

# Children and Families Bill

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THIRD  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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*The amendments have been marshalled in accordance with the Instruction of 8th July 2013, as follows –*

Clauses 9 to 12	Schedule 5
Schedule 2	Clause 88
Clauses 13 to 72	Schedule 6
Schedule 3	Clauses 89 to 98
Clauses 73 and 74	Schedule 7
Schedule 4	Clauses 99 to 112
Clauses 75 to 87	

*[Amendments marked ★ are new or have been altered]*

Amendment  
No.

**After Clause 9**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**40** Insert the following new Clause –

**“Review of impact of under-occupancy penalty on prospective adopters, prospective special guardians and foster parents**

Before the end of one year beginning with the day on which this Act is passed, the Secretary of State must –

- (a) carry out a review of the impact of the housing under-occupancy penalty on prospective adopters, prospective special guardians and foster parents, and
- (b) publish, and lay before both Houses of Parliament, a report of the conclusions of the review.”

Amendment  
No.

**After Clause 9 – continued**

THE EARL OF LISTOWEL

**41** Insert the following new Clause –

**“Further assistance for welfare purposes**

- (1) Section 23CA of the Children Act 1989 (further assistance to pursue education or training) is amended as follows.
- (2) In subsection (1)(a), at the end insert “and”.
- (3) In subsection (1)(b), omit the last “and”.
- (4) Omit subsection (1)(c).
- (5) In subsection (4), after “training”, insert “or welfare”.
- (6) In subsection (5)(a), omit the last “or”.
- (7) In subsection (5)(b), after “training”, insert “or welfare”.
- (8) In subsection (5), after paragraph (b) insert –
  - “(c) providing advice and support in relation to his welfare; or
  - (d) making a grant in exceptional circumstances to enable him to meet expenses connected with his welfare.”
- (9) Accordingly, at the end of the section heading insert “**or for welfare purposes**”.

LORD McCOLL OF DULWICH  
BARONESS MASSEY OF DARWEN

**42** Insert the following new Clause –

**“Child trafficking guardians for children who may have been victims of human trafficking**

- (1) The Children Act 1989 is amended as follows.
- (2) After section 26A insert –
 

**“26B Child trafficking guardians for children who may have been victims of human trafficking**

  - (1) A child trafficking guardian shall be appointed to represent the best interests of each child who might be a victim of trafficking in human beings if the person who has parental responsibility for the child fulfils any of the conditions set out in subsection (3).
  - (2) The child trafficking guardian shall have the following responsibilities to –
    - (a) advocate that all decisions taken are in the child’s best interest;
    - (b) advocate for the child to receive appropriate care, accommodation, medical treatment, including psychological assistance, education, translation and interpretation services;
    - (c) advocate for the child’s access to legal and other representation where necessary;

**Amendment  
No.****After Clause 9 – continued**

- (d) consult with, advise and keep the child victim informed of legal rights;
  - (e) where appropriate instruct the solicitor representing the child on all matters relevant to the interests of the child arising in the course of proceedings including possibilities for appeal;
  - (f) contribute to identification of a plan to safeguard and promote the long-term welfare of the child based on an individual assessment of that child’s best interests;
  - (g) keep the child informed of all relevant immigration, criminal or compensation proceedings;
  - (h) provide a link between the child and various organisations who may provide services to the child;
  - (i) assist in establishing contact with the child’s family, where the child so wishes and it is in the child’s best interests;
  - (j) liaise with the UK Border Agency where appropriate;
  - (k) attend all police interviews with the child; and
  - (l) accompany the child whenever the child moves to new accommodation.
- (3) Subsection (1) shall apply if the person who has parental responsibility for the child –
- (a) is suspected of taking part in the trafficking of human beings;
  - (b) has another conflict of interest with the child;
  - (c) is not in contact with the child;
  - (d) is in a country outside the United Kingdom; or
  - (e) is a local authority.
- (4) In subsection (1), a child trafficking guardian may be –
- (a) an employee of a statutory body;
  - (b) an employee of a recognised charitable organisation; or
  - (c) a volunteer for a recognised charitable organisation.
- (5) Where a child trafficking guardian is appointed under subsection (1), the authority of the child trafficking guardian in relation to the child shall be recognised by any relevant body.
- (6) In subsection (5), a “relevant body” means a person or organisation –
- (a) which provides services to the child; or
  - (b) to which the child needs access in relation to being a victim.
- (7) The appropriate national authority –
- (a) shall by order set out the arrangements for the appointment of a child trafficking guardian as soon as possible after a child is identified as a potential victim of trafficking in human beings;
  - (b) may make rules about the training courses to be completed before a person may discharge duties as a child trafficking guardian;

Amendment  
No.

**After Clause 9 – continued**

- (c) shall by order set out the arrangements for the provision of support services for persons discharging duties as a child trafficking guardian; and
  - (d) shall by order designate organisations as a “recognised charitable organisation” for the purposes of this section.
- (8) In this section a child is considered to be a “potential victim of trafficking in human beings” when –
- (a) there has been a conclusive determination that the individual is a victim of trafficking in human beings, or
  - (b) there are reasonable grounds to believe that the individual is such a victim and there has not been a conclusive determination that the individual is not such a victim.
- (9) For the purposes of subsection (8)(b) there are reasonable grounds to believe that an individual is a victim of trafficking in human beings if a competent authority has determined for the purposes of Article 10 of the Trafficking Convention (identification of victims) that there are such grounds.
- (10) For the purposes of subsection (8) there is a conclusive determination that an individual is or is not a victim of trafficking in human beings when, on completion of the identification process required by Article 10 of the Trafficking Convention, a competent authority concludes that the individual is or is not such a victim.
- (11) In this section –
- “parental responsibility” has the same meaning as section 3 of this Act;
  - “competent authority” means a person who is a competent authority of the United Kingdom for the purposes of the Trafficking Convention;
  - “the Trafficking Convention” means the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16 May 2005);
  - “trafficking in human beings” has the same meaning as in the Trafficking Convention.””

BARONESS HOWARTH OF BRECKLAND

43 Insert the following new Clause –

**“Privately fostered children**

In section 66 of the Children Act 1989 (privately fostered children), at the end of subsection (1) insert –

- “(c) the relative exemption does not apply for foreign national children whose parents are not residing in England or Wales”.

Amendment  
No.

*After Clause 9 – continued*

BARONESS MASSEY OF DARWEN

44 Insert the following new Clause –

**“Support for family and friends carers when children are not looked after**

- (1) Each local authority must make arrangements for the provision within their area of family and friends care support services, including –
  - (a) counselling, advice and information; and
  - (b) such other services as are prescribed, in relation to family and friends care.
- (2) The power to make regulations under subsection (1)(b) is to be exercised so as to secure that local authorities provide financial support.
- (3) At the request of any of the following persons –
  - (a) a relative, wider family member or friend caring for a child in any of the circumstances (hereinafter referred to as C) set out in subsection (4) below;
  - (b) a parent or other person with parental responsibility; or
  - (c) a child living with C in circumstances set out in subsection (4) below; or
  - (d) any other person who falls within a prescribed description, a local authority must carry out an assessment of that person’s needs for family and friends care support services.
- (4) The circumstances referred to in subsection (3)(a) and (c) are –
  - (a) the child comes to live with C as a result of enquiries or plans made under section 47 of this Act;
  - (b) the child comes to live with C following an investigation under section 37 of this Act;
  - (c) C has been granted a residence order or a child arrangements order to avoid the child being looked after, within care proceedings on the child or following the accommodation of a child;
  - (d) there is professional evidence of the impairment of the parents’ ability to care for the child; or
  - (e) the parent is dead or in prison.
- (5) A local authority may, at the request of any other person, carry out an assessment of that person’s needs for family and friends care support services.
- (6) Where, as a result of an assessment, a local authority decide that a person has needs for family and friends care support services, they must then decide whether to provide any such services to that person.
- (7) If –
  - (a) a local authority decide to provide any family and friends care support services to a person, and
  - (b) the circumstances fall within a prescribed description, the local authority must prepare a plan in accordance with which family and friends care support services are to be provided to him, and keep the plan under review.

Amendment  
No.

**After Clause 9 – continued**

- (8) The Secretary of State may by regulations make provision about assessments, preparing and reviewing plans, the provision of family and friends care support services in accordance with plans and reviewing the provision of family and friends care support services.
- (9) The regulations may in particular make provision –
- (a) about the type of assessment which is to be carried out, or the way in which an assessment is to be carried out;
  - (b) about the way in which a plan is to be prepared;
  - (c) about the way in which, and the time at which, a plan or the provision of family and friends care support services is to be reviewed;
  - (d) about the considerations to which a local authority are to have regard in carrying out an assessment or review or preparing a plan;
  - (e) as to the circumstances in which a local authority may provide family and friends care support services subject to conditions (including conditions as to payment for the support or the repayment of financial support);
  - (f) as to the consequences of conditions imposed by virtue of paragraph (e) not being met (including the recovery of any financial support provided);
  - (g) as to the circumstances in which this section may apply to a local authority in respect of persons who are outside that local authority's area;
  - (h) as to the circumstances in which a local authority may recover from another local authority the expenses of providing family and friends care support services to any person.
- (10) A local authority may provide family and friends care support services (or any part of them) by securing their provision by –
- (a) another local authority; or
  - (b) a person within a description prescribed in regulations of persons who may provide family and friends care support services, and may also arrange with any such authority or person for that other authority or that person to carry out the local authority's functions in relation to assessments under this section.
- (11) A local authority may carry out an assessment of the needs of any person for the purposes of this section at the same time as an assessment of his needs is made under any other provision of this Act or under any other enactment.
- (12) Section 27 (co-operation between authorities) applies in relation to the exercise of functions of a local authority under this section as it applies in relation to the exercise of functions of a local authority under Part 3."

Amendment  
No.

**After Clause 9 – continued**

45

Insert the following new Clause –

**“Family and friends carer’s allowance**

After section 77A of the Social Security Contributions and Benefits Act 1992, insert –

**“77B Family and friends carer’s allowance**

- (1) A person shall be entitled to a family and friends carer’s allowance in respect of a child or qualifying young person if –
  - (a) the person is a relative, friend or other person connected with the child or qualifying young person, and
  - (b) the person would be treated for the purposes of Part IX of this Act as having the child or qualifying young person living with him, and
  - (c) the circumstances are any of those specified in subsection (2) below.
- (2) The circumstances referred to in subsection (1)(c) above are –
  - (a) the child or qualifying young person comes to live with the person as a result of enquiries or plans made under section 47 of the Children Act 1989; or
  - (b) the child or qualifying young person comes to live with the person following an investigation under section 37 of the Children Act 1989; or
  - (c) the person has been granted a residence order or a child arrangements order to avoid the child or qualifying young person being looked after, within care proceedings on the child or qualifying young person or following the accommodation of the child or qualifying young person; or
  - (d) there is professional evidence of the impairment of the parents’ ability to care for the child or qualifying young person; or
  - (e) the parents are dead or in prison; or
  - (f) the circumstances described in subsection (2)(d) and (e) apply to one of the parents and the person claiming family and friends carer’s allowance shows that he was at the date of the claim unaware of, and has failed after all reasonable efforts to discover, the whereabouts of the other parent.
- (3) For the purposes of this section, “child” and “qualifying young person” shall have the same meaning as in Part IX of this Act.
- (4) Family and friends carer’s allowance shall be payable at such weekly rate as shall be prescribed.
- (5) Regulations –
  - (a) may define who is to be treated as a “relative, friend or other person connected to the child” for the purposes of this section,
  - (b) may prescribe the circumstances in which a parent is to be treated for the purposes of this section as being in prison.””

Amendment  
No.

**After Clause 9 – continued**

BARONESS STEDMAN-SCOTT

**45A** Insert the following new Clause –

**“Young people to be allowed to return to foster or residential care**

- (1) Section 23B(8)(b) of the Children Act 1989 (additional functions of the responsible authority in respect of relevant children) is amended as follows.
- (2) After “accommodation” insert “including allowing him to return to a foster care placement, residential care placement or any other appropriate placement if the child expresses such a wish”.

**45B** Insert the following new Clause –

**“Young people in residential care to remain there until the age of 21 when they choose to do so**

- (1) Section 23C of the Children Act 1989 (continuing functions in respect of former relevant children) is amended as follows.
- (2) After subsection (5C) insert –
  - “(5D) The assistance given under subsection (4)(c) shall include accommodation within a former residential facility unless –
    - (a) the former relevant child states that he does not wish to reside in such accommodation, or
    - (b) the former residential facility does not wish to continue to provide such accommodation.
  - (5E) “Residential facility” includes a residential care home or other facility, such as a residential school.”

**45C** Insert the following new Clause –

**“Young people in support placements to remain there until the age of 21 when they choose to do so**

- (1) Section 23C of the Children Act 1989 (continuing functions in respect of former relevant children) is amended as follows.
- (2) After subsection (5C) insert –
  - “(5D) The assistance given under subsection (4)(c) shall include accommodation in a supported placement unless the former relevant child states that he or she does not wish to reside in such accommodation.
  - (5E) “Supported placement” includes –
    - (a) foster care;
    - (b) community home;
    - (c) semi-independent accommodation (accommodation with on-site support staff);
    - (d) supported lodgings (room within a home with support provided by host); or
    - (e) or any other appropriate placement.”

**Amendment  
No.**

**Clause 10**

BARONESS BUTLER-SLOSS  
LORD McCOLL OF DULWICH  
BARONESS HOWARTH OF BRECKLAND

**46** Page 9, line 23, leave out “mediation”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**47** Page 9, line 23, at end insert “unless in the view of the court it is unreasonable to do so.”

BARONESS BUTLER-SLOSS  
LORD McCOLL OF DULWICH  
BARONESS HOWARTH OF BRECKLAND

**48** Page 9, line 27, leave out “mediation”

**49** Page 9, line 31, leave out “mediation”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**50** Page 9, line 36, at end insert—  
““approved mediator” means a mediator who satisfies such training and quality assurance standards as the Lord Chancellor may by regulations specify;”

BARONESS BUTLER-SLOSS  
LORD McCOLL OF DULWICH  
BARONESS HOWARTH OF BRECKLAND

**51** Page 9, line 38, leave out “mediation”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**52** Page 9, line 39, after “held” insert “with an approved mediator”

**Clause 11**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**53** Page 10, line 15, leave out subsections (2) and (3) and insert—

“(2) After subsection (3)(g) insert—  
“(h) the quality of the relationship that the child has with each of his parents, both currently and in the foreseeable future.””

Amendment  
No.

**Clause 11 – continued**

BARONESS BUTLER-SLOSS  
LORD McCOLL OF DULWICH  
BARONESS HAMWEE  
BARONESS WALMSLEY

- 54 Page 10, line 17, leave out “presume, unless the contrary is shown, that” and insert “pay particular regard, unless the contrary is shown, to the importance of the”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 55 Page 10, line 19, at end insert –
- “(2B) Involvement is any kind of direct or indirect involvement that promotes the welfare of the child. It shall not be taken to mean any particular division of a child’s time.”

**After Clause 11**

LORD NORTHBOURNE

- 56 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 if practicable and in the best interest of the child.”

- 57 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.

**Amendment  
No.**

**After Clause 11 – continued**

- (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 12**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**58**

Page 10, leave out lines 40 to 43 and insert –

- “(a) with whom a child is to –  
 (i) live,  
 (ii) spend time, or  
 (iii) otherwise have contact; and  
 (b) when, with any person, a child is to –  
 (i) live,  
 (ii) spend time, or  
 (iii) otherwise have contact.”

**59**

Page 11, line 1, at end insert –

- “(5) “Rights of custody” under the Hague Convention are determined by an order made under subsection (3)(a)(i).”

