

Children and Families Bill

FIFTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

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

Clauses 15 to 72	Clause 88
Schedule 3	Schedule 6
Clauses 73 and 74	Clauses 89 to 98
Schedule 4	Schedule 7
Clauses 75 to 87	Clauses 99 to 112
Schedule 5	

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 15

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

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

Clause 18

LORD MACKAY OF CLASHFERN

Lord Mackay of Clashfern gives notice of his intention to oppose the Question that Clause 18 stand part of the Bill.

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Section 9(1) of the Children Act 1989 is repealed.”

Amendment
No.

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.”

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.”

Amendment
No.

Clause 20 – *continued*

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.”

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;

Amendment
No.

After Clause 21 – continued

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.
- (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.

Amendment
No.

Clause 22 – *continued*

- () 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.”

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

Amendment
No.

After Clause 23 – continued

- (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”

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.”

- Amendment No.** **Clause 26** – *continued*
- 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.”
- 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 JONES OF WHITCHURCH
BARONESS HUGHES OF STRETFORD
- 90B** Page 21, line 22, at end insert “and the education, health and care provision specified under subsection (3)(a)”
- 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”

Amendment
No.

Clause 26 – *continued*

- 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).”
- 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.”
- 98** [*Withdrawn*]

Clause 27

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;

**Amendment
No.**

Clause 27 – continued

- (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.”

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”

Amendment
No.

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”

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

**Amendment
No.**

Clause 30—*continued*

- () 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.”

- 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 ADDINGTON

- 108A★** Page 25, line 2, at end insert—
“(f) provision of specialist support, assistive technology and accessible publications in classroom and assessment 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.”

Amendment
No.

Clause 30 – *continued*

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
 - (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.”

Amendment
No.

Clause 30 – continued

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.”

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”

Amendment
No.

Clause 32 – *continued*

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.”

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.”

Amendment
No.

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.”

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.

Amendment
No.

After Clause 35 – continued

- (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;
 - (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

LORD PATEL

128A★ Page 28, line 33, after “school” insert “, providers of alternative provision,”

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”

- Clause 36 – continued**
- Amendment No.**
- 135** Page 29, line 17, at beginning insert “child and”
- 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
LORD TOUHIG
- 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.”

Amendment
No.

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.”

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”

Amendment
No.

Clause 37 – continued

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.”

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.”

**Amendment
No.**

Clause 38 – *continued*

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.”

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
LORD LOW OF DALSTON

- 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”

**Amendment
No.**

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.”

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”

**Amendment
No.**

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”

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)

Amendment
No.

Clause 45 – continued

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”

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.”

**Amendment
No.**

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.”

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).”

Amendment
No.

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”

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.”

**Amendment
No.**

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”

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”

Amendment
No.

Clause 62 – *continued*

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.”

LORD ADDINGTON

192A★ Page 45, line 2, at end insert –

“() For the purposes of subsection (2), provision would include, but not be limited to –

- (a) provision of specialist support in classroom and assessment settings;
- (b) assistive technology in classroom and assessment settings;
- (c) accessible publications in classroom and assessment settings.”

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.”

Amendment
No.

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.”

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”

LORD RIX

- 199A★** Page 45, line 32, after “parent” insert “and the child”

BARONESS GREENGROSS

- 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”

Amendment
No.

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 66

BARONESS SHARP OF GUILDFORD

- 205AA★** Page 46, line 32, leave out “19” and insert “25”
- 205AB★** Page 47, line 6, leave out “19” and insert “25”

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),”

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”

**Amendment
No.**

Clause 68 – continued

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).
 - (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”

Amendment
No.

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.””

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

Amendment
No.

Clause 70 – continued

- (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.””

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.

Amendment
No.

After Clause 72—continued

- (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.
 - (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.

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

- 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.
- 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.

**Amendment
No.**

Before Schedule 3—continued

- 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.”

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;

Amendment
No.

Clause 73—*continued*

“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.
- (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.”

Amendment
No.

After Clause 73 – *continued*

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.
- (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.

Amendment
No.

After Clause 73 – continued

- (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).”

241A Insert the following new Clause –

“Duty to support pupils with medical conditions

- (1) The appropriate authority for a school to which this section applies must make arrangements for supporting pupils at the school with medical conditions.

