getting the pronunciation right, which takes up half the day. Then the national curriculum takes up the second half of the day. It is a state-funded, tax-funded madrassah for the Islamic faith.

Perhaps that is an extreme example, but there are many such faith schools. I stress that I have no objection to Sunday schools—I was a Sunday school teacher. Noble Lords might be amazed to hear it, but it is possible to deliver good Sunday school teaching without any faith whatever. I suspect that it is like the approach of the noble Lord, Lord Baker, to Anglicanism. It was possible for me to do that and I enjoyed it greatly.

I have no objection to families teaching their faith in their own time and making sure that every child has an understanding of all religions. But is the Minister not the teeniest, weeniest bit worried about the creation of more faith schools under the freedoms that we are providing today? What reassurances can he give to those of us who do not like these divisive, incohesive schools that they will not further separate a divided community?

Lord Phillips of Sudbury: My Lords, I may surprise the noble Baroness, Lady Murphy, by saying that I know Brockdish extremely well. The Church of England did not only provide the village school. There was also a church house at the end of the churchyard which, for a long time, was the best eating place in the whole of Suffolk. So we should be grateful to the Church of England on more than one score.

I take a pragmatic view of church schools. The fact is that the Church of England and many other faiths have provided this country with invaluable educational opportunities. It is worth recollecting that the Church of England used the initial academy legislation to plunge into some of the worst, most deprived parts of the whole kingdom. These were not elite schools truckling to snobbism. The church went straight in where the need was greatest and the schools exemplified the church's values.

I confess to being a rather perspiring Anglican myself. However, it would be a bizarre act of folly to make life more difficult for any faith. It would be nice—I say to the noble Baroness, Lady Massey—to see the humanists setting up a few schools. I would be jolly happy about that. But it would be bizarre, would it not, to make life more difficult for the faiths? They have to scrimp and save and work hard to establish and maintain faith schools. People come to them not unwillingly and reluctantly because they are the only school in an area, but precisely because they provide an ethical framework that the parents, even if they are not of that faith, respect and admire.

I am perfectly happy to support the amendment proposed by my noble friend. I do not see anything wrong with withdrawing children from acts of worship. However, the amendment proposed by the noble Baroness, Lady Massey, seems to me destructive. I am sure that that is unintentional. As I understand it, her amendment would mean that an existing state school converting to an academy would not, on conversion, have the religious character that it had before conversion. That is the essence of her amendment. I see no reason for it; it would be a discouragement to the continuance and creation of new faith schools. What is more, the simple effect of her amendments would be that no church school—or faith school, since one must not always talk of church—would convert if it could not carry through in the conversion the same religious character as it had been founded for and run in pursuance of. That would stultify the good aspects of this Bill. Surely, there is no earthly point in doing that.

Baroness Massey of Darwen: Would the noble Lord accept two things? First, would he accept that the speech of the noble Baroness, Lady Walmsley, supported my amendment and was relevant to what he is saying? Secondly, would he accept that a faith school or religious school should have to adhere to a national curriculum?

Lord Phillips of Sudbury: I must confess that I was not aware that that was the purport of the noble Baroness's amendment. However, off the top of my head I would say that I think that those schools should.

Baroness Murphy: The noble Lord is raising an issue about pupils. He implied that the important thing about many of our religious schools or faith schools at the moment is that they have an open selection policy. That seems to me utterly crucial. The possibility of people of all faiths sending children to schools whose ethos and culture they like is one thing. It is certainly the case with most of the Anglican schools, some Catholic schools and some Jewish schools. However, it is not the case with many schools set up recently, such as some Christian fanatically evangelical schools, some Catholic schools and a majority of the Islamic schools, although some Islamic schools are inclusive. The point is about the selection of pupils. There is a highly concentrated, exclusive quality to some of our schools, which causes me anxiety.

Lord Phillips of Sudbury: I have no wish, in what I am saying, to stray at all from the current arrangements for the pupil composition of church schools, which seem to me on the whole sensible, undogmatic and tolerant. Indeed, in the village of Brockdish and every village that I know of, of course schools do not discriminate on admissions. What the noble Baroness refers to is a very small number, as I understand it, of extremely zealous schools. I have no means of knowing whether she is right or wrong but, if she is right, that is something that we should address specifically. However, to mark the whole of the church school sector, which includes thousands of excellent schools, as carrying the imprint of the excesses of the tiny number that she is talking about and amending the legislation on that basis seems to me counterproductive.

Baroness Howe of Idlicote: We should all be extremely grateful to the noble Lord, Lord Phillips. He admitted his faith and I shall admit mine—I, too, am an Anglican. He has put forward a sensible approach on all this. The Church of England is part of the history of this country and part of the way in which this country has developed. It is perfectly sensible to want more Anglican schools—and schools of different forms of faith—to be set up. I certainly hope that the vast majority of them will apply the same open conditions of selection as apply to all maintained schools.

This is all crucial in what we are trying to achieve, which is better standards of education for all. I say in response to the noble Baroness, Lady Massey, that if humanism is a faith, belief or whatever she wants to call it, it is possible to set up schools along those lines. I totally agree that humanism has an ethical base and I would expect just that.

At this stage, I will take a different line. I come back to the point raised by the noble Baroness, Lady Thornton, about what was understood under the Equality Act. I want to be absolutely certain that there is agreement. There was endless debate in your Lordships' Chamber on this. There was agreement but it was not satisfactory to all sides. However, we all agreed to accept it. Any diversion from that in how staff are appointed or promoted would be very much a backward step. I hope that the Minister will be able to reassure us. It is a difficult and emotional subject for most of us, but I am sure that there will be way for him to deal with it.

5.45 pm

Lord Lucas: I had better get around to addressing my amendments in this group or I shall be caught up by my old friend on the Front Bench. I like faith

[LORD LUCAS]
schools, although I have no faith myself. I send my youngest daughter to a Church of England school and am very happy with it. Although I sympathise a lot with what the noble Baroness, Lady Massey, said, I also have a great deal of understanding of what the right reverend Prelate said.

In the Bill we are looking at moving schools from the maintained school regime to the independent school regime. The provisions in relation to religion are different. We have fought long and hard for that in this House. I was one of the supporters of the noble Lord, Lord Baker, in the battle, which we sadly lost, to bring up to date the relationship between state-funded schools and their religious sponsors. As part of the old and untouchable settlements in this country, there is a group of about 60 what you might call extreme Christian schools. They are inspected by their own inspectorate and have their own rules. We have allowed latitude to independent schools—where parents go to the length of paying for their children's education—that we have not allowed in state schools, where we pay for the education. That is fair enough. If the community is paying for education, we can reasonably ask things of the religious sponsors of schools that we would not ask of them if they were paying for the education.

There are two crucial elements. The first is now broadly accepted. Even in schools that are of a firmly religious character, children should be taught about the precepts and practices of other religions and—I agree—humanism. They should be taught about the world at large. I have had, as part of my recent education, a lot of correspondence with my Catholic friends and cousins about how the Catholic Church has changed over the past 50 years. I now know why I did not study religion at university. It is far too complicated and difficult to penetrate for a mind such as mine. I was quite content with nuclear physics.

It is clear that the Anglican Church, in which I was brought up, and the Catholic Church are committed to teaching a broad view of faith in their schools. However, I am worried about the people who might try to run free schools. One of the great motivations for running your own school is to run it within the confines of your religious faith. That is fine; I am happy for people to do that. However, if the relevant school is a state school, it should promote understanding, community cohesion and all the other virtues for which we have fought. In other words, it should teach children about the religious and non-religious worlds at large.

My second amendment goes back to the battle that the noble Lord, Lord Baker, and I fought. Purely religious schools that accept no other pupils are, of their nature, divisive and always have the potential to cause harm to the communities of which they are part. There may be circumstances where that is not the case—for example, where the relevant community is very much a minority community. However, where large proportions of a particular faith are represented in the make-up of a community and that community resorts almost entirely to its own schools, the situation becomes divisive. By observation, that is the case in the west of Scotland and Northern Ireland. It is not something that we should encourage. Some Anglican schools and more Catholic schools remain exclusive. One should seek to persuade them to open their doors. However, the notion that we should create new schools with this exclusivity—that we should not just perpetuate it but increase it—seems to me a very bad idea, as it was three years ago. I very much hope that I can convince my noble friend that it is a bad idea.

The Lord Bishop of Bath and Wells: My Lords, in the diocese of Bath and Wells, which is very largely rural, we have some 184 church primary schools, which have served their communities for a long time. They are essentially community schools. That is reflected across the country to a greater extent than we might imagine. The essence of those schools is built around how you make a community and what is part of a community. Some of them have rather more effective relationships with their parish church than others. Some of them have Christian head teachers, others do not, but the essential ethos of those schools, founded within the framework of Anglicanism, has carried through to a greater or lesser extent in their religious commitment.

It is key for us to recall the requirement for a national curriculum of religious education. There has to be a commitment to that going across not just the faith tradition of the particular school but the wide experience of religion so that young people have an opportunity to understand it. I say to the noble Baroness, Lady Massey, that many of these schools are committed to reflecting on the philosophy underpinning humanism. I was asked a few moments ago to try to clear up what is a faith and what is a belief. I shall not risk doing that, but I will say that all faith involves belief at some level or another and is committed to some kind of system. By definition, faith cannot ultimately be proved. Therefore, how we understand and develop these things depends on a whole variety of our relationships with one another in the wider spectrum of life.

I support academies. Indeed, I had the privilege of being the chairman of the board of education in the diocese of Southwark when the first of the academies in south London was formed. I am extremely proud of that, because it did indeed reach into that community at its most vulnerable level.

However, the concept of free schools raises for me real anxieties, particularly in the sphere of religious influence. That is not simply because I want to hold up my hand to say that the Anglican or Catholic churches have a corner of the market. I remind your Lordships of our national identity and the way in which we are tied into the concept of the sovereign as the head of the Church of England, under our constitution, and our relationship with Parliament. The issue is much more complex from that point of view.

There is real merit in our looking towards the development of academies, but I hope that the view of the future of good schools will not be that they should all become academies and enter the independent sector. We have many good schools and, if we go down that road, I fear that we will, in the end, marginalise some of the poorer communities.

Baroness Whitaker: My Lords, I had not intended to prolong this long debate by joining in, but I have to confess that I, too, was made more anxious during the

course of it. I share the anxiety of the noble Baroness, Lady Murphy. I should say that I, too, am a humanist. Indeed, I am now a vice-president of the association. Long before that, however, I felt strongly that we live in a plural society and we need more than ever to be at ease with our fellow citizens. Our education system ought to increase that. I have some sympathy with the approaches taken by the noble Lords, Lord Baker and Lord Lucas, but most of all with Amendments 61 and 133 in the name of my noble friend Lady Massey.

Perhaps I may quickly throw this in: "belief" is the name given by international law to those systems of morality or ethics that are not religious. I quite agree that it is rather an odd word for that purpose, but it is generally taken to mean that. My question for the Minister is—if he does not mind putting my anxiety in the anxiety basket, so that it is a bit heavier than the certainty one—in what way will academies teach the national curriculum in respect of religion and belief?

The Earl of Listowel: My Lords, we have heard about two extremes of school—one in which only faith is taught, and the other in which everything is taught. There has been no reference to a concern that we might have, whereby one may learn much about everything but not have a thorough understanding of any particular thing. Perhaps at this time our faith schools are more important than ever to our children because, as the report of the Church of England's Good Childhood Inquiry showed us, an increasing number of children are growing up in families where their parents separate or there are family tensions. As the 2004 UNICEF report pointed out, at that time this country performed the poorest in terms of our child welfare. There was a number of dimensions to the report. It looked at family relationships and highlighted the fact that Italy came top as regards children spending time with their family on a regular basis and enjoying a meal together.

I am speaking speculatively, but perhaps the particular value that faith schools of various kinds can offer can give children a sense of belonging when they do not have that sense at home. The value of a Catholic school is that it has behind it a whole tradition of music, ceremony and dress. Children in those schools benefit from feeling that they belong to something. While I recognise the danger of extremes, and of having a Jewish school by a Muslim school by a Catholic school by an Anglican school, and the difficulty of different faiths interacting, perhaps if this is worked right, the stronger our individual identity is, and the stronger our basis in our religious community, the more we can relate in a positive way to those of different faiths.

6 pm

Lord Goodhart: My Lords, I can be very brief because I could not possibly improve on the speech made by the noble Baroness, Lady Murphy. She said everything that I was thinking and would have said less effectively. Therefore, I will just say that I strongly support Amendment 61, tabled by the noble Baroness, Lady Massey. Children from other faiths should not be required to take part in collective worship, which is religion rather than education. If Muslim or Jewish parents want to send their child to a Christian school because it is the best, or the only convenient, school in their area, should they be unable to do so because they are unwilling to allow their child to attend Christian worship? Surely not: that would be entirely wrong. It is important that academies that are faith schools should not take steps that are likely to exclude the admission of students from another faith. Insisting on attendance at services would lead to the absence of members of another faith. Amendment 61 is of great importance and I hope that it will be accepted.

Baroness Perry of Southwark: I will speak briefly. I hope that the Minister will be able to reassure the right Reverend Prelate the Bishop of Bath and Wells on the subject of free schools. As I understand it, the original academies programme, instigated by the noble Lord, Lord Adonis, allowed academies to be set up which were faith schools, and many have been. I do not think that free schools alter that position in any way and I hope that my noble friend can reassure us on that point.

Lord Kilclooney: My Lords, reference has been made to Scotland and Northern Ireland. I serve as a governor on the Armagh Protestant Board of Education. It is an Anglican foundation that controls the Royal School in Armagh and is chaired by the Archbishop of Armagh. It is 400 years old and was visited by Her Majesty the Queen this year to celebrate that anniversary. The majority of the pupils now are Church of Scotland Presbyterian, reflecting the population in Northern Ireland. However, we are getting an increasing number of Roman Catholic students from the Republic of Ireland who want a more liberal education.

I listened with great interest, the previous time the subject was raised, to the proposal of the noble Lord, Lord Baker, for a 25 per cent intake of pupils of other denominations. The problem in Northern Ireland, which has been mentioned by the noble Lord, Lord Lucas, is that if you have schools with pupils of only one religion, parents will come to live near that school and so the area will come to contain people of one religion. When a factory opens near the school, all the employees will be of one religion and you build up a sectarian division. We suffered from this in Northern Ireland, not through deliberate discrimination, but because, with the Roman Catholic system that we had, most of the people who went to a school were Roman Catholics, most of the houses were bought by Roman Catholics and most of the jobs in the neighbourhood went to Roman Catholics. Sometimes people in England thought it was deliberate discrimination, but it was not; it was a reflection of the education system that still exists in Northern Ireland. Much as I am a great supporter of faith schools, which have a great record—I very much admire the way that the Church of England administers schools in England—the idea of a 25 per cent intake of people of other religions should be encouraged.

The Lord Bishop of Salisbury: My Lords, perhaps hearing of the experience that I had at one stage of being chaplain to an Anglican school that had a house of Jewish boys in it might help noble Lords to be less anxious about what may happen, not only about the 25 per cent but also on the question of communities that can live together. In this case, there was no doubt

[The Lord Bishop of Salisbury]
that a small group of boys from a very distinctive faith background did a great deal to sharpen the sense of religious exploration of the whole school—not only faith exploration, but the exploration of world views.

I suspect that we are in great difficulties because we are sliding very easily between talking about church schools and faith schools, when by faith schools we tend to mean those that are founded by and for a very exclusive view of one particular faith tradition, whereas the position of the Church of England has always been that schools are for the community as a whole, and are known to be enriched by members of other faiths. The basis on which we in this country operate is that the church models an inclusive community that is lived out not only in the school life, but in the lives of the surrounding communities. Many noble Lords have talked about local schools that reflect exactly that tradition. What we need is not to minimise that tradition, but to broaden it and remind ourselves of its inclusive basis.

That is why the legislation that we spent a good deal of time on some months ago, to increase the broad and inclusive basis of all our common life, is so important. It would displease me to see denominational people withdrawing behind a more exclusive pattern, and also using that pattern to promote, encourage and wave the flag for other types of exclusivism, not just in religion but in other areas of political or social life. These things all cohere, and I have a great deal of sympathy with the noble Lord, Lord Baker, in his position as a member of the Church of England, which is not dissimilar to mine. That is the basis on which we ought to be more precise in our language, and maybe in the way in which we talk about legislation outside this House, when we should make a distinction between a church school and a faith school.

Baroness Morgan of Huyton: I always get very nervous listening to these debates in this House—we are going through many of the same conversations that we had three years ago—because there is a real danger that we will end up falling into a shorthand of "Church of England good, everybody else bad". People listening outside to this debate could get a clear feeling that we think that you can have as many Church of England schools as you like because they are fine, but any other religiously supported school, albeit fully state-funded, is a bit iffy.

We must be very careful about the message that we send from this debate. There is a distinction between the issue of faith schools and those of, for example, admissions, proper supervision, the curriculum and inspection. They have always been crucial for taking forward faith schools in this country. I know that we do not like central control any more, but if there is any way that we can give an assurance that there is proper supervision of the curriculum through inspections, and potentially look again at admissions, that would be very helpful, rather than allowing a separation between types of faith.

Lord Hunt of Kings Heath: My Lords, this has been a remarkable debate and I do not envy the Minister the job of winding up. The noble Baroness, Lady Murphy, put some very pertinent points to him, which, in a sense, reflected the dilemma that we face, to which my noble friend has just pointed. On the one hand, we know that the majority of faith schools are successful, thriving and popular with parents and that local communities give them tremendous support. They are, if you like, a glory and an indication of the diverse system that we have. They are schools with a distinct specialism, mission or ethos. We know that, at their best, faith schools do an incredible job. As an example, I point to the report of the Commission on Integration and Cohesion, *Our Shared Future*, which recognises that there are faith schools with pupils from many different backgrounds and faiths, as well as largely single-background schools that are not faith schools. Of course, under the current arrangements, all maintained schools, including faith schools, must meet a range of legal requirements, including the need to have fully qualified teaching staff and to teach the national curriculum. In addition, under Section 38 of the Education and Inspections Act 2006, governing bodies of all maintained schools have a duty to promote community cohesion. That is specifically inspected by Ofsted.

My understanding—perhaps the Minister will confirm this—is that academies will have no duty to follow the national curriculum and that, according to Ministers, certain measures, including social cohesion, will be dropped from future Ofsted inspections. The concern is that, although many good faith schools will obviously continue to foster social cohesion, fairness and inclusiveness, some of the safeguards currently in place may not be in place in the future. I very much reflect on the situation in Birmingham, where we have many faith schools. If different communities have separate faith schools, there is a risk that our hopes for social cohesion and integration will become very much diminished in the future. My noble friend Lady Morgan put her finger on that in her question to the Minister. I think that the Committee seeks an assurance that he understands some of the important points being put to him. I hope that he can reassure noble Lords that there are mechanisms whereby we can ensure that the careful balance of religious freedom, social cohesion and tolerance, which have been a strong feature of our education system, continues in the future.

The Minister may find it useful to meet noble Lords between Committee and Report for a further discussion, because it is quite clear that there will be another extensive debate on Report. My noble friend Lady Morgan really put her finger on the question of how the Committee can be assured in this area. Certainly, anything that the Minister can do to reassure noble Lords will be very helpful.

6.15 pm

Lord Hill of Oareford: My Lords, I do not envy myself the task of winding up either. This is my first opportunity to listen to a debate in this House about matters relating to religion. I suppose that I should call it my baptism. As the noble Lord, Lord Hunt, said, there have been a number of extremely forceful and powerful speeches from every point of the compass. Reconciling them is not straightforward.

Perhaps I may take us back to the Bill, because in this fascinating debate we have gone quite far from it. The Bill is quite modest in its approach to current

religious schools and the question of how they might want to think about conversion. Our basic, underlying approach in all these matters is to seek to allow schools that currently have a religious nature to convert on their current footing with the safeguards and requirements that are in place. We are not seeking to change the nature of those schools or in any way to have some kind of Trojan horse, unleashing a new wave of faith schools without some of the restrictions that are in place, to which a number of noble Lords have referred.

Having made that general point, perhaps I may go through the individual issues that have been raised. First, I say in response to the noble Lord, Lord Hunt, that throughout this process I have been happy to talk to any noble Lords who can face the prospect of a further discussion. I have also been talking at length to churches and am very happy to talk to others. If, in that process, I am able to give further clarification and reassurance to underpin my basic point, which is that on these important issues we are not seeking to change the status quo with this Bill, I shall obviously be very happy to do so.

I now return to the beginning of this debate and the amendment moved by the right reverend Prelate the Bishop of Lincoln. The Government are committed to ensuring the maintenance of the churches' relationship with their schools. As the right reverend Prelate knows well, I have met representatives from the churches. I understand the concerns that they bring to this debate, which are from the other end of the spectrum compared with other points that have been made. I have studied the Bill carefully in connection with those concerns and can see nothing in it that could undermine the very important relationship that the churches have with their schools. Again, one of my tasks is to try to build on the reassurance that I hope I have been able to give so far. As the right reverend Prelate knows, I have written to the churches to set out our commitment to work in partnership with them. A copy of that letter is in the Libraries of both Houses.

I confirm that the existing protections and responsibilities in relation to admissions, the curriculum—including the obligation to provide religious education and collective worship—and staffing arrangements will be the same for academies with a religious character as they are for maintained schools with a religious character. I think that that was a specific point made by my noble friend Lady Williams. So far as employment law is concerned, the Bill retains the status quo. All schools will need to comply with employment law.

The religious education syllabus requirements for academies are currently delivered via the funding agreement, rather than through legislation. In future, they will be delivered through academy arrangements—either through the funding agreement or the grant conditions—in accordance with Clause 1.

So far as concerns the question from the noble Baroness, Lady Massey, I agree that it is important that pupils have the right to be excused from, and that parents have the right to withdraw their children from, religious education and worship. It is an important issue of conscience. However, we think that the noble Baroness's amendment is unnecessary in that academy funding agreements already require academies to comply with the School Standards and Framework Act provisions on pupils being excused and in relation to withdrawal. I place on the record that all future academy arrangements will have that same requirement. Therefore, the important right that the noble Baroness raised will be maintained.

Such protections as are set out in the funding agreement cannot be changed without the agreement of both the academy trust and the Secretary of State. We think that having those requirements in the funding agreement gives the same degree of protection to academy trusts as would be provided by legislation. As many in this Committee know better than me, there is a wide variety of approaches in how the churches govern and manage their schools—it is a complex area. Our view remains that having those provisions within the funding agreement rather than in legislation allows for individual circumstances to be reflected and avoids creating an undertaking that may not fully reflect the position of all religious schools.

On Amendment 35 tabled by my noble friend Lord Lucas, I shall reiterate my opening remark. We are not seeking to use the academies programme as a back-door way of deliberately increasing or changing the balance that we currently have in our education system. We do not think it appropriate to limit the number of faith admissions to 50 per cent when an academy is replacing an existing faith school; we think that the school should be able to carry across its current arrangements. That would not add or change the current situation. I hope that this provides some reassurance to noble Lords that we think it right that for the new academies—the new free schools—the requirement of limiting the number of faith admissions to 50 per cent should be in place. New academies would not be able to go beyond 50 per cent, as that would reduce choice. We think that it is important to have that balance and I am happy to make that clear tonight.

Lord Hunt of Kings Heath: The Minister is being very helpful, but can he clarify that? Whatever assurance is given, some schools will have pupils of one faith only. That is the reality of the schools to which the noble Baroness, Lady Murphy, referred. What will happen in that situation? It is likely that you will end up with students from only one faith or culture going to the school.

Lord Hill of Oareford: These are difficult and complicated matters and I do not have a simple and straightforward answer for the noble Lord now. I have said that it is an important matter that we can debate further outside this House. Let us do that by all means.

As I was saying, we think it important to ensure that local children of all faiths or none—I take the point that has just been made—have access to new academies. We will ensure that there is the balance that I discussed between community and faith places. All academies will have to have admission arrangements.

Lord Adonis: The noble Lord has just made an incredibly important statement of policy in respect of new schools. After this debate, will he clarify whether the 50 per cent provision that he mentioned in respect of new academies covers existing independent schools that transfer into the state system by means of academy

[LORD ADONIS]
status? That would be the principal means by which schools that are exclusively of one faith in terms of admissions could seek to come into the state system.

Lord Hill of Oareford: That is an extremely good question, which I will need to follow up separately with the noble Lord either orally or in writing, in which case I will circulate the letter. The principle of independent schools coming in is that academically they should be not selective but open in their admissions. I will need to follow up that precise point and come back to him.

We expect that in most cases the relevant religious body would be represented on the governing body of the school that converted. I am talking about existing religious schools converting. Therefore, those people would be informed of the Secretary of State's decision not to issue an order. The relevant religious foundation or trustees would obviously be closely involved in the process and could veto any academy application. In many cases, they would be the people signing the funding agreement as the academy trust. They would be closely involved in all stages of the application process and fully informed of all decisions.

Where there is currently an existing foundation or a trust associated with the predecessor school, we expect those bodies or their representatives, if they wish to, to become members of the new academy trust. That academy trust, once established, would appoint the majority of academy governors. That mirrors the current arrangements for both academy sponsor appointees and the appointment of governors to voluntary aided schools. As members of the trust and as signatories to the academy's memorandum of association, they would be fully involved in the process of a school becoming an academy. The governance arrangements will be agreed between the Secretary of State and the academy trust and set out in the articles of association. As I explained earlier, the articles cannot be changed unilaterally by either the Secretary of State or the academy trust.

The Bill does not change the required processes in respect of consultation, objection and adjudication on admission agreements for religiously designated academies. A school will continue to be required to consult its religious authority on any changes. Neither will it be affected by our policy on the provision of new non-faith places that a new academy is required to provide at least half of available places to the broader community. The Government's intention overall is to maintain the current relationship between religious bodies and their schools. My letter to the churches set out that commitment.

If the right reverend Prelate the Bishop of Lincoln would like to discuss this further, I shall be happy to do so. More generally, as I have said on those other important points that have come up, I will do my best to provide further clarification. I hope that I have dealt with the broad issues of what has been a long and interesting debate and I ask the right reverend Prelate to withdraw his amendment.