**Schedule 2**

BARONESS BUTLER-SLOSS  
LORD McCOLL OF DULWICH

**60**

Page 136, line 8, leave out paragraph 48 and insert –

- “48 In section 27 of the Child Abduction and Custody Act 1985 (interpretation) at the end insert –

- “(6) For the purposes of the 1980 Hague Convention on the Civil Aspects of International Child Abduction –  
 (a) subject to any order of a court for the time being in force, a person with whom a child is to live under a child arrangements order made by a court in England and Wales (as defined by section 8 of the Children Act 1989) should be regarded as having rights of custody in respect of the child;  
 (b) subject to any order of a court for the time being in force, a person –  
 (i) with whom a child is to spend time under a child arrangements order, or  
 (ii) with whom a child is to otherwise have contact under a child arrangements order,  
 should be regarded as having a right of access to the child.

Amendment  
No.

**Schedule 2** – *continued*

- (7) This section is not intended to be a complete statement of the circumstances in which, under the law of England and Wales, a person has for the purposes of the Convention, custody of, or access to, a child, or a right or rights of custody or access in relation to a child.””

LORD NASH

61 Page 141, line 43, at end insert –

*“Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*

- 70 In paragraph 13(1)(c) of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services: orders mentioned in section 8(1) of the Children Act 1989) for “residence, contact” substitute “child arrangements orders”.”

**Clause 14**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS BENJAMIN

62 Page 13, line 15, after “issued” insert “unless the court considers it necessary in order to safeguard or promote the child’s welfare to permit additional time for the disposing of the application”

63 Page 14, line 4, after “weeks” insert “or, having taken into consideration the safeguarding and promotion of the child’s welfare following evidence presented to the court relating to a planned programme of intervention, such longer time period as the court deems appropriate,”

**After Clause 14**

LORD LLOYD OF BERWICK

64 Insert the following new Clause –

**“Care proceedings: standard of proof**

- (1) The Children Act 1989 is amended as follows.
- (2) In section 31 (care and supervision), after subsection (2) insert –
- “(2A) Subsection (2) above shall be interpreted so as to permit a court to infer that a child is likely to suffer significant harm from the sole fact that the child is, or will be, living with a person who is a possible perpetrator of significant harm to another child.
- (2B) For the purposes of subsection (2A), a person (the person concerned) is to be treated as a “possible perpetrator” if –
- (a) a child has suffered significant harm;

**Amendment  
No.**

**After Clause 14** – *continued*

- (b) the court is unable to identify the actual perpetrator of the said harm but identifies a list of possible perpetrators by finding (in relation to each such person) that there is a real possibility that he caused significant harm to the child; and
- (c) the person concerned is one of the persons on the said list.””

**Clause 15**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**65** Page 15, line 10, after “provisions” insert “and sibling placement arrangements”

**After Clause 18**

BARONESS STEDMAN-SCOTT

**65A** Insert the following new Clause –  
**“Repeal of restrictions on orders with respect to Children in Family proceedings**  
 Section 9(1) of the Children Act 1989 is repealed.”

**Clause 19**

LORD LOW OF DALSTON

- 65B★** Page 18, line 30, at end insert –  
 “( ) whether the child is a disabled person for the purposes of the Equality Act 2010 and, if so, the obligations falling on the local authority as a result including any obligations under section 20 of that Act (namely the duty to make reasonable adjustments).”
- 65C★** Page 18, line 30, at end insert –  
 “( ) the distinction between children for whom parents have some legal responsibility and young adults who must be supported to participate as fully as possible in their own right, in decisions relating to the exercise of the function concerned.”
- 65D★** Page 18, line 30, at end insert –  
 “( ) the need to continue to develop an inclusive system where parents of disabled children have increasing access to mainstream schools and staff and which have the capacity to meet the needs of disabled children.”

Amendment  
No.

**Clause 19 – continued**

BARONESS WALMSLEY  
LORD STOREY  
BARONESS HOWE OF IDLICOTE  
BARONESS MASSEY OF DARWEN

- 66 Page 18, line 30, at end insert –  
“( ) The functions to which this section relates include the functions under sections 32, 36, 38 and 44.”

**Clause 20**

LORD STOREY  
BARONESS WALMSLEY  
BARONESS BRINTON

- 67 Page 18, line 34, after “or” insert “a”  
68 Page 18, line 34, leave out from “special” to end of line 35 and insert “provision to be made for him or her to be able to access education”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 69 Page 18, line 40, leave out paragraph (b) and insert –  
“(b) is a disabled person as defined by section 6 of the Equality Act 2010.”  
70 Page 18, line 42, at end insert –  
“(c) has a chronic illness or long-term health condition which impacts on his or her ability to access the same learning opportunities as their peers without additional or extra provision.”

LORD RAMSBOTHAM

- 70A Page 19, line 8, at end insert –  
“( ) A child of compulsory school age who is excluded for a fixed term from school on two occasions within a single school year shall receive an assessment to identify possible learning difficulties within one month of the second fixed-term exclusion.”

**Clause 21**

BARONESS GREENGROSS

- 71 Page 19, line 24, leave out subsection (5) and insert –  
“(5) Health care provision or social care provision which is provided for the purposes of education or training of a child or young person in addition to provisions included in subsections (3) and (4), if any, is to be treated as special educational provision.”

Amendment  
No.

**Clause 21 – continued**

LORD RAMSBOTHAM

- 72 Page 19, line 24, leave out subsection (5) and insert –
- “(5) Health care provision or social care provision which is educational for, or training of, a child or young person is to be treated as special educational provision (instead of health care provision or social care provision).”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 73 Page 19, line 24, leave out “wholly or mainly”

**After Clause 21**

BARONESS BRINTON  
BARONESS HOWE OF IDLICOTE  
BARONESS MASSEY OF DARWEN

- 74 Insert the following new Clause –

**“Special educational needs of severely bullied children**

- (1) Schedule (*Special educational needs of severely bullied children*) has effect.
- (2) In this section and Schedule (*Special educational needs of severely bullied children*) –
- “bullying” is unwanted behaviour that causes distress or harm, involves an imbalance of power or strength between aggressor and victim, is unwarranted and commonly occurs repeatedly over time;
- “severe bullying” is behaviour that affects children so severely that they suffer trauma and psychological damage, which can also result in them missing school for long periods of time;
- a “bullying incident” should be addressed as a child protection concern when there is reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 75 Insert the following new Clause –

**“Early-years area SEN co-ordinators**

- (1) Local authorities must appoint sufficient full-time equivalent members of staff (to be known as “early-years area SEN co-ordinators”) to have responsibility for coordinating provision for children in Ofsted-registered early years settings other than maintained nursery schools.
- (2) In assessing sufficiency of staffing levels under subsection (1), the local authority must have regard to –
- (a) the number of children with special educational needs in its area registered with early years settings to which subsection (1) applies;
- (b) the number and geographical location of early years settings to which subsection (1) applies.

**Amendment  
No.**

**After Clause 21 – continued**

- (3) Regulations may provide for –
  - (a) further considerations to be made by local authorities in exercising their duties under subsection (1);
  - (b) the specific responsibilities of early-years area SEN co-ordinators.
- (4) The Secretary of State shall publish guidance to local authorities to assist in exercising their functions under subsection (1).
- (5) Local authorities must publish information on the provision of early-years area SEN co-ordinators as part of exercising their duties under section 30 of this Act.”

**Clause 22**

LORD RAMSBOTHAM

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

LORD TOUHIG  
BARONESS HUGHES OF STRETFORD

- 77 Page 19, line 32, after “identifies” insert “as early as possible”

LORD RAMSBOTHAM

- 78 Page 19, line 33, at end insert –
- “( ) 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.
  - ( ) Regulations may in particular issue guidance to local authorities on identifying all children and young people with special education needs in its area.”

- 79 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.”

Amendment  
No.

**After Clause 22**

BARONESS BRINTON  
BARONESS WALMSLEY  
BARONESS HOWARTH OF BRECKLAND  
LORD TOUHIG

- 80** Insert the following new Clause –
- “Data on the number of children and young people with special educational needs and disabilities**
- (1) A local authority in England must publish information annually on the number of children and young people in its area who have special educational needs and disabilities.
  - (2) Information under subsection (1) must be published by type of special educational need and disability.”

**After Clause 23**

LORD PATEL

- 81** Insert the following new Clause –
- “Suitable education for children and young people**
- (1) Section 19 of the Education Act 1996 (exceptional provision of education in pupil referral units or elsewhere) is amended as follows.
  - (2) After subsection (5) insert –
    - “(5A) Suitable education for children and young people means –
      - (a) good quality education regardless of personal circumstance or education setting,
      - (b) appropriate and tailored support to overcome barriers and meet a child or young person’s individual needs,
      - (c) education suitable to the child or young person’s age, ability and to any social and emotional or special educational needs he or she may have, and
      - (d) enabling children and young people to maintain academic progression and attainment, and allow them to thrive and prosper in the education system.”
  - (3) Omit subsection (6).”

**Clause 24**

LORD TOUHIG

- 82** Page 20, line 3, leave out “who is under compulsory school age” and insert “or young person”
- 83** Page 20, line 7, after “child’s” insert “or young person’s”
- 84** Page 20, line 9, after “child’s” insert “or young person’s”
- 85** Page 20, line 15, after “child” insert “or young person”

Amendment  
No.

**Clause 25**

BARONESS SHARP OF GUILDFORD

**86** Page 20, line 36, at end insert—

- “( ) In exercising its functions under this Part, a local authority must—
- (a) facilitate co-operation between local authorities, schools, other educational providers and providers of health care and social care;
  - (b) ensure that schools, other educational providers and providers of health care and social care have sufficient resources including financial resources, to meet and carry out their responsibilities under this Part;
  - (c) develop strategies to ensure the identification and support of persons, who may be described as lead professionals or key workers who may come from local authorities, schools, other educational providers and providers of health care and social care, and who shall take a lead role in the integration of services.”

**Clause 26**

LORD LOW OF DALSTON  
BARONESS SHARP OF GUILDFORD

**87** Page 20, line 41, at end insert—

- “( ) A local authority in England and its partner commissioning bodies must make arrangements (“joint commissioning arrangements”) about the education, health and care provision to be secured for disabled children and young people in their area.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**88** Page 21, line 2, at end insert—

- “(d) any other provision deemed necessary to meet the special educational, health or social care needs of a child or young person.”

LORD RAMSBOTHAM

**89** Page 21, line 5, leave out “reasonably”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**90** Page 21, line 17, at end insert—

- “(h) compliance with the disability provisions of the Equalities Act.”

Amendment  
No.

**Clause 26** – *continued*

LORD LOW OF DALSTON

- 90A★** Page 21, line 17, at end insert –
- “( ) Procedures for ensuring that the provision agreed includes any and all provision which would be required to give effect to any duty arising under sections 85(6) and 20 of the Equality Act 2010 in relation to the child or young person in question.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 91** Page 21, line 23, at end insert –
- “(d) ensuring reasonable adjustments required are made.”

LORD RAMSBOTHAM

- 92** Page 21, line 23, at end insert –
- “( ) securing for children and young people with special educational needs but no EHC plan the education, health and care provision agreed under subsection (3)(a).”

LORD RIX

- 92A★** Page 21, line 23, at end insert –
- “( ) informing development of provision within the local offer,”

LORD RAMSBOTHAM

- 93** Page 21, line 26, leave out “have regard to” and insert “act in accordance with”

- 94** Page 21, line 27, at end insert –
- “(c) ensure that, following operation of the dispute resolution procedures mentioned in subsection (3)(g), agreement between the partners is reached on the matters set out in subsection (3), and ensure that arrangements are in place, as set out in subsection (4), and then put into effect.”

- 95** Page 21, line 40, at end insert –
- “( ) Where a clinical commissioning group, or the NHS Commissioning Board, is a partner commissioning body, the agreements and arrangements referred to in subsections (1) to (5) are not to be taken to be constrained by reference to what that group or Board has separately decided to be necessary for the purposes of its duty under section 3 or section 3B of the National Health Service Act 2006 as the case may be.”

- 96** Page 21, line 44, at end insert –
- “(10) Before making arrangements for the purposes of subsection (1), or before agreeing the matters set out in subsections (3) to (5) or any of them, the local authority, and its partner commissioning bodies, shall consult those persons and bodies specified in section 27(3).”

Amendment  
No.

**Clause 26** – *continued*

**97** Page 21, line 44, at end insert –

- “(11) The arrangements made and the matters agreed following consultation under subsection (10) shall be published by the local authority and its partner commissioning bodies as prescribed by regulations.”

**Clause 27**

BARONESS WILKINS  
BARONESS HOWARTH OF BRECKLAND

**98** Page 22, line 12, at end insert –

- “( ) The authority must consider the extent to which there is sufficient funding in place to deliver the provision referred to subsection (1)(a) to meet the special educational needs and social care needs of children and young people concerned.”

LORD LOW OF DALSTON  
LORD TOUHIG

**98A** Page 22, line 12, at end insert –

- “( ) If the education and care provision referred to in subsection (1)(a) and (b) is deemed insufficient to meet the needs of children and young people under subsection (2), a local authority must –
- (a) publish these findings;
  - (b) involve those consulted in subsection (3) in producing an action plan to revise the education and care provision referred to in subsection (1)(a) and (b);
  - (c) review and report on progress against its action plan;
  - (d) revise the local offer accordingly.
- ( ) Regulations must make provision about –
- (a) criteria to be used by local authorities in assessing whether the education and care provision referred to in subsection (1)(a) and (b) is sufficient under subsection (2);
  - (b) the information to be included in an authority’s action plan;
  - (c) how an authority is to involve children, young people and families in the production of, and assessment of progress against, its action plan;
  - (d) imposing time limits on implementing the revision of the education and care provision referred to in subsection (1)(a) and (b) deemed insufficient.”

**Amendment  
No.**

**Clause 27 – continued**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
LORD TOUHIG

- 99** Page 22, line 12, at end insert –
- “(2A) The local authority must assess the extent to which there is sufficient funding in place to secure the provision detailed in subsection (1) for all the children and young people and their families who require it.
- (2B) Where a local authority exercising its duty under subsection (2A) finds that it does not have sufficient funding in place to secure adequate provision for all children and young people who require the provision, the authority must consider jointly commissioning services for which it is exclusively responsible with neighbouring local authorities, where this is appropriate.”

LORD LINGFIELD

- 99A** Page 22, line 25, after “post-16” insert “and higher education”

**Clause 28**

LORD LINGFIELD

- 99B** Page 23, line 13, after “further” insert “or higher”

BARONESS HOWE OF IDLICOTE  
BARONESS SHARP OF GUILDFORD  
LORD RAMSBOTHAM

- 100** Page 24, line 5, at end insert –
- “( ) A local authority in England may co-operate with another local authority in England to commission and provide services for children and young people with low incidence special educational needs.”

**Clause 29**

LORD LINGFIELD

- 100A** Page 24, line 13, leave out “further education sector” and insert “further and higher education sectors”

**Clause 30**

LORD LOW OF DALSTON  
BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS SHARP OF GUILDFORD

- 101** Page 24, line 31, leave out “it expects to be” and insert “which is”

Amendment  
No.

