

# Children and Families Bill

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AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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**After Clause 6**

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN

Insert the following new Clause –

**“Looked after children: duty to provide information about support on returning home to care of parents or others with parental responsibility**

- (1) Except in circumstances prescribed by regulations, a local authority must provided the information specified in subsection (2) to –
  - (a) any person who has contacted the authority to request information about “return home support services” for a looked after child returning home to the care of P; and
  - (b) any P within the authority’s area, to whose care a looked after child has returned, who has contacted the authority to request any of the information specified in subsection (2).
- (2) The information is –
  - (a) information about the return home support services available to people in the authority’s area;
  - (b) information about the authority’s duties under section 22(3A) (“return home support services”: personal budgets) and regulations made under it;
  - (c) any other information prescribed by regulations.”

**After Clause 6 – continued**

## THE EARL OF LISTOWEL

Insert the following new Clause –

**“Local authority investigation: advocacy**

In section 47 of the 1989 Act (local authority duty to investigate) after subsection (5A) insert –

- “(5AA) In meeting its duty under subsection (5A) a local authority shall give consideration to making arrangements for the provision of independent advocacy for the child in relation to any decision making meeting in the course of section 47 enquiries unless the child states that he or she does not wish to receive the services of an independent advocate.
- (5AB) For the purposes of this subsection –
- (a) “advocacy” means the provision of independent and confidential information, advice, representation and support to a child;
  - (b) “independent” means where the person appointed is not connected with the local authority by virtue of being –
    - (i) a member of the local authority or any of their committees or sub-committees, whether elected or co-opted;
    - (ii) an officer of the local authority employed by the Children’s Services Department of that authority; or
    - (iii) a spouse or civil partner of any such person.””

Insert the following new Clause –

**“Independent advocacy for children in reviews**

- (1) In section 26 of the 1989 Act (review of cases of looked after children, etc) in subsection (2) (regulations as to reviews) after paragraph (d) insert –
 

“(dd) requiring the authority when seeking the views of the child to make arrangements for the provision of independent advocacy for the child unless that child, being of sufficient understanding to do so, states that he or she does not wish to receive the services of an independent advocate.”
- (2) For the purposes of this section –
  - (a) “advocacy” means the provision of independent and confidential information, advice, representation and support to a child;
  - (b) “independent” means where the person appointed is not connected with the local authority by virtue of being –
    - (i) a member of the local authority or any of their committees or sub-committees, whether elected or co-opted;
    - (ii) an officer of the local authority employed by the Children’s Services Department of that authority; or
    - (iii) a spouse or civil partner of any such person.””

**After Clause 11**

LORD NORTHBOURNE

Insert the following new Clause –

**“Children’s welfare: duties of parents**

For the purposes of section 3(1) of the Children Act 1989, the duties of the parent to their child are –

- (a) to safeguard and promote the child’s health, development and welfare;
- (b) to provide in a manner appropriate to the age and development of the child –
  - (i) direction; and
  - (ii) guidance,to the child;
- (c) if the child is not living with the parent, to maintain personal relations and contact with the child on a regular basis, but only in so far as compliance with this section is practicable and in the best interest of the child.”

Insert the following new Clause –

**“Children’s welfare: family responsibilities (schools)**

- (1) The governors, sponsors and headteacher of every school which teaches pupils in keystage 3 must prepare and publish each year a full and clear statement of the policy and practice of the school in relation to preparing pupils for the opportunities, duties and responsibilities which they are likely to encounter in adult life including the duties and responsibilities of family formation and of raising children.
- (2) Every statement must also publish the qualifications, learning and experiences of teachers who are involved in the delivery of this programme.
- (3) This statement must be brought up to date annually.
- (4) The Secretary of State may, from time to time, make regulations concerning matters which must be covered by the statement which must include “extra curricular activities”.

**Clause 22**

LORD RAMSBOTHAM

Page 19, line 31, leave out “with a view to securing that it identifies” and insert “to use its best endeavours to identify”

Page 19, line 33, at end insert –

- “(2) Regulations must set out the responsibilities of a local authority to use its best endeavours to identify all children and young people with special education needs in its area.

**Clause 22 – continued**

- (3) Regulations may in particular issue guidance to local authorities on identifying all children and young people with special education needs in its area.”

Page 19, line 33, at end insert –

- “( ) A school or post-16 institution, mentioned in section 29(2), and a registered early years setting, must exercise its functions with a view to securing that it identifies any child or young person who is registered as a pupil or student at the school or post-16 institution who has or may have special educational needs.
- ( ) Regulations may confer guidance to schools on how they identify pupils with special educational needs as early as possible.”