**Amendment
No.**

After Clause 78 – continued

- (2) In meeting the duty in subsection (1) the appropriate authority must have regard to guidance issued by the Secretary of State.
- (3) The duty in subsection (1) does not apply in relation to a pupil who is a young child for the purposes of Part 3 of the Childcare Act 2006 (regulation of provision of childcare in England).
- (4) This section applies to the following schools in England –
 - (a) a maintained school;
 - (b) an Academy school;
 - (c) an alternative provision Academy;
 - (d) a pupil referral unit.
- (5) In this section –
 - “the appropriate authority for a school” means –
 - (a) in the case of a maintained school, the governing body,
 - (b) in the case of an Academy, the proprietor, and
 - (c) in the case of a pupil referral unit, the managing committee;
 - “maintained school” means –
 - (a) a community, foundation or voluntary school, within the meaning of the School Standards and Framework Act 1998, or
 - (b) a community or foundation special school, within the meaning of that Act.
- (6) The Education Act 1996 and this section are to be read as if this section were included in that Act.”

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.”

Amendment
No.

After Clause 78 – continued

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.”

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.”

Amendment
No.

After Clause 78 – continued

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.””

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.

Amendment
No.

After Clause 78 – continued

- (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.
- (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.”

**Amendment
No.**

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”

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.”

Amendment
No.

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”

Clause 86

BARONESS WALMSLEY
BARONESS MASSEY OF DARWEN
LORD RAMSBOTHAM
THE LORD BISHOP OF RIPON AND LEEDS

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.”

**Amendment
No.**

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;
(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.””

Amendment
No.

Schedule 5 – continued

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.””

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.

Amendment
No.

After Clause 88 – continued

- (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).
- (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.

Amendment
No.

After Clause 88 – continued

- 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;
 - (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;

Amendment
No.

After Clause 88 – continued

- (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]

265 Line 6, leave out “may” and insert “must”

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.”

Amendment
No.

After Clause 89

BARONESS LISTER OF BURTERSETT

266B★

Insert the following new Clause –

“Rights to father quota of leave

- (1) In Part 8 of the Employment Rights Act 1996 after section 80E insert –

“75E Entitlement to father quota

- (1) The Secretary of State may make regulations entitling an employee who satisfies specified conditions as to the relationship with a child or expected child or with the child’s mother to be absent from work on leave under this subsection for the purpose of caring for the child.
- (2) Regulations under subsection (1) shall provide that such leave shall be taken before the end of a period of 56 weeks beginning with the date of the child’s birth.
- (3) Provision under subsection (1) shall secure that where an employee is entitled to leave under this section in respect of a child he is entitled to at least four weeks’ leave.”

- (2) In the Social Security Contributions and Benefits Act 1992 after section 171ZT insert –

“171ZTA Entitlement to father quota

- (1) Regulations shall provide that where an employee is entitled to a father quota of leave under section 75E of the Employment Rights Act 1996, the employee is to be entitled to payments known as “father quota pay”.
- (2) Father quota pay under subsection (1) shall be at the earnings related weekly rate of 90 per cent of the employee’s average earnings for the first six weeks in respect of which it is payable, followed by a fixed weekly rate thereafter which shall not be less than the weekly rate of the full time national minimum wage in respect of the remaining portion of the father quota pay period.””

Amendment
No.

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.”
- (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.

Amendment
No.

Clause 93 – *continued*

- (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;
 - (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”.

Amendment
No.

Clause 93 – *continued*

- (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.”
- (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;

Amendment
No.

Clause 93 – *continued*

- (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.”
- (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.

**Amendment
No.**

After Clause 93 – continued

- (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
 - (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.”

Amendment
No.

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”.

After Clause 106

BARONESS BENJAMIN
VISCOUNT COLVILLE OF CULROSS

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;

Amendment
No.

After Clause 106 – continued

- (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.”
- (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.”

Amendment
No.

Clause 107 – *continued*

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,”
- 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,”

Clause 112

LORD NASH

- 274** Page 116, line 14, leave out “is” and insert “and section (*Duty to support pupils with medical conditions*) (duty to support pupils with medical conditions) are”

Children and Families Bill

FIFTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

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