The Lord Bishop of Lincoln: If I had known what I was embarking on one and a half hours ago, I might have thought twice. However, I am glad that I did not think twice, because we have had a stimulating debate. As the Minister said, we rather drifted away from the Bill and we need to be attentive to the fact that the amendments are specific to the Bill. I, too, was challenged a couple of times to give reassurances, so I am happy to give them. In an act of gross self-promotion I can reassure the noble Baroness, Lady Massey, and others that I have just published a book, *No Faith in Religion*—£8.99 in all good bookshops. Its very title may lead those noble Lords to think that they and I have more in common than they imagined.

I can reassure the noble Lord, Lord Baker, that we in the Church of England—and, we believe, the Catholic Church—have made a commitment to an extension of what our community expects when widening the business of educational reform. I reassure the Committee that that remains the case. On community cohesion, as has been mentioned, church schools received a good bill of health not long ago. We need to hang on to that fact.

I am grateful to the Minister for the way in which he has dealt with these matters, not least in his gracious summing up. I want to reassure noble Lords that I do not think that my amendments are asking for anything less than what is currently the case. They are certainly not asking for anything more. I sensed in the debate that there was a feeling that more was being asked for on behalf of church schools and other faith schools than is currently the case. That is not so.

I shall withdraw my amendment, but the debate has shown that there needs to be clarity to ensure that those of us who are uncertain of our position can be made more certain. Those who have fears about the place of religious affiliation in education might have those fears allayed if something more were included in the Bill. Having said that, I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendments 13 to 16 not moved.

6.30 pm

Amendment 17

Moved by ***Lord Greaves***

17: Clause 1, page 1, line 17, leave out "an independent" and insert "a"

Lord Greaves: I shall also speak to Amendment 58. In doing so I am conscious that we are about two and three-quarter hours into day 2 and still on page 1 of the Bill. I shall try to be brief, which is always difficult for people like me. I am also conscious that we are moving from matters of deep philosophical and religious belief on to the meaning of words, where some of us are a bit more at home perhaps.

This amendment seeks to delete the description of an academy as "an independent school" in subsection 5(a). Subsection (4) refers to financial agreements and academy financial assistance requiring undertakings from the persons setting up an academy, or converting. Subsection 5(a) states:

"The undertakings are … to establish and maintain an independent school in England".

My eyebrows raised a little when I saw "independent" because I think that it is the wrong word. My noble friend Lady Walmsley suggests that I said that "autonomous" was a better word. I am sure that she is right although I do not remember doing so. Independent schools are a well established and well understood part of the education system. Most people who go to those schools pay fees and they are within the independent sector.

I do not believe that academies will be independent schools because they are a sector of education on their own. They are different from local authority-maintained schools and from independent schools. The right reverend Prelate the Bishop of Bath and Wells suggested that schools becoming academies would enter the independent sector. I do not believe that that is true—academies will not be the same as independent schools as we know them, whether they are small and local or places like Eton and Harrow. It therefore seems to me that "independent" is the wrong word. I notice that the Labour Party has tabled a similar amendment which appears in a later group. It suggests that the term should be deleted and another put in its place.

The truth is that academies will be schools with considerably greater freedoms and abilities to run their own affairs—their own finances, staffing and curriculum—than existing maintained schools have. However, they will be directly funded by the state, so to that extent they will be state schools. He who pays the piper has the ability to choose the tune. The intention is that these academies will have a great deal of freedom to make decisions for themselves, but the state will always have the ability to step in if for whatever reason it decides to do so.

That relates to academies and to individual schools. Indeed, if there are to be a large number of academies, there will be occasions—perhaps quite a few—when the state in some way or another will have to step in to sort things out when they go wrong. There is absolutely no doubt about that because, however excellent and well run academies may be when they are set up, they will be run by human beings who make mistakes. Collectively, human beings sometimes make big mistakes. Academies will not be responsible directly to local authorities, but they will be responsible directly to the Secretary of State or through whatever mechanisms are set up to inspect, monitor and supervise them and to step in when things go wrong. To that extent, they will have a completely different regime from independent schools. I therefore think that "independent" is being inserted not as a name for the schools—it is not suggested that they are independent in the way that true independents schools are—but as a description. However, it is a wrong description and it ought not to appear.

Amendment 58 is a probing amendment about primary schools. It suggests that primary schools should not at this stage be included in the dash to academies. It seems to me that in many ways primary schools are different in kind from secondary schools. Usually, secondary schools are much bigger and much more capable of running their own affairs. They are usually under Local Management of Schools, which has in my view been a considerable success. They are already responsible for managing considerable aspects of their budget and management arrangements. They certainly have considerably more freedom than they did when I used to teach in a secondary school, and it is right that they should. Primary schools have those freedoms, but often they rely much more on support and advice from the local authority. Primary schools are often small, and although some of them could manage as academies, a great deal more thought should be put into the matter. As we discussed on Monday, if primary schools are to be considered for academy status, the process should at the very least proceed by way of a pilot and not as a general invitation for all excellent ones to put themselves forward.

As we are talking about names, I quibble a little about "academy" as a name for primary and infant schools. The word is wrong. I believe that words matter and should be used sensibly and that another word should be used here. "Academy" suggests a level of academic involvement and attainment which, although appropriate for a secondary school, is not appropriate for much younger children.

There is also a problem in allowing primary schools in many areas to have academy freedoms from the local authority in a willy-nilly sort of way. Many primary schools, particularly in urban areas, are still in old buildings. There have been programmes of replacement and modernisation—many of them were in wonderful Victorian buildings, many of which are no longer appropriate for their modern use. If a local authority is to have a serious programme of replacing buildings and considering the provision of primary schools, allowing some of them to float off before the programme can be fully examined across an area, town or city seems to carry problems. Furthermore, because primary schools are small they are much more prone to the vagaries of falling and increasing rolls than are secondary schools. These problems have to be managed carefully. Although there are problems with academies being set up in areas where reorganisation in response to changes in rolls has taken place, or is likely to take place, the issue is likely to be much greater in relation to primary education.

It seems to me that there are many worries in relation to primary schools and the academies programme which ought to be looked at seriously. The greatest of all is that primary schools are small institutions, often ones that live in a world of their own. When the head teacher and the staff are successful and the governing body works well, it is wonderful; but if things go wrong, they often will go wrong in a very big way indeed. If the head teacher goes off the rails in some way or other, the governing body, having been hand-picked by him or her, may not be in a position to step in and do something drastic about the management of the school. It is a fact of life that nowadays people are arm-twisted and persuaded to serve as governors—it is the way that many governing bodies are put together. The school might go wrong educationally, financially or in terms of staff management. That happens.

Anyone who has followed schools in an area over a period will know of instances where a school has gone wrong. If it is a big secondary school, one can understand that the system of monitoring and supervision of

[LORD GREAVES]
academies may work and set in, but when it is a small local school, it will be much more difficult and, potentially, much more damaging to the education of the children in that school. There are serious problems about allowing a lot of primary schools to become academies. At the very least, the Government ought to be conducting some pilots to see whether they work and perhaps go ahead on the basis that some or all of the primary schools in an appropriate place become academies together, so that at least people are working together in a federation, a network, or whatever, rather than just allowing individual primary schools, which may be quite small, to opt out. I therefore commend my second amendment for discussion by your Lordships. I beg to move Amendment 17.

Lord Phillips of Sudbury: In this group of 22 amendments, I shall speak to Amendments 22A and 23, with which my noble friend Lady Walmsley is associated. The first amendment would insert the little word "and" at the end of Clause 1(5)(b). The purpose of that is to make plain that the undertakings which must be given for an academy agreement to be entered into are both of the matters referred to in subsection (5)—paragraphs (a) and (b). The word "and" would fulfil exactly the same purpose there as it does in subsection (3), where paragraphs (a) and (b) are linked. It is as simple as that.

My second amendment, Amendment 23, would delete from Clause 1(5)(b) the words,

"or provide for the carrying on of".

That would mean that the undertakings require the undertaker to carry on the school, rather than to delegate the running of the school to someone else. It would be a bit of a hole in the carapace of the Bill to allow anyone to take over the carrying on—the running—of a school from the charity which had negotiated the academy arrangements with the Minister. I cannot believe that the intent is to permit that, because it would mean that there was no control by the Minister over the ultimate organisation running the school. One could envisage—because it does not seem to be prohibited by that wording—a profit-making entity running the school. That would run counter to the whole culture of the Bill, and state schools of whatever type. I would be grateful if my noble friend would respond sympathetically to those amendments.

Baroness Morgan of Huyton: I shall speak to Amendment 25 in this group, which probably should have been taken with an earlier amendment tabled by the noble Lord, Lord Lucas—I do not know why they have been separated. The aim of the amendment is simple, and I shall be brief: it is to get a little more push in making sure that we have a little more than warm words about outstanding schools that become academies, that we have a little more clarity and a little more than general good will about them giving genuine support to poor, disadvantaged and failing schools in the same area. I have heard what the Minister said and I generally share the approach that schools want to help each other, but if we think back to the reality of grant-maintained schools, that was not the case and they were separate from the local school community.

Noble Lords know that over the past 13 years, there has been a lot more co-operation and collaboration between schools. That has been for the general good and has led to improvements in all schools. Many head teachers of outstanding schools believe that their staff gain from helping disadvantaged schools. The learning is both ways: it is not all going in one direction, it genuinely moves both ways. However, that has happened with support. It has happened through things such as London Challenge and the Greater Manchester Challenge; it has happened through the national leaders' programme, which has done some of the brokerage to ensure that people are working together, and has put some oil in the system to make that happen. I am anxious to ensure that we do not lose that lesson—that it does not happen spontaneously—and that there is genuine partnership and proper movement of curriculum leaders and senior leaders between schools. Otherwise, with the best will in the world, it will not turn into reality on the ground.

6.45 pm

Lord Adonis: I shall speak to my amendments, Amendments 45, 48 and 49, which are in this group, although they raise issues distinct from those raised under the other amendments. They go to a point of overall principle in terms of the scope of academies, but I wish to raise two specific practical consequences of that principle. The overall principle is the wording of Clause 1(6)(d), which states that academies must be schools which provide,

"education for pupils who are wholly or mainly drawn from the area in which the school is situated".

This is one of the few cases in which I think that the Bill may be genuinely over-regulating academies. I query whether that provision is necessary. As we said in the previous debate in respect of schools with a religious character, we do not anticipate that schools will change their character by taking on academy status, and of course schools are bound by the admissions code, unless there are specific reasons why not—and I shall come to one specific reason in a moment. Therefore, the huge generality of schools will provide for pupils who live wholly or mainly in the area which the school serves.

The reason why the formulation is here is that, unless you want to bring about a change of policy, statutes tend to replicate previous statutes. The phrase "wholly or mainly" goes back right to the beginning of academies. The Education Reform Act 1988 was the first legislation providing for city technology colleges, which were independent state schools—the name to which the noble Lord, Lord Greaves, takes such exception, but that is what they were called even then. Section 105(2)(b) stipulates that city technology colleges should be,

"for pupils of different abilities who have attained the age of eleven years but not the age of nineteen years and who are wholly or mainly drawn from the area in which the school is situated".

The purpose behind that is that the noble Lord, Lord Baker, wanted to establish independent state schools with a strong technological focus which served the broad area in which the school was located.

The noble Lord, Lord Bates, who is not in his place, said in our debates on Monday that the catchment areas of some of the original CTCs had contracted.

That is true, but it is important to understand that they have contracted by the consent of their governing bodies to changing their admission arrangements, not by the requirements of the law. It is perfectly possible for an academy to draw from a wide area around the school by, for example, the use of banding, or inner and outer catchment areas—there are a lot of established ways in which schools can do that—while abiding entirely by the provisions of statute.

However, I wish to raise two categories of school in this debate which are covered in my Amendments 48 and 49, which sit very uncomfortably with the notion of schools whose pupils must be admitted wholly or mainly from the area in which the school is located. The first is boarding schools, and the second is schools which provide pupils with exceptional talent in music, dance and the arts.

Let me start with a statement of principle. It is very important for a genuinely comprehensive system of state education that it provides for pupils in those categories. Indeed, we should be expanding the provision of state boarding schools. I am glad that a number of academies are opening boarding houses. It is important that the state system provides for pupils who have a boarding need—those with family circumstances caused by family breakdown or by the nature of parental occupation, for example parents who are in the military—in a way that, let me be blunt, those who have the means can obtain by accessing private schools. It is also vital for a genuinely comprehensive system of education that it can provide for those with exceptional talents in the arts, music and dance. By the nature of those disciplines, that will require attendance, wholly or partly, at separate educational establishments.

The state recognises that at the moment. There are 35 state boarding schools which, for the most part, are excellent schools. Local authorities often pay for pupils to attend wholly private boarding schools. A local authority paid for me to attend a wholly private boarding school because I had a boarding need. I would like to see the number of such places expanded. Through the music and dance scheme funded by the Department for Education, the state also provides for 2,000 exceptionally talented children to attend private schools, including Chetham's School of Music in Manchester, Elmhurst School for Dance in Birmingham, the Purcell School in Bushey, the Royal Ballet School, Wells Cathedral School and the Yehudi Menuhin School, because they have exceptional talent in music, the arts or dance.

Where do boarding schools and schools for those with exceptional talent in these areas sit in relation to academy status? I shall ask two questions and make a suggestion. If the Minister cannot answer my first question tonight, I would be grateful if he will write to me.

My first question is whether the 35 existing state boarding schools will be able to transfer to academy status. Is the advice of the department's lawyers that they would satisfy the requirements in the Bill to serve pupils wholly or mainly drawn from the area in which they are located? Looking at the list—and I know a lot of them well—my sense is that some will meet that requirement, but some will not. It would be a good thing if they were all able to meet that requirement. I cannot see, in principle, why any existing state boarding school should not be able to take full advantage of the right to become an academy.

Secondly, will existing private schools that provide a substantial number of places for state-funded pupils through the music and dance scheme be able to join the state system by means of academy status? It would be a good thing if they were able to do so, if they wished, so that we strengthened the capacity of the state education system to be genuinely comprehensive in meeting the needs of pupils with exceptional talent in music, dance and the arts. I imagine the advice that the Minister will get from his lawyers is that schools that educate pupils under the Government's music and dance scheme will not be eligible for academy status as a means of coming in to the state system because they do not educate pupils drawn wholly or mainly from the area in question. Chetham's in Manchester is a phenomenal school. I am glad to say that one of the good things that the department has done in recent years is to provide a substantial grant for rebuilding. Pupils come from across the country, and rightly so.

My practical suggestion is that either Clause 1(6)(d) is removed entirely, or that special provisions are inserted into the Bill to enable certain categories of schools which do not provide for pupils who are drawn wholly or mainly from the area in which they are located to become academies. I specifically have in mind boarding schools and schools whose purpose is to educate pupils with exceptional talent in music, dance and the arts. If it is possible, I would grateful for an opportunity to discuss this further with the Minister to see how we can resolve this issue.

The Lord Bishop of Lincoln: I am very glad to follow the noble Lord, Lord Adonis. I shall speak to Amendments 47 and 127. I agree that the clause to which the noble Lord referred needs to be freed up a bit. Amendment 47 would allow exceptions to pupils being drawn from the local community. At the moment, the clause is very prescriptive, and my amendment would allow a broader intake of pupils. It could also have an impact in other areas, and I declare an interest as it would be of interest to faith groups. On the other hand, I am trying to strengthen the argument for the local community being the main user of these schools by shifting the burden of proof from that they might or might not be community schools to the general rule being that they are. That is why the Church of England is committed to the academies programme. My amendment would secure its interest and would also allow what the noble Lord, Lord Adonis, wants, even though we want to press for something more specific. However, in general terms, we are making a similar point.

If the Minister were to be sympathetic, it would strengthen the arm of those of us in the Church of England who want to be able to say to our people that we are in this business to serve the community, not primarily to further a particular faith position. My amendment would strengthen that position, and I hope that not only would it be of benefit to the Government in implementing the Bill but will help us ensure that our people remain on side when it comes to why we are in the business.

[The Lord Bishop of Lincoln]

Amendment 127 is rather different. I am fishing in the same waters as the noble Lord, Lord Lucas, in the debate on the previous group and the noble Baroness, Lady Morgan of Huyton, in this group. The amendment is to do with the relationship between academies and other schools. I want to strengthen the Government's arm when it comes to ensuring—not just hoping for or expecting—that these schools will form partnerships with weaker schools in the vicinity. They will be required to do so, subject to certain exceptions because there will be exceptions. A school could be situated somewhere where there are no other schools close by that are practically able to partner in that way. That is acknowledged in my amendment. The fundamental principle is to beef this up and turn it from hope or expectation to a requirement, with the possibility of exceptions where they might arise in the judgment of the Secretary of State.

Baroness Sharp of Guildford: I shall speak to Amendment 63 which is in my name and that of my noble friends Lady Walmsley and Lady Garden. It is a fairly simple amendment and relates to Clause 1(6)—as my noble friend Lord Greaves said, we are still on Clause 1—which lists the basic characteristics that will be required of schools converting to an academy. In a number of the amendments, we have been discussing further characteristics that noble Lords would like to see attached to this subsection. The purpose of Amendment 63 is to probe what sort of machinery the Government are thinking of for monitoring all these characteristics. In subsection (5), the undertaking is given that these schools will adhere to these characteristics, but we are asking for some sort of monitoring machinery to make sure that they adhere to them, rather than regarding them as something that they agree to when they sign the agreement, but subsequently do not bother about very much. We would like to hear from the Minister precisely what sort of undertakings and monitoring machinery there will be.

I have a lot of sympathy with my noble friend Lord Greaves who wants to eliminate the term "independent school". When we first started to discuss academies, Tony Blair, when he was Prime Minister, described them as independent state schools. If we are going to have independent state schools, let them be called independent state schools. I always felt that they were an anomaly, and I cannot say that I like them very much. Nevertheless, my noble friend Lord Greaves is absolutely right that it is misleading for the Bill to use the term "independent schools", which are well understood in this country to mean independent private schools.

7 pm

Secondly, I am very sympathetic to my noble friend's notion that where primaries convert to academies, there should be a pilot rather than primaries rushing into doing so. I am particularly taken with his notion of primaries forming a federation. A long time ago—back in the 1970s—I was involved in forming such a federation of schools in Washington DC, where six small elementary schools, as they are called in the United States, were formed into what is very close to being the free school movement that we are talking about now. They established themselves under a council that was composed of parents and teachers and was independent. It worked extremely well. The notion of six small schools collaborating together in a federation is good.

Lastly, I support what the noble Lord, Lord Adonis, said. I very much go along with the amendment in the name of the right reverend Prelate and the suggestion that those who attend academies should be drawn mainly from the local area. However, I had dealings with state boarding schools when we discussed previous education legislation in this House, and think that they are very impressive. They serve a very important need, and what he says about them is correct. Similarly, I come from Surrey and we have quite a lot to do with the Yehudi Menuhin School. These specialist schools are brilliant, but they obviously cannot serve a narrow area. They have to serve a wider area, so I very much agree with him.

Lord Northbourne: My Lords, I support the noble Lord, Lord Adonis, on state boarding schools. It is my experience that, for children with emotional and behavioural difficulties, the boarding school solution can very often be the only one that works.

Baroness Williams of Crosby: My Lords, I support very strongly the arguments made by my noble friend Lord Greaves on removing primaries from the present list of schools that can become academies. I will very quickly provide a few additional arguments in support of his well-argued speech.

First, primary schools are in many ways the fundamental building blocks of community throughout the country. Sometimes they are Church of England primary schools, sometimes they are not, but in almost every town or village where they exist that is what they are seen to be by the populations of those areas. They are therefore not only educational institutions; in many ways, they are crucial social institutions that help to hold communities together. In fact, more and more, the local primary school is at the heart of whether a village survives as a village or becomes in effect another suburb.

Secondly—my noble friend Lord Greaves implied this, but I want to underpin his arguments—primary schools are heavily dependent on local authority advice services, whether in relation to special educational needs, staff relationships or legal matters. They very often simply cannot afford to buy in advice or get advice from a private source because they are too small, as my noble friend argued, and often too isolated to be able to master that advice. However, they need it, and, for a very small primary school, getting that advice can make disproportionate demands on the school budget. Primary schools simply cannot sustain these services easily—and special educational needs are one of the most central—if the local authority advice services disappear. One question for the Minister is this: if one gets to the point at which those advisory services are mostly disappearing because such a large proportion of the schools that are served by them have chosen to become academies, will he look at the possibility of some sort of residual advisory service for small schools that simply cannot afford to sustain such advice themselves?

In addition, primary schools often require assistance on matters such as appeals and dealing with children who, for one reason or another, have disciplinary problems and are likely to be excluded. It is too much to ask primary school heads too often to take difficult decisions that require legal advice on their own—a position in which some primary school heads find themselves.

Thirdly, primary schools could suffer from a talent drain if they had to battle against a small, or perhaps even substantial, number of primary school academies in which, say, teachers of mathematics or teachers with special abilities with SEN children are very much in demand. In that case, primary schools would come at the very bottom of the pecking order.

Last of all, primary schools—at least in my view—require the support of their local community to a greater extent than secondary schools do, so the argument for having governing bodies that sustain and include members of the local community is particularly strong. What does that add up to? As my noble friend has argued, it adds up to treating primary schools at least as a more distant case for becoming academies than secondary schools are treated. It would be very easy to disrupt the primary school system if one is not careful, and, once a proportion of primary schools become academies, it begins to become virtually impossible to decide strategically how to meet the needs of all children in an area. I therefore suggest to the Minister that serious consideration should be given to the possibility of considering primary schools at a later stage and to permitting a few primary schools to go ahead with becoming academies as part of a pilot scheme. If the new politics means anything, it means that we must be able to look at experiments without insisting that they are universalised before we know whether they work. For the reasons that I have given, the argument for considering primary schools at a later stage, if at any stage, should be made very strongly in our discussions, because they are different, they are dependent on the local authority, they are central to their local communities and they are in a different position from that of secondary schools.

Lord James of Blackheath: I interject on behalf of the SEN pupils of boarding schools with a word of caution, and I speak, as I have said before, as probably the House's only representative of SEN students in my day. In one term alone, there were eight suicides from a student base of 45 at a boarding school for SEN children in 1947. This was a good school, and there was no abuse—indeed, the teachers showed very great kindness and consideration—but it is very dangerous to take struggling young people away and put them together in a school in which they have to cope with their recognition of their total inability to study effectively and have no home life at the same time. Please do not put SEN children into public boarding schools.

Baroness Royall of Blaisdon: My Lords, I will speak to Amendments 26, 27, 56, 57, 99, 103, 109, 111 and 120—a veritable alphabet soup of amendments.

The Government propose that outstanding schools that convert to academies should take under their wing another school that is struggling and that should receive support. This is an excellent idea, but there is no actual provision for this in the Bill. The Secretary of State has made it clear that he will in most cases wait until after conversion to put the arrangements into place, but I suggest that there might be some advantages in being a little more up front about this issue. I welcome Amendment 25 in the name of my noble friend Lady Morgan of Huyton in this respect.

Amendment 26 prevents changes causing untold disruption to sixth forms and colleges in the community, which I believe could be an unintended consequence of the changes. Amendment 27 deals with another seemingly unintended consequence of the legislation. Under the Government's proposals, academies will be allowed to expand at will and will be able to include sixth-form colleges and primary schools. A school converting to an academy at, say, primary school level could in theory grow until it becomes an all-through academy for pupils from the age of five to 18, but the local authority and the local community will have had no say in the issue.

There could be serious consequences. For instance, a faith primary school could expand into a secondary school, or a grammar school could expand into primary education. Without proper public consultation, the balance of, for example, faith schools and non-faith schools in a given community could be transformed. We would not want such an unintended consequence. The Bill also erodes the ability of local authorities to plan by giving secondary schools, for example, the right to establish a primary class without the need to consult anyone. As the noble Baroness, Lady Williams, pointed out, primary schools are often much smaller than secondary schools. They have much less capacity to budget, to plan for the future, to have in-house services for SEN provision or to have other key shared services.

In principle, there is no reason why primary school children cannot attend an autonomous school. Under the previous Government, all-through academies happened and they were successful. But, like the noble Lord, Lord Greaves, and the noble Baroness, Lady Williams, I wonder whether the academy model is the right model for primary schools right now, as it will necessitate a considerable increase in overheads for primary schools. The resources for shared services could be swallowed up by extra administration, which could have severe consequences for the wider welfare of primary school children in those communities. Amendments 99, 109 and 120 effectively ask the Government to think again about that issue and to think about a framework which might involve more collaboration, as has been mentioned, for primary schools and secondary schools. We think that that might be more appropriate. Therefore, we are thinking along the same lines.

Amendments 103 and 111 deal with what could be seen as a fundamental issue, a problem, at the heart of the Bill. The current academies programme targets areas of inadequate educational attainment and opportunity. Most academies replace existing weak or underperforming schools. Others are brand new schools in areas which need the extra school places. Academies were a key element of the national challenge. They

[Baroness Royall of Blaisdon]
took us to a position where only one in 12 schools fell below the 30 per cent grade A to C benchmark, which half of the schools failed under previous Governments. But I am glad to say that things improved.

Part of the real benefits of the academies programme under the Labour Government was that outside expertise was harnessed for the good of turning around failing schools and it was important to acknowledge a role for innovation. For this reason, academies were obliged to follow the national curriculum in only core subjects such as English, maths, science and information technology. The schools were also taken out of existing local authority control and given the funding for shared services, as we have discussed previously. This was so that they could use the funding to deliver the services, which many, by definition, would have had more need for than other schools, because they were often in the most deprived areas with the most overlapping problems.

Academies have had a higher incidence of pupils with English as an additional language compared to other state-funded schools. Investigating the state of play as regards pupil profile admissions and exclusions, the report by PriceWaterhouseCoopers says that the proportion of children eligible for free school meals in academies has declined at a faster rate than in other schools, with a drop of nearly 6 per cent. The PWC report also shows that the absolute number of pupils on free school meals has risen compared to their predecessor schools. We can see that the fall in proportion does not mean that free school meal numbers have declined but that more children are attending school, as well as more from other backgrounds. Of course, that is a good thing and shows that the schools are getting a genuinely comprehensive intake, which we welcome. Many predecessor schools sadly had unrepresentative intakes. But the PWC report indicates a story of sink schools with a high proportion of children on free school meals attracting a much broader intake to much more successful schools.