**Clause 30**

LORD RAMSBOTHAM

Page 25, line 2, at end insert –

- “(f) access to provision available for children educated in non-maintained registered early years settings”

Page 25, line 29, at end insert –

- “(g) provision for children or young people with speech, language and communication needs who are not eligible for a EHC Plan”

Page 25, line 38, at end insert –

- “(e) information about access to provision for children educated in non-maintained registered early years settings”

Page 25, line 38, at end insert –

- “(10) An independent regulator must be appointed with the authority to demand a local authority to review its local offer in circumstances prescribed by regulations.”

**After Clause 32**

LORD RAMSBOTHAM

Insert the following new Clause –

**“Advice and information: schools**

- (1) Schools and post-16 institutions must publish the provision for all children and young people that may have particular benefit for those with learning difficulties or special educational needs available within that institution at the time of publication.
- (2) The schools and post-16 institutions referred to in subsection (1) are –
- (a) mainstream schools;
  - (b) 16-19 Academies;
  - (c) institutions within the further education sector in England;
  - (d) pupil referral units;

**After Clause 32 – continued**

- (e) alternative provision Academies;
  - (f) a non-maintained special school;
  - (g) an institution approved by the Secretary of State under section 41.
- (3) Information required to be published by a school or post-16 institutions under this section is to be known as its “school offer”.
- (4) A schools or post-16 institutions under this section must keep its schools offer under review and may for time to time revise it.
- (5) The information published under subsection (1) must be consistent with the information published under section 30(2) by the appropriate local authority.”

**After Clause 35**

LORD RAMSBOTHAM

Insert the following new Clause –

**“Children with SEN in non-maintained early years settings**

- (1) This section applies where a child with special educational needs is being educated in a non-maintained early years settings or a mainstream school.
- (2) The local authority must use its best endeavours to identify children with special educational needs in non-maintained registered early years settings.
- (3) The local authority must use its best endeavours to secure special educational provision for children with special educational needs in non-maintained registered early years settings.
- (4) Regulations may –
  - (a) prescribe the steps taken by the local authority in respect of how it manages special educational provision for children in non-maintained registered settings;
  - (b) confer guidance relating to how non-maintained early years settings facilitate the specified special educational provision for a child in the care of the registered childcare provider.”

**Clause 36**

LORD NASH

Page 29, line 43, leave out paragraph (g)

**Clause 37**

LORD NASH

Page 30, line 25, leave out “and maintenance” and insert “, maintenance, amendment and disclosure”

**Clause 37 – continued**

Page 30, line 26, at end insert –

- “(6) Regulations under subsection (5) about amendments of EHC plans must include provision applying section 33 (mainstream education for children and young people with EHC plans) to a case where an EHC plan is to be amended under those regulations.”

**Clause 52**

LORD NASH

Page 39, line 15, leave out paragraph (b) and insert –

- “(b) the authority must –
- (i) arrange for mediation between it and the parent or young person,
  - (ii) ensure that the mediation is conducted by an independent person, and
  - (iii) participate in the mediation.”

Page 39, leave out lines 38 and 39 and insert –

- “( ) For the purposes of subsections (6)(b)(ii) and (8), a person who is employed by a local authority in England is not independent.”

**After Clause 56**

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN

Insert the following new Clause –

**“Looked after children, returning to care**

- (1) Whenever a local authority decide that a looked after child should return to the care of P, the local authority must assess and monitor the support needs of the child and P for as long as is necessary to safeguard and promote the child’s welfare.
- (2) After carrying out an assessment of the support needs of a looked after child in accordance with subsection (1), the local authority must provide a child in care, and, in the case of formerly accommodated children, offer to provide, “return home support services” to meet identified the support needs for as long as is necessary to safeguard and promote the child’s welfare.
- (3) Whenever the local authority provide “return home support services” under subsection (2), they must prepare a personal budget if asked to do so by P or the child or (in prescribed circumstances) a person of a prescribed description.
- (4) The authority should prepare a “personal budget” if they identify an amount as available to secure return home support services that they have decided to provide, with a view to the recipient being involved in securing those services.

**After Clause 56 – continued**

- (5) Regulations may make provision about personal budgets, in particular –
- (a) about requests for personal budgets;
  - (b) about the amount of a personal budget;
  - (c) about the sources of the funds making up a personal budget;
  - (d) for payments (“direct payments”) representing all or part of a personal budget to be made to the recipient, or (in prescribed circumstances) a person of a prescribed description, in order to secure any return home support services to which the budget relates;
  - (e) about the description of the return home support services to which personal budgets and direct payments may (and may not) relate;
  - (f) for a personal budget or direct payment to cover the agreed cost of the return home support services to which the budget or payment relates;
  - (g) about when, how, to whom and on what conditions direct payments may (and may not) be made;
  - (h) about when direct payments may be required to be repaid and the recovery of unpaid sums;
  - (i) about conditions with which a person or body making direct payments must comply before, after or at the time of making a direct payment;
  - (j) about arrangements for providing information, advice or support in connection with personal budgets and direct payments.
- (6) If the regulations include provision authorising direct payments, they must –
- (a) require the consent of the recipient, or (in prescribed circumstances) a person of a prescribed description, to be obtained before direct payments are made;
  - (b) require the authority to stop making direct payments where the required consent is withdrawn.
- (7) Any return home support services secured by means of direct payments made by a local authority are to be treated as support services provided by the authority for all purposes, subject to any prescribed conditions or exceptions.
- (8) In this section “prescribed” means prescribed by regulations.”