**Clause 30**— *continued*

LORD LUCAS

**101A** Page 24, line 32, after “children” insert “for whom it is responsible”

LORD LOW OF DALSTON  
BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS SHARP OF GUILDFORD

**102** Page 24, line 34, leave out “it expects to be” and insert “which is”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**103** Page 24, line 36, at end insert “including provision in institutions approved by the Secretary of State by virtue of section 41 of this Part”

BARONESS WILKINS

**104** Page 24, line 36, at end insert—

“( ) funding available by the authority for provision within subsection (2)”

LORD LOW OF DALSTON

**105** Page 24, line 36, at end insert—

“( ) the provision within subsection (2) it expects to be available in its area at the time of publication for children and young people who have a disability under the Equality Act 2010”

BARONESS SHARP OF GUILDFORD  
LORD RAMSBOTHAM

**106** Page 24, line 36, at end insert—

“( ) how an authority monitors admissions of children with special educational needs (whether or not those children have a statement or EHC plan) to schools in their area;  
( ) how an authority will provide support to schools in their area with regard to making special educational provision for children with special educational needs;  
( ) how an authority will secure training, advice and support for staff working in their area with children with special educational needs; and  
( ) the action an authority is taking to encourage schools in their area to share their practice in making special educational provision for children with special educational needs.”

BARONESS HOWE OF IDLICOTE

**106A★** Page 24, line 36, at end insert—

“( ) a summary of relevant information from the SEN information reports for schools in the local authority, as under section 65.”

Amendment  
No.

**Clause 30**—*continued*

- 106B★** Page 24, line 36, at end insert—  
 “( ) the strategy prepared by the local authority under paragraphs 1 and 2 of Schedule 10 to the Equality Act 2010 ((accessibility strategy).”

BARONESS HOWARTH OF BRECKLAND  
 BARONESS MASSEY OF DARWEN  
 BARONESS SHARP OF GUILDFORD

- 107** Page 25, line 2, at end insert—  
 “( ) arrangements to assist young people and parents in managing a personal budget should they choose one”

LORD RAMSBOTHAM

- 108** Page 25, line 2, at end insert—  
 “(f) access to provision available for children educated in non-maintained registered early years settings”

LORD TOUHIG

- 109** Page 25, line 5, at end insert —  
 “( ) “retaining employment and accessing benefits;”

- 110** Page 25, line 9, at end insert—  
 “(4A) Where a service is set out in the local offer, the responsible agency has a duty to deliver that service.”

LORD LOW OF DALSTON  
 LORD RAMSBOTHAM

- 111** Page 25, line 11, at end insert—  
 “( ) A local authority’s local offer shall be subject to inspection by Ofsted and the Care Quality Commission.”

BARONESS HUGHES OF STRETFORD  
 BARONESS JONES OF WHITCHURCH

- 112** Page 25, line 16, at end insert—  
 “(6A) The Secretary of State shall lay a draft of regulations setting out the minimum level of specific special educational provision, health care provision and social care provision that local authorities must provide as part of their local offer, and the regulations are not to be made unless they have been approved by a resolution of each House of Parliament.  
 (6B) Once regulations under subsection (6A) have been made, the Secretary of State must—  
 (a) issue guidance to local authorities on how to meet these regulations, and

Amendment  
No.

**Clause 30** – *continued*

- (b) publish information on these regulations accessible to the families of children and young people with special educational needs on the Department’s website, and in any other way he sees fit.”

BARONESS BRINTON  
BARONESS WALMSLEY  
BARONESS SHARP OF GUILDFORD

**113** Page 25, line 18, at end insert –

- “( ) Regulations must make provision about the format in which a local offer will be published.
- ( ) The format in which a local offer will be published must be of a format that –
- (a) allows parents of children with special educational needs to make comparisons between different local authorities’ local offers; and
- (b) presents information by type of special educational need.”

LORD LOW OF DALSTON  
LORD RAMSBOTHAM

**114** Page 25, line 18, at end insert –

- “(7A) The Secretary of State shall lay a draft of regulations setting out the minimum level of specific special educational provision, health care provision and social care provision that local authorities must provide as part of their local offer, and the regulations are not to be made unless they have been approved by a resolution of each House of Parliament.
- (7B) Once regulations under subsection (7A) have been made, the Secretary of State must –
- (a) issue guidance to local authorities on how to meet these regulations, and
- (b) publish information on these regulations accessible to the families of children and young people with special educational needs on the Department’s website, and in any other way he sees fit.”

LORD RAMSBOTHAM

**115** Page 25, line 29, at end insert –

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

**116** Page 25, line 38, at end insert –

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

**117** 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.”

Amendment  
No.

**After Clause 30**

BARONESS WILKINS  
BARONESS HUGHES OF STRETFORD

**118** Insert the following new Clause –

**“Minimum standards for the local offer**

- (1) The Secretary of State shall lay a draft of regulations setting out the minimum level of specific special educational provision, health care provision and social care provision that local authorities must provide as part of their local offer, and the regulations are not to be made unless they have been approved by a resolution of each House of Parliament.
- (2) Once regulations under subsection (1) have been made, the Secretary of State must –
  - (a) issue guidance to local authorities on how to meet these regulations, and
  - (b) publish information on these regulations accessible to the families of children and young people with special educational needs on the Department’s website, and in any other way he sees fit.”

**Clause 32**

BARONESS WALMSLEY  
LORD STOREY  
BARONESS HOWE OF IDLICOTE  
BARONESS MASSEY OF DARWEN

**119** Page 26, line 16, after “responsible,” insert “and children”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**120** Page 26, line 16, after “and” insert “children and”

**121** Page 26, line 18, at end insert –

- “(1A) Local authorities must ensure that in exercising their functions under subsection (1), advice should be provided in the form of –
- (a) printed materials;
  - (b) online resources, including signposting to resources published by others;
  - (c) face to face discussions;
  - (d) any other form which the local authority may deem necessary in pursuance of its duties under the Equality Act.
- (1B) Local authorities must not make, or allow any individuals or organisations providing advice on their behalf to make, any charge to families of children with special educational needs, or young people with special educational needs, in exercising their functions under this section.”

Amendment  
No.

**Clause 32** – *continued*

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS WALMSLEY  
LORD STOREY

122 Page 26, line 22, at beginning insert “children and”

**After Clause 32**

LORD RAMSBOTHAM

123 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;
  - (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.”

**Clause 33**

LORD LOW OF DALSTON

123A★ Page 26, line 38, leave out paragraph (b)

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

124 Page 26, line 38, leave out paragraph (b) and insert –  
“(b) meeting the specific needs of the child or young person.”

Amendment  
No.

**Clause 33** – *continued*

BARONESS HOWE OF IDLICOTE

**124A★** Page 27, line 16, at end insert –

“( ) This section does not affect the duties of schools imposed by section 85(6) of the Equality Act 2010, which places a duty on the responsible body of a school to make reasonable adjustments for disabled persons.”

**Clause 34**

BARONESS HOWE OF IDLICOTE  
BARONESS SHARP OF GUILDFORD

**125** Page 27, line 24, leave out subsection (3)

LORD LOW OF DALSTON

**126** Page 28, line 8, leave out subsection (9)

BARONESS HOWE OF IDLICOTE

**126A★** Page 28, line 15, at end insert –

“( ) This section does not affect the duties of schools imposed by section 85(6) of the Equality Act 2010, which places a duty on the responsible body of a school to make reasonable adjustments for disabled persons.”

**After Clause 35**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**127** Insert the following new Clause –

**“Children and young people temporarily unable to attend mainstream school**

- (1) This section applies where a child or young person of compulsory school age is unable to attend school for a period of between one and twenty four months.
- (2) The local authority responsible for a child or young person for whom subsection (1) applies must ensure that appropriate educational provision is available and provided to the child or young person concerned, and that any identified health or social care needs are provided for.
- (3) Regulations may specify acceptable reasons for which subsection (1) may apply, including, but not limited to –
  - (a) the placement of the child or young person in a certain school under section 39 of this Act is the subject of dispute;
  - (b) the child or young person has been withdrawn from school while an EHC plan is being prepared;
  - (c) the child or young person has been withdrawn from school as a result of a diagnosed medical condition;

Amendment  
No.

**After Clause 35 – continued**

- (d) the child or young person has been withdrawn from school, whether by the school, their parents or themselves, as a result of bullying or fear of bullying;
  - (e) the child or young person has been withdrawn from school as a result of a diagnosed mental condition or temporary mental instability, including phobia or trauma.
- (4) In discharging their duties under this section, a local authority must –
- (a) consult the child or young person and their family;
  - (b) consult the school at which the child or young person is currently enrolled, or was last enrolled at;
  - (c) consult professionals from any other agency known to be in contact with the child or young person and their family in relation to the reason for which the child or young person concerned has been withdrawn from school;
  - (d) continue to monitor the development of the child or young person concerned;
  - (e) have regard to the age and prior educational outcomes of the child or young person when determining provision, and
  - (f) consider the suitability of internet-based educational provision.”

LORD RAMSBOTHAM

128

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.”

**Amendment  
No.**

**Clause 36**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**129** Page 28, line 33, at end insert –

“(1A) On receiving a request for an assessment under subsection (1), the local authority must endeavour to respond to that request within six weeks of having received it.”

BARONESS WALMSLEY  
LORD STOREY  
BARONESS HOWE OF IDLICOTE  
BARONESS MASSEY OF DARWEN

**130** Page 28, line 42, leave out “child’s” and insert “child and”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**131** Page 28, line 42, at end insert –

“(4A) In making a determination under subsection (3), the local authority must have regard to the competencies and needs of the child or young person’s parents and immediate family, where this is relevant to the child or young person’s wellbeing.”

BARONESS WALMSLEY  
LORD STOREY  
BARONESS HOWE OF IDLICOTE  
BARONESS MASSEY OF DARWEN

**132** Page 29, line 3, leave out “child’s” and insert “child and”

LORD LINGFIELD

**132A** Page 29, line 3, at end insert “within 15 days of the decision”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**133** Page 29, line 6, at end insert –

“(c) of their right to request an internal review or appeal against this decision under section 51.”

BARONESS WALMSLEY  
LORD STOREY  
BARONESS HOWE OF IDLICOTE  
BARONESS MASSEY OF DARWEN

**134** Page 29, line 14, leave out “child’s” and insert “child and”

**135** Page 29, line 17, at beginning insert “child and”

Amendment  
No.

**Clause 36** – *continued*

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 136** Page 29, line 32, at end insert –  
“(d) their right to request an internal review or appeal against this decision under section 51.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
LORD LOW OF DALSTON

- 137** Page 29, line 33, leave out subsection (10)

BARONESS SHARP OF GUILDFORD

- 138** Page 29, line 34, leave out “have regard to his or her age” and insert “ensure that he or she will have sufficient time and support in education to make a successful transfer to adulthood”

LORD LINGFIELD

- 138A** Page 29, line 35, leave out “may” and insert “shall”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
LORD NASH

- 139** Page 29, line 43, leave out paragraph (g)

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 140** Page 30, line 5, at end insert –  
“( ) imposing time limits on the determination of an assessment”

- 141** Page 30, line 5, at end insert –  
“( ) imposing time limits on corresponding with parents in pursuance of other duties under this section”

- 142** Page 30, line 5, at end insert –  
“(12) Failure to abide by time limits prescribed by virtue of this section does not relieve the authority of the duty to serve a notice, or make a decision or assessment.”

**Clause 37**

LORD LOW OF DALSTON

- 143** Page 30, line 20, at end insert –  
“( ) any social care provision which the local authority considers to be necessary in order to meet the needs of the disabled person under section 2 of the Chronically Sick and Disabled Persons Act 1970.”

**Amendment  
No.**

**Clause 37 – continued**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 144** Page 30, line 20, at end insert –  
“( ) any provision deemed necessary to be made available to the family of the child or young person which may assist in the promotion of the wellbeing of the child or young person concerned.”

BARONESS HOWE OF IDLICOTE

- 144ZA★** Page 30, line 20, at end insert –  
“( ) the child or young person’s disability and the reasonable adjustments made to address the substantial disadvantages the child faces, where relevant, as required by section 20 of the Equality Act 2010.”

LORD RIX

- 144A** Page 30, line 20, at end insert –  
“( ) An Education, Health and Care Plan must specify any social care provision identified as being needed under section 17 of the Children’s Act 1989 or section 2 of Chronically Sick and Disabled People’s Act 1970.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
LORD LOW OF DALSTON

- 145** Page 30, line 23, leave out subsection (4)

BARONESS SHARP OF GUILDFORD

- 146** Page 30, line 24, leave out “have regard to his or her age” and insert “ensure that he or she will have sufficient time and support in education to make a successful transfer to adulthood”

BARONESS HOWE OF IDLICOTE  
BARONESS SHARP OF GUILDFORD

- 147** Page 30, line 24, at end insert –  
“( ) In making a decision for the purposes of this section in relation to a young person aged over 18, a local authority must seek psychological advice from an educational psychologist”

LORD LINGFIELD

- 147B** Page 30, line 25, leave out subsection (5) and insert –  
“( ) Regulations shall make provision about the preparation, standard form, content and maintenance of EHC plans, and shall require the EHC plan to be specific, detailed and quantified, including training requirements and monitoring arrangements.”

Amendment  
No.

**Clause 37 – continued**

LORD NASH

- 148** Page 30, line 25, leave out “and maintenance” and insert “, maintenance, amendment and disclosure”
- 149** 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 38**

BARONESS WALMSLEY  
LORD STOREY  
BARONESS HOWE OF IDLICOTE  
BARONESS MASSEY OF DARWEN

- 150** Page 30, line 29, leave out “child’s” and insert “child and”
- 151** Page 30, line 32, leave out “child’s” and insert “child and”
- 152** Page 30, line 33, after “the” insert “child and”

LORD LINGFIELD

- 152A** Page 30, line 41, after “further” insert “or higher”

LORD LEXDEN

- 153** Page 31, line 1, leave out paragraph (f) and insert –
- “(f) an independent school”

THE COUNTESS OF MAR  
BARONESS MASHAM OF ILTON  
BARONESS MASSEY OF DARWEN

- 154** Page 31, line 3, at end insert –
- “( ) a provider of alternative educational provision including the provision of online learning and blended learning.”

LORD LOW OF DALSTON  
LORD TOUHIG

- 155** Page 31, line 3, at end insert –
- “( ) an institution of higher education which the young person has accepted an offer from.”

**Amendment  
No.**

**Clause 38** – *continued*

BARONESS WALMSLEY  
LORD STOREY  
BARONESS HOWE OF IDLICOTE  
BARONESS MASSEY OF DARWEN

**156** Page 31, line 6, leave out “child’s” and insert “child and”

**Clause 39**

LORD LEXDEN

**157** Page 31, line 19, at end insert “, and  
(d) in the case of an institution approved by the Secretary of State under section 41 also obtains its consent”

BARONESS HOWE OF IDLICOTE

**157A★** Page 31, line 22, at end insert –  
“( ) there are no reasonable steps the local authority, governing body, proprietor or principal can take to prevent the unsuitability identified in paragraph (b) or the incompatibility in paragraph (c),”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**158** Page 31, line 30, after “must” insert “, subject to agreement of the child or young person concerned and their parents,”

**Clause 40**

LORD LEXDEN

**159** Page 32, line 18, at end insert “, and  
(c) in the case of an institution approved by the Secretary of State under section 41 also obtains its consent”

**Clause 41**

THE COUNTESS OF MAR  
BARONESS MASHAM OF ILTON  
BARONESS MASSEY OF DARWEN

**160** Page 32, line 43, at end insert –  
“(d) an educational institution that can provide alternative educational provision, including online learning and blended learning for both pre-16 and post-16 children with special educational needs.”

Amendment  
No.

**Clause 41 – continued**

LORD TOUHIG

- 161** Page 33, line 13, at end insert –
- “(e) what recourse institutions will have to appeal or review decisions made by the Secretary of State;
  - (f) as to what timetable a list of institutions will be adjusted, published and reviewed;
  - (g) what relation an approved list of institutions has with regulations governing local offers.”

**Clause 42**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 162** Page 33, line 18, after “provision” insert “and social care provision”
- 163** Page 33, line 19, at end insert –
- “(2A) If the plan specifies social care provision, the responsible local authority must secure the specified social care provision for the child or young person.”