By contrast, the Government propose to implement a reform which is aimed at improvements for 20 per cent of schools already rated outstanding by Ofsted. Of course, these schools are likely to have fewer children on free school means attending. There is a real risk that by giving advantages to the strongest and not to the weakest, we entrench rather than erode the inequalities in the education system in this country. That is why it is so important that these excellent schools work strongly with the schools in the most disadvantaged areas, which is precisely why I welcome Amendment 125 in the name of my noble friend. It is important that we deal with this issue up front and I would like to make it explicit in the legislation.

7.15 pm

Baroness Howe of Idlicote: My Lords, this has been a fascinating debate, inevitably ranging over a lot of issues. I have been struck again and again by the firm agreement on the requirement for academies, in whatever form, to partner and to be the supporting school for schools in difficult situations that need that form of help. That is very important.

The other crucial thing is what has been put forward by the noble Lord, Lord Adonis. The two groupings of schools might not otherwise be considered to be within the scope of academies. I am tied up with some art schools and music schools and I know how difficult it is for them to get support from local authorities. Extra support and involvement in the academy status would be a good idea. I hope that I am wrong about the boarding school side of things. It is probably a bad idea to have too many children grouped in special needs circumstances. Certainly, to be in a school that can provide help, support and encouragement is excellent.

Above all, we must ask the Minister to work out a way in which he can satisfy us that, once the academy status is confirmed, these schools will partner deprived schools. On the comments made by the noble Baroness, Lady Sharp, a form of formal or informal monitoring after it has taken place might help as well, but we will need a report on how things are going.

Baroness Perry of Southwark: My Lords, this is a hugely disparate group of amendments. We have covered a lot of topics and it has been difficult sometimes, despite the intelligence of Members of the Committee, to see any common thread in what has been discussed. I want to return to the issue raised by the amendments in the names of the noble Lord, Lord Adonis, and the right reverend Prelate the Bishop of Lincoln. They deal with the absolutely key issue of the catchment area from where the academy will draw its pupils.

In recent years, I have been increasingly concerned over the whole issue of catchment areas, largely because we have seen that, where there is a good, strong school, parents who can afford to do so understandably—I do not blame them for it at all—cluster around the school and buy or rent houses in the area. There are even stories of parents being slightly economical with the truth in all sorts of interesting ways about where they live in order to claim that they are within the catchment area of a good school. Meanwhile, the schools most in need are in the most deprived areas. The people who live near those poor schools, often on local council estates, do not have the option of moving. They cannot buy their way into the catchment area of a good school.

This is one of the big issues for academies. I know that in Hackney the academies do not have catchment areas, but they do use banding and lotteries. I know that my noble friend Lord Lucas has an amendment—for various reasons, it is not in this group—that raises the issue of banding. I ask the Minister to think seriously about the issue of "wholly or mainly" in a local area and about the freedom which grammar schools have had since their inception and which grant-maintained schools had in their day—and which, as I say, many existing academies have taken—that allows them to go outside their area, maintaining the inclusiveness of the intake by means of banding but giving it a social mix or even a mix of talent.

Lord Lucas: I support entirely what my noble friend has just said. It is important, particularly when we are granting new freedoms to outstanding schools, that one of our ambitions for them is that they should reach out of the area immediately around them, which frequently has been colonised by people who can

afford to buy houses in the area, to those who are not in that position. We will come to my amendment later. Perhaps I take a more active view than my noble friend, but I certainly would like it to be an ambition that all these schools should free themselves from geographical catchment areas that allow for their capture by financially mobile people. They should, at the least, be able to reach out and include those beyond the local area.

I also support the noble Lord, Lord Adonis, in what he said about state boarding schools. They have a strong role to play and I would like to see an increasing role for them. As he says, most of them are excellent, but they are clearly not serving their local areas in any particular way. That also applies to religious schools. Existing schools such as the Jewish Free School have a wide catchment area and are excellent. I cannot see why they should be excluded just because their communities are widespread. They should not be geographically confined, particularly if new schools are following the 50 per cent rule. I do not see any damage arising from that. Again, historically we have supported dance, drama and music in specialist schools and I suspect that it would do our national pride a bit of good if we supported tennis. All in all, I come down to agreeing with the first amendment tabled by the noble Lord, Lord Adonis. I cannot see a function for subsection (6)(d) that could not reasonably and justly be dealt with in the ordinary discretion of the department.

Having agreed with noble Lords opposite, I take issue with my noble friend Lady Williams. If I start from the same premise as she did, I get to opposite conclusions. The community that my local primary school is part of is the village in which it is situated. The school is governed from Petersfield eight miles away, but that is an alien presence, not a local one. A primary school is very local, so one that has its roots in the local community is a much more local thing than one that is subject to the whims of the local authority, which has a lot of considerations other than the wishes of the local community. I see that as progress.

I spent part of my life running a small business, which felt like a primary school in that there were lots of things that I could not do myself. However, if I wanted to know about employment law, I subscribed £250 a year to a telephone service from Sage or someone else. I did not need a local authority to provide it for me. There will be lots of other providers of these services—indeed, there are many—and it is not like having to pay a City lawyer £500 an hour every time advice is needed. Services are built to be provided to small enterprises like primary schools.

However, I share my noble friend's concern about how fragile primary schools are. The wrong head in a primary school can kill it in about two months, so I urge the Minister, when he comes to consider applications from primary schools, to make sure that they have strong heads and governing bodies and that they are committed to stay in place for some time. It may well be, over the long term, that a primary academy would be better as part of a wider federation of some kind, such as a group of primary schools, or as a school that is connected to a secondary school, as the existing primary academies are. That would provide the resources to deal with problems as they arise and which can so easily bowl over a small primary school.

The Lord Bishop of Lincoln: I am reluctant to intervene further when the dinner break is approaching and I can see that the Minister is anxious to respond. I have only a few points. I have been prompted to raise the first by the interesting comments of the noble Baroness, Lady Williams, followed by those of the noble Lord, Lord Lucas. Precisely because there seems to be a serious debate, it is possible to reach different conclusions from the same premise. That is a good reason for going quite slowly in relation to primary schools. An issue that has been of concern to noble Lords throughout the Committee stage is what is perceived to be the haste with which this legislation is being progressed. That could be an indication for the Minister that, at least in relation to primary schools, there should be an opportunity to pilot a scheme to see whether this should happen at all. I would say personally that, in promoting the academies agenda, which we are anxious to do, it would be considerably easier if we were working with a timetable that did not address all our schools all at once, but allowed for some kind of phasing in of the initiative so that, when schools go for this option, they do so after due consideration and consultation and in the light of all the circumstances and facts. Finally, talking of facts, although the Minister may not know this off the top of his head, what is the proportion of secondary schools to primary schools among the 1,700 declarations of interest that have been made?

Baroness Sharp of Guildford: Just before the Minister responds, I should say that I have not spoken to Amendments 185A and 188A tabled in my name, among others, because they should not really have been included in this group. I will speak to them separately later.

Lord Hill of Oareford: A diverse set of themes and topics has come up. I shall come back to the point about "wholly or mainly" in a moment, because it is one of the themes that have emerged on which I hope to be able to provide a little reassurance. I shall take my responses in the order in which I have them before me.

Amendment 63 concerns monitoring and whether we need to have independent monitoring arrangements. The Bill requires that there will have to be compliance with the characteristics set out in the academy arrangements. How that works in practice is that the Secretary of State ensures at the outset of an academy project that it meets those characteristics. Compliance is then monitored by the Young People's Learning Agency. It has the duty to monitor compliance and, if the Secretary of State is not satisfied, he has the power to terminate an arrangement.

Amendment 17, moved by my noble friend Lord Greaves, is concerned with language. I agree that language is important. Personally, I quite like the word "independent" and the concept of independence. I take his point about how certain words carry freight. One could argue that one should call independent schools "private schools" and academies "public schools", but the amendment would make academies maintained schools rather than independent schools, which would in effect prevent them from gaining the freedoms that are the purpose of the Bill.

[LORD HILL OF OAREFORD]

On Amendment 22A, the Bill as drafted requires those setting up academies to meet the demands of both paragraphs (a) and (b). I am advised, and can assure noble Lords, that adding the word "and" to this subsection would not change the meaning of it. We do not believe that there is ambiguity in the current drafting.

7.30 pm

Lord Phillips of Sudbury: Can the Minister put it more clearly? Is he saying that the amendment is superfluous because the two paragraphs are both applicable to the undertakings?

Lord Hill of Oareford: I think that that is what I am saying. I am particularly nervous with my noble friend Lord Phillips because I know that he is an expert on every aspect of charity law. If I am wrong and I have misled him, I shall clarify that with him.

Amendment 23 would restrict the ability of academy trusts to use contractors to deliver particular aspects of the running of the academy, including, for instance, cleaning services or the provision of ICT. One would want academies to be able to contract out such services, rather than teachers and heads having to take responsibility for them. If maintained schools are able to contract out services in this way, why should not academies?

Lord Phillips of Sudbury: I apologise for interrupting again. I know that it is hard on the Minister, who has this huge group of amendments to deal with. These are nitty-gritty points, but the natural meaning of,

"to carry on, or provide for the carrying on of, the school",

is not that the proprietor of the school should employ external cleaners or providers of this or that. In common parlance, the carrying on of a school surely means the running of a school. Will the Minister take further counsel on this and, in the light of that counsel, consider the amendment again?

Lord Hill of Oareford: That is clearly the purpose and a new academy set up by a parental group may well need a significant amount of educational support in delivering it. I think that that is the point that my noble friend Lord Phillips raised when he spoke to his amendment. As part of the process of applying for academy status, the applicant would have to demonstrate how education is going to be delivered and whether use will be made of outside services in so doing. It would all be considered as part of the application process.

Baroness Morgan of Huyton: I am concerned that there is a suspicion—I accept that this is not what we are talking about here—that an academy provider and the group running it could hand over to someone else in two years' time without being properly monitored. As I understand it, that is the concern being expressed. It is also my concern.

Lord Hill of Oareford: That could not happen. To clear up another often expressed concern that may lie behind the questions of my noble friend and other noble Lords, an academy trust cannot be a profit-making body either—although, clearly, the people providing the service will be paid for doing so.

Amendment 26, to which the noble Baroness, Lady Royall, referred, would require future academies to continue any formal collaboration arrangements established between a former maintained school and FE colleges. As Section 166 of the EIA 2006 allows only for formal governance structures to be established between maintained schools and FE colleges, any partnership would operate on an informal basis. That is what happens currently and it is the right way to continue. It is happening in Luton, where Barnfield College, an FE college, is sponsoring two academies. In practice, that approach seems to be working.

Amendment 27 would prevent an academy trust from changing the age range to which it would provide education—and there was a long discussion subsequently, which I may come back to on later amendments, about the role of primary schools. The amendment would prevent an academy from, for example, providing early years education if it did not do so from the point of conversion and it could prevent it from expanding its provision from secondary to sixth form. However, given proper safeguards, those are the kinds of developments that we want academies to have the freedom to deliver. If that is what local parents want, we want academies to be able to do that.

Baroness Royall of Blaisdon: It is a point about consultation. I am not seeking to prohibit academies from expanding the age range, but the fact is that they would do so without consultation. This harks back to the whole consultation issue and I hope the Minister will consider that point.

Lord Hill of Oareford: I am considering that. On the specific point of sixth-form expansion, an increase in places would require a change to the admissions arrangements, which would itself require local consultation and agreement by the Secretary of State. That may provide the noble Baroness with some comfort.

Amendments 45, 47, 48 and 49 revolve around the debate we had about "wholly or mainly". I share the views expressed on all sides of the House about boarding academies. I am very attracted to the idea and wish to see whether we can do more with them. Other points were made around a particular specialism and one would not want provisions in the Bill which made that problematical.

As to the specific question about the existing 35 state boarding schools—this provides the answer to the substantive question behind it—yes, they are able to apply for academy status. To respond to the noble Lord, Lord Adonis, the Duke of York's Royal Military School will become a boarding academy within the current requirements—which, as he rightly said, date from 1988 wholly or mainly—so they have not prevented that from happening. A performing arts academy has been set up in Birmingham to serve that city's pupils, and I am advised that that has been possible within the "wholly or mainly" requirement. I am alive to the point—I have asked about it within the department—and I am keen to encourage the kind of developments referred to by the noble Lord and others, including the noble Lord, Lord Northbourne. I am keen to do this and I am told that it is not a practical obstacle. I shall

be happy to take up the noble Lord's offer to discuss the issue subsequently and make sure that I am right in my understanding.

Amendment 56, which was spoken to by the noble Baroness, Lady Royall, seeks to ensure that an academy continues to provide for CPD and suggests making it a requirement for future academy arrangements. Everyone would agree on the need for continuous professional development in academies, as in all schools. I am advised that it is one of the areas without the sort of requirement that she suggests. Academies often do particularly well as a result of the overall way in which they approach staff issues and pay and conditions. Academies are supported by education advisers whose role has included looking at this area in particular. I am told that it is working well, so we are not convinced that it needs to be a statutory requirement.

Amendment 57 would require that corporal punishment be prohibited in academies. The School Standards and Framework Act 1998 amended the Education Act 1996. It effectively abolished corporal punishment in all schools by providing that there should be no defence to criminal or civil proceedings as a result of any corporal punishment being given to a child being educated at a school. That provision applies to academies as well as maintained schools and has been in force since September 1999.

Amendments 58, 99, 109 and 120 would restrict academies to particular types or age ranges. Nursery schools are not able to become academies because they cater for pupils below compulsory school age and, to be established, academies must have at least five pupils of compulsory school age. I listened with interest to the debate on primary schools and understand some of the concerns raised. My noble friend Lady Sharp suggested federations of primary schools, which is exactly the kind of thing that one would want to encourage. We have said—this responds in part to my noble friend Lady Williams—that we will work with local authorities to address these issues as the scale and nature of academy conversion becomes clear. As I have said repeatedly, we are approaching this conversion permissively. We are not seeking to make all primary schools convert. We are committed to thinking through the issues that she raised about the practicalities involved for primary schools. We will continue to reflect on that and work with local authorities. That said, we are keen that primary schools of the sort that I visited in Edmonton on my second day in the department—it is a fantastic primary school which has been turned around—have the chance to convert. The headmistress there, Patricia Sowter, was very keen on academy freedoms. Primary schools should have that chance and we do not want to stand in their way.

Amendments 127 and 25 raise a theme that we have debated in previous groups. They would require a school converting to an academy to join forces with a weaker school unless particular circumstances led the Secretary of State to decide that it was not the right thing to do. The noble Baroness, Lady Morgan, said that we have used warm words and that one is looking for more than that. I shall continue to try to heat them up even further if I can. I completely agree with her and other noble Lords who made similar points. The importance of partnership between outstanding schools converting to academies and other schools cannot be underestimated. We have been explicit that each outstanding school will be expected to sign up in principle. They will have to set out their plans as part of that process. However, it is still our view at bottom that approaching partnership on a volunteer rather than a conscript basis may make those partnerships more fruitful, in that they will be willingly entered into rather than perhaps approached more grudgingly. Amendment 127 is not limited to outstanding schools. Our view is that if a school is not yet outstanding, to burden it with a requirement to partner with a school eligible for intervention would not be a sensible way forward.

I hope that my answers have provided some reassurance, particularly on the "wholly or mainly" point, which I recognise is important and am happy to discuss further. On that basis, I urge noble Lords not to press their amendments.

Lord Lucas: My Lords, on "wholly or mainly", could my noble friend provide me—it need not necessarily be now—with an example of the kind of school that the provision is designed to prevent becoming an academy?

Lord Hill of Oareford: My noble friend Lord Lucas has a well earned reputation for being able to ask such questions; I think that it is not designed to have a very simple or easy answer. However, I shall reflect on it. If I were able to offer any enlightenment to him, I should be delighted to do so and extremely pleased with myself for having been able to come up with an answer.

7.45 pm

Lord Greaves: My Lords, I thank everybody who has taken part in this long discussion on this group of amendments. The noble Baroness, Lady Perry, described it as disparate; I would call it a bumper bundle. It has been a quite extraordinary debate.

We had an extremely interesting debate on primary schools. I thank particularly my noble friends Lady Williams and Lady Sharp and the right reverend Prelate, who are all more expert in this matter than I am, for taking part. Whether or not the Bill needs changing in any way, it is clear that further discussion on primary schools, small schools and federations is required as it progresses through this Chamber and the Commons. We have sparked off that debate very usefully.

The noble Lord, Lord Adonis, talked about types of school which could become academies and which the Bill might restrict. I should like to put one pebble in the pond for the longer term, when more public finance might be available than there is now. I am one of those people who went to a direct-grant grammar school, which were quite extraordinary institutions. They were highly elitist academically, but many of them were not all that elitist socially. Approximately half the pupils at my school were fee-payers and the rest were, like me, scholarship pupils. They were paid for by the local authority to attend the school, which had a direct grant from central government. There was therefore quite a social mix. The school that I went to had an extraordinary social mix, because its intake

[LORD GREAVES]
ranged from children from coal-mining villages right through to the sons of the local professional middle classes.

In the 1960s, when there was a big drive towards comprehensive education, there was a general consensus that this system was not logical or sensible—that it was elitist and undermined the comprehensive principle. Direct-grant grammar schools were therefore abolished—I think by the Labour Government at the end of the 1960s.

Lord Adonis: The noble Lord does his noble friend Lady Williams a disservice. It was she who abolished them.

Baroness Williams of Crosby: That is also untrue. They were abolished by my predecessor, Mr Fred Mulley.

Lord Greaves: One thing about the House of Lords is that we are all so old that somebody at least knows the truth about these matters.

At the time, we all thought that that was absolutely right; in retrospect, we see that it was a mistake, because it drove most of the schools into the independent sector. Most of them are now fully fee-paying schools, yet they are not boarding schools or the classic kind of independent school. They probably serve a wider community than the immediate area as defined in the Bill. Nevertheless, some Government, some time, ought to get a grip on finding ways to provide greater integration of at least some of these schools—on a voluntary basis, obviously—with the state sector. They are almost all highly performing schools and if you cannot afford to go there, you cannot go there. A few of them have foundation scholarships and so forth but real efforts should be made to integrate these schools.

Certainly, in the north of England, these schools—Bradford Grammar School, Wakefield Grammar School and Manchester Grammar School—represent their wider communities. Modification of an academy model might be attractive to some of them. If that could be done it would be worth while.

Baroness Morgan of Huyton: For the information of noble Lords, I also went to one of those schools which is now a city academy, so they can already become city academies.

Lord Greaves: Well, efforts ought to be made to get more of them. Of course, it would be a good time to tackle some of them because they are feeling the pinch of the financial situation. People cannot afford to send their children to them. On the other hand, it is not the time to dole out public money to independent schools: there would be a reaction to that. If we could plan for a time when public finances have recovered a little—we are told that they might recover in the future; we will see—it would be helpful. I put that pebble in the pond.

The other point that I want to make is about collaboration and support—partnership between schools. The previous Labour Government were prone to talk a lot about getting excellent schools to take over failing schools. Excellent schools are excellent schools because they have a good head teacher, good staff and good governors and are run well. Diverting great time and energy from the people running an excellent school to take over a failing school is probably a recipe for ending up with two mediocre schools. It was a silly policy.

However, partnership and collaboration on a voluntary basis—as the Minister said, volunteering not conscription—is absolutely the way forward. But it should not be seen as a really good school collaborating and going into partnership with a poor school. The valuable partnerships that could take place would be those between schools that are not so far apart in their attainment. Obviously, if you are going to have collaboration between two schools, they must be close to each other. A new academy might have not a poor or failing school next to it, but an average school.

If you are going to have successful collaboration—volunteering not conscription—there has to be mutual respect and parity of esteem. There must be an understanding that the schools that are not doing so well are nevertheless likely to have something that they can contribute to the partnership, to the benefit of both. Let us not talk so much about the good sorting out the bad. Let us talk about people collaborating and bringing their strengths, whatever they are, to the partnership for the benefit of both. I have said enough. I beg leave to withdraw the amendment.

Amendment 17 withdrawn.

House resumed. Committee to begin again not before 8.52 pm.

Competition Act 1998 (Land Agreements Exclusion Revocation) Order 2010

Motion to Approve

7.52 pm

Moved By ***Baroness Wilcox***

That the draft order laid before the House on 21 January be approved.

Relevant document: 8th Report, Session 2009-10, from the Joint Committee on Statutory Instruments

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): My Lords, the Government's position is that this exclusion order is no longer necessary or appropriate and that its revocation would benefit both UK consumers and businesses. Effective competition in markets promotes productivity, competitiveness and innovation. It ensures that consumers are offered the best products at the most competitive prices.

Chapter 1 of the Competition Act 1998 promotes competition by making it illegal for enterprises to agree to share markets, fix prices or restrict new players from entering markets. The law applies across all areas of the economy. At present, however, there is in place an exceptional exclusion for land agreements. That was introduced when the Competition Act first came into effect, mainly for practical reasons.

Before the introduction of the Competition Act 1998, land agreements were generally deemed not to be covered by competition law. The aim was to capture them under the new regime, but to avoid a situation

where uncertainty about their legal position might prompt a large number of parties to submit agreements to the Office of Fair Trading for approval. The vast majority of land agreements would have raised no competition problems, and would have forced the OFT to commit resources to non-essential work instead of tackling genuine competition concerns.

To avoid this, the exclusion order deemed land agreements compatible with the Chapter 1 prohibition unless and until they were found not to be—at which point the benefit of the exclusion could be withdrawn. As the result of reforms made to competition law in 2004, this concern about a deluge of unnecessary notifications is no longer an issue.

Since 2004, parties to agreements may not seek prior approval of them from the OFT. Instead, and drawing on published OFT guidance, parties must carry out a self-assessment of agreements and satisfy themselves that they do not restrict competition. Assuming that an agreement has no such effect—and most do not—it is simply legal.

In these circumstances the Government see no practical reason to maintain the exclusion for land agreements, and there is no reason of principle why land agreements, in particular, should be excluded from the application of the Chapter 1 prohibition. As the Competition Commission made clear in its report on the groceries sector, land agreements are capable of restricting market entry and damaging competition. On the contrary, there is a real prospect that the continued existence of the exclusion order may encourage parties to land agreements to assume, wrongly, that they do not need to assess their impact on competition.

We want to remove any confusion or doubt about whether land agreements are subject to competition law, and to make it absolutely clear that the validity of such agreements can and will be challenged if they appear to involve a restriction of competition. At present, any land agreement found to restrict competition in markets must be amended accordingly. But removing the exclusion will mean that serious sanctions could be imposed if a land agreement is found to breach the Chapter 1 prohibition, as is already the case in respect of all other agreements. This would provide a strong incentive on parties to make sure that their agreements are compliant with the law, protecting consumers against anti-competitive conduct.

I know that some parties have expressed concern about the burdens associated with having to ensure that land agreements are compatible with the law. However, this is the same burden that applies to every other type of agreement. In reality, parties to land agreements should already have undertaken work to make certain that agreements are properly compatible with the Chapter 1 prohibition. The fact that some parties may not have done so demonstrates the value of bringing clarity to this area of the law.

To help businesses adjust, we are delaying implementation of the order's revocation until 6 April 2011. The OFT will also provide updated guidance on how competition law applies to land agreements as a way of helping business respond to the change.

In conclusion, I simply reiterate that the purpose of the exclusion order was never to provide legal cover to agreements that restrict competition in markets. It was introduced for what were valid practical reasons but which no longer apply. It now makes sense to correct an unnecessary anomaly. Through consistent application of the law, we can better promote effective competition across our economy. On those grounds, I trust that noble Lords will agree to our recommendation and approve this order.

Lord Young of Norwood Green: My Lords, on this occasion I find myself concurring with that superb analysis from the noble Baroness. I suppose that it is not surprising, given my previous association with my honourable friend in the other place, who was responsible for introducing this instrument.

Lord Borrie: My Lords, I commend the Minister and my noble friend Lord Young for their support for this proposal. It was pointed up by one reference to which the Minister referred, the Competition Commission report in 2008 that dealt with grocery retailing. We all know that there has been quite a lot of scandal and abuse in that field, with some supermarkets leaning on small farmers and other people in a way that has damaged competition and the interests of consumers. Exclusivity arrangements in a particular area can prevent the entry of competitors, and it is fortunate that this ruling today—if we approve the new order—will be dealt with effectively.

I draw attention to paragraph 9.1 of the Explanatory Note, which says:

> "Following the Order's revocation, there may be increased demand for OFT advice to parties about the compatibility of land agreements with competition law".

The Minister has explained that the OFT is going to produce revised guidelines and that time is to be given so that the order does not become immediately effective and those who have not done their homework will still have time to do it. I am all in favour of that, but I would like an assurance from the Minister that the OFT has got and will be allowed to have adequate resources, which will not be cut, to deal with what may be quite a lot of requests for advice. After all, one should remember that many parties to agreements that will now be unlawful because they are anti-competitive may be small parties. They will not have their own legal departments that they can lean upon and from which they can immediately get a response. They will have to go elsewhere, to a trade association or a private lawyer. I suggest that very often the obvious place to go to will be the OFT. Can the Minister assure me that they can do that particular job?

Baroness Wilcox: My Lords, I thank noble Lords for their contributions to this debate. I thank the noble Lord, Lord Young, who I hoped would give his support, as this is after all his work. The knowledge that the noble Lord, Lord Borrie—the previous director-general at the Office of Fair Trading—will be here always sends a shiver through me, because I always know that he is going to ask me a question that I cannot answer. In this case, his points are valid. Yes, we are allowing more time and, yes, the OFT will be helping and guiding. I assume that it will be able to do that within the range of funds available to it, and I am sure that

[Baroness Wilcox]
the noble Lord will be the first to complain if objections arise because it has not been able to respond. I hope that that is not the case.

The noble Lord makes the case that many of these parties will be small ones that will need help and advice, and will have to turn to outside advice since they will not have in-house lawyers. I hope that I can reassure him on this point. If there is anything more that I should have said to him, I shall receive advice from the Box and write to him to confirm.

I hope that we are happy to continue with this order, which will remove the doubt that land agreements in line with other agreements must be properly assessed to ensure that they do not restrict competition. The Government's purpose is to provide for consistent application of the law and to promote effective competition in markets, helping to deliver value and quality for consumers while boosting productivity and efficiency for business. By delaying the effect of the revocation until next April, we are giving parties sufficient time to review their existing and future agreements in line with the OFT's latest guidance. They will also have the breathing space to make any necessary adjustments to comply with the law. I commend the order to the House.