**Clause 62**

LORD RAMSBOTHAM

Page 45, line 2, after “made” insert “as early as possible”

**Clause 68**

LORD NASH

Page 48, line 19, leave out subsections (4) and (5) and insert –

- “(4) The Secretary of State may not take any further steps in relation to –
- (a) a proposed code unless the draft is approved by a resolution of each House, or
  - (b) a proposed revised code if, within the 40-day period, either House resolves not to approve the draft.
- (5) Subsection (5A) applies if –
- (a) both Houses resolve to approve the draft, as mentioned in subsection (4)(a), or
  - (b) neither House resolves not to approve the draft, as mentioned in subsection (4)(b).
- (5A) The Secretary of State must issue the code or revised code in the form of the draft, and it comes into force on such date as the Secretary of State may by order appoint.”

Page 48, line 27, leave out “proposed code (or”

**After Clause 69**

LORD RAMSBOTHAM

Insert the following new Clause –

**“Maintaining an EHC plan for detained young persons**

After section 562C(2) of the Apprenticeships, Skills, Children and Learning Act 2009, insert –

- “(3) The host local authority must make arrangements to secure special educational provision and health care provision in accordance with an EHC Plan as agreed with the home local authority whilst the young person is detained in relevant youth accommodation.
- (4) Regulations may make provision about maintaining an EHC Plan for a detained young person, in particular –
- (a) how the host and home local authority determine the provisions of the EHC Plan to be maintained whilst the young person is detained;
  - (b) about circumstances in which a host local authority must or may review an EHC Plan or secure a re-assessment whilst the young person is detained;
  - (c) how the provisions of the EHC Plan which the host and home local authority maintain are communicated to the young person and parent.”



**After Clause 73**

BARONESS MASSEY OF DARWEN

Insert the following new Clause –

**“Personal and social education**

After Section 78 of the Education Act 2002 insert –

**“78A Duty of schools to promote spiritual, cultural, mental and physical development of children**

- (1) All schools shall make explicit to parents, school governors and pupils how they deliver –
  - (a) school policies which contribute to the health and well being of pupils;
  - (b) pastoral care focused on the safety and well being of pupils and which, where appropriate, works in conjunction with support systems from agencies outside the school;
  - (c) a school ethos which fosters respect for self and others;
  - (d) a school curriculum from which pupils gain the information and skills to support their emotional, moral, physical and cultural well being and which prepares them for adult life; and
  - (e) the school’s commitment to democratic principles and good citizenship.
- (2) The above shall be delivered as appropriate to the age, readiness and needs of pupils in the school.”

**After Clause 74**

LORD RAMSBOTHAM

Insert the following new Clause –

**“Childminder agencies special educational provision function**

- (1) Registered childminder agencies must designate a member of staff (to be known as the SEN co-ordinator) as having responsibility for co-ordinating special educational provision for a child in the care of childcare providers registered with those agencies.
- (2) Special educational provision for children in the care of childcare providers registered with childminder agencies will be subject to the duties imposed under Part 3.
- (3) Regulations may –
  - (a) require registered childminder agencies which are subject to this duty to ensure that SEN co-ordinators have prescribed qualifications or prescribed experience (or both);
  - (b) prescribe the steps taken by SEN co-ordinators in respect of how they manage special educational provision for children in the care of childcare providers registered with childminder agencies;

**After Clause 74—continued**

- (c) confer guidance relating to how SEN co-ordinators promote the early identification of children with special educational needs in the care of childcare providers registered with childminder agencies.
- (4) In discharging their duties under this section, a registered childminder agency must have regard to any guidance given from time to time by the Secretary of State.
- (5) In this section—
  - “SEN co-ordinator” has the same meaning as in Part 3;
  - “special education provision” has the same meaning as in Part 3.”

**Schedule 4**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

Page 164, line 15, after “agency” insert “, or any individual childminder registered at the agency,”

Page 164, line 29, at end insert—

- “( ) The Chief Inspector must at such intervals as may be prescribed inspect all early years provision registered with an early years childminder agency.”

**Clause 107**

LORD NASH

Page 114, line 34, leave out subsection (6) and insert—

- “(6) A statutory instrument containing (whether alone or with other provision)—
  - (a) the first regulations to be made under section 49,
  - (b) an order under section 54(1) or 55(1), or
  - (c) an order under section 108 which amends or repeals any provision of primary legislation,
 is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”



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