LORD LOW OF DALSTON  
BARONESS SHARP OF GUILDFORD  
LORD RIX

- 164** Page 33, line 21, at end insert –
- “( ) If the plan specifies social care provision, the responsible local authority must secure the specified social care provision for the child or young person.”

LORD LUCAS

- 164A** Page 33, line 26, leave out “suitable”
- 164B** Page 33, line 26, at end insert “that they deem suitable”

**Clause 44**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
LORD LOW OF DALSTON

- 165** Page 34, line 17, leave out subsection (5)

BARONESS SHARP OF GUILDFORD

- 166** Page 34, line 19, leave out “have regard to his or her age” and insert “ensure that he or she will have sufficient time and support in education to make a successful transfer to adulthood”

**Amendment  
No.**

**Clause 44 – continued**

BARONESS WALMSLEY  
LORD STOREY  
BARONESS MASSEY OF DARWEN

**167** Page 34, line 20, leave out “of the” and insert “and”

BARONESS HOWE OF IDLICOTE

**168** Page 34, line 21, at end insert –

“( ) Following a review or re-assessment, a local authority has to seek psychological advice from an educational psychologist.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**169** Page 34, line 27, leave out paragraph (b)

**Clause 45**

BARONESS CUMBERLEGE  
LORD PATEL

**170** Page 34, line 38, leave out from “authority” to end of line 39 and insert “must maintain an EHC plan for a child or young person up to their 25th birthday unless –”

**171** Page 35, line 5, after “educational” insert “, health and social care”

BARONESS HOWE OF IDLICOTE

**172** Page 35, line 6, at end insert “and provision is not needed to maintain those outcomes”

BARONESS CUMBERLEGE  
BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
LORD LOW OF DALSTON

**173** Page 35, line 7, leave out subsection (4)

BARONESS SHARP OF GUILDFORD

**174** Page 35, line 8, leave out “have regard to his or her age” and insert “ensure that he or she will have sufficient time and support in education to make a successful transfer to adulthood”

Amendment  
No.

**Clause 46**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

175 Page 35, line 30, at end insert –

- “(3) Where a young person is completing a programme of study, supported internship or apprenticeship which does not conform to academic years, a local authority may continue to maintain an EHC plan for that young person until the end of that programme where this programme has been commenced by mutual consent of –
- (a) the young person;
  - (b) the local authority; and
  - (c) any health bodies contributing to support delivered by virtue of the young person’s EHC plan.”

**After Clause 47**

LORD TOUHIG

175A Insert the following new Clause –

**“Change of residence**

- (1) This section applies where –
  - (a) a local authority (the “sending authority”) maintains an education, health and care plan for a child or young person, and
  - (b) another local authority (the “receiving authority”) is notified by the child’s parent or the young person that they intend to move residence to the receiving authority’s area.
- (2) Where the sending authority is notified by the child’s parent or the young person that they intend to move residence it must provide the receiving authority with a copy of the education, health and care plan.
- (3) The receiving authority must –
  - (a) review the child or young person’s education, health and care plan having regard to the need for continuity of provision, and the outcomes specified in the plan; and
  - (b) provide the child’s parent or the young person with such information as it considers appropriate.”

**Clause 49**

BARONESS SHARP OF GUILDFORD

176 Page 36, line 14, leave out “must” and insert “may”

177 Page 36, line 19, at end insert –

- “( ) A local authority shall not prepare a personal budget if it accepts representations from a school, college or other educational institution that a direct payment should not be made.”

**Amendment  
No.**

**Clause 49 – continued**

THE COUNTESS OF MAR  
BARONESS MASHAM OF ILTON  
BARONESS MASSEY OF DARWEN

- 178** Page 36, line 29, at end insert “to, including alternative provision for online learning and blended learning”

BARONESS SHARP OF GUILDFORD

- 179** Page 36, line 39, at end insert –  
“( ) about the criteria the local authority uses for deciding whether or not to make a personal budget”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 180** Page 37, line 16, at end insert –
- “(9) This section will not have effect until an order is made by the Secretary of State, subject to affirmative resolution by both Houses of Parliament.
- (10) Before making an order under subsection (9), the Secretary of State must lay a copy of a report before both Houses of Parliament detailing findings from the pathfinder authorities established under the Special Educational Needs (Direct Payments) (Pilot Scheme) Order 2012, including but not limited to –
- (a) the impact on educational outcomes for children and young people;
  - (b) the quality of provision received by children and young people;
  - (c) the value for money achieved;
  - (d) the impact on services provided for children and young people without EHC plans, or those for whom direct payments were not made.
- (11) The Secretary of State may not prepare a report under subsection (10) until September 2014.
- (12) An order made under subsection (9) may amend this section as the Secretary of State deems necessary to ensure the effective operation of personal budgets, having had regard to the finding of the report produced by virtue of subsection (10).”

**Clause 51**

LORD STOREY  
BARONESS HUGHES OF STRETFORD  
LORD LOW OF DALSTON

- 181** Page 38, line 12, at end insert –
- “(g) the social care provision specified in an EHC plan;
  - (h) the healthcare provision specified in an EHC plan”

Amendment  
No.

**After Clause 51**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**182** Insert the following new Clause –

**“Collection of information**

- (1) The Secretary of State must collect information on all cases related to special educational needs which are considered by the Tribunal Service, including –
  - (a) the local authority involved;
  - (b) the cost to the Tribunal Service;
  - (c) the amount spent by the local authority on fighting each case;
  - (d) the nature of each case; and
  - (e) the outcome of each case.
- (2) The Secretary of State must collate and publish information collected in the exercise of his functions under subsection (1) once a year.
- (3) The following bodies must make arrangements to provide such information to the Secretary of State as is necessary to enable him to perform his functions under this section –
  - (a) the Tribunal Service;
  - (b) local authorities.”

**Clause 52**

LORD NASH

**183** 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.”

**184** 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.”

**Clause 57**

THE COUNTESS OF MAR  
BARONESS MASHAM OF ILTON  
BARONESS MASSEY OF DARWEN

**185** Page 42, line 34, at end insert “including those institutions that provide alternative educational provision, especially online learning and blending learning”

Amendment  
No.

**Clause 58**

BARONESS GREENGROSS

**186** Page 42, line 42, after “Wales” insert “, Scotland and Northern Ireland”

**Clause 59**

THE COUNTESS OF MAR  
BARONESS MASHAM OF ILTON  
BARONESS MASSEY OF DARWEN

**187** Page 43, line 19, leave out “place in accordance with” and insert “provider of online learning or blended learning in accordance with the EHC plan that has been agreed by the parents as being a suitable provider and therefore included in”

**188** Page 43, line 33, after “institution” insert “, alternative education provider, especially those organisations that provide online learning or blended learning”

**Clause 62**

THE COUNTESS OF MAR  
BARONESS MASHAM OF ILTON  
BARONESS MASSEY OF DARWEN

**189** Page 44, line 39, at end insert—  
“(g) alternative education providers, including providers of online learning or blended learning.”

LORD ADDINGTON  
BARONESS WALMSLEY  
BARONESS SHARP OF GUILDFORD

**190** Page 44, line 39, at end insert—  
“(g) apprenticeship training providers.”

LORD RAMSBOTHAM

**191** Page 45, line 2, at end insert “as early as possible”

LORD LOW OF DALSTON  
LORD TOUHIG  
BARONESS SHARP OF GUILDFORD

**192** Page 45, line 2, at end insert—  
“( ) In using their best endeavours to meet special educational needs, the school or other institution must provide a graduated response using the School Action and School Action Plus stages.”

Amendment  
No.

**Clause 62** – *continued*

THE COUNTESS OF MAR  
BARONESS MASHAM OF ILTON

- 193 Page 45, line 7, at end insert –  
“(d) in the case of all types of alternative providers, a member of the senior management team.”

LORD ADDINGTON  
BARONESS WALMSLEY  
BARONESS SHARP OF GUILDFORD

- 194 Page 45, line 7, at end insert –  
“(d) in the case of an apprenticeship training provider the proprietor.”

**Clause 63**

LORD ADDINGTON  
BARONESS WALMSLEY  
BARONESS SHARP OF GUILDFORD

- 195 Page 45, line 15, at end insert –  
“( ) The appropriate authority must designate a member of staff who shall be a qualified teacher and must have undertaken training to include a mandatory module on special educational needs, including specific learning difficulties at the school (to be known as the “SEN co-ordinator”) as having responsibility for co-ordinating the provision for pupils with special educational needs.”

**After Clause 63**

LORD ADDINGTON  
BARONESS WALMSLEY

- 196 Insert the following new Clause –  
**“Teacher training**
- (1) This section imposes duties on the appropriate authorities of the following schools in England –
    - (a) mainstream schools;
    - (b) maintained nursery schools.
  - (2) The appropriate authority must ensure all new teachers have undertaken in their teacher training a mandatory module on special educational needs, including specific learning difficulties (SpLDs).
  - (3) The “appropriate authority” for a school is –
    - (a) in the case of a maintained school or maintained nursery school, the governing body;
    - (b) in the case of an Academy, the proprietor.”

**Amendment  
No.**

**Clause 64**

THE COUNTESS OF MAR  
BARONESS MASHAM OF ILTON  
BARONESS MASSEY OF DARWEN

**197** Page 45, line 30, after “Academy” insert “, alternative provision provider including those organisations that provide online learning, blended learning”

BARONESS GREENGROSS

**198** Page 45, line 30, after “unit” insert “or institutions within the further education sector”

**199** Page 45, line 32, after “school” insert “or institutions within the further education sector”

**200** Page 45, line 35, after “school” insert “or institutions within the further education sector”

**201** Page 45, line 40, at end insert—  
“(d) in the case of institutions in the further education sector, the governing body or similar”

**Clause 65**

BARONESS GREENGROSS

**202** Page 46, line 2, after “England” insert “or institutions within the further education sector”

**203** Page 46, line 8, after “school” insert “or institutions within the further education sector”

**204** Page 46, line 12, at end insert “or institutions within the further education sector”

**205** Page 46, line 15, after “school” insert “or institutions within the further education sector”

BARONESS HOWE OF IDLICOTE

**205A★** Page 46, line 19, at end insert—  
“( ) the reasonable adjustments that are in place for disabled persons, as required by section 20 of the Equality Act 2010.”

**Clause 67**

BARONESS HOWE OF IDLICOTE

**205B★** Page 47, line 32, after “Part” insert “, and the duties imposed by section 20 of the Equality Act 2010 (duty to make adjustments for disabled persons),”

Amendment  
No.

**Clause 67** – *continued*

LORD LOW OF DALSTON  
BARONESS SHARP OF GUILDFORD

**206** Page 48, line 4, at end insert “in a plain English style and make it available on the internet”

**Clause 68**

LORD LOW OF DALSTON  
BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS SHARP OF GUILDFORD

**207** Page 48, line 14, leave out from “consult” to “about” in line 15 and insert “publicly, for a period of not less than 90 days”

**208** Page 48, line 15, leave out “by them” and insert “as part of that consultation”

LORD LOW OF DALSTON  
BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**209** Page 48, line 16, leave out subsections (3) to (8) and insert –

- “(3) A code, or revision of a code, does not come into operation until the Secretary of State by order so provides.
- (4) The power conferred by subsection (3) shall be made by statutory instrument.
- (5) An order bringing a code, or revision of a code, into operation may not be made unless a draft order has been laid before and approved by a resolution of each House of Parliament.
- (6) When an order or draft of an order is laid, the code or revision of a code to which it relates must also be laid.
- (7) No order or draft of an order may be laid until the consultation required by subsection (2) has taken place.”

LORD NASH

**210** 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).

**Amendment  
No.**

**Clause 68 – continued**

(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.”

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

**After Clause 68**

LORD ADDINGTON  
BARONESS WALMSLEY  
BARONESS SHARP OF GUILDFORD

**212** Insert the following new Clause –

**“Screening for specific learning difficulties**

After section 562E(2) of the Education Act 1996 (literacy and numeracy assessments) insert –

“(2A) The host authority must make arrangements to ensure that a detained person undertakes a screening test for dyslexia as soon as reasonably practicable.””

**After Clause 69**

LORD RAMSBOTHAM

**213** 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.””

Amendment  
No.

**Clause 70**

LORD STOREY  
BARONESS HOWARTH OF BRECKLAND

**214** Leave out Clause 70 and insert the following new Clause –

**“Detained children and young people**

- (1) This section applies where a local authority maintains an EHC plan for a child or young person who is subsequently detained in pursuance of –
  - (a) an order made by a court, or
  - (b) an order of recall made by the Secretary of State.
- (2) While a child is detained, the home local authority must –
  - (a) maintain the EHC plan, or
  - (b) ensure that the specified special education provision are met for that child in accordance with the EHC plan.
- (3) The governing body of a custodial facilities must –
  - (a) provide information about its special educational provision for inclusion in the local offer provided by the local authority under section 30, and
  - (b) co-operate with the child or young person’s local authority to ensure that their specific special educational provision is secured.”

LORD RAMSBOTHAM  
LORD STOREY  
BARONESS JONES OF WHITCHURCH  
BARONESS HUGHES OF STRETFORD

*The above-named Lords give notice of their intention to oppose the Question that Clause 70 stand part of the Bill.*

**After Clause 72**

BARONESS BRINTON  
BARONESS WALMSLEY  
BARONESS SHARP OF GUILDFORD

**215** Insert the following new Clause –

**“Inspection and review of local authorities in England**

In section 136 of the Education and Inspections Act 2006 (inspection of local authorities in England), after subsection (4) insert –

- “(5) The Chief Inspector must inspect the performance by an authority in delivering and commissioning specialist support services for children with special educational needs.””

Amendment  
No.

**After Clause 72—continued**

BARONESS HOWE OF IDLICOTE

216

Insert the following new Clause—

**“Duty to secure sufficient communication support for parents with children with a hearing loss**

- (1) An authority must secure that the provision of courses for the purpose of learning how to communicate with a child with a hearing loss, including the provision of sign language courses, (whether or not by them) is sufficient to meet the requirements of parents of children for the hearing loss in their area.
- (2) In determining for the purposes of subsection (1) whether the provision of courses is sufficient to meet those requirements, a local authority must have regards to—
  - (a) the cost of such courses;
  - (b) the scheduling of such courses; and
  - (c) the relevance of the contact of such courses to parents with children.”

**Before Schedule 3**

BARONESS BRINTON  
BARONESS HOWE OF IDLICOTE  
BARONESS MASSEY OF DARWEN

217

Insert the following new Schedule—

“SCHEDULE

SPECIAL EDUCATIONAL NEEDS OF SEVERELY BULLIED CHILDREN

- 1 In this Schedule, children have a learning difficulty if they—
  - (a) have a significantly greater difficulty in learning than the majority of children of the same age;
  - (b) have a disability which prevents or hinders them from making use of educational facilities of a kind generally provided for children of the same age in schools within the area of the local authority; or
  - (c) are under compulsory school age and fall within the definition in paragraph (a) or (b) or would do so if special educational provision was not made for them.
- 2 The Secretary of State must produce an anti-bullying strategy (and consequential codes of practice and statutory guidelines) for educational establishments on ways of preventing and protecting children from bullying and ensuring effective recovery programmes to counter the consequences of severe bullying.
- 3 (1) It shall be the duty of the headteacher of the establishment that the child or young person attends to ensure that a full risk assessment is carried out locally in respect of any child or young person who is referred on the grounds that they are being severely bullied directly or indirectly at a school or in the community.

Amendment  
No.