Motion agreed.

Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2010

Motion to Approve

8.06 pm

Moved By ***Baroness Wilcox***

That the draft order laid before the House on 23 March be approved.

Relevant document: 13th Report, Session 2009–10, from the Joint Committee on Statutory Instruments

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): My Lords, I welcome this opportunity to introduce these amendments to the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

The regulations we are debating today govern the conduct of the private recruitment industry. This sector is of course a crucial part of the UK labour market, enhancing its strength by helping to maintain the right combination of flexibility for both workers and employers. It has grown significantly in recent years. There are now some 16,000 agencies, employing around 1.3 million agency workers in a huge variety of organisations. The sector as a whole is now worth about £24 billion a year. It is also hugely innovative, and the advent of the internet and broadband in particular has resulted in a paradigm shift in the market for recruitment services. The e-recruitment market alone was worth around £0.5 billion in 2007 and had been growing at around 25 per cent a year. The flexibility the sector offers the labour market more generally and its capacity for innovation will be essential for building a sustainable economic recovery.

Workers themselves value the flexibility and choice that agencies can offer them. For many people, agency work offers them the opportunity for greater freedom to choose their hours and conditions of work, and gives those that have been out of the labour market for a while a quick and easy route back into paid employment. For many, a temporary placement leads to a permanent position. But we know that agency workers can in some circumstances be more vulnerable than their permanent counterparts. It is important that they have appropriate protection, for instance to ensure they are paid what they should be paid, and that they are not exploited by the small number of unscrupulous operators. This brings me to the regulations that we are debating today.

These regulations were laid shortly before the election by the previous Government, and I am grateful to my noble predecessor for proposing a commendable set of measures that in my view should attract cross-party support. To proceed with them now is the right thing to do. They focus on two areas of interest to two quite different audiences. First, they will protect potentially vulnerable work-seekers by tightening the restrictions on the charging of upfront fees in the entertainment and modelling sectors. Secondly, they will reduce regulatory burdens by eliminating unnecessary suitability checks that all agencies placing workers into permanent posts currently have to carry out.

The Government have concluded that these measures are consistent with the new approach we will bring to regulatory policy because they are, as a package, burden-reducing. Although the measures to increase protections around upfront fees will have some cost impacts in part of the sector, these will be more than offset by the reduction in burdens on the sector as a whole regarding suitability checks. The Government's new Reducing Regulation Committee has been consulted and has concurred with this analysis.

I turn now to the detail of the proposals. Their first objective is to tackle a long-standing issue that has tarnished the reputation of agencies in the entertainment and modelling sector for too long—namely the exploitation and abuse by unscrupulous agencies of the current provision for an upfront fee. The conduct regulations currently allow agencies to charge upfront fees in this sector in certain limited circumstances. This is in recognition of the long-established industry practice of using publications such as casting directories as a means for introducing artists to would-be clients. Fees are generally charged in such circumstances to offset the cost of production of the publication. There are many reputable agencies that operate this business model and provide a valuable, well regarded service and a legitimate route to work. However, there is unfortunately also a tradition of abuse of this provision by the unscrupulous. Typically, they target the young, and often vulnerable, with unrealistic promises of work, preying on their hopes of a more glamorous lifestyle. An event will often be organised, typically in a town-centre hotel, and hard-sell tactics deployed to

persuade people to part with their money on the promise of work that never materialises—and was never going to materialise, because there was never going to be any serious attempt to find it.

As I say, this problem is not new and noble Lords will recall that I have argued in this House for tougher action to tackle this issue in the past. Most recently, a seven-day cooling-off period was introduced in 2008 to allow individuals to better assess—away from the limelight of the audition or photographic session—whether what they have been told is realistic and whether they want to proceed. It is clear that this has not proved effective. There has continued to be a steady stream of complaints to the Employment Agency Standards inspectorate, and a public consultation in 2009 confirmed that there remains widespread concern about this issue. It is therefore now right to take more decisive steps to tackle the problem once and for all. The statutory instrument will now amend the conduct regulations to ban outright the charging of upfront fees to would-be models, who are the target in the vast majority of these scams. This should not be of undue concern to reputable modelling agencies, which will instead be able to charge commission on actual work found—the basis on which the rest of the agency sector operates.

The absolute ban will not, however, extend to the placement of other entertainers, such as actors, musicians and extras. The risk of abuse is significantly lower in these sectors and a ban would have a disproportionate effect on perfectly legitimate businesses. Those in the casting directory business, for example, will still be able to charge an upfront fee as a legitimate part of their business model. However, the amendments will also significantly enhance the protections that this group has to further guard it against the tactics of any unscrupulous agencies, and discourage the disreputable operators in the modelling sector from simply shifting their target. The amendments will extend the current seven-day cooling-off period to 30 days for this group, which will also enjoy other strengthened rights—for instance in terms of cancellations and refunds over this period.

I turn now to the amendments that will bring business benefits by reducing regulatory burdens. In the current economic climate, it is even more important that we reflect on what more we can do to help ensure that the conditions are right for securing Britain's economic recovery and future business success. We need to make sure that our regulations keep pace with new technology and business practices, especially in a sector such as this one, which is constantly evolving and expanding. These are the motivations that lie behind this section of these regulations. Their main effect is to remove the requirements placed on employment agencies to carry out various checks on workers they introduce for permanent recruitment. It is important to stress from the outset that this change will not reduce the obligations on employment businesses placing people on temporary assignments. It relates only to permanent placements.

The regulations currently require the agency introducing a worker for a permanent job to carry out a range of checks, including checking their identity, experience, training, qualifications and any other authorisation which the hirer considers necessary. While such checks clearly make sense in the case of temporary assignments, the logic is far less clear for permanent assignments. Whether an agency is involved in the recruitment or not, the obligation for carrying out necessary checks lies fairly and squarely with the employer providing the job. As well as it simply being in the final hirer's own interests to carry out checks on such things, obligations are placed on them by a range of other legislation and, in some cases, the requirements of professional bodies. Requiring the agency to do the checks is, therefore, usually unnecessary and often a simple duplication.

8.15 pm

It is also the case that the rapid growth of the online recruitment industry in recent years has led to the establishment of many job boards which fall within the scope of the regulations, but business models of which are incompatible with the carrying out of such checks. Many simply allow the swapping of lists of vacancies and lists of CVs and, other than offering a platform for these services, the agency has very little interaction with its clients. While non-compliance with regulatory requirements is not often an argument for changing the regulations concerned, this state of affairs is clearly another reason for doing so in this case. Given the minimal benefit of the checking requirements, it would certainly make little sense to try to force these businesses to comply, fundamentally altering their services and increasing their costs to the point where their viability could be in question.

These proposals therefore represent a pragmatic approach to improving the regulatory environment for one of the most dynamic and innovative sectors in the United Kingdom economy. By removing the requirement to make checks on people being placed permanently, these amendments will reduce costs and make it easier for work-seekers to find employment. There is one important exception to this overall approach, however. We do not propose to remove any checking requirements in respect of those being placed by an agency to work with the vulnerable in their own homes. In the development of the policy, it was found that there could otherwise be some situations in which there would be no formal requirement for important checks to be carried out—for instance, when a parent goes to an agency for a private tutor for their children. It is true that this will mean that a relatively small number of checks still end up being carried out twice by different bodies, but I am sure noble Lords will agree that the priority when people are working with the vulnerable must be to make absolutely certain that necessary checks are always carried out. The regulations will also make it much clearer what these requirements are.

The regulations also make several other minor burden-reducing improvements. They remove the requirement that employment agencies introducing work-seekers for permanent employment should obtain agreement to terms with work-seekers before finding them work, and with hirers before placing workers with them. This removes provisions that add little value. Agreement of terms in the case of permanent employment is simply a matter between the work-seeker and the

[BARONESS WILCOX]
permanent employer, while agreement of terms between an agency and a hirer should be a purely contractual matter.

Finally, the regulations remove the requirement for an advert to state whether the agency placing it is acting as an employment agency or an employment business under the terms of the regulations. Instead, the requirement will be framed in rather plainer English; it will be necessary merely to state whether a position is temporary or permanent—terms that I am sure noble Lords will agree are far more likely to be understood by both candidates and recruiters. I beg to move.

Lord James of Blackheath: My Lords, I spoke on this subject when it first came up a long time ago. I welcome the return of this instrument, but I have a few continuing concerns.

First, the Minister's description of parties and gatherings was rather naïve. There is frequently a very real cost for those who attend these events. They frequently pay for photography or the costs of preparing themselves to attend these events. The most notorious of all these gatherings are audition parties where a producer may require 20 or more young women to participate in a group activity in a film. These are held out as great career opportunities where one can meet influential production executives. In some cases the entrance fee to those gatherings is unscrupulously sold by the staff of the agency in and around the local clubs. As a result, these girls buy these tickets at considerable cost in the belief that they will be able to earn enough money during the evening to recover the cost, make a profit and have fun at the same time. It sounds like a good deal, but it is not. These events are sometimes appalling with large quantities of white powder frequently floating round the room.

There ought to be much greater and more rigorous management of the proceedings. The agency should require an authoritative person to be present to stop this nonsense. There have been a number of well publicised examples of this recently such as the famous Manchester United Christmas party where the agency staff actually sold the tickets in clubs to women ambitious to become WAGs or whatever. It would not have been bad if it had ended there, but, of course, it did not. Therefore, the instrument goes nowhere near far enough in requiring supervision of the parties to which these young people go.

However, I am much more concerned about the block bookings of young people who are recruited to provide the catering staff at various sporting events around the country. I have a lot of experience of this, having been responsible for all the major race gatherings in Britain over a number of years until some three or four years ago. I know exactly what goes on at these affairs. It is not only the race meetings where these young people are in such demand—major golf tournaments also feature. Without doubt, the major golf tournaments present a much bigger risk than the race meetings as the young people work until much later in the evening, until the last of the light has gone and the corporate entertaining goes on much longer. Therefore, the young people are out much later and are exposed to increasingly inebriated gatherings of older men attending the corporate entertaining, so it is a very hazardous place for young people.

The agency recruitment generally takes place in and around well known catering training schools and colleges. The recruiting agencies put on a bus or two buses to take virtually all the students at the catering colleges in, for example, Newbury and Reading, and ship them up to wherever the meeting is to take place—St Andrews, or wherever. Herein lies the great risk, which I do not believe the instrument even begins to address. The students go up for, say, a five-night stay in a place far from home, with the cost of their transport paid for by the agency as the latter will have done a deal with the organisers of the tournament or the meeting. When the students get to the meeting, there is a very undefined line—the instrument does not deal with that—as to whether they are the responsibility of the agency which has recruited them or of the promoter of the event who has hired the agency to recruit them. There is a lack of definition of where that responsibility lies. With it, goes the responsibility for security. There is no clear definition of the rules that should govern the overnight accommodation for the people when they get to the event. There is no specific rule outlawing unisex dormitories or other provision in the temporary accommodation of these people. That is ridiculous; there should be. There is no requirement for permanent overnight supervision by a mature and responsible person in those situations or for security to keep away predatory corporate guests, male members of staff, players or whoever else has been engaged in the event. These places are lethal—nowhere near enough security is provided.

However, a greater hazard may arise. An innocent person may attend one of these events and find that on the first night they are subjected to undesirable treatment. They may decide the next day that this is too much for them and they want to leave. However, they cannot do so because the coach that was sent up is part of the cost structure for the whole deal and will not be made available for certain people to travel back on their own. The promoters will not give these people the rail fare to enable them to go back on their own. That would probably cost almost as much as sending them back in the coach, if they travelled from St Andrews to Reading, for example. These young people are then stuck. There is no obligation on the organisers or the agency to provide alternative accommodation away from the site for anybody who has had a bad experience on the first or second night. The pay the workers receive for their first day's work will not be anywhere near enough to pay the rail or any other fare back down to civilisation whence they came.

Therefore, there are still some very serious holes in the instrument. I welcome it but it leaves more serious issues unaddressed than ever before. It is a good start but goes nowhere near far enough to address the appalling incidents that can happen at these events.

Lord Young of Norwood Green: My Lords, naturally I concur with the Minister's splendid analysis. She talked about the importance of agency working and flexibility and we do not demur from that. However, in

applying the European directive, we need to enhance the rights of agency workers and address past discrepancies. I was also pleased to note that her analysis of the regulatory burden concurred with ours. The previous Government sought not to add to the regulatory burden.

There is no such thing as a perfect piece of legislation. Nevertheless, I agree with the Minister's analysis that the measure seeks to deal with an area where a large amount of exploitation arises. That is not to say that there are no reputable agencies; there are. Unfortunately, however, young people who wish to embark on a modelling career often pay ridiculous sums of money up front on the promise of employment that never arises.

I understand the concerns expressed by the noble Lord, Lord James, but one hopes that parental responsibility will be exercised where these vulnerable young people are concerned. That area may not be covered by the instrument. I do not know whether that was raised with us beforehand. We were addressing what was commonly observed to be an area of significant exploitation. The statutory instrument addresses that and we welcome the Government's decision to introduce it.

Lord Cotter: I welcome these two statutory instruments, which were laid for good reason. I shall be interested to hear the response to the noble Lord, Lord James. I believe that I have heard him make these comments before. I welcome the fact that the second instrument seeks to protect the workers whom we are discussing and reduces bureaucracy.

I shall make a general comment. Over the lifetime of a Parliament—quite rightly so—Governments make regulations that are opposed and sometimes, as time goes on, they need to be looked at again. That is why from time to time people raise the issue of sunset clauses. In view of the present Government's strong commitment to reducing bureaucracy, particularly for business, the processes in place—I do not know much about them, although I know about sunset clauses—such as statutory instruments, tend to be reactive, although I am open to be corrected by the Minister. People may have said, "There is a problem with the regulations, so can that be addressed?". I do not have sufficient knowledge on this. Given that overregulation and defunct regulation are big issues for business and people generally, what proactive ways to address these sorts of problems are there that would greatly cut regulations that, over time, lose their need to be there? I am sorry to impose on the Minister. I wished to make a general point.

Baroness Wilcox: My Lords, I hope that the regulations strike a sensible balance between the need to protect workers from unscrupulous practices, the need to maintain a flexible and dynamic labour market and the need to benefit business to ensure that the UK is in the best position possible to recover from a recession.

A number of specific points have been raised. I am, in particular, grateful to the noble Lord, Lord Young, for saying that we are building on his good work. I am glad that that is how he feels, because this truly is based on his previous work. It is nice to be able to take it forward in this way.

I can understand why the noble Lord, Lord Cotter, asked his question. We shall have to do a lot more of this. There will be a lot more statutory instrument work. We will be looking to build sunset clauses into our legislation as we move further along, so that, when things have had their time, we can let them go. I hope that that is how we will proceed in the future.

I am grateful to my noble friend Lord James for raising an important issue, which is of serious concern and on which he has spoken previously. The role of the Employment Agency Standards Inspectorate is to ensure compliance with the conduct regulations and that those who may be vulnerable are not exploited. The inspectors would therefore be interested to receive any further information about cases such as those that he raised. If the information provided suggests in any way that these young people are being mistreated or taken advantage of, the EAS will investigate further and take appropriate action. If the activity is not regulated by the EAS, it will pass on the information and allegations to the appropriate authorities for them to consider. I hope that that will take things forward better for my noble friend. Given his great experience of such gatherings from his work in the racing industry and so on, we hope that he might talk in confidence to these organisations.

Having addressed those points, I repeat my hope that we have agreed that the regulations strike a sensible balance between the need to protect workers from unscrupulous practices, the need to maintain a flexible and dynamic labour market and the need to benefit business to ensure that the UK is in the best position possible to recover from recession. For these reasons, I commend the proposals to the House.

Motion agreed.

8.33 pm

Sitting suspended.

Academies Bill [HL]

Committee (2nd Day) (Continued)

8.52 pm

Amendment 17A

Moved by ***Baroness Royall of Blaisdon***

17A: Clause 1, page 1, line 17, leave out "an independent" and insert "a non fee-paying"

Baroness Royall of Blaisdon: My Lords, I shall speak also to Amendments 22B, 60B and 60C. The amendments in this group are designed to probe the Government's thinking on free state education, because there appear to be mixed messages in the Bill. There is a simple but important principle to which I hope we all adhere. This essential principle is contained in the great Education Act 1944, which was brought in by this Government's coalition predecessor, the last formal coalition Government in this country. The principle is that there shall be universal education for all children in this country, and that that education shall be free.

[Baroness Royall of Blaisdon]

We have been given assurances by the Government that they do not intend that academies should be allowed to charge. However, paragraph 13 of the Explanatory Notes states:

"Subsection (7) provides that an Academy may not charge for admission or attendance at the school or for education provided there"—

so far so good, but it goes on to state—

"(unless the Academy agreement or grant under section 14 of the EA 2002 specifically permits it)".

Why the "unless", and why are there any exceptions? I do not understand. The Bill would allow another party—that is to say, an individual, group of individuals or an organisation—to enter into academy arrangements with the Secretary of State, convince him or her that those arrangements should include the right to levy charges for admission to all education at the school, and open for business. I do not believe that that is the situation, but I would be grateful for an explanation and clarification from the Minister.

Lord Rix: My Lords, I shall speak also to Amendment 75 in my name. The possibility of charging is apparent in this clause. The Minister will be aware that children with SEN have additional needs that sometimes require additional resources. It is the responsibility of the school and local authority to meet those needs. I would be extremely concerned if there were moves to charge parents for special education provision. I do not believe that it is the intention of the legislation to charge pupils with SEN, but I would welcome clarification on this point.

Baroness Walmsley: My Lords, I tabled Amendment 67 in this group. It probes a specific point about how local authorities will continue to fulfil their statutory duty under the Childcare Act 2006 to ensure that there are sufficient free places for every three and four year-old whose parents want one. Local authorities are also responsible, in consultation with local delivery partners, for determining the rate at which providers will be funded for delivering the free nursery places, and for the arrangements for making associated payments. Since April 2004, all three and four year-olds have been entitled to a free part-time early-education place. Free places can be provided by a variety of providers in the maintained, private, voluntary and independent sectors, including preschools, playgroups and registered childminder networks. Local authorities must have regard to the comprehensive statutory guidance set out in the code of practice when making arrangements for the provision of free early-education places. Parents are not required to contribute towards the free early-education entitlement, but may be charged fees for any additional childcare services that may exceed the free part-time early- education place. The number of hours available each week is currently 12.5, which will go up to 15 in September.

Since 2006-07, the funding for under-fives provision has been provided through the dedicated schools grant to all types of provider, including private, voluntary and independent providers. The direct schools grant is a ring-fenced grant for education purposes, but local authorities retain autonomy over how they allocate their spending across the age range to make most effective use of resources at local level. In a recent parliamentary Statement, the Minister for Children, my honourable friend Sarah Teather MP, committed the Government to the extension of the free entitlement to early education, as planned, for three and four year-olds to 15 hours from September and to 20,000 of the most disadvantaged two year-olds—something that I particularly welcome. The amendment seeks clarity about how that will be achieved through the primary academy schools proposed in the Bill. Can the Minister give me some reassurances about this? We do not want academies that make provision for children under compulsory school age, as well as for those of compulsory school age, to charge by the back door.

9 pm

The Parliamentary Under-Secretary of State for Schools (Lord Hill of Oareford): My Lords—

Lord Phillips of Sudbury: My Lords, unless the Minister is dead keen to answer points raised on the amendments so far, I remind him that Amendment 64 is part of the group. Would he like me to withhold my comments?

Lord Hill of Oareford: No.

Lord Phillips of Sudbury: Amendment 64 is in my name and that of my noble friend Lady Walmsley. With this amendment, I have had the temerity completely to redraft Clause 1(7) because, with the best will in the world, it is extraordinarily lumpy and unclear. However, I have made a wonderful boo-boo in the redraft, in that I have said that academy arrangements "may" prohibit, when of course it should be "must" prohibit, so I beg noble Lords' indulgence and ask that "must" be read in place of "may". However, my point is that in the existing subsection (7) the difference between attendance at a school and education provided at a school is wholly unclear to me. It says that,

"no charge is made in respect of … admission … attendance … or … education provided at the school".

I suppose that this is really a probing amendment so that the Minister can tell the Committee what is missing from my comprehension.

Baroness Thornton: I promise that I shall say only a few words but I want to add to what my noble friend Lady Royall said in opening this debate. The very helpful Library notes that we received in the briefing pack repeat what is in the Explanatory Notes, so it is very important that this matter is clarified.

Lord Hill of Oareford: My Lords, I hope that I am able to provide the clarification for noble Lords opposite, including the noble Lord, Lord Rix, and for my noble friends. I start by reassuring noble Lords that academies are prohibited from charging for admission. No pupils on the roll of an academy will have to pay for their education.

On the specific point made by the noble Baroness, Lady Royall, as I said, Clause 1(7)(a) prohibits charging but the Bill as drafted allows for the prospect that an academy may need to charge in certain circumstances. I shall explain the kind of circumstances that I have in mind; I think that we touched on this earlier. For example, an academy may wish to charge for providing

evening classes to people not on the school roll. We had earlier debates about wanting a school to be part of a community. Providing evening classes would seem to be a good example of that and the Bill would enable the school to do it. Alternatively, an academy may want another organisation to be able to provide evening classes or other activities that can be accessed by the wider community. Therefore, as we want academies to take part in, and be part of, the local community, that is what the Bill provides for. However, any fees charged would be put back into the academy in accordance with the charitable objects of the academy trust.

So far as concerns charging for nursery or SEN provision in Amendments 67 and 75, I reassure the Committee that academies will not be permitted to charge for education provided during the usual timetabled school hours, including the entitlement to nursery education; nor will they be permitted to charge for special needs provision.

I hope that that provides some reassurance and that the noble Baroness will be able to withdraw her amendment.

Baroness Royall of Blaisdon: My Lords, I entirely accept that the Minister says there is no intention to charge for education. I also acknowledge that it might be acceptable to charge for evening classes—hence the Explanatory Notes. However, I think that there is some confusion here and I should like the wording to be tightened up in some way. At the moment, it looks as though this could be a back door to charging in due course, and that would concern me deeply. Therefore, I ask the Minister to look at this issue so that when we come back to it—and it is something that I shall want to come back to because it is such a fundamentally important question—the wording will have been tightened up.

Lord Hill of Oareford: I am happy to say to the noble Baroness that there is no back door, but I take her point and will of course reflect on what she said.

Lord Phillips of Sudbury: Can the Minister confirm that the proposition is that night classes do not constitute education provided at the school but are caught by the phrase, "attendance at … the school"? If that is so, I do not get it. At least the Minister might clarify that.

Lord Hill of Oareford: As I said to the noble Baroness, Lady Royall, the intention is clear. I take on board the point made by my noble friend about the need for clarity. I will reflect on that.

Baroness Royall of Blaisdon: I beg leave to withdraw the amendment.

Amendment 17A withdrawn.

Amendment 18

Moved by ***Baroness Royall of Blaisdon***

18: Clause 1, page 1, line 18, leave out from "(6)" to end of line 20

Baroness Royall of Blaisdon: I shall also speak to Amendments 55, 100 and 110. Special educational needs in relation to academies are a key issue for us on these Benches, for Members throughout the Chamber and for many in the world of education, in particular those pupils who have SEN. There is huge expertise in this House, as was demonstrated during the short debate on Monday, when the Minister was clearly in reflective mood. I know that he is listening and I am glad.

I have to say at the outset that I am fundamentally opposed to special schools being included in the Bill—hence Amendment 18. Most local authorities and schools do a good job by children with special educational needs and by their families. Inevitably, local authorities and schools also find parents who are unhappy with the provision that their children receive. The Lamb inquiry, of which all noble Lords will be aware, reported that many parents are happy with what they receive, but it recommended that we need to be tougher with local authorities and schools that do not comply with their statutory duties towards children with SEN. There is much work to be done in this area but I do not believe that the proposals in this Bill will assist in improving the situation for children with SEN. It is vital that we acknowledge that the impact of the Bill on SEN will be far-reaching, controversial and incredibly complex.

Parliament is now being asked rapidly to pass legislation that says that by September this year special schools could reopen as academies. That means, at least potentially, that many of the safeguards and programmes that drive improvements in SEN provision in communities—

Lord Hill of Oareford: On a point of clarification, it is not envisaged or proposed that a special school would be able to convert by this September. The Government have made it clear that it would be the following September—in 2011.

Baroness Royall of Blaisdon: I am grateful for that clarification, which is extremely important. Forgive me if I have misled the Committee in any way.

The Bill, as drafted, could mean that many of the safeguards and programmes that drive improvements in SEN provision in communities would simply be dropped or made no longer relevant. That would redesign the SEN approach taken by government to date and completely disrupt the important work of local authorities in this area. There are also serious concerns that SEN provision could be harmed both by the establishment of academies on such a large scale and by the new academies being drawn from those schools that are already strong and which in many cases would be the best place to take on more SEN pupils and deliver real improvements in SEN provision.

As it stands, and as we have discussed, the legislation completely removes local authorities from consultation on academy status. The central funds for SEN provision will be handed out to many schools in a given area. If that is the case, it is vital that we create a framework that gives local authorities, parents and children with SEN, as well as other academies in the area, some certainty and consistency in relation to other schools in the area about what provision each will provide for special educational needs.

Amendments 18, 100 and 110 deal with the issue of special schools by seeking to remove reference to them in the Bill. The way in which we treat less fortunate

[Baroness Royall of Blaisdon]
members of our society is a good measure of any civilised society. The interests of people with SEN are currently addressed primarily by local education authorities. We are greatly concerned that this Bill will damage the ability of local authorities to fulfil their important role in this field and will run the risk of damaging the education, and therefore the life chances, of a great many pupils with special educational needs—the very last group of pupils whom a civilised society should place at risk.

Earlier, I was mistaken in saying that special schools would become academies in September, which would be much too early. I am glad that that is not the case. However, I still think that the Bill is being taken through its legislative process in haste. Although I now understand that special schools would not have even the permissive right to become academies in September, many issues relating to special educational needs need to be better thought out before such schools are enabled. Perhaps we need to see provisions in the Bill that assure us that all these complex details will be properly worked out before schools for special educational needs can become academies.

The Deputy Chairman of Committees (Baroness Morris of Bolton): If Amendment 18 is agreed to, I cannot call Amendments 19, 20 or 22 because of pre-emption.

Lord Rix: My Lords, perhaps I may jump the queue and say a few words about Amendment 55. I am afraid that I cannot support it with any degree of warmth, but it raises a number of questions that I want to put to the Minister.

In contrast to funding for mainstream schools, most funding for special schools is place-led, with the number of places agreed with the local authority and reviewed every year on the basis of local needs. Recognising that academies are funded directly by central government, I seek clarification as to the source of the upfront funding for what the Special Educational Consortium assumes will be referred to eventually as special academies.

As the Minister will be aware, special schools will frequently have a pupil intake from across a number of local authority areas, which could have major implications for the future funding arrangements for special academies. For example, some funding for special school placements will be determined locally, while some will be funded centrally. How can we ensure that the two systems work together in harmony? Will it be for the Department for Education to decide on the number of places at a special academy that should be funded each year? Will special academies be in a position to seek financial reimbursement if a child is placed in a special academy from outside their home local authority?

There are further questions on Amendment 113, but to a certain extent the Minister has already answered the first of them. I believed that it was the intention to allow the schools outstanding in the judgment of Ofsted to become academies by September this year. I seek assurances that "outstanding" in the judgment of Ofsted includes consideration of special educational needs and the outcomes for children with SEN.

As regards Amendment 188, I recognise that one of the principal intentions behind the Academies Bill is to ensure that schools are increasingly able to remove themselves from local authority control. However, academies will still have to continue to co-operate with local authorities in a range of different ways if they are effectively to meet the diverse range of needs of children in their area—for example, in meeting the needs of a child with a statement. The local education authority is legally responsible for arranging that the special educational provision specified in a statement of SEN is made, although the actual delivery of the support will be mostly at school level.

In maintained schools—and I recognise that the current system does not always function effectively—there is a degree of leverage for the local authority to ensure that the special education provision is made. However, because academies are in effect independent schools, local authorities have no levers by which to ensure that academies work in partnership to meet those needs. Parents with children in maintained schools currently have the option of complaining to the local authority, and then the Local Government Ombudsman, if they believe that a school is not meeting the specification in a child's statement.

The coalition Government propose that parents with a child in an academy must complain directly to the Secretary of State. Where a child with a statement is not receiving the right support and is missing out on their education, parents are naturally desperate to see the issue addressed. I believe that the coalition Government should look carefully at whether handling all complaints about academies via the Department for Education is the most effective way of ensuring that parents get the quickest access to the right support for their child. I seek assurances from the Minister on that point and the others that I have raised.

9.15 pm

Baroness Garden of Frognal: I shall speak to Amendments 138, 139, 176, 184 and 193 in this group. First, I thank the Minister for the considerable time and trouble that he has taken to talk through the many concerns about special educational needs that have been raised as a result of this Bill. We have received full and helpful replies to many issues, but raising them in Committee ensures that there can be no misunderstanding about the debate and the decisions.

Amendments 138 and 139 are intended to clarify what will change once a school becomes an academy. Under academy arrangements, considerable freedom is given to the governing body and head teacher to vary the operation and organisation of the school. Although there is a requirement that the academy should cater for pupils of differing abilities, we would welcome confirmation that that requirement will be enforced and monitored.

At Second Reading, we raised the matter of exclusion of children with behavioural difficulties. Can the Minister say whether there has been any risk assessment of increased exclusions from the new academies? That, in turn, could lead to the need for more referral or specialist units, which would have cost implications. We know that local authorities have responsibility for

placement of pupils with statements. It is not entirely clear how the local authority is to be supported in placing pupils in an academy. If parents feel that the provision is not adequate, as the noble Lord, Lord Rix, mentioned, they have recourse to complain to the Secretary of State. That sounds like a measure of last resort. If there are local problems, would consideration be given to a more local route by which complaints could be channelled in the first instance?

In the annexe to his letter of 15 June, which has already been referred to today, the Minister clarified that academies do not receive local authority funding for SEN transport. Co-ordinating school transport is a responsibility that local authorities have carried out in the past and, presumably, will continue to do. Amendment 139 would confirm that responsibility but would leave open the question of how it would be done most effectively when some pupils need transport to academies and others to maintained schools. There is an additional need to ensure that any complexity in the system does not lead to any pupil who requires transport being overlooked.

Amendment 176 concerns SENCOs. It arises from the fact that academies are not covered by the 2008 regulations for special educational needs co-ordinators, which stipulate that SENCOs in maintained schools must have qualified teacher status. The spirit of the code of practice implies that SENCOs should hold qualified teacher status, but that is not explicitly stated.

SENCOs are key post-holders who co-ordinate provision across the school to secure high-quality teaching and learning for pupils with special educational needs and the effective use of resources to meet the educational needs of children and young people with SEN. The position involves obtaining resources, managing the work of learning support assistants, advising and supporting fellow teachers and liaising with statutory bodies and voluntary agencies, as well as with parents. SENCOs are also expected to contribute to the in-service training of other staff. Those varied duties suggest that SENCOs should themselves be qualified teachers, both to ensure that they have a full understanding of the professional skills of teachers and to give them appropriate standing within the schools in which they operate.

Amendment 184 follows from the previous amendments. It would bring the proprietors of academies into line with other schools as far as their duties relate to SEN pupils.

Amendment 193 is offered to help the Minister. The term "proprietor" is mentioned frequently in the Bill, but no definition is given. In practice with academies so far, the person in Clause 1 often establishes another body to be the proprietor, not least because the proprietor has to be a corporate body and a charity, yet the person in Clause 1 can be an individual. The definition offered in this amendment is:

"'proprietor' means the person with whom the Secretary of State enters into Academy arrangements once the Academy has been established".

Lord Lucas: I had better address my amendment in this group, since it is the exact opposite of two of the amendments just spoken to by my noble friend. My noble friend Lady Walmsley and I will be in perfect time at eight o'clock tomorrow morning as we practise for the Lords versus Commons rowing race, but there seems to be some dissonance at the moment.

It has long been said that the only people capable of organising school transport effectively are local authorities. I have never seen any evidence produced for that. It seems to go with the assertion that local authorities organise everything best. If that is true, there is no danger in giving academies the right to organise school transport because they will always turn to the local authority, as it does it best. However, I suspect from the practices of local authorities that I have experienced that that will not be the case. Many local authorities, particularly in rural areas, will not offer transport outside the catchment area of the school, even if there are others a mile or so beyond it who might conveniently be reached by the bus going an extra mile.

Many local authorities are not responsive to the requirements of schools and parents in other ways. They just want to organise things efficiently for the network as a whole. The idea that what is efficient for the network as a whole is in some way best for schools and parents and is cheapest is extremely arguable and the best way to test it is to give academies freedom to organise school transport for themselves. When it is more efficient for them to do so, they will do so; when it is not, they will use local authorities. That way we will get the best of all worlds.

Lord Northbourne: Amendment 69 is a permissive amendment along the same lines as that tabled by the noble Lord, Lord Lucas. We are trying to be overprescriptive in this. There may be circumstances under which it would be appropriate for charges to be made, possibly because the child's parents were well off or because a charity had agreed to pay for the extra facilities being talked about. I do not see why we should screw the whole thing down in the way that it is screwed down in the Bill. My amendment loosens it up and allows a decision to be made on the basis of the facts and the best interests of the child.

Lord Adonis: There is in fact no sector of education that has more experience of academy-type schools than special education because of the existence of a large number of non-maintained special schools that are sponsored and managed by outstanding charities such as Barnardo's and a number of other charities whose presidents are in the Chamber this evening. They are entirely independently managed but take their pupils largely or wholly by way of referrals from local authorities.

The improvement of special educational needs provision was of great concern when my party was in office and I know that it will be of great concern to the Minister. During my time in the department, I looked at this in detail and, so far as I could tell, there is no difference in inspection grades, quality or responsiveness to the needs of the special education community between maintained and non-maintained schools. There are sectors where schools that are maintained or non-maintained perform better and sectors where they perform less well. EBD is a classic case where special schools, whether maintained or non-maintained, perform less well.

[LORD ADONIS]

Indeed, this is an area that needs a significant injection of new dynamic energy of the kind that academies could well breathe into the special schools sector. However, I saw no evidence that a school being managed in the maintained system or in the non-maintained system, which actually gives it greater independence in management than academies have, made a difference either to its responsiveness to the needs of pupils with particular special educational needs or to its maintained collaboration with local authorities, because the whole pupil referral base of these schools depends on the local authorities being willing to place their pupils in them. I therefore do not share concerns about the principle of academies in the special schools sector.

On the contrary, in crucial areas of special educational needs, particularly EBD, the dynamic innovation and attention to the needs of particular sectors that academies can bring could lead to significant improvements in provision and could enable existing special schools to expand their provision and to adapt to improve the way in which they meet the needs of pupils with special educational needs in ways that enhance the overall quality of the state education system.

Baroness Howe of Idlicote: My Lords, I have just one query. I am grateful, as everyone is, for the time the Minister has already given to this whole area—we have had a whole session on it—and I am enthusiastic about the variety that will be available through the plans under the Bill. However, I am slightly worried that the overall cost might go up if the local authority is less involved in the whole set-up. It might contract out some of its provision. It might do that now, but it might need to do even more than that. Is that likely to put up the cost of meeting the special needs that really must be met if we are to do our duty by those with them, as we all want to do?

Lord Low of Dalston: My Lords, Amendment 83 proposes that Part IV of the Education Act 1996 applies to academies as it does to maintained schools. Part IV contains what is commonly known as the SEN framework, which makes provision for pupils with special educational needs and covers the assessment and statementing process, admissions, the delivery of services, the need to have regard to the SEN code of practice, and so on. The exclusion and disciplining of pupils with SEN are dealt with elsewhere in educational legislation and are the subject of later amendments.

On Monday, we debated amendments that sought to ensure that academies' funding agreements contained all the requirements that Part IV of the Education Act 1996 lays on maintained schools in relation to pupils with SEN. The Minister very helpfully agreed to consider how best to achieve parity between academies and maintained schools, and to come back with proposals on Report. I must apologise to him and to the Committee that I could not stay for his reply on Monday on account of needing to attend a function elsewhere, but I read his reply in *Hansard* and found it most helpful. I thank him and ask him to accept that no discourtesy was intended.

We discussed those amendments then simply because they came up earlier in the Bill, but their scope was somewhat narrower than that of Amendment 83. They provided simply that funding agreements should incorporate Part IV of the Education Act 1996. Amendment 83 would provide that the requirements of Part IV are applied to academies as a matter of law and not simply as part of the contractual arrangement between the academy and the Secretary of State by which academies are governed.

The SEN framework in Part IV of the Education Act 1996 was developed with cross-party consensus. It makes provision for meeting the needs and providing support for children with SEN and disabilities, and gives parents a legal right to ensure that their children's SEN are met. We know that the Minister is committed to ensuring that academies are subject to the full range of responsibilities in relation to children with SEN that maintained schools are under. But he believes that this can be brought about by contractual agreement. A better and altogether simpler way would be to provide that the requirements of Part IV are applied to academies as a matter of course, as a matter of law rather than of contract. I suggest that for five reasons. First, it would ensure consistency across all academies. Secondly, it could ensure more comprehensive coverage of the rights and duties in Part IV.

9.30 pm

The Minister will say that he can ensure these first two things by seeing to it that the requisite provision is written into each and every funding agreement. Indeed, we know that there is a model funding agreement containing many of the relevant provisions, which has been operating since 2007, including in particular the need to have regard to the SEN code of practice. However, the model funding agreement does not contain all the provisions it needs to. Notably absent are the parent's right to have the needs of a child with SEN met; the duty to inform parents if the school believes a child has special educational needs, such as is laid on maintained schools by Section 317A of the Education Act 1996; and a school's duty to admit a pupil with a statement where the parents and the local authority wish this. There are also provisions in other legislation applying to maintained schools which need to apply to academies, but which do not under the funding agreement system. These include the requirement that all SEN co-ordinators are qualified teachers; that maintained schools are required to participate in behaviour and attendance partnerships which aim to reduce the number of children with SEN who are permanently excluded; and the right of appeal to the Local Government Ombudsman should parents believe that a child's needs are not being met. From the point of view of comprehensive coverage, there are problems.

My third reason for preferring this approach is that it is more transparent. It is far easier to ascertain the legal position of academies from an Act of Parliament than from 1,000 funding agreements. Sometimes one might be tempted to doubt that, but in general it is the case. Fourthly, there are real question marks over the accountability of academies and the enforceability in respect of academies of the rights and duties in Part IV. There is a lack of accountability in the arrangements made with existing academies. Section 324 of the Education Act 1996 gives legal responsibility to local authorities for arranging the provision of SEN as set out in a child's statement.

There is room for real concern that a local authority's ability to arrange this provision will be hampered by the independent status of academies and the absence of levers that are available within the maintained sector. Reliance on the funding agreement has the potential to undermine the SEN framework and, as academies become more numerous, there could be a gradual erosion of Part IV of the Education Act 1996.

As regards parents, the system of funding agreements can be somewhat inaccessible and unsuited to obtaining a remedy. The legal framework for SEN gives parents an individual right to see that their child's SEN are met. Academies are independent schools funded directly by the Secretary of State and are accountable to him mainly through the funding agreement rather than the Education Act.

The Special Educational Consortium has serious concerns that even where the statements contained in a funding agreement are clear, they do not offer parents the same right to redress and protection as the legislation. It seems clear that parents will be unable to enforce their rights through complaints to the local education authority, but it would appear that they do not have a legal remedy either because they are not parties to the contract which governs the academy.

There are also a number of complex questions to do with when complaints can be made to the Local Government Ombudsman, whether academies can be judicially reviewed by parents, and whether the Secretary of State will have the capacity to ensure that many hundreds of academies are following the duties outlined in their funding agreements. This last concern underlay the comments of two parents quoted yesterday in the *Guardian*. One said:

"At the moment, we also have a local process we can use if provision is not appropriate. It may not be perfect, but it is a local process and the alternative seems to be that, without local authority involvement, we would have to go down to London to make our case and we wouldn't be able to go to the local government ombudsman either".

The other parent said:

"I want to be able to enforce my rights locally. I find the idea that we should have to take our concerns to the secretary of state an utterly ridiculous concept".

That brings me to my final reason for preferring what I might call the legislative obligation approach. The funding agreements are insufficiently robust for delivering the obligations we all want to see academies having. I have been made aware of cases before the SEN and disability tribunal which show that academies are simply driving a coach and horses through their funding agreement obligations when they have a mind to. In one case, despite the fact that the wording in its funding agreement came from the latest model, the academy was applying its own entirely different criteria for admitting children with statements, including setting a quota of one per class and picking what types of special educational needs it catered for. It even tried to argue that the SEN admissions criteria in its funding agreement did not apply at all, and it was running together its ordinary admissions criteria with the entirely different SEN provisions. In practice, the academy was taking no notice of its funding agreement on SEN admissions.

The same thing happened in another case. The criteria that the academy actually applied bore no resemblance to what was in its funding agreement. In both cases the academies, through their most senior people, did not appear to regard the funding agreement as binding on them at all. They seemed to consider themselves able to set their own rules. My informant, the barrister who represented the parents in both these cases, adds, "Also bear in mind that, as you will know, it is rare to get legal representation at an SEN and disability tribunal. Had I not appeared for the parents in these cases, I very much doubt they would have got in. I suspect that the academies in question were simply carrying on as before". He concluded by saying, "If you want examples of why the provisions on SEN need to be in legislation, then here they are".

Of course, people can break the law as well as breach a funding agreement, but it is my contention that the law provides not only a more generally applicable approach but is also more transparent and enforceable, and creates obligations that are more clear cut and incontrovertible. When he reflects on how best to achieve parity between academies and maintained schools in this area, the Minister may conclude that the best as well as the simplest course will be to take the legislative route.

The Earl of Listowel: I hesitate to prolong the debate at this late hour and I think that my concern is probably a little far-fetched, but this is such an important area to get right that I hope your Lordships will bear with me for a moment. Before I begin, perhaps I may thank the Minister for the pains he took to organise a meeting to discuss this issue, for his helpful correspondence and for the personal note he sent to me, which I much appreciated.

Recently, I was talking with a friend who worked for some time with a number of children with learning difficulties and disabilities, including two children with Down's syndrome. They were a girl and a boy aged 13 and 14. The 13 year-old was a real terror in a way. They would be having a picnic in the park and she would run away from the group. It was very annoying and difficult to manage for the teacher. She was a wonderful girl, full of life and really charming, but when getting back onto the minibus after the day out, the excursion, the teacher began teasing her about her boyfriend, the young man. My friend sensed that the teacher was so angry because his authority had been flouted that he was using this devious way of getting back at her.

The point of the story is that we need excellent teachers working in this area. The noble Baroness, Lady Garden, raised the issue of the status of SENCOs and said that they should be qualified teachers. It may be far-fetched because I suspect that many of the teachers working in this area have a particular vocation and will not think of leaving it. I imagine that when academy status is introduced, most of the schools that will go into it will be secondary schools and there may not be an issue. However, I remain concerned. I am grateful for the Minister's reply on this and for the comments of the noble Lord, Lord Baker, but if the uptake of academy status is a great success and academies cream off the best teachers into their purlieu, it will be

[The Earl of Listowel]
worth considering whether teachers who might have considered going into special educational needs will choose to go to these schools. The Minister said that he is not expecting a revolution; that this is a small-scale change. However, I am not sufficiently reassured by what he has said so far. The noble Lord, Lord Baker, said that the same thing was said about city technology colleges—that they would be the end of the world—but in fact they proved a welcome addition.

I approve of giving schools more autonomy but we need to think through what the general impact may be on the workforce. I refer particularly to the previous Government's record on health visitors. In 1998, health visitors were hailed as the champions, the pioneers of the Government's plans for early intervention. Ten years later, where are we? We have an ageing workforce, most of whom are about to retire, with great shortages and too heavy a case load. I was talking to a health visitor—a nurse with the responsibility of funding several London boroughs in this area—and she said, "I have to choose between funding the Sure Start centre, funding the Family Nurse Partnership and funding the health visitors". It was all done with the best intention, but it is between these stools that these matters fall. I encourage the Minister to recognise the point and reflect further on what the impact might be if his plans are successful.

Baroness Thornton: My Lords, I agree with the remarks of the noble Baroness, Lady Garden, about SENCOs; she made a very important point.

I had not intended to intervene but in briefing sent to me by TreeHouse, the charity that runs a school for children with autism, there is a question that has not yet been raised in the debate. It relates, particularly, to children with autism but I think it applies to children with SEN. Indeed, TreeHouse has worked with the special educational consortium on the Bill and agrees with all the briefings that it has sent to different Members of the House. In regard to the application of the SEN legal framework, TreeHouse states:

"Currently the Academies Bill provides that Academies are bound by the SEN Code of Practice, which is statutory guidance".

In its view,

"This provides only a small part of the legal protection that children with autism and their families currently have in maintained schools, where their rights are more strongly protected by legislation through the Education Act 1996 and the School Standards and Framework Act 1988 in addition to the SEN Code of Practice",

which other Members have mentioned. It continues:

"Schools that become Academies will therefore have weaker responsibilities for children with SEN, who, in turn, will have weaker legal protection".

It is a legitimate question for TreeHouse to raise and I hope that the Minister will be able to answer it.

9.45 pm

Lord Hill of Oareford: My Lords, I am grateful for the points raised during the debate and for the kind words that many noble Lords have said about my effort to understand these very complex issues—which I have not done fully at all. However, as I said on Monday and am happy to repeat this evening, I cannot see any logical argument why one should not strive for the principle of parity. Whereas I am not able to say to noble Lords that I am able to come up with particular proposals at the moment or to endorse the persuasive arguments made tonight, I have said that I shall come back with proposals on Report.

A number of very persuasive and forceful points have been made, whether they were to do with complaints, funding or transport. I shall reflect on them with my officials. As these issues are more complicated, and as I explained to the noble Baroness, Lady Royall, it is the intention that the schools should not convert until the following year, which gives more time to work these things through. I hope noble Lords will find that reassuring.

I do not know whether I should declare an interest for proprietary reasons, but I shall do so anyway: my wife has been a long-time volunteer and instructor for the Riding for the Disabled Association, working with a wide range of children and adults with a range of mental and physical disabilities. I therefore know a little of some of the work that charities and noble Lords do.

Rather than prolong the debate tonight, perhaps I may respond afterwards to all the points that have been made. I simply restate my commitment to reflect on them and to come back with a proposal on Report. I therefore hope that noble Lords will not press their amendments.

Baroness Royall of Blaisdon: My Lords, I am grateful to the Minister for that response and for his again saying that he will come back to this issue on Report. I know that time is tight, but if his amendment could be tabled as soon as possible so that we could see it well beforehand, we could decide what action, if any, we wished to take on Report. I beg leave to withdraw the amendment.

Amendment 18 withdrawn.

Amendment 19

Moved by ***Lord Northbourne***

19: Clause 1, page 1, line 20, after "pupils" insert "or prospective pupils"

Lord Northbourne: My Lords, I shall speak also to Amendments 20, 42, 44, 62 and 71. They are probing amendments, designed to ascertain what the Government are really planning or, if they are not planning anything, to try to encourage them to do so.

The amendments relate to special educational needs in the context of emotional and behavioural disadvantage, because the needs of EBD children are in some ways very different from those of many other SEN children. I shall change the mood, I hope, of the debate by asking whether academies could not be a positive force for good in the provision of help for these disadvantaged children.

Let us not delude ourselves: local authorities are in charge at the moment and it is not going wonderfully well. As we sit here today, there are nearly 1 million young people in this country who are not in education, employment or training—the so-called NEETs. That is about 10 per cent of the total population of 16 to

18 year-olds. I see this group of young people as a challenge and possibly a great opportunity for the new academies. But if the academies are to tackle this challenge, they must have the freedom and the power to address it effectively. I will quote from three recent reports that confirm the nature and the urgency of this problem.

Action for Children's report earlier this year referred to the overriding importance of intervening as early as we can to support our most vulnerable children and their families. It states:

"The deprivation these families experience is deeper and more complex than poverty alone, and the belief at the heart of this work is therefore that fiscal help alone will not stop their problems from being passed on through the generations".

The report goes on:

"Where there are multiple risk factors, the evidence is that deprivation is passed down from one generation to the next … This is often seen in the way relationships develop: children are defiant, blamed by parents and disliked by siblings. They are unpopular at school and get into fights or suffer bullying. Low self-esteem is exacerbated. They do badly at school, become involved in crime and drugs, and by the time they are 17 are on their way to becoming a career criminal. This may seem dramatic, but it is a recognised journey that too many of our children have travelled".

In the *Times* last week, Kathryn Ecclestone, Professor of Education and Social Inclusion at the University of Birmingham said:

"There is broad agreement that Britain faces a crisis of mental ill health and poor emotional wellbeing, especially among children … Growing numbers of policymakers and teachers believe that emotional wellbeing is more important than reading, writing and numeracy. The Government's social and emotional aspects of learning strategy asserts that we cannot leave the "skills" of emotional literacy and wellbeing to "dysfunctional" families".

I have one final quote. The Centre for Social Justice Green Paper dated 10 January 2010 states:

"Stable … families are at the heart of strong societies … The absence of a stable, nurturing family environment has a profoundly damaging impact on the individual, often leading to behaviour which is profoundly damaging to society. Family breakdown is particularly acute in our most deprived communities. In these areas the concept of society is, for many, alien; whole communities are socially excluded from the mainstream. It is in these areas that we witness the highest levels of worklessness … and offending. If we are to create a fairer, more socially mobile society then we must invest in strengthening families".

These reports all focus on the needs of children from severely disadvantaged, hard-to-reach, chaotic, inadequate families. Such children present a specific educational problem. If we could get this Bill right, it could bring new hope for many of those children and those families who, through no fault of their own, cannot provide their children with the long-term security, love, hope and boundaries that they need.

President Roosevelt said in the 1930s that it was a wicked thing to destroy a man's hope, but it is a wicked thing to allow children to grow up without hope. Many of these children end up being statemented as having emotional and behavioural difficulties and often drop out of education altogether. They tend to be lacking in self-confidence, insecure, aggressive, quick to anger and deeply unhappy. It is with this group of children that I have had the privilege of working as a governor of an EBD school and for 16 years in the context of youth programmes at Toynbee Hall in Tower Hamlets. These children, whose families have failed them, comprise a socially and emotionally damaged underclass of which our society should be ashamed. My amendments intend to probe the Government's intentions in relation to the freedom of these academies to innovate in the best interests of their pupils.

I have just one or two questions for the Minister. Giving power to parents to choose may well be a way in which to improve the standard of schools, but what happens to those children whose parents are neither able nor willing to support their children, or who are not concerned, or who do not know how to do so? Who will fight for them? Secondly, with the children in this group the damage has usually been caused in the family long before the child reaches school—even primary school. Will the new academies have the power and resources to reach out and support parents of pupils in school as well as supporting, in the child's early years, the parents of children who may later become pupils at the school? The noble Baroness, Lady Walmsley, asked that question earlier this evening. I assure the Committee that it is possible to help such parents. I know of two charities already doing excellent work in this area. Family Links, based in Oxford, last year helped some 80,000 parents. School Home Support, based in London, supported about 19,000 families and children last year. Will the proposed academies be able to undertake such work, whether through an associated primary school, a children's centre or whatever?

Thirdly, will the new academies be able to deliver an innovative curriculum based on their pupils' needs, which are pre-eminently to develop self-confidence and emotional intelligence as well as age-appropriate interpersonal skills. Could the academies do that, even if it involved omitting many of the academic subjects in the national curriculum? For this category of children, it is essential that they should have some opportunity for hope and success. If they are put neck and neck against children of much greater intellectual ability, it is very destructive.

The Government propose to allow a selection of pupils for special schools that become academies, if such a selection is in the best interests of the pupil. The question that I am going to ask now is controversial. Why do they not allow selection in other academies if it can be shown that such selection would be in the best interests of the pupil?

Finally, who will be in charge under this academy system for the well-being of each child? Will it be the social services, the academy or some combination of the two? I beg to move.