**Before Schedule 3** – *continued*

- (2) In conducting the assessment, the person assessing shall take into account the impact, frequency and the intensity of the bullying on the child or young person.
- (3) In assessing the needs of children or young persons in respect of severe bullying, the welfare and recovery of the child or young person must be paramount.
- 4 The Secretary of State shall have responsibility for ensuring that a multi-agency action plan is prepared by the relevant local authority and a case conference in conjunction with safeguarding agencies is convened in respect of any child or young person who is the subject of severe bullying.
- 5 Children who are severely bullied are eligible for a temporary statement of special education needs, and the criteria for a temporary statement include but are not limited to –
- (a) school attendance at zero, or close to zero, for three months, including not attending and refusing to attend;
  - (b) the child wanting to be in school or be educated or have friends but being too frightened to attend school;
  - (c) written evidence of occurrences or complaints of bullying, ostracism, or unresolved incidents;
  - (d) advice from a general practitioner; or
  - (e) intervention by a child psychologist.
- 6 Indicators to measure improvement, demonstrating that the temporary statement can be drawn to a conclusion include but are not limited to –
- (a) improved attendance at an alternative or at specialist provision for such children and a willingness to return to mainstream school;
  - (b) a level of ability to study and concentrate at an alternative or at specialist provision for such children, and a willingness to return to mainstream school;
  - (c) motivation to learn at an alternative or at specialist provision for such children and a willingness to return to mainstream school;
  - (d) improvement in a child or young person’s self-esteem at an alternative or at specialist provision for such children and a willingness to return to mainstream school; or
  - (e) advice from the full range of professionals working with the child.
- 7 The Secretary of State must ensure that measures are put in place to enable strategic authorities to implement agreed action plans in respect of any child or young person who is being bullied.
- 8 If a severely bullied child or young person is unable to go to school because of bullying, alternative full time provision should be made available as soon as possible to prevent disruption to their education.
- 9 In paragraph 7, “strategic authorities” may include central government, local authorities, educational establishments, social media providers, health service trusts and children’s services.

**Amendment  
No.****Before Schedule 3 – continued**

- 10 (1) The Department for Education, schools, and other relevant authorities (collectively the “authorities”) must keep a record of instances of severe bullying directly or indirectly in respect of any child or young person.
- (2) The authorities must inform child safeguarding agencies and any other child protection bodies of any concerns about the nature of an individual child or young person who is being bullied.
- 11 (1) The Secretary of State must measure the impact of the implementation of any action plan in respect of any young person or child.
- (2) Impact may include attendance at school, level and ability of the child or young person to concentrate, their achievement of learning targets and the wellbeing of that child or young person.
- 12 (1) The Secretary of State must ensure that all relevant teachers, staff and volunteers receive core training on the consequences and causes of bullying and on prevention strategies.
- (2) Relevant teachers, staff and volunteers will be expected to teach pupils at appropriate times about bullying and its consequences.
- (3) Relevant teachers, staff and volunteers will be expected to work with all children, including the bullies, to address their behaviour.
- 13 (1) Local authorities must provide family support and interventions in respect of any child or young person who is assessed as being severely bullied or who is engaged in perpetrating severe bullying behaviour.
- (2) A family must consent to any such intervention.
- 14 The Secretary of State must ensure that all headteachers and school governors provide a safe learning environment for children at school such that they are free from harm, humiliation, intimidation, bullying or harassment.
- 15 The Secretary of State must commission research into the effectiveness of anti-bullying strategies and produce guidelines on best practice.
- 16 The Secretary of State must regulate and validate or otherwise any supplier of external training to schools on anti-bullying practice and strategy.
- 17 The Secretary of State must agree a code of conduct with social media providers in respect of severe bullying of children and young persons to minimise the use of texts, e-mails, online social media sites, and other technology which could contribute to severe bullying.”

Amendment  
No.

**Clause 73**

THE COUNTESS OF MAR  
BARONESS MASHAM OF ILTON  
BARONESS MASSEY OF DARWEN

**218**

Page 50, line 40, at end insert –

“alternative education provision” means –

- (a) education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education;
- (b) education arranged by schools for pupils on a fixed-period exclusion; and
- (c) pupils being directed by schools to off-site provision to improve behaviour;

“alternative education provider” is an organisation that provides education for those pupils who, because of exclusion, illness or other reasons would not otherwise receive a suitable education;

“online learning” means the use of electronic media and information and communication technologies in education, including multimedia learning, technology-enhanced learning, computer-based instruction, computer-based training, computer-based assisted instruction, internet-based training, web-based training, online education, virtual education and virtual learning environments and learning platforms;

“blended learning” means a formal education programme in which a student learns at least in part through online delivery of content and instruction as well as attending a “bricks and mortar” school structure.”

LORD LUCAS

**218A**

Page 51, line 6, at end insert –

- “( ) A reference in this Part to a duty or a right to publish anything implies a requirement that the publication be, inter alia, on the website of the relevant organisation in machine-readable form.”

**After Clause 73**

BARONESS HOWE OF IDLICOTE  
BARONESS WILKINS  
LORD LOW OF DALSTON

**219**

Insert the following new Clause –

**“Inclusive and accessible education, health and social care provision**

- (1) In exercising a function under Part 3, a local authority and NHS bodies in England must promote and secure inclusive and accessible education, health and social care provision to support children, young people and their families.

Amendment  
No.

**After Clause 73 – continued**

- (2) Regulations will set out requirements on an authority and its partner NHS commissioning bodies to promote and secure inclusive and accessible education, health and social care provision in its local area, in particular through—
- (a) the planning;
  - (b) the design;
  - (c) the commissioning or funding;
  - (d) the delivery; and
  - (e) the evaluation,
- of such services.”

LORD STOREY  
BARONESS HOWARTH OF BRECKLAND  
BARONESS BENJAMIN

**220** Insert the following new Clause—

**“PART 3A**

CHILDREN WITH SPECIFIED MEDICAL CONDITIONS

**Children with medical needs**

- (1) The section imposes duties on the appropriate authorities of the following schools in England—
  - (a) mainstream schools;
  - (b) maintained nursery schools, and
  - (c) pupil referral units.
- (2) The appropriate authority must produce an individual healthcare plan for each child with a specified medical condition which sets out the needs of the child arising from that condition and the support to be provided to manage the condition.
- (3) The appropriate authority must produce and implement a policy determining how they plan to deliver the individual healthcare plans of children under their responsibility.
- (4) The policy set out under subsection (3) must include provision about—
  - (a) the means by which records of the specified health conditions of children at the school are to be recorded and maintained, and
  - (b) securing appropriate training for school staff to support the implementation of individual healthcare plans.
- (5) In preparing an individual healthcare plan, the appropriate authority must consult the parents of the child concerned and, where appropriate, the child about the contents of the plan.”

**221** Insert the following new Clause—

**“Children with medical needs: duty on other bodies**

- (1) There shall be a duty on NHS bodies to co-operate with the authorities referred to in section (*Children with medical needs*) in the preparation of an individual healthcare plan under that section.

Amendment  
No.

**After Clause 73 – continued**

- (2) Local authorities and clinical commissioning groups must co-operate with the authorities defined in section (*Children with medical needs*)(1) in fulfilling their functions under this Part.
- (3) For the purposes of this section “NHS bodies” has the same meaning as in the Health and Social Care Act 2012.”

**222** Insert the following new Clause –

**“Definition of “specified health conditions”**

- (1) The Secretary of State may by regulations define “specified health condition” for the purposes of this Part.
- (2) A statutory instrument containing regulations under subsection (1) 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.”

LORD KENNEDY OF SOUTHWARK  
BARONESS HOWE OF IDLICOTE  
BARONESS HUGHES OF STRETFORD  
LORD PATEL

**223** Insert the following new Clause –

**“Children and young people in mainstream schools with specified health conditions without special educational needs**

- (1) The governing body of a mainstream school has a duty to produce and implement a medical conditions policy that defines how it plans to support the needs of children with specified health conditions.
- (2) The medical conditions policy must include provision about –
  - (a) the means by which records of the specified health conditions of children at the school are to be recorded and maintained; and
  - (b) the preparation of an individual healthcare plan for each child with a specified health condition which sets out the needs of that child arising from that condition.
- (3) The medical conditions policy must include requirements relating to the provision of appropriate training for school staff to support the implementation of individual healthcare plans.
- (4) In preparing an individual healthcare plan the governing body must –
  - (a) consult the parents of the child concerned and, where appropriate, the child about the contents of the plan; and
  - (b) there shall be a duty on NHS bodies to co-operate with the governing body in its preparation and implementation of individual healthcare plans.
- (5) Local authorities and clinical commissioning groups must co-operate with governing bodies in fulfilling their functions under this Act.
- (6) The Secretary of State may by regulations define “specified health conditions” for the purposes of this section.
- (7) For the purposes of this section “NHS bodies” has the same meaning as in the Health and Social Care Act 2012.”

Amendment  
No.

**After Clause 73—continued**

LORD STOREY  
BARONESS TYLER OF ENFIELD  
BARONESS JONES OF WHITCHURCH  
BARONESS HUGHES OF STRETFORD

224 Insert the following new Clause—

**“PART 3B**

YOUNG CARERS

**Duty on local authorities**

- (1) Where it appears to a local authority that a child within their area may provide or be about to provide care to an adult or a child who is disabled, the authority must—
  - (a) assess whether the child has needs for support relating to their caring role (or is likely to have such needs in the future), and
  - (b) if the child is found to have such needs, set out what those needs are (or are likely to be in the future).
- (2) Having carried out an assessment under subsection (1), the authority must meet those needs for support which it considers to be necessary to meet in order to safeguard and promote the child’s welfare.
- (3) Having carried out an assessment under subsection (1), a local authority must also consider whether the adult is or may be eligible for assessment under the Care Act 2013, and if so must ensure such an assessment is carried out unless that adult objects.
- (4) Having carried out an assessment under subsection (1), a local authority must consider whether, in the case of a child who is caring for a disabled child, the child being cared for requires an assessment under the Children Act 1989 and if so shall carry out that assessment unless the person with parental responsibility for that child objects.
- (5) The Secretary of State shall issue guidance in relation to the duties set out in subsections (1) to (4).
- (6) The Secretary of State shall only issue guidance under subsection (5) after having first consulted persons whom the Secretary of State considers to be appropriate.
- (7) Any service provided by an authority in exercise of their functions under this section may also be provided for the family or for any member of the child’s family, and may include—
  - (a) services to the adult the child is providing care for to meet the adult’s needs for care and support; and
  - (b) services to the adult to enhance their parenting capacity.
- (8) An authority must provide services under subsection (7) if the authority considers that this is in the best interests of safeguarding or promoting the child’s welfare.”

Amendment  
No.

**After Clause 73 – continued**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**225** Insert the following new Clause –

**“Duty to ensure sufficient support**

- (1) It shall be the general duty of every local authority to take steps to ensure that, so far as reasonably practicable, a range and level of services are provided sufficient to improve the wellbeing of young carers who are ordinarily resident in their area.
- (2) The reference in subsection (1) to services may include those provided by institutions referred to elsewhere in this Act, as well as to those provided on a regular basis by charitable and voluntary organisations.
- (3) In discharging its duty under subsection (1), a local authority must have regard to –
  - (a) data gathered by other agencies in exercising their duties under sections (*Health bodies: duties with respect to young carers*), (*Schools: duties with respect to young carers*) and (*Further and higher education institutions: duties with respect to student carers*);
  - (b) any guidance given from time to time by the Secretary of State.”

**226** Insert the following new Clause –

**“Duty to assess social care provision for young carers**

- (1) In determining for the purposes of section (*Duty to ensure sufficient support*) whether the provision of social care support is sufficient to meet the needs of young carers, a local authority must –
  - (a) undertake an assessment of social care needs of disabled people and young carers in their area;
  - (b) undertake an assessment of the sufficiency of the supply of social care services for disabled people and young carers in their area;
  - (c) publish a strategy setting out the steps to ensuring sufficiency of supply of social care services for disabled people and young carers in their area;
  - (d) have regard to any guidance given from time to time by the Secretary of State; and
  - (e) any further requirements the Secretary of State deems necessary.
- (2) In relation to subsection (1)(a) and (b), the Secretary of State may by regulations define the assessments of social care needs and sufficiency of supply of social care services.”

**227** Insert the following new Clause –

**“Health bodies: duties with respect to young carers**

- (1) In exercising their general functions health bodies must –
  - (a) promote and safeguard the wellbeing of young carers;
  - (b) ensure that effective procedures exist to identify patients who are or are about to become carers;

Amendment  
No.

**After Clause 73 – continued**

- (c) ensure that effective procedures exist to identify patients who it may be reasonably assumed may be receiving care from a child or young person for whom they are responsible;
  - (d) ensure that appropriate systems exist to ensure that carers receive appropriate information and advice; and
  - (e) ensure that systems are in place to ensure that the relevant general medical services are rendered to their patients who are young carers, or to the young carers of their patients.
- (2) In relation to subsection (1)(b), (c) and (d), the Secretary of State may by regulations further provide for the strategies to be developed.”

**228**

Insert the following new Clause –

**“Schools: duties with respect to young carers**

- (1) The appropriate authorities of schools must ensure that, within 12 months of the passing of this Act, they take all reasonable steps to ensure that there is in place a policy which –
  - (a) identifies young carers within the school; and
  - (b) makes arrangements for the provision within school of appropriate support to promote the wellbeing and improve the educational attainment of pupils who are young carers.
- (2) In discharging its duty under subsection (1), where appropriate the authority must –
  - (a) consult the family of the child or young person identified, or the young person themselves;
  - (b) involve the local authority in which the identified pupil is ordinarily resident;
  - (c) refer the identified pupil to additional services outside the school;
  - (d) have regard to any guidance given from time to time by the Secretary of State.
- (3) The “appropriate authority” for a school is –
  - (a) in the case of a maintained school, the governing body;
  - (b) in the case of an Academy, the proprietor;
  - (c) in the case of a pupil referral unit, the management committee.”

**229**

Insert the following new Clause –

**“Further and higher educational institutions: duties with respect to student carers**

- (1) The responsible body of an institution to which this section applies must, within 12 months of the passing of this Act, identify or make arrangements to identify student carers and have a policy in place on promoting the wellbeing of student carers.
- (2) This section applies to –
  - (a) a university;
  - (b) any other institution within the higher education sector;
  - (c) an institution within the further education sector.

Amendment  
No.

**After Clause 73 – continued**

- (3) A responsible body is –
- (a) in the case of an institution in subsection (2)(a) or (b), the governing body;
  - (b) in the case of a college of further education under the management of a board of management, the board of management;
  - (c) in the case of any other college of further education, any board of governors of the college or any person responsible for the management of the college, whether or not formally constituted as a governing body or board of governors.
- (4) In discharging its duty under subsection (1), where appropriate the authority must –
- (a) consult with the family of the child or young person identified, or the young person themselves;
  - (b) involve the local authority in which the identified pupil is ordinarily resident;
  - (c) refer the identified student to additional services outside of the institution; and
  - (d) have regard to any guidance given from time to time by the Secretary of State.”

**230** Insert the following new Clause –

**“Interpretation**

In this Part –

“carer” has the same meaning as in section 1 of the Carers (Recognition and Services) Act 1995;

“young carer” means a person under 18 years of age who carries out caring tasks and assumes a level of responsibility for another person which would normally be carried out by an adult;

“student carer” means a person enrolled with an institution in the further or higher education sector who carries out caring tasks and assumes a level of responsibility for another person with a disability;

“wellbeing” means the state of young carers so far as relating to –

- (a) physical and mental health and emotional wellbeing;
- (b) control by them over their day-to-day lives;
- (c) participation in education, training or recreation;
- (d) social and economic well-being;
- (e) domestic, family and personal relationships;
- (f) the contribution made by them to society.