Lord Wallace of Saltaire: My Lords, I thank the noble Lord for his amendments. His questions have ranged very widely and well beyond the question of academies. Sure Start, nursery education and the pupil premium are all part of a strategy to deal with the problems that he raises. As we all know, the problems that he raises take us way beyond what the education sector in itself can deal with. We have been discussing those with special educational needs across a range of amendments already and have stressed that academies will serve local children of differing abilities, as now. The only exception will be outstanding converting grammar schools, which will be expected to partner

[Lord Wallace of Saltaire]
weaker local schools. There will be no increase in the number of schools selecting by academic ability, including free schools and converting independent schools. We are offering additional freedoms to academies in a number of areas, including the curriculum, but those freedoms are underscored by a requirement that ensures parity with maintained schools in relation to admissions, exclusions and SEN. That means that Amendment 19 is, I suggest, unnecessary. The requirement to make provision for pupils with SEN effectively includes a requirement to make provision for prospective pupils with SEN.

10 pm

On Amendment 20, at the moment a child without a statement cannot be enrolled in a maintained special school unless temporarily admitted for an assessment of their SEN. Academies and special schools would also be able to admit only children with statements of SEN. This is right; if it were not the case, non-statemented pupils with lesser needs would take up places in special academies previously reserved for statemented pupils, with local authorities left to find a place for those with more complex and costly needs.

On Amendment 62, the Secretary of State already has a power to agree a broad range of SEN provision with academies, without it being in the Bill. Moving on to Amendment 42, I am sorry that the noble Lord, Lord Baker, is not in his place. It is already accepted that specialist academies are not limited to specialism in academic subjects, as he explained with enthusiasm during our first evening in Committee. On Amendment 44, similarly, the legal definition of ability already includes academic ability.

Amendment 71 raises some wider issues and the question of encouraging academies to make a much more active effort in providing guidance and advice to disadvantaged pupils and their families—in a sense, to go out into the hedgerows and compel them to come in. This has, until now, been a duty of local authorities and it will be something that local authorities continue to do. Local authority duty extends to advice concerning academies. There is a limit to how far one can legislate in detail on this, but we very much see academies—as primary and secondary schools do now—working with the other social services, looking for children who would benefit from that sort of education.

To end where I started, some of these points are covered by other policy areas where the previous Government and the new coalition Government have already engaged, such as the pupil premium, Sure Start and elsewhere. Given that, I hope the noble Lord will withdraw his amendment.

The Earl of Listowel: I thank the Minister for his reply to my noble friend. However, does he also recognise what policy in the past 10 years has recognised? These children—from difficult families that are complex to deal with—need a seamless provision of services. The Children Act 2004 enshrined a duty on all agencies to work together to safeguard and promote the welfare of vulnerable children. I spoke recently to the manager of a children's home in Camden. He said, "I used to manage a private home which was reasonably good, but it is so much easier for me to run this home because the services in Camden are so well connected. Mental health and social services work with the children and their families". The general principle that I think my noble friend is driving at is: please reassure us that there will be no risk of fragmentation. I suppose that is the word. It proved so hard to get everyone to work together in the best interests of the child. We certainly would not want to put that in jeopardy.

Baroness Howe of Idlicote: My Lords, I do not think any of us realised that the Minister was going to reply quite so soon, before there was any other opportunity to support my noble friend Lord Northbourne's point. One of the crucial issues is what we all know is happening and has been happening for 37 years, since Keith Joseph first mentioned the cycle of deprivation. All this has been going on and we have not managed to cope with it. The pertinent question is: who will get the right provision and the early statement for young people so that they can be helped at the earliest possible age? Who will ask that question for these individual children in this state? On any view, they cost us all—the individual and the country—huge sums of money. We have really failed in this way. We have all been talking about it for 37 years. I would very much like to have that point addressed.

Lord Lucas: My Lords, I did not hear my noble friend answer the point made by the noble Lord, Lord Northbourne, about the curriculum. These children have broken free from the ordinary structure of education and need to be reconnected with it. That process of reconnecting with it is in no way aligned with the idea of a curriculum based on English, maths or other academic subjects. You have to hook them on something to which they relate and then you can bring them back to academic work or whatever else is necessary to build their career. You have to be able to let go everything that they have rejected about the school and find another way into their psyche.

I am sure that my wife, who spends a lot of her time working with these people when they reach prison, would endorse that. She uses family ties because by the time most of these kids reach prison they have a family of their own. They probably do not know their father and do not have much contact with their mother, but they have children and they can be made to reconnect with them or with the remnants of their family. That can give them the motivation to get back into what you might call school work. But to contaminate that process with school work risks the whole process; you have to be able to adapt what you are teaching to the needs of these children.

Lord Wallace of Saltaire: My Lords, we are indeed talking about something that goes wider than academies themselves. I visited a secondary school in Bradford some months ago and found that all these issues were raised in the local community. People were concerned that, in pursuing league tables, schools in the area did not do their best to push the difficult pupils off on one another, so as to up their game in the league tables. We are all conscious that this is a long-term problem and one that we shall have to continue to grasp as we move towards establishing more academies.

As regards the curriculum, children's statements will specify the provision required to meet each child's needs. This will include the curriculum requirement and whatever else is needed to meet emotional and behavioural needs. Academies will have greater flexibility in relation to the curriculum. That is part of what is intended. Academies will be encouraged to work with other local services, both public and third sector, to cope with these sorts of problems. As the noble Baroness, Lady Howe, remarked, this issue has been with us for several generations and it will not go away very quickly. We must do our utmost to ensure that the schools we are trying to develop pick up these children and give them the help that they need. The greater curriculum flexibility that the academies can provide may help in this respect.

Lord Northbourne: I am most grateful to the noble Lord. I shall, of course, read what he has said in more detail. However, I wish to make one or two small points. I think that he referred to what I was saying as not being part of education. Education is the fundamental development of the child.

Lord Wallace of Saltaire: I said that it goes wider than education.

Lord Northbourne: I accept that. I do not know whether the noble Lord has ever tried to get a statement, but I have friends who have had to get statements for disabled children who they have adopted. It is unbelievably difficult to get a statement out of the local authority. You have to be prepared to fight and fight. I support the Government. Let us look at this as an opportunity because, quite honestly, some local authorities are not doing terribly well. Some are doing well, but quite a lot are not, so let us recruit the academy movement into trying to solve some of these problems. I beg leave to withdraw the amendment.

Amendment 19 withdrawn.

Amendment 20 not moved.

Amendment 21 had been retabled as Amendment 22A.

Amendment 22

Moved by ***Lord Rix***

22: Clause 1, page 1, line 20, at end insert "and has characteristics that include those in subsection (6)(a)"

Lord Rix: My Lords, I should like to take this opportunity to say how much I welcome the fact that the Bill requires mainstream academies to have characteristics which include teaching a balanced and broadly based curriculum, and provide education for pupils of different abilities. I trust that that includes pupils with a learning disability. However, I am concerned that the Bill does not appear to place a similar requirement on special schools converting to academy status. It is important to emphasise that a similar requirement is in place for special schools which become academies and ensure that they offer all children with SEN and disabilities a full and ambitious curriculum, including those working well below age-related expectations. Can the Minister guarantee that outstanding schools granted academy status also provide outstanding quality for all children, including those with special educational needs and disabilities. I beg to move.

Lord Wallace of Saltaire: My Lords, it is very difficult to guarantee that every school would be outstanding. That is one of the problems with statistics. The amendment in some ways seeks to go in the opposite direction from the intent of some of the amendments of the noble Lord, Lord Northbourne, in that it seeks to impose some restrictions on academies in terms of the curriculum that they offer.

We appreciate the noble Lord's aim to get some security over the curriculum for pupils with special educational needs, but, as I said in answer to the previous group of amendments, for children with statements of special educational needs, the curriculum should be tailored specifically to meet their particular needs and curriculum requirements, as set out in their statements of special educational needs. We believe for children with SEN with statements this is the appropriate way to specify what they need in terms of teaching. Where a child requires a broad and balanced curriculum, I am advised that that will be specified in their statement, that the school will have to provide it, and that the amendment is therefore unnecessary. I hope that that satisfies the noble Lord. I recognise his deep concerns on this and the expertise on which he draws, but I nevertheless invite him to withdraw his amendment.

Lord Rix: My Lords, I cannot believe that I was placing restrictions in this amendment. I believe that I was trying to ensure that the teaching for pupils with special educational needs and disabilities would be of the highest quality and of the broadest possible range. However, I will take the noble Lord's answer back to the Special Educational Consortium, which acts as my consultants on this, and I may return to this matter on Report. I hope that it is satisfied with his response. I beg leave to withdraw the amendment.

Amendment 22 withdrawn.

Amendments 22A to 27 not moved.

Amendment 28

Moved by ***Baroness Royall of Blaisdon***

28: Clause 1, page 1, line 22, at end insert—

"( ) the school complies with the provisions of the Code for School Admissions issued from time to time by the Secretary of State;"

Baroness Royall of Blaisdon: My Lords, all the amendments in this group state very much the same thing. I therefore support them. I shall speak also to Amendment 169 on the admissions code. The Government have made it clear on a number of occasions that they believe that the admissions code is something by which all schools must abide. We celebrate and welcome this, in particular because there has been some talk, rightly or wrongly, of the Government relaxing or amending the admissions code. I am glad to know that that is not the case.

10.15 pm

Local authorities have an important role in monitoring the code. They are now required to report annually to the schools adjudicator on the fairness and legality of the admissions arrangements to all schools in their area. The Bill removes that responsibility for large numbers of schools. The Government say that their aim is that it should be the norm that secondary schools themselves, and not local authorities, will police that. Proper enforcement of a strict code is vital to guarantee fairness and cohesion. As the independent enforcer of fair access to schools, the schools adjudicator now has a wider remit to consider any admissions arrangements that come to his attention, in addition to any complaints received through objections. The schools adjudicator should still report annually to the Secretary of State on how fair access is being achieved locally.

As I mentioned, the Government's stated intention is to maintain the admissions code in the hundreds of secondary schools that could be academies by the autumn. That is very welcome. If academies are to be the norm—or perhaps I should say more normal than they are now, growing and flourishing—it would be right and proper that the need to comply with the admissions code should be in the Bill. That is what Amendments 28 and 169 seek to do. We have all received many representations expressing fears about the admissions code in relation to the Bill. Simply putting this in the Bill would inspire greater confidence. I urge the Minister to consider it.

The Earl of Listowel: My Lords, I shall speak to Amendment 50 in my name. I declare an interest as a trustee of TACT, a charitable provider of fostering and adoption placement in the UK, with offices in England, Wales and Scotland; and of the Michael Sieff Foundation, a child welfare charity. The purpose of the amendment is to ensure that there is not the least doubt that looked-after children will be given first priority in admissions to the new academies.

Perhaps I may say again to the Minister that I was very grateful to him for the helpful meeting on SEN that he organised. I was grateful at that meeting that he acknowledged the concern regarding the different treatment of admissions for looked-after children by academies. He described it as small; but it is significant, and I hope that he will accept that. Perhaps I may briefly remind noble Lords that the previous Government gave first priority in admissions to looked-after children in legislation enacted in February 2009. Grant-maintained schools must prioritise these children. However, in the same regulations, academies are only directed that they "should" prioritise these children. There has been considerable concern about this distinction, which has been greatly increased with the advent of this Bill and the prospect, highlighted by the noble Baroness, Lady Royall, of many more academies, and many of the best performing schools becoming academies.

I apologise for repeating a couple of statistics from Second Reading. A large percentage—28 per cent—of our prison population have experienced care. In 2008, only 7 per cent of looked-after children gained five GCSEs with grades A* to C, compared with 49.8 per cent of the general population. When an offender is given an education, their offending can reduce dramatically. The National Grid Transco programme reduces reoffending rates from 70 per cent to 7 per cent. We are seeing improved outcomes for looked-after children and children in care thanks to the previous Government's efforts. Improvements in attainment have been modest, but at last they have begun tracking the improvement in the general population. The number of care leavers entering university has increased by 900 per cent. It was 1 per cent and I have recently been advised that it is 9 per cent. It is still far below the level for the general population but it is an important step in the right direction. I hope that the Minister will agree that now is not the time to weaken our efforts on behalf of these children.

I am most grateful to the Secretary of State, Michael Gove MP, for his decision to continue the investment in social work begun by the previous Government—in particular, the setting up of a social work college on a par with the Royal Society of Medicine and the Royal College of Nursing. I am also most thankful for his decision to appoint Dr Munro to review the bureaucratic burden on social work. I am more grateful than I can say for the Secretary of State's commitment to supporting and developing social work. These children need the best social workers and the best schools appropriate to their needs.

In the past, these children have been put last. They have been disregarded in their families, as my noble friend said, and too often they have been disregarded in the care system. I hope that today the Minister can remove any shred of doubt that he will put them first.

Baroness Walmsley: My Lords, we, too, believe that it is important that children and parents choose schools and not the other way round. In speaking to my Amendment 51, I welcome the fact that the Secretary of State has stated that the code for school admissions will apply to academies. We felt that we needed to table this amendment to probe how the codes—please note that it is the plural—for school admissions will apply to academies. There are two codes: one deals with the setting of admissions criteria and the role of the school adjudicator, and the other deals with how parents can appeal against a refusal to admit their child.

Currently, academies are required to comply with the codes "as far as possible" as part of their agreement with the Secretary of State. The codes were not written for the academy sector but for maintained schools. One additional thing that the amendment requires is that parents and the local authority are able to appeal to the adjudicator about admission arrangements. Currently, parents can appeal only to the Secretary of State but that can really only be done after the admission arrangements have been agreed between the academy and the Secretary of State when the arrangements are published. An admission authority—be it a local authority or a school governing body—has to publish, at the school and in a local newspaper, any proposed changes to admission arrangements and allow objections. If the admission authority confirms the change, the parent can appeal to the adjudicator, if he or she wishes to do so.

What is really required here is a single admission system for all publicly funded schools. Having two admission systems, which will still be the case if academies are required to comply with the code only where they can, is not really good enough. Academy status will have perceived benefits on admissions for grammar schools. They will no longer be subject to the rules on parental ballots when changing their admission arrangements. However, if we are to rely on the Minister's words in his letter to Peers that,

"no non-selective school would be able to become selective"—

words which are very welcome—that would rule out the current ability of a maintained school to select 10 per cent of pupils on the basis of aptitude in music, arts and sport. Can the Minister clarify the Government's intention on that point while we are discussing admission codes?

Lord Low of Dalston: My Lords, I should like to speak to Amendments 84 and 85. Noble Lords will be glad to hear that I do not intend to speak to them at anything like the length that I spoke to Amendment 83. Many of the same arguments might be deployed and they both deal with the question of parity between academies and maintained schools.

Amendment 84 seeks the application of the admissions legal framework to academies as though they were maintained schools, and Amendment 85 is the same form of amendment, except that it relates to the exclusions legal framework. They are both essentially probing amendments designed to find out how far the Government see the two frameworks applying to academies as if they were maintained schools—in other words, whether the intention is to achieve parity in respect of these two frameworks as much as it is the intention to achieve parity in relation to special educational needs.

Lord Lucas: Amendment 36, which is in my name, expresses an ambition which I understand, having listened to the Minister, is clearly beyond the scope of anything that will be put into the Bill. I none the less hope that he will agree with me that it should be our ambition that outstanding schools which become academies, as they have the opportunity to expand, will look to bring in children from way beyond their geographical catchment area—to extend that excellence to those parts of their surroundings that are not blessed with outstanding schools but are blessed with children who require additional attention and the best possible environment. That should be part of our ambition, as it has been part of the history of the academies programme to look first at those who are disadvantaged.

Baroness Howe of Idlicote: I added my name to and support very much the amendment tabled by my noble friend Lord Listowel. All the speeches I have heard emphasise the need for the point made by the noble Baroness, Lady Royall, about the need for a single admissions code. If there is this doubt—there certainly is, judging from the number of representations I have received about whether similar systems apply right the way through—surely there is a growing case for either having one system which applies to everybody and sticking to it or, as has been suggested, including it in the Bill to take away any misconceptions that still exist.

We should all congratulate the previous Government on their achievement on looked-after children. Quite a group of them have clearly benefited, the figure having moved from 1 per cent up to 9 per cent, which my noble friend mentioned as successes in education. We need to go much further. I understood from the Minister that instructions were already going out to ensure that the schools themselves had up-to-date instructions, but if not they would be put on the net. A number of us would have liked to have leapt to our feet to say, "Not just on the net, please—write a letter so that it is clearly available and everybody will know that there is just one system that really applies to them all". I hope that he will address that point, although maybe he has done it already.

Baroness Perry of Southwark: I very much support the spirit of the amendments. We have had assurances from my noble friend that the academies will be obliged to follow the admissions code, which is certainly the expectation that we have all had. I particularly support the amendment in the name of my noble friend Lord Lucas. As I said earlier, I feel strongly that if the academies are to fulfil their commitment of covering the whole range of abilities, something like a lottery system combined with the banding system will be the best way to do it—indeed, the only way of ensuring it. That would entail moving outside the immediate catchment area of the school and giving the academies an opportunity to produce a social mix of people from different catchment areas and to produce a range of abilities.

I know the Minister's view is that this is outside the parameters of the Bill, but I hope that it can be borne strongly in mind. I passionately believe that some form of banding is essential if one is to get a full range of abilities within a school. One will otherwise have the problem, very cogently explained by our colleague from Northern Ireland, of a community either of privilege or lack of it gradually growing up contained and homogenised. That is something that none of us in any part of the House wants.

10.30 pm

Lord Hill of Oareford: My Lords, we have had an important and wide-ranging discussion and I am grateful for a number of points that have been made. I am grateful to the noble Baroness, Lady Royall, for accepting that the Government have sought to be clear in making certain that the existing admissions requirements that apply to maintained schools will apply in the same way to academies. I shall respond to one of her specific questions about reporting on academy admission arrangements. Local authorities have to collect information on academy admission arrangements and report on them to the schools adjudicator. He will then have to report on academy admission arrangements in just the same way as for maintained schools. The Bill does not change that.

I turn to the question raised by the noble Earl, Lord Listowel. I am grateful to him for his comments. I know that he brings great experience and sincerity to

this work. He was particularly concerned about looked-after children. I can reassure him that academies will continue to be required to give the highest possible priority to looked-after children. The Bill changes nothing and I know how important that is to him. I hope that that reply provides some reassurance.

The Earl of Listowel: I am grateful to the Minister for giving way, even at this late hour, on this point. The concern raised with me is that paragraph 2 of the *School Admissions Code* reads:

"Where mandatory requirements are imposed by the Code … it is stated that relevant bodies 'must' comply with the particular requirement or provision".

However, the code continues at paragraph 3:

"The Code also includes guidelines which the relevant bodies 'should' follow".

The relevant bodies there are the academies, so they only "should" follow, rather than "must" follow, this prioritising of children in admissions. Perhaps I have misunderstood in reading the code; I would appreciate guidance.

Lord Hill of Oareford: Perhaps I could follow that matter up in writing with the noble Earl outside the Chamber and we can pursue it.

One of the issues concerning admissions and exclusions, as has been explained, is the important principle that academy principals have to be free to manage their schools. Therefore, we believe that all schools, including academies, should have the ability to do that. However, parents also need to have guarantees that their children will be treated fairly, so we will ensure that academies are required, through their funding agreements, to comply with the admissions and appeals codes and with guidance on behaviour and exclusions in just the same way as maintained schools.

I note the remarks made by my noble friend Lord Lucas, endorsed by my noble friend Lady Perry, about banding. As he has conceded, that is not an issue specifically to do with this Bill. I know that he has strong views on it. I need to learn more about it and I would be extremely happy to be educated by my noble friend.

Amendments 28, 50 and 51, 84 and 169 would all require the Secretary of State to ensure that academies complied with the school admissions code as if they were maintained schools. Amendment 84 would require them to run their admissions appeals processes as if they were maintained schools. As I have explained, we believe that we achieve that through their compliance with the admissions code and the admissions appeals code. We will make sure that they have to continue to do that.

Baroness Walmsley: Will it be the Secretary of State who ensures that they do or will it be the YPLA?

Lord Hill of Oareford: I will write to my noble friend about that. The ultimate responsibility is with the Secretary of State. I am not 100 per cent certain whether the YPLA is responsible for enforcing it; I believe that it is, but I will write to confirm that. Equally, on Amendment 85, academies are required by their funding agreements to act in accordance with the law on exclusions and to have regard to the Secretary of State's guidance on exclusions as if the academy were a maintained school.

My noble friend Lady Walmsley raised one or two other points. As she correctly pointed out, there are two codes. Both codes are applied to academies through their funding agreements and that will continue to be the case. I hope that that provides some reassurance to noble Lords and I invite the noble Baroness to withdraw her amendment.

Baroness Royall of Blaisdon: I am grateful for the clarification from the Minister. This has been a useful debate. However, I will reflect on the issue, because it took some time for us as a country to get a strict admissions code that is, to all intents and purposes, properly enforceable. I would not wish for us to retreat from that in any shape or form. I am not for one moment suggesting that that is what the Government are seeking. However, it might be better—and I know that it would inspire greater confidence—if there could be something about that in the Bill. I know from experience that Governments are always, rightly, reluctant to stick everything into a Bill, but this is such an important issue that I may wish to come back to it on Report. I beg leave to withdraw the amendment.

Amendment 28 withdrawn.

Amendment 29

Moved by ***Lord Lucas***

29: Clause 1, page 2, line 2, at end insert "and includes specified elements"

Lord Lucas: Academies are to be freed from the national curriculum, but in opposition we were—and, indeed, in my heart, we are—committed to reintroducing some universal entitlements for our pupils that have been dropped in the previous decade or two, notably an entitlement to learn the span of British history and an entitlement to study three sciences. I do not see how those two attitudes match. What requirements will we be able to put on academies to ensure that, where we see the need for a universal entitlement and for some consistency across the school system, we get it, despite the headline that academies do not have to comply with the national curriculum? I beg to move.

Lord Hill of Oareford: My Lords, although I will be interested to explore the question of the curriculum with my noble friend in the months ahead—not least in the context of the curriculum review, which the Government are carrying out and which will no doubt form the subject of further legislation—the key point is that academies should have freedom to innovate and to be creative with their curricula, to respond to parental pressure, the needs of the children and the needs of the area. From that point of view, we would not contemplate something more prescriptive for academies, so I hope that my noble friend will withdraw his amendment.

Lord Lucas: That seems rather a thin reply, which does not get to the meat of my question. I shall concentrate on something that I know to be a passion of the Minister's honourable friend Mr Gibb, a passion that I share. For our children to have a real understanding of British history—not a specified understanding and not a list of things that people have to know—we should say that children should emerge from school with an understanding of the spread and depth of British history as an important part of being a British citizen and of creating British citizens and a unity of purpose and understanding in this country.

Many state schools teach a horrible subject called humanities. It is the only thing that they offer at GCSE. You cannot do geography or history, just this mishmash subject that teaches you nothing in particular. If you do history, you probably do only the great dictators and the Tudors. It has disintegrated so far from what Mr Gibb and I think is right. To say, "Yes, we believe this, but there is no way we are going to apply it to academies", seems to be missing the point. It is not about schools but about an entitlement for our children and what is right for our society. It is not a big imposition to impose these basic requirements on academies, is it?

Lord Hill of Oareford: As an historian manqué, I could keep the Committee going for an extremely long time talking about my views on what ought to be in the history curriculum and I can see that there is great enthusiasm that I should do that. Medieval history is a subject that I am particularly interested in, as well as modern history and international history. However, I will resist the temptation. We will have to debate further the tension between the desire for politicians to prescribe and the competing instinct, which I have strongly, to let teachers and head teachers run their schools. In the mean time, I urge my noble friend to withdraw his amendment.

Lord Lucas: I think that I shall be in trouble if I do not, so I beg leave to withdraw the amendment.

Amendment 29 withdrawn.

House resumed.

London Local Authorities Bill [HL]

Message from the Commons

A message was brought from the Commons that they have made the following Order: That the promoters of the London Local Authorities Bill [HL], which was originally introduced in the House of Lords in Session 2007–08 on 22 January 2008, should have leave to proceed with the Bill in the current Session according to the provisions of Standing Order 188B (Revival of bills).

House adjourned at 10.42 pm.

Written Statements

Wednesday 23 June 2010

Courts Service: Estates

Statement

The Minister of State, Ministry of Justice (Lord McNally): My right honourable friend the Lord Chancellor and Secretary of State for Justice (Kenneth Clarke) has made the following Written Ministerial Statement.

I am today announcing proposals for consultation that I believe will enable HMCS to best provide vital public services to local communities. Our court system has long been a guardian of British values of fairness and responsibility. I believe that the changes proposed in this Statement will preserve those values.

We need to look critically at the services courts provide—they are a vital pillar of the justice system but they are not the only forum where civil disputes can be resolved. I want to explore whether more people can resolve their disputes using alternative methods which give faster solutions that are flexible to people's needs. Across the civil, family and criminal courts I want to look at what can be done to use technology more effectively so fewer people have physically to attend court for routine purposes. Increasingly we are using the internet, telephone and video technology in our work and personal lives—we should be more rigorous in exploring their use across the justice system.

HMCS currently operates out of 530 courts, some of which do not fit the needs of modern communities. Their number and location does not reflect recent changes in population, workload or transport and communication links over the many years since they were originally opened.

My department has published consultation papers setting out proposals to close 103 magistrates' courts and 54 county courts and inviting views on how we can best provide local justice services in our communities across England and Wales. In reaching decisions on closures I will ensure that we keep courts in the most strategically important locations, communities continue to have access to courts within a reasonable travelling distance, that cases are heard in courts with suitable facilities and that there is an overall reduction in cost.

Closure of the courts covered in the consultation would achieve running cost savings of around £15.3 million per year. These courts also have backlog maintenance of around £21.5 million, costs that can be avoided if the closures go ahead. Following a full analysis of responses to the consultation, and a decision on whether and which courts to close, a further assessment will take place on the level of savings that could be achieved and the potential value that could be released from the disposal of the properties. I believe that as well as savings to HMCS there will also be savings for other criminal justice agencies by focusing their attendance at a single accessible location within a community.