“children’s services” means services that could be provided under section 17(1) of the Children Act 1989;

“community care services” has the same meaning as in section 46(3) of the National Health Service and Community Care Act 1990;

“disability” has the same meaning as in section 6 of the Equality Act 2010;

“general medical services” has the same meaning as in the National Health Service Act 2006;

Amendment  
No.

**After Clause 73 – continued**

“health bodies” includes –

- (a) “clinical commissioning groups”, which has the same meaning as in section 1I of the National Health Service Act 2006;
- (b) “foundation trusts”, which has the same meaning as in section 30 of the National Health Service Act 2006;
- (c) “NHS trusts”, which have the same meaning as in section 25 of the National Health Service Act 2006; and
- (d) “the NHS Commissioning Board”, which has the same meaning as in section 1H of the National Health Service Act 2006;

“higher education” and “further education” have the same meanings as in section 94 of the Equality Act 2010;

“local authority” means a county council, district council, London borough council, the Greater London Authority or the Common Council of the City of London;

“social care services” means any support that could be provided by a local authority in discharge of its functions under the Local Authority Social Services Act 1970 or pursuant to its powers under section 2 of the Local Government Act 2000.”

BARONESS MASSEY OF DARWEN

231

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 academic, 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.”

Amendment  
No.

**After Clause 73 – continued**

BARONESS JONES OF WHITCHURCH  
BARONESS HUGHES OF STRETFORD

**232** Insert the following new Clause –

**“Personal, social and health education in maintained schools**

- (1) In section 84(3) of the Education Act 2002 (curriculum foundation subjects for the first, second and third key stages), after paragraph (g) there is inserted –
  - “(ga) personal, social and health education”.
- (2) In section 85(4) of the Education Act 2002 (curriculum foundation subjects for the fourth key stage), at the end there is inserted “, and
  - (d) personal, social and health education”.
- (3) In section 74(1) of the Education and Inspections Act 2006, which (when brought into force) will substitute a new section 85 in the Education Act 2002, in subsection (4) of that substituted section (foundation subjects for the fourth key stage), at the end there is inserted “, and
  - (d) personal, social and health education.”
- (4) Before section 86 of the Education Act 2002 there is inserted –

**“85B Personal, social and health education**

- (1) For the purposes of this Part, personal, social and health education (“PSHE”) shall include sex and relationship education, including information about same-sex relationships, sexual violence, domestic violence and sexual consent.
- (2) The National Curriculum for England is not required to specify attainment targets or assessment arrangements for PSHE (and section 84(1) has effect accordingly).
- (3) The Secretary of State for Education shall set out guidance to schools and colleges to ensure that a coherent approach to personal, social, health and economic education is developed, including between primary and secondary schools.
- (4) It is the duty of the governing body and head teacher of any school in which PSHE is provided in pursuance of this Part to secure that guidance issued under subsection (3) is followed and that –
  - (a) information presented in the course of providing PSHE should be accurate and balanced;
  - (b) PSHE is taught in a way that is appropriate to the ages of the pupils concerned and to their religious and cultural backgrounds, and reflects a reasonable range of religious, cultural and other perspectives;
  - (c) PSHE is taught in a way that endeavours to promote equality, celebrate diversity, and emphasise the importance of both rights and responsibilities.
- (5) In the exercise of their functions under this Part so far as relating to PSHE, a local authority, governing body or head teacher shall have regard to any guidance issued from time to time by the Secretary of State.”

Amendment  
No.**After Clause 73 – continued**

- (5) Section 403 of the Education Act 1996 (sex education: manner of provision) is amended as set out in subsections (6) to (9).
- (6) In subsection (1), for the words from the beginning to “at a maintained school” there is substituted “The governing body or other proprietor of any school to which this section applies, and its head teacher, must take such steps as are reasonably practicable to ensure that sex and relationships education is given to registered pupils at the school and that”.
- (7) After that subsection there is inserted –
- “(1ZA) The schools to which this section applies are –
- (a) maintained schools;
  - (b) city technology colleges;
  - (c) city colleges for the technology of the arts;
  - (d) Academies.
- A reference in this section or section 404 to the governing body of a school, in relation to a school within paragraph (b), (c) or (d), shall be read as a reference to the proprietor of the school.”
- (8) In subsection (1A) –
- (a) for “when sex education is given to registered pupils at maintained schools” there is substituted “when sex and relationships education is given to registered pupils at schools to which this section applies”;
  - (b) in paragraph (a), after “; and” there is inserted “learn the nature of civil partnership and the importance of strong and stable relationships.”;
  - (c) paragraph (b) is omitted.
- (9) In subsection (1C), for “sex education” there is substituted “sex and relationships education”.
- (10) In section 579 of the Education Act 1996 (general interpretation), in the definition of “sex education” in subsection (1) –
- (a) for “sex education” there is substituted “sex and relationships education”;
  - (b) at the end there is inserted “but does not include education about human reproduction provided as part of any science teaching”.
- (11) For section 405 of the Education Act 1996 there is substituted –
- “405 Exemption from sex and relationships education**
- (1) If a pupil of sufficient maturity in attendance at a school to which section 403 applies requests to be wholly or partly excused from receiving sex and relationships education at the school, the pupil shall be so excused accordingly until the request is withdrawn.
  - (2) The Secretary of State must in regulations define “sufficient maturity”.
  - (3) A statutory instrument containing regulations under subsection (2) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

Amendment  
No.

**After Clause 73 – continued**

- (4) The Secretary of State must lay draft regulations before Parliament before the end of the period of 3 months beginning with the day on which this Act is passed.””

**233** Insert the following new Clause –

**“Sex and relationship education guidance**

- (1) The Secretary of State will, within six months of this Act coming into force, establish a working group to review and update the sex and relationship education guidance for schools.
- (2) The working group established under subsection (1) will include young people, teachers, professionals and online experts.
- (3) In performing its functions under subsection (1), the working group will have particular regard to the need for the guidance to make reference to –
- (a) the role of the internet, social media and mobile technology in sex and relationship education;
  - (b) online bullying and harassment.”

THE EARL OF LISTOWEL  
BARONESS NEUBERGER  
THE LORD BISHOP OF LEICESTER  
BARONESS BUTLER-SLOSS

**234** Insert the following new Clause –

**“Welfare of children: asylum seekers**

- (1) Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (withholding and withdrawal of support) is amended as follows.
- (2) In paragraph 6(1), after “person” insert “who entered the United Kingdom as an adult”.
- (3) In paragraph 7, after “person” insert “who entered the United Kingdom as an adult”.”

**Before Clause 74**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**235** Insert the following new Clause –

**“Staff to child ratios: Ofsted-registered childminder settings**

- (1) This section applies to Ofsted-registered childminder settings.
- (2) The ratio of staff to children under the age of eight must be no less than one to six, where –
- (a) a maximum of three children may be young children;
  - (b) a maximum of one child is under the age of one.
- (3) Any care provided by childminders for older children must not adversely affect the care of children receiving early years provision.

Amendment  
No.

**Before Clause 74 – continued**

- (4) If a childminder can demonstrate to parents, carers and inspectors, that the individual needs of all the children are being met, then in addition to the ratio set out in subsection (2), they may also care for –
  - (a) babies who are siblings of the children referred to in subsection (2), or
  - (b) their own baby.
- (5) If children aged between four and five years only attend the childminding setting outside of normal school hours or the normal school term time, they may be cared for at the same time as three other young children, provided that at no time does the ratio of staff to children under the age of eight exceed one to six.
- (6) If a childminder employs an assistant or works with another childminder, each childminder or assistant may care for the number of children permitted by the ratios specified in subsections (2), (4) and (5).
- (7) Children may only be left in the sole care of a childminder’s assistant for two hours in a single day.
- (8) Childminders must obtain the permission of a child’s parents or carers before that child can be left in the sole care of a childminder’s assistant.
- (9) The ratios in subsections (2), (4) and (5) apply to childminders providing overnight care, provided that the children are continuously monitored, which may be through the use of electronic equipment.
- (10) For the purposes of this section a child is –
  - (a) a “young child” up until 1 September following his or her fifth birthday;
  - (b) an “older child” after the 1 September following his or her fifth birthday.”

236

Insert the following new Clause –

**“Staff to child ratios: Ofsted-registered non-domestic childminder**

- (1) This section applies to Ofsted-registered, non-domestic childcare settings.
- (2) For children aged under two –
  - (a) the ratio of staff to children must be no less than one to three;
  - (b) at least one member of staff must hold a full and relevant level 3 qualification, and must be suitably experienced in working with children under two;
  - (c) at least half of all other members of staff must hold a full and relevant level 2 qualification;
  - (d) at least half of all members of staff must have received training in care for babies; and
  - (e) where there is a dedicated area solely for children under two years old, the member of staff in charge of that area must, in the judgement of their employer, have suitable experience of working with children under two years old.
- (3) For children between the ages of two and three –
  - (a) the ratio of staff to children must be no less than one to four;

Amendment  
No.

**Before Clause 74 – continued**

- (b) at least one member of staff must hold a full and relevant level 3 qualification; and
  - (c) at least half of all other members of staff must hold a full and relevant level 2 qualification.
- (4) Where there is registered early years provision, which operates between 8 am and 4 pm, and a member of staff with Qualified Teacher Status, Early Years Professional Status or other full and relevant level 6 qualification is working directly with the children, for children aged three and over –
  - (a) the ratio of staff to children must be no less than one to 13; and
  - (b) at least one other member of staff must hold a full and relevant level 3 qualification.
- (5) Where there is registered early years provision, which operates outside the hours of 8 am and 4 pm, and between the hours of 8 am and 4 pm where a member of staff with Qualified Teacher Status, Early Years Professional Status or other full and relevant level 6 qualification is not working directly with the children, for children aged three and over –
  - (a) the ratio of staff to children must be no less than one to eight;
  - (b) at least one member of staff must hold a full and relevant level 3 qualification; and
  - (c) at least half of all other staff must hold a full and relevant level 2 qualification.
- (6) In independent schools where –
  - (a) a member of staff with Qualified Teacher Status, Early Years Professional Status or other full and relevant level 6 qualification;
  - (b) an instructor; or
  - (c) a suitably qualified overseas-trained teacher is working directly with the children, for children aged three and over –
    - (i) for classes where the majority of children will reach the age of five or older within the school year, the ratio of staff to children must be no less than one to 30;
    - (ii) for all other classes the ratio of staff to children must be no less than one to 13; and
    - (iii) at least one other member of staff must hold a full and relevant level 3 qualification.
- (7) In independent schools where there is –
  - (a) no member of staff with Qualified Teacher Status, Early Years Professional Status or other full and relevant level 6 qualification;
  - (b) no instructor; or
  - (c) no suitably qualified overseas-trained teacher, working directly with the children, for children aged three and over –
    - (i) the ratio of staff to children must be no less than one to eight;
    - (ii) at least one member of staff must hold a full and relevant level 3 qualification; and
    - (iii) at least half of all other members of staff must hold a full and relevant level 2 qualification.
- (8) In maintained nursery schools and nursery classes in maintained schools (except reception classes) –
  - (a) the ratio of staff to children must be no less than one to 13;

**Amendment  
No.**

**Before Clause 74 – continued**

- (b) at least one member of staff must be a school teacher as defined by section 122(3) (power to prescribe pay and conditions) of the Education Act 2002 and Schedule 2 to the Education (School Teachers' Qualifications) (England) Regulations 2003; and
  - (c) at least one other member of staff must hold a full and relevant level 3 qualification.
- (9) The Secretary of State may make provision in statutory guidance to –
- (a) define qualifications as “full and relevant”; and
  - (b) define “suitable experience” for those working with children under two.
- (10) If HM Chief Inspector of Education is concerned about the quality of provision or the safety and wellbeing of children in a setting he may impose different ratios.”

**Clause 74**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**237**

Page 51, line 10, at beginning insert “If, after a consultation period of not less than three months, and the publication of a response to the consultation, the Secretary of State is satisfied with the provisions, he may make an order so that”

BARONESS WALMSLEY  
BARONESS TYLER OF ENFIELD

*The above-named Lords give notice of their intention to oppose the Question that Clause 74 stand part of the Bill.*

**After Clause 74**

LORD RAMSBOTHAM

**238**

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);

**Amendment  
No.**

**After Clause 74—continued**

- (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;
  - (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

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

**240** 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 75**

BARONESS WALMSLEY  
 BARONESS TYLER OF ENFIELD

*The above-named Lords give notice of their intention to oppose the Question that Clause 75 stand part of the Bill.*

**Clause 76**

BARONESS WALMSLEY  
 BARONESS TYLER OF ENFIELD  
 BARONESS JONES OF WHITCHURCH  
 BARONESS HUGHES OF STRETFORD

*The above-named Lords give notice of their intention to oppose the Question that Clause 76 stand part of the Bill.*

Amendment  
No.

**After Clause 78**

LORD NASH

**241** Insert the following new Clause –

**“Young carers**

(1) In Part 3 of the Children Act 1989, after section 17 insert –

**“17ZA Young carers’ needs assessments: England**

- (1) A local authority in England must assess whether a young carer within their area has needs for support and, if so, what those needs are, if –
- (a) it appears to the authority that the young carer may have needs for support, or
  - (b) the authority receive a request from the young carer or a parent of the young carer to assess the young carer’s needs for support.
- (2) An assessment under subsection (1) is referred to in this Part as a “young carer’s needs assessment”.
- (3) In this Part “young carer” means a person under 18 who provides or intends to provide care for another person (but this is qualified by section 17ZB(3)).
- (4) Subsection (1) does not apply in relation to a young carer if the local authority have previously carried out a care-related assessment of the young carer in relation to the same person cared for.
- (5) But subsection (1) does apply (and so a young carer’s needs assessment must be carried out) if it appears to the authority that the needs or circumstances of the young carer or the person cared for have changed since the last care-related assessment.
- (6) “Care-related assessment” means –
- (a) a young carer’s needs assessment;
  - (b) an assessment under any of the following –
    - (i) section 1 of the Carers (Recognition and Services) Act 1995;
    - (ii) section 1 of the Carers and Disabled Children Act 2000;
    - (iii) section 4(3) of the Community Care (Delayed Discharges) Act 2003.
- (7) A young carer’s needs assessment must include an assessment of whether it is appropriate for the young carer to provide, or continue to provide, care for the person in question, in the light of the young carer’s needs for support, other needs and wishes.
- (8) A local authority, in carrying out a young carer’s needs assessment, must have regard to –
- (a) the extent to which the young carer is participating in or wishes to participate in education, training or recreation, and

Amendment  
No.

**After Clause 78 – continued**

- (b) the extent to which the young carer works or wishes to work.
- (9) A local authority, in carrying out a young carer’s needs assessment, must involve –
  - (a) the young carer,
  - (b) the young carer’s parents, and
  - (c) any person whom the young carer or a parent of the young carer requests the authority to involve.
- (10) A local authority that have carried out a young carer’s needs assessment must give a written record of the assessment to –
  - (a) the young carer,
  - (b) the young carer’s parents, and
  - (c) any person to whom the young carer or a parent of the young carer requests the authority to give a copy.
- (11) Where the person cared for is under 18, the written record must state whether the local authority consider him or her to be a child in need.
- (12) A local authority in England must take reasonable steps to identify the extent to which there are young carers within their area who have needs for support.

**17ZB Young carers’ needs assessments: supplementary**

- (1) This section applies for the purposes of section 17ZA.
- (2) “Parent”, in relation to a young carer, includes –
  - (a) a parent of the young carer who does not have parental responsibility for the young carer, and
  - (b) a person who is not a parent of the young carer but who has parental responsibility for the young carer.
- (3) A person is not a young carer if the person provides or intends to provide care –
  - (a) under or by virtue of a contract, or
  - (b) as voluntary work.
- (4) But in a case where the local authority consider that the relationship between the person cared for and the person under 18 providing or intending to provide care is such that it would be appropriate for the person under 18 to be regarded as a young carer, that person is to be regarded as such (and subsection (3) is therefore to be ignored in that case).
- (5) The references in section 17ZA and this section to providing care include a reference to providing practical or emotional support.
- (6) Where a local authority –
  - (a) are required to carry out a young carer’s needs assessment, and
  - (b) are required or have decided to carry out some other assessment of the young carer or of the person cared for;

Amendment  
No.

**After Clause 78 – continued**

the local authority may, subject to subsection (7), combine the assessments.

- (7) A young carer’s needs assessment may be combined with an assessment of the person cared for only if the young carer and the person cared for agree.
- (8) The Secretary of State may by regulations make further provision about carrying out a young carer’s needs assessment; the regulations may, in particular –
  - (a) specify matters to which a local authority is to have regard in carrying out a young carer’s needs assessment;
  - (b) specify matters which a local authority is to determine in carrying out a young carer’s needs assessment;
  - (c) make provision about the manner in which a young carer’s needs assessment is to be carried out;
  - (d) make provision about the form a young carer’s needs assessment is to take.
- (9) The Secretary of State may by regulations amend the list in section 17ZA(6)(b) so as to –
  - (a) add an entry,
  - (b) remove an entry, or
  - (c) vary an entry.

**17ZC Consideration of young carers’ needs assessments**

A local authority that carry out a young carer’s needs assessment must consider the assessment and decide –

- (a) whether the young carer has needs for support in relation to the care which he or she provides or intends to provide;
  - (b) if so, whether those needs could be satisfied (wholly or partly) by services which the authority may provide under section 17; and
  - (c) if they could be so satisfied, whether or not to provide any such services in relation to the young carer.”
- (2) In section 104 of the Children Act 1989 (regulations and orders) –
    - (a) in subsections (2) and (3A) (regulations within subsection (3B) or (3C) not subject to annulment but to be approved in draft) before “(3B)” insert “(3AA),” and
    - (b) after subsection (3A) insert –
      - “(3AA) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 17ZB(9).”

Amendment  
No.

**After Clause 78 – continued**

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN  
BARONESS WALMSLEY  
BARONESS TYLER OF ENFIELD

242 Insert the following new Clause –

**“PART 4A**

CHILDREN’S CENTRES

**Birth registration pilot scheme**

Local authorities must establish a pilot scheme to trial the registration of births within children’s centres, and evaluate the effectiveness of the scheme to –

- (a) identify and contact new families; and
- (b) enable children’s centres to reach more families, in particular those with children under the age of two, or who the local authority consider –
  - (i) hard to reach, or
  - (ii) vulnerable.”

BARONESS WALMSLEY  
BARONESS BRINTON

243 Insert the following new Clause –

**“PART 4A**

PROTECTION OF CHILDREN

**Actions due to a belief of possession by spirits**

- (1) Section 1 of the Children and Young Persons Act 1993 (cruelty to persons under sixteen) is amended as follows.
- (2) In subsection (1) omit the words “and has responsibility for any child or young person under that age,” and for the word “him” substitute “any child or young person under that age”.
- (3) In subsection (2), after paragraph (b) insert –
  - “(c) in subsection (1) the meaning of “ill-treats” includes the communication by word or by action a belief that the child is possessed by evil spirits or has supernatural harmful powers –
    - (i) to the child concerned, or
    - (ii) to anyone connected to that child.””

Amendment  
No.

**After Clause 78 – continued**

THE EARL OF LISTOWEL  
BARONESS MASSEY OF DARWEN

244 Insert the following new Clause –

**“Information and data sharing**

- (1) NHS trusts shall make arrangements to share with local authorities records of live births to parents resident in their area, to be used by the local authority for the purposes of identifying and contacting new families through children’s centres and any other early years outreach services it may operate.
- (2) The Secretary of State must, within a period of six months of this Act being passed, bring forward regulations placing consequential requirements on trusts and local authorities in exercising their duty under subsection (1), including, but not limited to –
  - (a) the format of arrangements made;
  - (b) the safeguarding of information;
  - (c) the circumstances in which it would not be appropriate for a trust to provide information to local authorities;
  - (d) the regularity of data transfers;
  - (e) timescales within which a local authority must contact new families made known to it; and
  - (f) any further requirements the Secretary of State deems necessary.”

BARONESS MASSEY OF DARWEN  
BARONESS HOWE OF IDLICOTE  
LORD RAMSBOTHAM  
BARONESS BUTLER-SLOSS

245 Insert the following new Clause –

**“Independence of the Children’s Commissioner**

In Schedule 1 to the Children Act 2004, in paragraph 1 (status) after sub-paragraph (2) insert –

- “(3) The Secretary of State shall not undermine the Children’s Commissioner’s independence and shall ensure that the Children’s Commissioner is under as few constraints as reasonably possible in determining –
  - (a) the Commissioner’s activities,
  - (b) the Commissioner’s timetables, and
  - (c) the Commissioner’s priorities.””

Amendment  
No.

**After Clause 78 – continued**

BARONESS WALMSLEY  
LORD STOREY

**246** Insert the following new Clause –

**“No right to give corporal punishment: part-time educational institutions**

In the Education Act 1996, at the end of section 548(7B) (no right to give corporal punishment), insert “except that it applies in relation to this section as if for paragraphs (a) and (b) of section 92(2) of that Act there were substituted the following words “for any amount of time during an academic year, no matter how little””.

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**247** Insert the following new Clause –

**“Information on children’s centres**

- (1) The Secretary of State must compile and publish information on children’s centres in England every three months, including –
  - (a) the number of registered children’s centres in each local authority area;
  - (b) the annual budget of each children’s centre in each local authority area;
  - (c) the total weekly opening hours of each centre in each local authority area;
  - (d) any changes in the figures for paragraph (a), (b) or (c) since the same period in the preceding year; and
  - (e) any other information he deems useful to compile and publish.
- (2) Local authorities are obliged to provide information requested by the Secretary of State in pursuance of his duties under subsection (1), in a format specified by him.
- (3) The Secretary of State must publish information in an accessible format, not later than three months after the information has been provided by the local authorities.
- (4) The Secretary of State may charge a prescribed fee for providing information compiled under this section in paper form.
- (5) The level of fee charged under subsection (4) must not exceed the cost of production and supply.
- (6) In this section “children’s centre” has the meaning given by section 5A(4) of the Childcare Act 2006 (arrangements for provision of children’s centres).”

**248** Insert the following new Clause –

**“Independent study: registration of births at children’s centres**

- (1) The Secretary of State shall commission an independent study of the likely impact on the welfare of children of requiring births to be registered at children’s centres.

**Amendment  
No.**

**After Clause 78 – continued**

- (2) The Secretary of State may, by regulations, establish pilot schemes to trial the registration of births within children’s centres, to inform the independent study under subsection (1).
- (3) In this section “children’s centre” has the meaning given by section 5A(4) of the Childcare Act 2006 (arrangements for provision of children’s centres).”

**249** Insert the following new Clause –

**“Information sharing about live births**

- (1) NHS trusts should make arrangements to share with local authorities records of live births to parents resident in their area, to be used by the local authority for the purposes of identifying and contacting new families through children’s centres and any other early years outreach services it may operate.
- (2) The Secretary of State must, within a period of six months of the passing of this Act, bring forward regulations placing consequential requirements on trusts and local authorities in exercising their duty under subsection (1) including, but not limited to –
  - (a) the format of arrangements made;
  - (b) the safeguarding of information;
  - (c) the circumstances in which it would not be appropriate for a trust to provide information to local authorities;
  - (d) the regularity of data transfers;
  - (e) timescales within which a local authority must contact new families made known to it; and
  - (f) any further requirements the Secretary of State deems necessary.”

**Clause 79**

BARONESS WALMSLEY  
BARONESS MASSEY OF DARWEN  
LORD RAMSBOTHAM

**250** Page 52, line 16, at end insert –

- “( ) raise public awareness of children’s rights by promoting knowledge of and respect for the rights of children;
- ( ) initiate and intervene in legal proceedings, including proceedings under section 7 of the Human Rights Act 1998 where the Children’s Commissioner is not the victim or potential victim of the unlawful act to which the proceedings relate;”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**251** Page 52, line 43, leave out from “may” to end of line 44 and insert “only conduct an investigation of the case of an individual child where he considers it will enable him to discharge the primary function more effectively”

Amendment  
No.

**Clause 79 – continued**

BARONESS LISTER OF BURTERSETT  
LORD LESTER OF HERNE HILL  
BARONESS WALMSLEY

**252** Page 53, leave out lines 2 to 5 and insert –

“(1) For the purposes of section 2(1), the rights of children include the rights in the United Nations Convention on the Rights of the Child.”

**Clause 80**

LORD TOUHIG

**253** Page 54, line 5, at end insert –

“(3) The Children’s Commissioner may require a person to whom representations has been made under subsection (2) to state in writing, within such period as the Commissioner may reasonably require, what actions the person has taken or proposes to take in response to the representations.”

**Clause 85**

BARONESS WALMSLEY  
BARONESS MASSEY OF DARWEN  
LORD RAMSBOTHAM

**254** Page 55, line 40, at end insert –

“(d) after paragraph (b) insert –

“(c) the Children’s Commissioner’s assessment of the extent to which children in England enjoy –

- (i) the rights in the United Nations Convention on the Rights of the Child;
- (ii) the rights of children in any other international treaty ratified by the United Kingdom; and
- (iii) the rights of children in the law applicable in England”.

BARONESS WALMSLEY  
LORD RAMSBOTHAM  
BARONESS MASSEY OF DARWEN

**255** Page 56, line 10, at end insert “and the extent to which the Commissioner has had due regard to their views”

**Amendment  
No.**

**Clause 86**

BARONESS WALMSLEY  
BARONESS MASSEY OF DARWEN  
LORD RAMSBOTHAM

**256** Page 56, line 37, at end insert—

- “( ) A child is within this subsection if he or she is detained in pursuance of—
- (a) an order made by a court, or
  - (b) an order of recall made by the Secretary of State.
- ( ) A child is within this subsection if he or she has been identified by a professional as a potential victim of trafficking.
- ( ) A child is within this subsection if he or she is a separated migrant child.”

**Schedule 5**

BARONESS MASSEY OF DARWEN  
BARONESS HOWE OF IDLICOTE  
LORD RAMSBOTHAM  
BARONESS BUTLER-SLOSS

**257** Page 188, line 9, at end insert—

“(za) after sub-paragraph (1) insert—

- “(1A) The Secretary of State shall appoint an individual only if the Secretary of State reasonably considers the individual—
- (a) has adequate experience and knowledge relating to children’s rights, including the involvement of children in decision-making; and
  - (b) is able and willing to act independently of Government.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**258** Page 188, line 9, at end insert—

“(za) in sub-paragraph (1), after “Secretary of State” insert “with the consent of the Education Committee of the House of Commons”;

**259** Page 188, line 11, at end insert—

“(aa) after sub-paragraph (2) insert—

- “(2A) In appointing the Children’s Commissioner, the Secretary of State shall—
- (a) have due regard to the views of—
    - (i) any parliamentary committee which has published a view on the proposed appointment;

Amendment  
No.

**Schedule 5** – *continued*

- (ii) children involved in the appointment of the Children’s Commissioner, and
- (iii) the advice of any selection panel, established for the purpose of interviewing candidates, as to their suitability for appointment;
- (b) appoint an individual only if the Secretary of State reasonably considers the individual –
  - (i) has experience and knowledge relating to children’s rights;
  - (ii) is able and willing to act independently of government;
  - (iii) enjoys the trust and confidence of the public (including children); and
  - (iv) is capable of effectively fulfilling the Children’s Commissioner’s primary function.””

BARONESS MASSEY OF DARWEN  
BARONESS BUTLER-SLOSS  
BARONESS WALMSLEY

**260**

Page 188, line 14, at end insert –

“(d) after sub-paragraph (7) insert –

“(8) The Secretary of State shall have due regard to the views of any parliamentary committee which has published a view on a proposed appointment or removal from office of the Children’s Commissioner.””

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**261**

Page 188, line 14, at end insert –

“(d) after sub-paragraph (7) insert –

“(8) The Secretary of State may only use his power under sub-paragraph (7) with the consent of the Education Committee of the House of Commons.””

Amendment  
No.

**Schedule 5 – continued**

LORD LESTER OF HERNE HILL  
BARONESS HOWE OF IDLICOTE  
BARONESS O’LOAN  
BARONESS LISTER OF BURTERSETT

**262** Page 189, line 9, at end insert –

“( ) In Schedule 1 to the Children Act 2004 (Children’s Commissioner), for paragraph 7 substitute –

“7 The Secretary of State shall –

- (a) pay to the Children’s Commissioner such sums as are reasonably sufficient for the purpose of enabling the Children’s Commissioner to perform his or her functions, and
- (b) have due regard to the views of any parliamentary committee which has published a view on the level at which such sums should be set.”

**After Clause 88**

BARONESS FINLAY OF LLANDAFF  
LORD FAULKNER OF WORCESTER  
BARONESS TYLER OF ENFIELD  
BARONESS MASSEY OF DARWEN

**263** Insert the following new Clause –

**“Offence of failing to prevent smoking in a private vehicle when children are present**

- (1) The Health Act 2006 is amended as follows.
- (2) After section 8 insert –

**“8A Offence of failing to prevent smoking in a private vehicle when children are present**

- (1) It is the duty of any person who drives a private vehicle to ensure that that vehicle is smoke-free whenever a child or children under the age of 18 are in such vehicle or part of such vehicle.
- (2) A person who fails to comply with the duty in subsection (1) commits an offence.
- (3) A person convicted of an offence under this section who has not previously been convicted of such an offence shall have the option of attending a smoke-free driving awareness course in place of paying a fine under subsection (4).
- (4) A person who does not wish to attend an awareness course or who has previously been convicted of an offence under this section is liable on summary conviction to a fine of £60.
- (5) The Secretary of State may introduce regulations to alter the level of penalty payable under subsection (4).

Amendment  
No.

**After Clause 88 – continued**

- (6) The Secretary of State shall update all relevant regulations regarding the offence created under subsection (2) within six months of this section coming into force.
- (7) The Secretary of State shall introduce regulations within six months of this section coming into force to prescribe the format of the awareness course in subsection (3)."
- (3) In section 79(4)(a), for "or 8(7)" substitute ", 8(7), or 8A(5)"."

LORD FAULKNER OF WORCESTER  
BARONESS TYLER OF ENFIELD  
BARONESS FINLAY OF LLANDAFF  
LORD McCOLL OF DULWICH

264

Insert the following new Clause –

**“Children’s health: standardised tobacco packaging**

- (1) The Tobacco Advertising and Promotion Act 2002 is amended as follows.
- (2) After section 12 (television and radio broadcasting) insert –

**“12A Children’s health: standardised packaging**

- 6 (1) The Secretary of State may, if satisfied that doing so is in the interests of preventing harm to the health of children under the age of 18 or of promoting the health of children under the age of 18, make regulations specifying retail tobacco packaging requirements.
- 10 (2) Regulations made under subsection (1) may provide that retail packaging or tobacco products of any such description, or falling within any such class as may be specified in the regulations, shall not, except in such circumstances as may be so specified, be of any such colour or shape, or display any such mark or trade mark, or any other particulars as may be so specified.
- (3) A person is guilty of an offence if –
  - (a) in the course of a business he or she owns or manages retail or commercial premises or a leisure facility;
  - (b) he or she sells or supplies products which might reasonably be expected to attract, or be aimed at, children under the age of 18;
  - (c) he or she sells or supplies, or has in the premises or facility for sale or supply, any tobacco product; and
  - (d) the retail packaging of the tobacco product does not comply with a specified retail tobacco packaging requirement.
- (4) In this section –
  - “container” includes any pack, carton, box, tin, packet, bag, pouch, tube or other container;
  - “retail packaging” means –
    - (a) container for retail sale in which a tobacco product is directly placed;

Amendment  
No.