When public finances are under pressure, it is vital to eliminate waste and reduce costs. At the same time we should also take the opportunity to think afresh about how we can provide more modern court services. The arrangements we currently have are historical and now need to be reassessed to ask if they meet the needs of society as it is today. We increasingly use the internet and e-mail to communicate and access services and we travel further to work, for leisure and to do our weekly shop. Providing access to justice does not necessarily mean providing a courthouse in every town or city. Across the civil and criminal courts there are great opportunities to harness technology more effectively so people do not necessarily have to physically attend court when they give evidence or access court services. Not all disputes need to be resolved in court. I will also examine ways of enabling more people to resolve their disputes in a way that leads to faster and more satisfactory solutions. We will continue to develop proposals for introducing alternatives that deliver a better service for less money.

The consultation seeks the views of all with an interest in local justice arrangements. I will take all views expressed into account before making any decision on which courts ought to be closed and when. I also invite views on how the courts service could be modernised to improve the justice system as well as reduce its costs.

The consultation also includes proposals on the merger of a number of local justice areas which would enable effective changes to courthouse provision. This will facilitate further efficiency savings in administrative work, while enabling an effective service to continue to be provided by magistrates to the public.

I am also announcing that following a consultation on the proposed closure of Leigh County Court in 2009, I have decided that this court should close without further delay. Since an arson attack two years ago, all cases that would have been heard in Leigh are being heard in Wigan or Warrington, only seven and 10 miles away respectively. This has not caused any disruption to the delivery of justice in Greater Manchester.

The consultation documents and the full list of courts we are consulting on will be published on the Ministry of Justice website. Copies will be placed in the Libraries of both Houses, and in the Vote Office and the Printed Paper Office.

International Monetary Fund (Limit on Lending) Order 2010

Statement

The Commercial Secretary to the Treasury (Lord Sassoon): My right honourable friend the Chancellor of the Exchequer has today made the following Statement.

The Government have today laid the International Monetary Fund (Limit on Lending) Order 2010 before the House of Commons. Copies of the revised New Arrangements to Borrow, which relate to this order, have been deposited in the Libraries of the House.

Legal Aid

Statement

The Minister of State, Ministry of Justice (Lord McNally): My right honourable friend the Lord Chancellor and Secretary of State for Justice (Kenneth Clarke) has today made the following Written Ministerial Statement.

I confirm that we are considering policy on the subject of legal aid in England and Wales as announced in the Government's document *The Coalition: Our Programme for Government* published last month. The Government are considering how to make the system more efficient having regard to the current financial climate, while ensuring that they continue to play a vital part in ensuring that people can get access to justice.

This Government's immediate priority is to reduce the financial deficit and encourage economic recovery. We have made it clear that the main burden of the deficit reduction will be borne by reduced public spending, achieved by financial discipline and the most efficient and effective delivery of public services. I am seeking to develop an approach to legal aid spending which balances these necessary financial constraints with the interests of justice and the wider public interest. We will seek to develop an approach which is compatible with fair and necessary access to justice for those who need it most, the protection of the most vulnerable in our society, the efficient performance of the justice system, and our international legal obligations.

We intend to seek views on our proposed new approach in the autumn.

Written Answers

Wednesday 23 June 2010

The following Question should have been printed on Tuesday 22 June 2010.

Bailiffs

Question

Asked by ***Lord Greaves***

To ask Her Majesty's Government what action they will take to implement the pledge in *The Coalition: Our Programme for Government* to "provide more protection against aggressive bailiffs and unreasonable charging orders, ensure that courts have the power to insist that repossession is always a last resort, and ban orders for sale on unsecured debts of less than £25,000." [HL427]

The Minister of State, Ministry of Justice (Lord McNally): The Government are currently considering the public comments received on *The Coalition: Our Programme for Government* and will announce their plans in due course.

Abortion

Questions

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government how many women aged (a) 12, (b) 13, (c) 14, (d) 15, (e) 16, (f) 17 and (g) 18 years old in each strategic health authority area who had (1) one, (2) two, (3) three, (4) four, (5) five, (6) six, (7) seven, (8) eight, (9) nine and (10) ten or more previous abortions had an abortion in (i) 2008, and (ii) 2009. [HL492]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The information we can provide for 2008 and 2009 is shown in the following tables. The department has withheld data where there are totals of less than 10 (between zero and nine) cases as we believe the disclosure of this information could breach an individual's confidentiality. This is in accordance with the Office for National Statistics (ONS) guidance on the disclosure of abortion statistics (2005).

Previous abortions by age under 19 and Strategic Health Authority of residence, 2008.

		Age		
Strategic Health Authority	*Previous abortions*	*under 18*	*18*	*Total under age 19*
East of England	0	1,431	891	2,322
	1+	106	173	279
	Total	1,537	1,064	2,601
East Midlands	0	1,342	697	2,039
	1+	84	98	182
	Total	1,426	795	2,221
London	0	2,756	1,601	4,357
	1+	372	464	836
	Total	3,128	2,065	5,193
North East	0	946	424	1,370
	1+	56	55	111
	Total	1,002	479	1,481
North West	0	2,674	1,385	4,059
	1+	206	218	424
	Total	2,880	1,603	4,483
South Central	0	1,052	547	1,599
	1+	83	105	188
	Total	1,135	652	1,787
South East	0	1,259	692	1,951
	1+	105	124	229
	Total	1,364	816	2,180
South West	0	1,509	756	2,265
	1+	114	111	225
	Total	1,623	867	2,490
Yorkshire and Humber	0	1,858	933	2,791
	1+	127	144	271
	Total	1,985	1,077	3,062
West Midlands	0	2,046	1,001	3,047
	1+	213	241	454
	Total	2,259	1,242	3,501
Wales	0	976	533	1,509
	1+	72	74	146
	Total	1,048	607	1,655
England and Wales	0	17,849	9,460	27,309
	1+	1,538	1,807	3,345
	Total	19,387	11,267	30,654

Notes:

Ages and number of previous abortions are grouped where totals are less than 10 (between 0 and 9) or where a presented total would reveal a suppressed value from previously published data.

Previous abortions by age under 19 and Strategic Health Authority of residence, 2009

		Age		
Strategic Health Authority	*Number of previous abortions*	*under 18*	*18*	*Total under age 19*
East of England	0	1,445	752	2,197
	1+	104	133	237
	Total	1,549	885	2,434
East Midlands	0	1,189	661	1,850
	1+	60	91	151
	Total	1,249	752	2,001
London	0	2,460	1,401	3,861
	1+	393	419	812
	Total	2,853	1,820	4,673
North East	0	864	401	1,265
	1+	47	60	107

Previous abortions by age under 19 and Strategic Health Authority of residence, 2009

Strategic Health Authority	Number of previous abortions	Age under 18	Age 18	Total under age 19
	Total	911	461	1,372
North West	0	2,527	1,341	3,868
	1+	194	239	433
	Total	2,721	1,580	4,301
South Central	0	933	541	1,474
	1+	73	96	169
	Total	1,006	637	1,643
South East	0	1,166	625	1,791
	1+	109	110	219
	Total	1,275	735	2,010
South West	0	1,364	747	2,111
	1+	92	110	202
	Total	1,456	857	2,313
Yorkshire and Humber	0	1,937	1,013	2,950
	1+	185	204	389
	Total	2,122	1,217	3,339
West Midlands	0	1,661	899	2,560
	1+	117	149	266
	Total	1,778	1,048	2,826
Wales	0	940	450	1,390
	1+	56	79	135
	Total	996	529	1,525
England and Wales	0	16,486	8,831	25,317
	1+	1,430	1,690	3,120
	Total	17,916	10,521	28,437

Notes:
Ages and number of previous abortions are grouped where totals are less than 10 (between 0 and 9) or where a presented total would reveal a suppressed value from previously published data.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government how many women in England and Wales who had (a) one, (b), two, (c) three, (d) four, (e) five, (f) six, (g) seven, (h) eight, (i) nine and (j) ten or more previous abortions had an abortion in (i) 2008, and (ii) 2009. [HL493]

Earl Howe: The information we can provide for 2008 and 2009 is shown in the following tables. The department has withheld data where there are totals of less than 10 (between zero and nine) cases as we believe the disclosure of this information could breach an individual's confidentiality. This is in accordance with the Office for National Statistics (ONS) guidance on the disclosure of abortion statistics (2005).

Number of previous abortions by Strategic Health Authority of residence, 2008

Strategic Health Authority	Number of previous abortions 0	1	2	3	4	5 or more	Total
East of England	11,114	4067	968	237	53	21	16,460
East Midlands	8,891	2755	594	120	..	..	12,409
London	28,821	14275	4050	1086	305	142	48,679
North East	5,457	1583	341	65	..	..	7,482
North West	17,631	5830	1203	285	50	20	25,019
South Central	8,191	2964	596	126	43	14	11,934
South East	8,718	3531	759	165	56	19	13,248
South West	9,826	3207	590	140	37	12	13,812
West Midlands	13,536	5409	1149	296	63	23	20,476
Yorkshire and Humber	11,857	3843	759	190	39	11	16,699
Wales	6,539	2096	345	70	..	..	9,078
England and Wales	130,581	49,560	11,354	2,780	739	282	195,296

Notes:
Number of previous abortions are grouped where totals are less than 10 (between 0 and 9) or where a presented total would reveal a suppressed value from previously published data.

.. Suppressed value less than 10

Number of previous abortions by Strategic Health Authority of residence, 2009

Strategic Health Authority	Number of previous abortions 0	1	2	3	4	5 or more	Total
East of England	10,892	3,988	1,002	230	69	30	16,211
East Midlands	8,564	2,597	558	127	40	17	11,903
London	27,104	13,827	3,917	1,049	313	150	46,360

Number of previous abortions by Strategic Health Authority of residence, 2009

Strategic Health Authority	*Number of previous abortions* 0	1	2	3	4	5 or more	Total
North East	5,261	1,533	331	67	..	..	7,220
North West	17,408	5,893	1,240	244	70	19	24,874
South Central	7,549	2,723	646	125	31	17	11,091
South East	8,418	3,448	878	167	60	25	12,996
South West	9,292	2,991	577	117	43	15	13,035
West Midlands	13,471	5,159	1,229	240	63	19	20,181
Yorkshire and Humber	11,384	3,910	833	191	44	26	16,388
Wales	6,367	1,971	391	80	..	..	8,841
England and Wales	125,710	48,040	11,602	2,637	779	332	189,100

Notes:

Number of previous abortions are grouped where totals are less than 10 (between 0 and 9) or where a presented total would reveal a suppressed value from previously published data.

.. Suppressed value less than 10

Afghanistan

Question

Asked by ***Lord Luce***

To ask Her Majesty's Government what is their assessment of the report by International Christian Concern that Abdul Sattar Khawasi, Deputy Secretary of the Afghan Lower House of Parliament, has called for the public execution of Christians recently captured in Afghanistan; and whether they will make representations about the matter to the Government of Afghanistan. [HL536]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): We are aware of reports of the Deputy Secretary of the Afghan Lower House of Parliament's remarks regarding the execution of Christian converts from Islam. We understand that the remarks were made during a debate over a recent series of television reports, which showed video footage of Afghans converting to Christianity. As a result, two international non-government organisations have been accused of proselytising and are currently under investigation by Afghan authorities. Under Afghan law, proselytising is illegal and conversion from Islam is a capital offence. We are following the investigation closely, but cannot pre-empt the findings at this stage.

The Government are opposed to the death penalty under all circumstances and continue to strive for the global abolition of capital punishment. The Government also strongly support the right to freedom of religion or belief, including full implementation of those norms laid out in Article 2 of the Afghan constitution, which provides for freedom of religion. As an EU member, the UK adopted a set of EU council conclusions on freedom of religion or belief. These conclusions reaffirm the EU's commitment to promote and protect freedom of thought, conscience, religion or belief, including the right to adopt, change or abandon one's religion or belief of one's own free will. The Government are working to support all individuals who face discrimination and persecution on the basis of religion, including Christians, wherever they are in the world. Pending the outcome of the investigation, we will raise this case with the Afghan Government as necessary.

Agriculture: Genetically Modified Crops

Question

Asked by ***The Countess of Mar***

To ask Her Majesty's Government what assessment they have made of any link between the rise in infectious diseases of trees and the application of glyphosate used for under-story weed control. [HL559]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Henley): The Government have not commissioned any such research; however, the Forestry Commission does not consider that there is any reason to associate the rise in the number or severity of tree diseases with the use of chemical weed control agents.

Benefits: Non-British Citizens

Question

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government what publications are available to European Union citizens informing them of the availability of welfare benefits; and in what languages they are published. [HL374]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): The Department for Work and Pensions produces three leaflets for customers whose first language is not English. These leaflets provide basic information on the benefits and services available to customers from:

Jobcentre Plus;

Pension Service; and

Disability and Carer Service.

The leaflets tell customers how they can contact these organisations to find out more information and to claim the benefits they are entitled to. Each leaflet contains information in two European languages (English

and Polish) and six other languages, representing the eight most popular languages used in the UK. The total list of languages is:

English;

Polish;

Arabic;

Urdu;

Punjabi;

Gujarati;

Mandarin; and

Bengali.

Cayman Islands

Question

Asked by ***Lord Ashcroft***

To ask Her Majesty's Government why there has been a delay in the privatisation of the water company in the Cayman Islands. [HL431]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The privatisation of the water company is the responsibility of the Cayman Islands Government.

During the budget address on 15 June, the Premier of the Cayman Islands announced the privatisation of the water authority. Privatisation can only occur once local legislation has been amended to allow for the sale, and following a number of steps to ensure adherence with proper procedures and due diligence.

Democratic Republic of Congo

Questions

Asked by ***Lord Chidgey***

To ask Her Majesty's Government whether they have received representations from Congolese politicians proposing an independent commission of inquiry into the death of human rights activist Floribert Chebeya in the Democratic Republic of Congo; and, if so, what was their response. [HL522]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): We have not received any representations from Congolese politicians proposing an independent commission of inquiry into the death of Floribert Chebeya.

My honourable friend Henry Bellingham's Statement of 3 June 2010 called for a full, proper, and transparent investigation into the death of Mr Chebeya. President Kabila has ordered a full investigation into the death of Mr Chebeya which we fully support.

Asked by ***Lord Chidgey***

To ask Her Majesty's Government what representations they are making to the Government of the Democratic Republic of Congo on the protection of human rights activists and those working for the strengthening of civil society in that country in light of the alleged murders of activists and journalists. [HL523]

Lord Howell of Guildford: We are deeply concerned at the increasing intimidation and violence faced by human rights defenders, journalists, and civil society in the Democratic Republic of Congo (DRC). We follow cases of concern closely and press the Government of DRC bilaterally and with our EU partners to meet their responsibility for protecting human rights defenders, journalists and civil society. Most recently our ambassador to the DRC raised our concerns at the death of human rights defender Floribert Chebeya with government officials at the Ministry of Foreign Affairs.

We are also providing practical support to ensure that human rights defenders, journalists, and civil society are able to carry out their work. Our embassy in Kinshasa is implementing EU guidelines on human rights defenders. With our EU partners in the DRC we met eight non-government organisations (NGOs) representing human rights defenders who gave their feedback on the EU human rights strategy. We have appointed a liaison officer and made their contact details available to local NGOs and civil society. The UN Organization Mission in DRC (MONUC) Protection Unit also provides protection services to those in danger including relocation and advice on personal security.

We also support a media fund jointly administered with France and Sweden to support professionalisation, regulation, and the economic viability of the media in the DRC. Funding goes to local media organisations and NGOs including Journalists in Danger, which campaigns for freedom of the press.

Disabled People: Work Capability Assessments

Question

Asked by ***Baroness Thomas of Winchester***

To ask Her Majesty's Government when the first independent review of the employment and support allowance and the work capability assessment will begin; how they will appoint its members; and whether it will be open to groups representing people undergoing assessments. [HL477]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): The Government have a statutory commitment to an independent review of the operation of the work capability assessment annually for the first five years. We are in the process of commissioning this review and aim for it to report before the end of the year.

Economic Crime Agency

Questions

Asked by ***Lord Corbett of Castle Vale***

To ask Her Majesty's Government what is their estimate of the cost of abolishing the Serious Fraud Office. [HL293]

To ask Her Majesty's Government what is the estimated administrative cost of establishing a single

economic crime agency; and what are its estimated annual running costs. [HL294]

To ask Her Majesty's Government how many people are employed in each of the agencies which will be abolished or merged into the proposed single economic crime agency; and how many will be employed by the new body. [HL295]

The Commercial Secretary to the Treasury (Lord Sassoon): In accordance with the coalition programme for government, the Government are examining options for the creation of an economic crime agency and will announce decisions in due course. As yet, no decisions have been taken on the agency's structure.

Elections: Northern Ireland

Questions

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government what steps have been taken in Northern Ireland to ensure that the same voter registration requirements, including a requirement for a photograph, is used for elections to local authorities, the Northern Ireland Assembly and Parliament. [HL324]

Lord Shutt of Greetland: The Representation of the People Act 1983 makes provision for the registration of electors, and the requirements for voter registration in Northern Ireland are the same in respect of parliamentary, Assembly, local and European elections.

There is no requirement to submit any form of photographic identification for the purpose of registering to vote in Northern Ireland.

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government what assessment they have made of alleged electoral malpractice in Northern Ireland during the general election on 6 May; how many persons allegedly attempting to vote illegally were arrested; whether a police officer with power to arrest was present in each polling station; and, if not, how persons could be arrested. [HL325]

Lord Shutt of Greetland: The Northern Ireland Office (NIO) does not hold information regarding arrests made at the general election or numbers and locations of police officers. These are matters for the PSNI and the noble Lord may wish to write to the chief constable directly to obtain such information.

The Government will make an overall assessment of the extent of electoral malpractice in Northern Ireland when the Electoral Commission formally reports on this issue later this year.

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government how many prosecutions for alleged electoral malpractice in Northern Ireland during the general election on 6 May (a) have been dealt with by the courts, and (b) are awaiting trial. [HL326]

Lord Shutt of Greetland: Although the Northern Ireland Office (NIO) is responsible for maintaining the legal framework in respect of Northern Ireland elections, the Public Prosecution Service for Northern Ireland is responsible for prosecutions in Northern Ireland and would be best placed to provide accurate information on any prosecutions for alleged electoral malpractice and their progress. The noble Lord may wish to write to the Director of Public Prosecutions directly.

Embryology

Questions

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government on how many occasions the Human Fertilisation and Embryology Authority has permitted embryos or gametes provided by patients for a particular research project to be used in separate research, where the latter was a concurrent project with different stated aims from those described in the patient information literature on the original research project; and at which licensed research centres. [HL415]

To ask Her Majesty's Government which research licences have been required by the Human Fertilisation and Embryology Authority to cover oocyte karyotyping and studies of cell cycle proteins in human eggs; for which of those licences the corresponding patient information did not make reference to the creation of embryos within the same study; and what were the dates of duration of all such research licences. [HL416]

To ask Her Majesty's Government why the Human Fertilisation and Embryology Authority Chief Executive indicated on 8 November 2009 that 681 human eggs (including 17 fresh eggs) had been used under research licence R0122 between August 2004 and March 2005; and how that related to the information on the study that was concurrently provided to patients which indicated that the only cells to be used for such research would be embryos considered unsuitable for freezing. [HL417]

To ask Her Majesty's Government, further to the Written Answers by Baroness Thornton on 2 November 2009 (*WA 7-8*) and 10 February 2010 (*WA 135*), what was the source of the information described in the internal background note to Question HL5792, which stated that 66 eggs were donated for research at the Newcastle Centre for Life in 2008 and 52 eggs from six treatment cycles were similarly donated between 1 April 2009 and 31 August 2009; and whether they will place in the Library of the House copies of the original documents from which those data were derived. [HL418]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The Human Fertilisation and Embryology Authority (HFEA) has advised that on no occasion has it permitted embryos or gametes provided by patients for a particular research project to be used in separate research, in the circumstances set out in the noble Lord's Question.

Additionally, no research licences have been required to cover oocyte karyotyping and studies of cell cycle proteins in human eggs in the circumstances described by the noble Lord.

In respect of the use of human eggs under research licence R0122, the HFEA has advised that this information was provided to the noble Lord, in response to his request to the HFEA for this information, by the authority's chief executive. The HFEA has also advised that it does not know how the number of eggs used in research projects relates to information provided to patients participating in that research because the use of human eggs for research purposes does not require a research licence from the authority.

The HFEA has advised that the source of the information contained in the background note to Question HL5792 was the authority's register of patients, donors and treatment cycles. The HFEA has also advised that the information quoted by the noble Lord was submitted by Newcastle Centre for Life via an electronic database interface; therefore, there are no copies of original documents to place in the Library.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government, further to the Written Answer by Baroness Thornton on 10 February (*WA 136-37*), what was the average duration of a site visit by Human Fertilisation and Embryology Authority inspectors since 2004 (a) for licensed centres generally, and (b) for centres 0017, 0157 and 0206. [HL419]

Earl Howe: The Human Fertilisation and Embryology Authority (HFEA) has advised that it would need to examine all inspection reports produced since 2004 in order to establish the average duration of an inspection site visit. For that reason, the information requested could only be obtained at disproportionate cost.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government which individuals employed by the Human Fertilisation and Embryology Authority (HFEA) used the pseudonym "Reeta Ngo" prior to 2006 or prompted others to do so for acquiring personal information from other public bodies under the Freedom of Information Act 2000; what were the reasons for doing so; and whether any of the information thus obtained directly concerned clinics licensed by the HFEA. [HL420]

Earl Howe: The Human Fertilisation and Embryology Authority (HFEA) has advised that this pseudonym was used by one of its employees prior to 2006.

I am advised that the HFEA have now initiated an internal investigation into this matter.

In the mean time, the HFEA has advised that it cannot identify the employee, as disclosure may be in breach of the Data Protection Act 1990. The information that was obtained did not relate to clinics licensed by the HFEA.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government how many eggs from non-human species have been used in attempts to create cybrid embryos according to records held by the Human Fertilisation and Embryology Authority (HFEA); how the number of eggs used from each species compares with the number expected to be used; and what information about the expected outcomes of such research was provided to participants who donated human nuclei at each of the HFEA licensed centres. [HL494]

Earl Howe: The Human Fertilisation and Embryology Authority (HFEA) has advised that it is not required in law to collect and hold information about the use of eggs, human or non-human, in research. The information it holds is, therefore, incomplete and limited. However, the information the HFEA does hold shows that the number of non-human eggs that have been used in attempts to create human admixed embryos is 222.

The HFEA does not hold any further information about this matter.

Employment: Work Programme

Question

Asked by ***Lord Kirkwood of Kirkhope***

To ask Her Majesty's Government what plans they have to protect severely disabled clients in the new welfare to work programme. [HL414]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): The Government have committed to introducing the work programme by summer 2011. The work programme will be designed to meet the needs of a wide range of customer groups, including people with a disability or health condition.

We recognise there will be some for whom the work programme is not appropriate. We are committed to supporting severely disabled people and are currently reviewing the best way of doing this.

Energy: Carbon Emissions

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government what assessment they have made of the impact of reducing the United Kingdom's carbon emissions on its competitive position. [HL470]

The Parliamentary Under-Secretary of State, Energy and Climate Change (Lord Marland): The Government will implement a full programme of measures to fulfil their ambitions for a low-carbon, eco-friendly and fairer economy. Ensuring that the UK reduces its carbon emissions in a manner that maintains the UK's competitive position is important to drive economic growth and innovation.

We continue to push for global action to reduce carbon emissions, thereby creating an international level playing field for UK businesses. We believe that the risk of carbon leakage is limited to a small number of sectors (which are energy intensive). However, there are measures in the EU ETS directive which would allow this risk to be managed. Because these sectors are important to the UK economy, we are currently working together with other EU member states on the application of these measures.

Taking action on climate change also offers opportunities to UK business. Greater energy efficiency can help to save money, and the development of low-carbon technologies offers new markets for UK-based businesses. We continue to monitor the impact of the UK's carbon reduction policies on UK competitiveness, including the impact of rising gas and electricity prices on business.

Energy: Wind Turbines

Questions

Asked by ***Lord Vinson***

To ask Her Majesty's Government what is the estimated cost of upgrading the national grid from Scotland to London to take the surplus load from wind turbines due to be installed in Scotland as part of any undertaking to meet European Union carbon reduction targets. [HL284]

The Parliamentary Under-Secretary of State, Energy and Climate Change (Lord Marland): The Electricity Networks Strategy Group (an industry group jointly chaired by DECC and Ofgem) report *Our Electricity Transmission Network: A Vision for 2020*, published in March 2009, set out the network companies' view of the potential transmission investments that would be needed to accommodate the growth of renewable and other low-carbon generation to 2020. These transmission reinforcements will support expected new generation, including in Scotland, where scenarios suggested between 6.6 and 11.4 gigawatts of renewable generation to 2020 are expected. The report estimated the capital cost of these reinforcements as around £4.7 billion, with around £2.7 billion of that specifically in Scotland or to convey electricity from Scotland to other areas of demand. However, transmission investments in England and Wales will be also significantly influenced by the flows of power from Scotland. The report is available on the ENSG website: http://www.ensg.gov.uk/index.php?article=126.

In addition there will need to be further investment by transmission owner companies in the existing system through Ofgem's ongoing price control mechanism to accommodate changing flows of power across the system to meet the 2020 targets. As submissions from these companies are made during this process, these funding requirements will become clearer.

Asked by ***Lord Vinson***

To ask Her Majesty's Government whether the cost of transmitting electricity from Scotland to London was taken into account when the economic viability of wind turbines in Scotland was assessed. [HL285]

Lord Marland: The Renewable Energy Strategy (RES) published in July 2009 considered the scenario for delivering about 30 per cent of the UK's electricity from renewable sources, the majority of which is expected to come from wind power. The RES included impact assessments that included an assessment of the costs and benefits of the proposed policies, including for renewable electricity. These assessments took account of cost estimates for connection to the grid (onshore and offshore), and for additional grid reinforcements as outlined in the March 2009 Electricity Networks Strategy Group report *Our Electricity Transmission Network: A Vision for 2020*, including those from Scotland to England. Transmission charges and grid connection costs were included in the technology cost assumptions for onshore and offshore wind. In respect of transmission charges, no differentiation was made between generation in different parts of the UK.

A copy of the RES and accompanying impact assessments are available at: http://decc.gov.uk/en/content/cms/what_we_do/uk_supply/energy_mix/renewable/res/res.aspx.

A copy of the Electricity Networks Strategy Group 2020 report is available on the ENSG website at: http://www.ensg.gov.uk/index.php?article=126.

Asked by ***Lord Vinson***

To ask Her Majesty's Government what is the estimated additional cost to households in England of upgrading the national grid to take the surplus load from wind turbines due to be installed in Scotland. [HL286]

Lord Marland: Transmission-related costs currently account for around 3 to 4 per cent of consumers' electricity bills. The Electricity Networks Strategy Group (an industry group jointly chaired by DECC and Ofgem) report *Our Electricity Transmission Network: A Vision for 2020* set out network companies' view of the potential transmission investments needed to accommodate the growth of renewable and other low-carbon generation to 2020. National Grid's estimate is that the level of investment envisaged in the report of up to £4.7 billion could result in around a 1 to 1.5 per cent increase in consumer electricity bills. Of the total £4.7 billion investment, around £2.7 billion would be specifically in Scotland or to convey electricity from Scotland to other areas of demand. However, the transmission investments in England and Wales, estimated at around £2 billion, would also be influenced by the flows of power from Scotland. No specific estimates have been made in relation to Scotland-related expenditure.

The ENSG report is available on the ENSG website at http://www.ensg.gov.uk/index.php?article=126.

European Commission: Fines

Question

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government how many fines have been levied by the European Commission on (a) the United Kingdom, and (b) other European Union countries, since 1992; for what offences; of what amounts; how many remain unpaid; and by which countries. [HL534]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The Commission has power to fine member states under Articles 126(11) and 260 of the treaty for the functioning of the EU. No such fines have been imposed on the UK since 1992. The UK does not have information on other member states.

Flexible New Deal

Question

Asked by ***Lord Kirkwood of Kirkhope***

To ask Her Majesty's Government what is their estimate of the legal costs of cancelling last year's phase 1 contracts with employment providers to deliver phase 1 of the Flexible New Deal. [HL409]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): We have embarked on some very productive meetings with FND1 providers on how between us we best manage the transition from Flexible New Deal to the new work programme. It is too early to provide an estimate of the likely costs of making this transition and indeed some of this will depend on whether existing FND1 providers are successful in bidding for the work programme.

Fluoridation

Questions

Asked by ***Earl Baldwin of Bewdley***

To ask Her Majesty's Government, further to the Written Answers by Baroness Thornton on 23 February (*WA 282-83*) and 6 April (*WA 398*), whether it is normal scientific practice to cite as evidence studies which have not yet been published, and letters which report the results of those studies, without making clear the status of such documents. [HL400]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): We agree that the studies have not been peer reviewed. The department's intention was to provide all the relevant information that was currently available centrally. The report on the analysis of osteosarcoma trends in the West Midlands was placed in the Library with the agreement of its authors at the West Midland Cancer Intelligence Unit.

The unit accepts that case control studies would offer the best means by which the causes of osteosarcoma could be assessed but, with such low incidence, it would take a long time for significant results to appear. The study by the Bone Cancer Research Trust is near to completion and we understand the results will be peer reviewed.

Asked by ***Earl Baldwin of Bewdley***

To ask Her Majesty's Government, further to the Written Answers by Lord Darzi of Denham on 20 May 2009 (*WA 323-24*) and Baroness Thornton on 6 April 2010 (*WA 399*), to what extent the wording of the "York" report concerning water fluoridation and bone fracture in sections 8, 8.3.1 and 8.5, reporting "suggesting no association", "no clear association", and the need to interpret results with "extreme caution" because of the low quality and heterogeneity of the studies, was taken into account in their summative conclusion that it "found no association". [HL478]

Earl Howe: I understand that the comments made in the "York" report about the quality of the research were taken into account in these replies, but agree that an accurate summation of the report's findings would be to state that no clear association was found between water fluoridation and bone cancer.

Asked by ***Earl Baldwin of Bewdley***

To ask Her Majesty's Government, further to the Written Answer by Baroness Thornton on 6 April (*WA 399*), why European and American authorities are cited for upper safe limits of fluoride consumption and not UK guidelines as given in *Report on Health and Human Subjects No. 41*. [HL479]

Earl Howe: The *Report on Health and Human Subjects No. 41* was published in 1991, before the recommendations of the European Food Safety Authority published in 2006 and those of the American Food and Nutrition Board published in 1997. I am advised that these more recent recommendations better reflect the current expert view on the effects of fluoride.

G20

Questions

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether they will raise at the G20 meeting on 26 and 27 June the imprisonment of Palestinian and Turkish parliamentarians. [HL511]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): This will not be raised at the G20 which is a forum to discuss global economic stability. Human rights issues are raised in other settings.

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether they will raise at the G20 meeting on 26 and 27 June the imprisonment in Turkey of 2,000 children for alleged terrorist offences. [HL512]

Lord Howell of Guildford: This will not be raised at the G20 which is a forum to discuss global economic stability. Human rights issues are raised in other settings.

Government Regional Offices

Questions

Asked by ***Lord Greaves***

To ask Her Majesty's Government what process they will follow in considering the case for abolishing the regional government offices outside London, as set out in *The Coalition: Our Programme for Government*. [HL426]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The future of the regional government offices outside of London will be considered as part of the spending review.

Asked by ***Lord Greaves***

To ask Her Majesty's Government whether, as part of their review of regional government offices and regional development agencies, they are reviewing the regional leaders' boards; and what advice they have given to the regional leaders' boards on their operation in the meantime. [HL495]

Baroness Hanham: The Secretary of State has announced that government funding for regional local authority leaders' boards—which took over most of the functions and staff of the old regional assemblies—has been ended because we are abolishing their core function of drafting the regional strategy. This will produce an annual saving of £16 million.

The dismantling of these boards will see local authorities put firmly back in control of planning in their areas and will ensure local people can hold their leaders to account.

Homelessness

Question

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government whether they plan to promote a co-operative approach to homelessness and rough sleeping in London. [HL619]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The Government have set up a new ministerial taskforce to tackle head-on the problem of homelessness and rough sleeping. Ministers from eight different departments across Whitehall are represented and its first meeting was on 16 June.

In addition, the Government actively support the mayor's London Delivery Board, which provides a cross-authority and cross-sector partnership to end rough sleeping in the capital. The board comprises homeless charities, the police, NHS London, DWP, MoJ, London Development Agency, Job Centre Plus, National Offender Management Service, local authorities and has a number of working groups including one for local authorities that is designed to promote and support cross-boundary working.

Homelessness: Helpline

Question

Asked by ***Lord Roberts of Llandudno***

To ask Her Majesty's Government whether they plan to introduce a national telephone helpline for homeless and other people in difficulty in the United Kingdom. [HL616]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The Communities and Local Government department spends £2.7 million on the National Homelessness Advice Service (NHAS), which is a partnership between Shelter and Citizens Advice providing high-quality advice on homelessness prevention through the network of participating citizens advice bureaux and other voluntary agencies across England.

NHAS has recently expanded its housing consultancy line and training service to all local authorities in England, which means housing options and homelessness staff now have access to a local call-rate charged housing advice line. The line is staffed by dedicated NHAS advisers who can help local authority workers to handle a wide range of housing advice queries across all housing tenures including advice on homelessness prevention.

Housing

Question

Asked by ***Lord Greaves***

To ask Her Majesty's Government how many Empty Dwelling Management Orders (EDMOs) are in force; in which authorities; what assessment they have made of the role of EDMOs in reducing the number of empty homes; and whether they will review their operation and effectiveness. [HL429]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Data on the number of Empty Dwelling Management Orders in force are not collected. To date, 29 interim Empty Dwelling Management Orders (EDMO) have been approved by the Residential Property Tribunal Service. An interim EDMO lasts for an initial period of no more than 12 months. Local authorities do not need any further approval to make final Empty Dwelling Management Orders.

We are looking closely at the issue of empty homes and the full range of measures that might be taken to bring them back into use. We are examining the effectiveness of current enforcement powers available to local authorities, including Empty Dwelling Management Orders, and reviewing the civil liberty implications of Empty Dwelling Management Orders.

Local authority	*No. of Interim EDMOs Approved*
Bolton Borough Council	1
Carlisle District Council	2
London Borough of Bromley	1
London Borough of Hammersmith and Fulham	1
London Borough of Hounslow	1
London Borough of Lewisham	5
New Forest District Council	1
Norwich City Council	6
Peterborough City Council	2
South Gloucestershire Council	1
South Norfolk District Council	1
Southend-On-Sea Borough Council	2
South Oxfordshire District Council	1
South Tyneside Borough Council	1
Staffordshire Moorlands District Council	1
Swale Borough Council	1
Wychavon District Council	1
Total	29

Human Rights

Question

Asked by ***Lord Chidgey***

To ask Her Majesty's Government what assessment they have made of the treatment of human rights activists in Rwanda, Uganda, the Democratic Republic of Congo and Burundi; and what steps they are taking to encourage the protection of human rights activists in those countries. [HL524]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): In Rwanda our high commission in Kigali, which also has non-resident responsibility for Burundi, follows closely all aspects of human rights in those countries. This includes the treatment of human rights activists, and we regularly discuss these issues with both Rwanda and Burundi. In recent months, the local representatives for Human Rights Watch in both Rwanda and Burundi have been expelled, and we have raised these cases with the host Governments, both bilaterally and with our EU partners.

In Uganda our high commission in Kampala closely follows all aspects of the human rights situation, including gay and lesbian rights and the treatment of human rights activists, and regularly discusses these issues with the Ugandan Government.

Human rights activists continue to face intimidation, arbitrary arrest and violence in the Democratic Republic of Congo (DRC). We follow cases of concern closely and press the Government of the DRC bilaterally and with our EU partners to meet its responsibilities for protecting human rights activists.

Our embassy in Kinshasa is implementing the EU guidelines on human rights defenders. With our EU partners in the DRC we met eight NGOs representing human rights defenders who have given their feedback on the EU human rights strategy. We have appointed a liaison officer and made their contact details available to local non-government organisations and civil society. The UN Organization Mission in DRC (MONUC) Protection Unit also provides protection services to those in danger including relocation and advice on personal security.

Internet: Broadband

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they will place in the Library of the House a copy of all evidence that was collected in preparing the report of the Communications Consumer Panel Local initiatives on next generation access in the UK. [HL517]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Baroness Wilcox): The Communications Consumer Panel's report brought together the information that was then available about the local broadband schemes that had been announced or were in operation. It was the result of conversations with stakeholders and a web-based review of publicly available information. There is therefore no material or evidence beyond that cited in the report and, where possible, linked in the report to the relevant web source. The Communications Consumer Panel produced two versions of this report; the second was simply an updated version of the original. The Communications Consumer Panel does not have further updates in its workplan.

Marie Stopes International

Questions

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government whether any funds provided by them to Marie Stopes International (MSI) will be used to establish MSI abortion clinics in China; and what recent discussions they have had with MSI about that issue. [HL490]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): Marie Stopes International (MSI) does not use government funds to support its work on sexual and reproductive healthcare services in China. Departmental officials have regular discussions with MSI on a range of sexual health issues.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government whether any funds provided by them to Marie Stopes International (MSI) were used by MSI to welcome Ms Lin Bin, Minister of China's National Population and Family Planning Commission, to its London headquarters. [HL491]

Earl Howe: The Government do not fund Marie Stopes International's work with the Chinese National Population and Family Planning Commission.

Mental Health

Questions

Asked by ***Lord Marlesford***

To ask Her Majesty's Government how many non-British citizens are detained under the Mental Health Acts in psychiatric hospitals in the United Kingdom; and of those, how many are citizens of other European Union countries. [HL528]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): There is no comprehensive data collection undertaken by the department with regard to the ethnicity or nationality of people detained under the Mental Health Act. Details for Scotland, Wales and Northern Ireland are a matter for the respective devolved Administrations.

Asked by ***Lord Marlesford***

To ask Her Majesty's Government in what circumstances non-British citizens detained under the Mental Health Acts in United Kingdom psychiatric hospitals can be repatriated to their countries; and how many have been repatriated in each of the past three years. [HL529]

Earl Howe: Section 86 of the Mental Health Act 1983 (the 1983 Act) empowers the Secretary of State to authorise the repatriation of certain in-patients detained in England or Wales who are neither British citizens nor Commonwealth citizens having the right of abode in the United Kingdom. Before doing so the Secretary of State must be satisfied that proper arrangements have been made for the patient's removal and for their care and treatment in the receiving country. The Secretary of State must also obtain the approval of the appropriate tribunal. In Wales, this function is transferred to the Welsh Ministers, except in relation to certain patients detained under Part 3 of the 1983 Act subject to special restrictions ("restricted patients"). Part 3 of the 1983 Act deals primarily with mentally disordered offenders.

Two patients were repatriated by the Secretary of State under Section 86 in 2007, and one in 2009. All three were restricted patients.

In addition to Section 86, some patients detained under Part 3 of the 1983 Act in England and Wales can be repatriated under the Repatriation of Prisoners Act 1984 (the 1984 Act), as a condition of a conditional discharge or by deportation. Nine restricted patients were deported in 2007, 11 in 2008 and 12 in 2009. To date, two have been deported in 2010. In 2008, one restricted patient was repatriated by means of conditional discharge. No patients have been repatriated under the 1984 Act in the past three years.

Details of other detained patients who have returned to their countries of origin voluntarily are not collected centrally. Mental health legislation in Scotland and Northern Ireland is matter for the relevant devolved Administration.

Asked by ***Lord Marlesford***

To ask Her Majesty's Government how many persons detained under the Mental Health Acts are being treated in (a) the National Health Service, and (b) private hospitals; and what is the average weekly cost of treating such patients. [HL530]

Earl Howe: At 31 March 2009 there were 16,073 patients detained in hospital under the Mental Health Act 1983 in England, 12,339 in National Health Service facilities and 3,734 in independent hospitals. Information on the average weekly cost of treating such patients is not held centrally.

Asked by ***Lord Marlesford***

To ask Her Majesty's Government whether long-stay in-patients in psychiatric hospitals are entitled to the same social security benefits as persons not in hospital. [HL531]

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord Freud): Psychiatric patients who, were it not for their illness, would be serving a term of imprisonment, cannot receive Department for Work and Pensions benefits.

For other psychiatric in-patients the rules are as follows:

Income Support

Premiums paid in respect of disability may be withdrawn from in-patients if another benefit which qualified them for the premium ends or the income support claimant has been an in-patient for a continuous period of more than 52 weeks.

Employment and Support Allowance

People who have been in hospital for more than 52 weeks lose their entitlement to the work-related activity or support component. As with income support, most premiums stop after 52 weeks but may be withdrawn earlier if another benefit which qualifies the claimant for the premium ends.

Incapacity Benefit

Where a person is in hospital for more than 52 weeks any increase paid for adult or child dependants will be withdrawn unless the Secretary of State approves payment to another person.

Disability Living Allowance

Payment of disability living allowance is withdrawn after 28 days for hospital in-patients aged 16 years or over and 84 days for in-patients under 16 years of age.

Attendance Allowance

Hospital in-patients who receive attendance allowance are paid for the first 28 days.

Carer's Allowance

When payment of attendance allowance or disability living allowance care component (middle or highest rate) is withdrawn from the hospitalised person, payment of carer's allowance to that person's carer is withdrawn at the same time.

Housing Benefit and Council Tax Benefit

Housing benefit and council tax benefit can be paid for up to 52 weeks to people who are in hospital and expect to be discharged home within that period.

State Pension

Weekly state pension is not affected by being in hospital, even if a stay in hospital is for longer than 52 weeks. Extra state pension or a lump-sum payment can still be earned during a stay in hospital while a claim for state pension is being put off. However, if an increase is paid with state pension for a husband, wife or someone who looks after a recipient's children, the recipient needs to tell the department when they, or the other person in respect of whom the increase is payable, goes into and comes out of hospital, as the increase payable to the recipient can be dependent on them actually residing with the other person.

Pension Credit

On admission to hospital the amount of pension credit payable to a single person will stay the same unless their appropriate amount includes an extra amount for severe disability or carers. The extra amount for severe disability will stop (or may reduce in the case of couples) when attendance allowance or disability living allowance stops. The additional amount for carers stops eight weeks after carers allowance (or underlying entitlement to it) stops. Housing costs will continue to be allowed as long as they are treated as responsible for the costs. This will normally be for a maximum of 52 weeks.

Couples, where one or both people are in hospital and are not expected to return home on discharge, will be treated as single people and will both claim pension

credit in their own right. Where one partner is in hospital and is expected to be discharged home, their pension credit will normally stay the same for the first 52 weeks unless they have an additional amount for severe disability or carers. After 52 weeks both partners are usually treated as single people for pension credit purposes.

Winter Fuel Payments

A person who has reached the qualifying age for a winter fuel payment will not receive a payment if, at the qualifying week, they are in hospital getting free in-patient treatment and have been getting such treatment for more than 52 weeks.

NHS: Procurement

Questions

Asked by ***Baroness Thornton***

To ask Her Majesty's Government when they plan to publish the new national guidance for ethical procurement in the National Health Service following the consultation on it. [HL437]

To ask Her Majesty's Government how they will communicate the cost savings and efficiency benefits associated with implementing ethical procurement practices in the National Health Service. [HL438]

To ask Her Majesty's Government how they plan to support NHS organisations in implementing new national guidance for ethical procurement. [HL439]

To ask Her Majesty's Government how they plan to monitor and report on the implementation of the new national guidance for ethical procurement by NHS organisations. [HL440]

The Parliamentary Under-Secretary of State, Department of Health (Earl Howe): The department is currently considering its approach to guidance for the National Health Service on ethical procurement and a decision will be made in due course.

Peru

Question

Asked by ***Lord Avebury***

To ask Her Majesty's Government whether they will make representations to the President of Peru, Alan Garcia, about promulgating the law on consultation, as approved by Peru's congress, before 18 June, so that the rights of indigenous people which it assures are ratified. [HL406]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The UK welcomes any consultation process designed to head off disputes and to protect and respect the rights of the indigenous groups. Our ambassador to Peru has made this known to Ministers at regular intervals, most recently with Environment Minister Brack on 10 June. We understand that President Garcia has until 25 June to consider promulgation of the new consultative law.

Philippines

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether they are discussing with the Government of the Philippines the issue of human trafficking, including for sexual exploitation, and the level of prosecutions for child sexual offences. [HL585]

The Minister of State, Foreign and Commonwealth Office (Lord Howell of Guildford): The Government signed a mutual legal assistance treaty and an extradition treaty with the Government of the Republic of the Philippines in October 2009 which, once ratified, will help bring human traffickers and those responsible for sexual offences against children to justice. Our embassy in the Philippines has discussed these issues with the Government of the Philippines as well as representatives of civil society organisations. We will take forward dialogue on these issues once President-elect Aquino has been inaugurated on 30 June and his Administration have been formed.

Prisons: Northern Ireland

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what advice the Northern Ireland Office has given to the Northern Ireland Prison Service about potential unrest. [HL518]

Lord Shutt of Greetland: The Northern Ireland Office (NIO) does not advise the Northern Ireland Prison Service on potential unrest in Northern Ireland. The chief constable advises both the Secretary of State, and the Minister of Justice responsible for the Northern Ireland Prison Service, in respect of such matters.

Refugee and Migrant Justice

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government, further to the Written Answer by Lord McNally on 14 June (*WA 93-94*), whether officials will meet Refugee and Migrant Justice to agree means by which that organisation's case load can continue to be serviced. [HL514]

The Minister of State, Ministry of Justice (Lord McNally): The most important issue now that Refugee and Migrant Justice (RMJ) has decided to enter into administration is the arrangements for its clients. The Legal Services Commission (LSC) is working closely with the administrator and others to ensure that urgent arrangements are made so that clients continue to receive a good-quality service. The LSC has experience of handling the transfer of work when a provider leaves the market and is satisfied that there is adequate capacity to absorb the extra workload. Though some initial disruption is unfortunately inevitable, every effort will be made to minimise this. The LSC is making

urgent arrangements for other providers to take on RMJ cases that require prompt advice—for example, clients held in detention.

Regional Strategies

Questions

Asked by ***Lord Greaves***

To ask Her Majesty's Government what advice they are giving to regional development agencies and leaders' boards about existing work and the commissioning of new work on the production of regional strategies under Part 5 of the Local Democracy, Economic Development and Construction Act 2009. [HL499]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): The Secretary of State has announced the Government's intention to abolish regional strategies and that funding for leaders' boards will be cut. In the light of these announcements regional development agencies and leaders' boards should not be doing any nugatory work.

Asked by ***Lord Greaves***

To ask Her Majesty's Government what advice they are giving to local planning authorities about existing work and the commissioning of new work on local development frameworks pending new legislation to enact proposals in *The Coalition: Our Programme for Government*. [HL500]

Baroness Hanham: The Government believe it is important for local authorities to have local plans in place to direct sustainable development and provide certainty to investors and communities and that they should carry on preparing them. The Secretary of State has written to all local authorities confirming the coalition Government's intension to abolish regional strategies and housing targets and that he expects authorities to have regard to his letter as a material consideration in planning decisions. That includes decisions on the preparation of local development frameworks.

Shipping: General Lighthouse Authorities

Questions

Asked by ***Lord Berkeley***

To ask Her Majesty's Government how many people were employed in each of the communications and marketing departments of the three General Lighthouse Authorities in (a) 2005, (b) 2006, (c) 2007, (d) 2008, and (e) 2009; and how many are now employed. [HL485]

Earl Attlee: The number of people employed is as follows:

	Trinity House	*Northern Lighthouse Board*	*Commissioners of Irish Lights*
2005	4	2	0
2006	4	2	0
2007	4	2	0
2008	4	2	0
2009	4	2	0
2010	4	2	0

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what progress has been made in reducing the General Lighthouse Authorities' operating budget for the next three years. [HL487]

To ask Her Majesty's Government whether the General Lighthouse Authorities are still planning on an 18 per cent increase in their operating budget over the next three years. [HL488]

Earl Attlee: The operating costs and budgets for the General Lighthouse Authorities for the next three years have not yet been agreed and will be discussed during the forthcoming corporate planning rounds later in the year.

Sustainable Communities Act 2007

Questions

Asked by ***Lord Greaves***

To ask Her Majesty's Government what action they are taking on the pledge in *The Coalition: Our Programme for Government* to "implement the Sustainable Communities Act 2007, so that citizens know how taxpayers' money is spent in their area and have a greater say over how it is spent".[HL496]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): This Government are committed to increasing transparency across the public sector, to allow citizens to hold government and public services to account. A Public Sector Transparency Board is being set up to drive that work. As a start, councils will be required to publish contracts, tenders and payments over £500 from January 2011, and we will be consulting about how to expand the scope of that requirement. A consultation on the future shape of local spending reports is ongoing to 16 July 2010, and Ministers will consider options after that.

Asked by ***Lord Greaves***

To ask Her Majesty's Government when they will make decisions on the first round of proposals from local authorities made under the Sustainable Communities Act 2007 and short-listed by the Local Government Association prior to submission to the Secretary of State in December 2009. [HL497]

Baroness Hanham: In *The Coalition: Our Programme for Government* we stated that this Government will promote decentralisation and democratic engagement, and end the era of top-down government by giving new powers to local councils, communities, neighbourhoods and individuals.

The Government are looking carefully at the ideas proposed by local authorities under the Sustainable Communities Act 2007 about how we can do just that. We will inform the House when we intend to make decisions about which proposals should be implemented.

Asked by ***Lord Greaves***

To ask Her Majesty's Government when they expect to make regulations under Section 5B of the Sustainable Communities Act 2007; and whether they intend to make an order under Section 5C of that Act. [HL498]

Baroness Hanham: The Government are considering how to implement the Sustainable Communities Act 2007, with a view to giving notice, no later than 1 January 2011, of when the Secretary of State intends to invite local authorities to make proposals which they consider would contribute to promoting the sustainability of local communities. The Government intend to consult on the arrangements surrounding this invitation before making a final decision.

Transport: Roads

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government, further to the Written Answer by Earl Attlee on 15 June (HL146) concerning requirements for the development of a dual carriageway, what is the formula used to justify an increase in carriageway standard; and how the consultants who carry out the assessment are appointed. [HL520]

Earl Attlee: No single formula is used to justify an increase in carriageway standard. The assessment for each case requires an iterative process that takes into account the interactions between forecast traffic flows, scheme cost, operational impact, safety, environmental impact, and the anticipated scheme economic benefits.

Current guidance, contained in the *Design Manual for Roads and Bridges* (DMRB) volume 5, section 1, part 3 TA46/97, provides suggested starting points for this iterative process but does not dictate what the outcome should be.

The Department for Transport's policy is to award orders and contracts on the basis of the "most economically advantageous tender". Where possible, the department uses framework agreements to procure design consultancy services. The evaluation criteria used for awarding orders and contracts are in accordance with the criteria set out in the parent framework agreement.

UK: Acreage

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what is the acreage of (a) England, (b) Northern Ireland, (c) Scotland and (d) Wales. [HL456]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Information provided by Ordnance Survey for Great Britain and by Land and Property Services, an agency of the Department of Finance and Personnel for Northern Ireland, indicates that the acreages of England, Northern Ireland, Scotland and Wales (including all offshore islands) are estimated at:

Country	*Area in Acres*
England	32,227,108
Northern Ireland	3,359,148
Scotland	19,473,841
Wales	5,135,449

Areas quoted include all offshore islands and land areas above mean high water (mean high water springs in Scotland).

The precise area of each country will vary from time to time due to natural and gradual changes to the coastline due to coastal erosion and silt deposition.

UK: Coastline

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what is the length of the United Kingdom coastline in miles at (a) low, and (b) high, tide; and what are the lengths of the coastlines of (a) England, (b) Northern Ireland, (c) Scotland, and (d) Wales. [HL457]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): Information provided by Ordnance Survey for Great Britain and by Land and Property Services, an agency of the Department of Finance and Personnel for Northern Ireland, indicates that the lengths of the coastlines at mean high water (MHW) and mean low water (MLW), (mean high water springs [ordinary spring tides] and mean low water springs in Scotland) are:

Country	*Length of Coastline at Mean Low Water (MLW) [Miles]*	*Length of Coastline at Mean High Water (MHW) [Miles]*
England	8,417	9,462
Northern Ireland	620	542
Scotland	14,675	13,186
Wales	2,323	1,999
United Kingdom	26,035	25,189

These coastal lengths include all offshore islands, and land areas which are above MLW.

The precise length of coastlines will vary from time to time due to natural and gradual changes arising from coastal erosion and silt deposition.

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