**After Clause 88 – continued**

- (b) any container for retail sale that contains a smaller container in which a tobacco product is directly placed;
  - (c) any cigarette paper in which tobacco is contained and anything else forming part of a cigarette other than the tobacco;
  - (d) any plastic or other wrapper that covers any retail packaging of the type described in paragraphs (a) to (c);
  - (e) any plastic or other wrapper that covers a tobacco product, being a tobacco product that is for retail sale; or
  - (f) anything (other than a tobacco product) that is placed inside or is affixed or otherwise attached to retail packaging of the type described in paragraphs (a) to (e) but does not include the lining of a cigarette pack if the lining complies with retail packaging requirements;
- a “retail tobacco packaging requirement” is a requirement relating to any of the following particulars –
- (a) the colour of retail packaging;
  - (b) the shape and material of retail packaging;
  - (c) trade marks or registered trade marks displayed on retail packaging;
  - (d) trade marks or registered trade marks displayed on retail packaging;
  - (e) the labelling of or on packages, packaging or tobacco products, or associated with retail packaging or tobacco products;
  - (f) the contents of retail packaging (including the shape and size of tobacco products);
  - (g) any covert or overt markings, coded numbering or any other security features on retail packaging or tobacco products;
  - (h) any other particulars relating to retail packaging or tobacco products as may be prescribed by the Secretary of State;
- a “specified retail packaging requirement” is a retail tobacco packaging requirement specified in regulations made under subsection (1);
- “trade mark” and “registered trade mark” have the same meaning as in section 1 of the Trade Marks Act 1994.””

BARONESS HUGHES OF STRETFORD  
LORD HUNT OF KINGS HEATH  
BARONESS JONES OF WHITCHURCH  
BARONESS WHEELER

[Amendments 265 and 266 are amendments to Amendment 264]

Amendment  
No.

**After Clause 88 – continued**

**266** Line 10, leave out “may” and insert “must”

BARONESS MASSEY OF DARWEN  
BARONESS WALMSLEY

**266A** Insert the following new Clause –

**“Children’s rights duty**

Any person whose functions are of a public nature must in the exercise of his or her functions have due regard to the need to –

- (a) respect, protect and fulfil children’s rights; and
- (b) actively seek and give due weight to the views of children in matters affecting them.”

**Clause 93**

BARONESS MASSEY OF DARWEN  
BARONESS DRAKE

**267** Leave out Clause 93 and insert the following new Clause –

**“Statutory rights to leave and pay of prospective adopters with whom looked after children are placed, special guardians and family and friends carers**

- (1) In section 75A of the Employment Rights Act 1996 (ordinary adoption leave), after subsection (1) there is inserted –

“(1A) The conditions that may be prescribed under subsection (1) include conditions as to –

- (a) being a local authority foster parent;
- (b) being approved as a prospective adopter;
- (c) being notified by a local authority in England that a child is to be, or is expected to be, placed with the employee under section 22C of the Children Act 1989;
- (d) becoming a special guardian under section 14A of the Children Act 1989;
- (e) becoming a family and friends carer in prescribed circumstances.”

- (2) In section 75B of the Employment Rights Act 1996 (additional adoption leave), after subsection (1) there is inserted –

“(1A) The conditions that may be prescribed under subsection (1) include conditions as to –

- (a) becoming a special guardian under section 14A of the Children Act 1989;
- (b) becoming a family and friends carer in prescribed circumstances.”

Amendment  
No.

**Clause 93** – *continued*

- (3) In section 80B of the Employment Rights Act 1996 (entitlement to ordinary paternity leave: adoption) –
- (a) in subsection (5), after paragraph (a) there is inserted –
    - “(aa) make provision excluding the right to be absent on leave under this section in the case of an employee who, by virtue of provision under subsection (6A), has already exercised a right to be absent on leave under this section in connection with the same child;”;
  - (b) after subsection (6) there is inserted –
- “(6A) Regulations under subsection (1) shall include provision for leave in respect of a child –
- (a) placed, or expected to be placed, under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter;
  - (b) for whom a special guardian has been appointed under section 14A of the Children Act 1989;
  - (c) placed in a family and friends care arrangement in prescribed circumstances.
- (6B) This section has effect in relation to regulations made by virtue of subsection (6A) as if –
- (a) references to being placed for adoption were references to being placed under section 22C of the Children Act 1989 with a local authority foster parent who has been approved as a prospective adopter or to being placed with a special guardian under section 14A of the Children Act 1989 or to being placed in a family and friends care arrangement in prescribed circumstances;
  - (b) references to placement for adoption were references to placement under section 22C or section 14A with such a person or to placement with a family and friends carer in prescribed circumstances;
  - (c) paragraph (aa) of subsection (5) were omitted.”
- (4) In section 171ZB of the Social Security Contributions and Benefits Act 1992 (entitlement to ordinary statutory paternity pay: adoption), after subsection (7) there is inserted –
- “(8) This section has effect in a case involving a child placed under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter, or placed with a special guardian under section 14A of the Children Act 1989 or placed in a family and friends care arrangement in prescribed circumstances, with the following modifications –
- (a) the references in subsection (2) to a child being placed for adoption under the law of any part of the United Kingdom are to be treated as references to a child being placed under section 22C in that manner or to being placed with a special guardian under section 14A or to being placed in a family and friends care arrangement in prescribed circumstances;

Amendment  
No.

**Clause 93** – *continued*

- (b) the reference in subsection (3) to the week in which the adopter is notified of being matched with the child for the purposes of adoption is to be treated as a reference to the week in which the prospective adopter is notified that the child is to be, or is expected to be, placed with the prospective adopter under section 22C or the week the special guardian is expected to be appointed or the week the child is expected to be placed in a family and friends care arrangement in prescribed circumstances;
  - (c) the reference in subsection (6) to placement for adoption is to be treated as a reference to placement under section 22C of section 14A or to placement with a family and friends carer in prescribed circumstances;
  - (d) the definition in subsection (7) is to be treated as if it were a definition of “prospective adopter” or “special guardian” or “family and friends carer in prescribed circumstances”.
- (9) Where, by virtue of subsection (8), a person becomes entitled to statutory paternity pay in connection with the placement of a child under section 22C or 14A of the Children Act 1989 or placement with a family and friends carer in prescribed circumstances, the person may not become entitled to payments of statutory paternity pay in connection with the placement of the child for adoption.”
- (5) In section 171ZE of the Social Security Contributions and Benefits Act 1992 (rate and period of pay), after subsection (11) there is inserted –
- “(12) Where statutory paternity pay is payable to a person by virtue of section 171ZB(8), this section has effect as if –
- (a) the references in subsections (3)(b) and (10) to placement for adoption were references to placement under section 22C or 14A of the Children Act 1989 or placement with a family and friends carer in prescribed circumstances;
  - (b) the references in subsection (10) to being placed for adoption were references to being placed under section 22C or 14A or to being placed with a family and friends carer in prescribed circumstances.”

Amendment  
No.

**Clause 93** – *continued*

- (6) In section 171ZL of the Social Security Contributions and Benefits Act 1992 (entitlement to statutory adoption pay), after subsection (8) there is inserted –
- “(9) This section has effect in a case involving a child who is, or is expected to be, placed under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter, or placed with a special guardian under section 14A of the Children Act 1989 or placed in a family and friends care arrangement in prescribed circumstances, with the following modifications –
- (a) the references in subsections (2)(a) and (4A)(a) to a child being placed for adoption under the law of any part of the United Kingdom are to be treated as references to a child being placed under section 22C in that manner or to being placed with a special guardian under section 14A or to being placed in a family and friends care arrangement in prescribed circumstances;
  - (b) the reference in subsection (3) to the week in which the person is notified that he has been matched with the child for the purposes of adoption is to be treated as a reference to the week in which the person is notified that the child is to be, or is expected to be, placed with him under section 22C or the week the special guardian is expected to be appointed or the week the child is expected to be placed in a family and friends care arrangement in prescribed circumstances;
  - (c) the references in subsection (4B)(a) to adoption are to be treated as references to placement under section 22C or 14A or placement with a family and friends carer in prescribed circumstances;
  - (d) the reference in subsection (5) to placement, or expected placement, for adoption is to be treated as a reference to placement, or expected placement, under section 22C or 14A or placement with a family and friends carer in prescribed circumstances.
- (10) Where, by virtue of subsection (9), a person becomes entitled to statutory adoption pay in respect of a child who is, or is expected to be, placed under section 22C or 14A of the Children Act 1989 or placement with a family and friends carer in prescribed circumstances, the person may not become entitled to payments of statutory adoption pay as a result of the child being, or being expected to be, placed for adoption.”

Amendment  
No.

**Clause 93 – continued**

- (7) In section 171ZN of the Social Security Contributions and Benefits Act 1992 (rate and period of pay), after subsection (8) there is inserted –
- “(9) Where statutory adoption pay is payable to a person by virtue of section 171ZL(9), this section has effect as if the reference in subsection (2E) to the week in which the person is notified that he has been matched with a child for the purposes of adoption were a reference to the week in which the person is notified that a child is to be, or is expected to be, placed with him under section 22C of the Children Act 1989 or the week the special guardian is expected to be appointed or the week the child is expected to be placed in a family and friends care arrangement in prescribed circumstances.
- (8) In the Social Security Contributions and Benefits Act 1992 –
- (a) in section 171ZJ(1), at the appropriate place there is inserted –
- ““local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);”;
- ““local authority foster parent” has the same meaning as in the Children Act 1989 (see section 22C(12) of that Act);”;
- (b) in section 171ZS(1), at the appropriate place there is inserted –
- ““local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);”;
- ““local authority foster parent” has the same meaning as in the Children Act 1989 (see section 22C(12) of that Act);”.”

**After Clause 93**

BARONESS DRAKE  
BARONESS MASSEY OF DARWEN

267A

Insert the following new Clause –

**“Kinship carers’ adjustment leave**

- (1) A qualifying employee who satisfies prescribed conditions may be absent from work at any time during an adjustment leave period.
- (2) An adjustment leave period is a period calculated in accordance with regulations made by the Secretary of State.
- (3) The regulations under subsection (2) above shall include provision for determining the extent of an employee’s entitlement to leave under this section but shall secure that where an employee is entitled to leave under this section he is entitled to at least four weeks’ leave, or for a longer period to be prescribed.
- (4) An employee who exercises his rights under subsection (1) –
- (a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he had not been absent,
- (b) is bound, for such purposes and to such extent as may be prescribed, by any obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1)), and

**Amendment  
No.**

**After Clause 93 – continued**

- (c) is entitled to return from leave to a job of a prescribed kind.
- (5) For the purposes of this section, an employee is a qualifying employee if he is a family and friends (kinship) carer looking after a child full-time because the parent(s) is unable to look after the child, in the first 12 months after the child moves in.”

**267B** Insert the following new Clause –

**“Carers’ leave**

- (1) A qualifying employee who satisfies prescribed conditions may be absent from work for a specified period to provide care for a child or vulnerable adult.
- (2) An adjustment leave period is a period calculated in accordance with regulations made by the Secretary of State.
- (3) The regulations under subsection (2) above shall include provision for determining the extent of an employee’s entitlement to leave under this section but shall secure that where an employee is entitled to leave under this section he is entitled to two week’s leave in any given year.
- (4) The leave may be taken in a two week block or part-time, with the agreement of the employer.
- (5) An employee who exercises his rights under subsection (1) –
- (a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he had not been absent,
  - (b) is bound, for such purposes and to such extent as may be prescribed, by any obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1)), and
  - (c) is entitled to return from leave to a job of a prescribed kind.
- (6) For the purposes of this section, an employee is a qualifying employee if he has caring responsibilities for a child or vulnerable adult.”

**After Clause 97**

BARONESS DRAKE  
BARONESS MASSEY OF DARWEN

**267C** Insert the following new Clause –

**“Extension of emergency leave entitlement to grandparents**

In section 57A(3) of the Employment Rights Act 1996 (time off for dependants), after paragraph (d) insert –

“(e) a grandchild”.”

Amendment  
No.

**After Clause 106**

BARONESS BENJAMIN

**268** Insert the following new Clause –

**“PART 8A**

CHILDREN PARTICIPATION IN PERFORMANCES

**Children participation in performances**

- (1) Section 25 of the Children and Young Persons Act 1933 (restrictions on persons under eighteen going abroad for the purpose of performing for profit) is amended as follows.
- (2) For subsection (1)(a) substitute –
  - “(f) for the purposes of taking part in a performance to which section 37(2) of the Children and Young Persons Act 1963 applies,”.
- (3) In subsection (1) –
  - (a) for “this section” substitute “section 37 of the Children and Young Persons Act 1963”,
  - (b) omit paragraph (a) and after “granted in respect of him under” omit “this” and after “section” insert “37 of the Children and Young Persons Act 1963”.
- (4) Subsections (2) to (11) of the Children and Young Persons Act 1933 are omitted.
- (5) Section 37 of the Children and Young Persons Act 1963 (restrictions on persons under 16 taking part in public performances, etc.) is amended as follows.
- (6) After subsection (2) insert –
  - “(2A) For the purposes of subsection (2), a performance does not include participation in –
    - (a) filming by private individuals for uploading onto the internet for transmission (“user generated content”);
    - (b) observational documentaries in which the child’s life and routine remains to a significant degree the same as it would have been had filming not been taking place;
    - (c) unplanned and spontaneous filming where parental consent is subsequently obtained for the purposes of broadcasting;
    - (d) filming in the context of news and current affairs journalism, or filming in the public interest in circumstances where it is not practicable to apply for a licence, without prejudice to the effect of sections 39 and 49; or
    - (e) any further category as the Secretary of State may specify by way of regulations.”

Amendment  
No.**After Clause 106 – continued**

- (7) After subsection (3) insert –
- “(3A) Where subsection (2A)(b) to (e) applies such that no licence is required, the person responsible for filming the child shall carry out an assessment of risk prior to the filming taking place, save where it is not possible to do so, in which case such a risk assessment must be carried out as soon as possible after such filming takes place.”
- (8) In subsection (4) after “will not suffer” insert “and in particular, that the child would not be subjected to any risk beyond that involved in the ordinary course of their life”.
- (9) In subsection (5) after “imposed by the authority” insert “; such conditions shall however, seek to minimise any differences in conditions imposed in relation to different media and any such differences must be necessary and objectively justified for the purposes of protecting the child against a specified risk, and in particular, regulations shall not prohibit the recording or broadcast of live performances where the child’s participation in that live performance is permitted by the relevant licence”.
- (10) After subsection (1)(b) insert –
- “(c) go abroad for the purposes of a performance to which subsection 2 applies save that this subsection shall not apply in any case where it is proved that the child was only temporarily resident within the United Kingdom.”
- (11) Section 38 is repealed.
- (12) Section 42 is repealed.”

**Clause 107**

LORD NASH

- 269** 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.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 270** Page 114, line 36, after “legislation” insert “, or a statutory instrument containing an order under section 4,”
- 271** Page 114, line 36, after “legislation” insert “, or a statutory instrument containing an order under section 49,”

**Amendment  
No.****Clause 107** – *continued*

- 272** Page 114, line 36, after “legislation” insert “, or a statutory instrument containing an order under section 51(4),”
- 273** Page 114, line 36, after “legislation” insert “, or a statutory instrument containing an order under sections 54 and 55,”







# Children and Families Bill

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THIRD  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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*14th October 2013*

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