

Children and Families Bill

NINTH
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 51 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 51

LORD STOREY
BARONESS HUGHES OF STRETTFORD
LORD LOW OF DALSTON
BARONESS HOLLINS

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

Amendment
No.

After Clause 51

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

182 Insert the following new Clause –

“Collection of information

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

Clause 52

LORD NASH

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

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

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

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

Clause 57

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

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

Amendment
No.

Clause 58

BARONESS GREENGROSS

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

Clause 59

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

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

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

Clause 62

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

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

LORD ADDINGTON
BARONESS WALMSLEY
BARONESS SHARP OF GUILDFORD

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

LORD RAMSBOTHAM

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

LORD LOW OF DALSTON
LORD TOUHIG
BARONESS SHARP OF GUILDFORD

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

Amendment
No.

Clause 62 – *continued*

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.”

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.

**Amendment
No.**

After Clause 63 – continued

- (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”

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”

Amendment
No.

Clause 65 – continued

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),”

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

- 205C** Page 48, line 2, at end insert –
“(m) providers of alternative educational provision including the provision of online learning and blended learning”

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
LORD ADDINGTON

213 Insert the following new Clause –

“Maintaining an EHC plan for detained young persons

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

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

Amendment
No.

Clause 70

LORD STOREY
BARONESS HOWARTH OF BRECKLAND

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

“Detained children and young people

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

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

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

After Clause 72

BARONESS BRINTON
BARONESS WALMSLEY
BARONESS SHARP OF GUILDFORD

215 Insert the following new Clause –

“Inspection and review of local authorities in England

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

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

Amendment
No.

After Clause 72—continued

BARONESS HOWE OF IDLICOTE

216

Insert the following new Clause—

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

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

Before Schedule 3

BARONESS BRINTON
BARONESS HOWE OF IDLICOTE
BARONESS MASSEY OF DARWEN

217

Insert the following new Schedule—

“SCHEDULE

SPECIAL EDUCATIONAL NEEDS OF SEVERELY BULLIED CHILDREN

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

**Amendment
No.**

Before Schedule 3—continued

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

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

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

Amendment
No.

Clause 73

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

218

Page 50, line 40, at end insert –

“alternative education provision” means –

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

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

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

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

LORD LUCAS

218A

Page 51, line 6, at end insert –

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

After Clause 73

BARONESS HOWE OF IDLICOTE
BARONESS WILKINS
LORD LOW OF DALSTON

219

Insert the following new Clause –

“Inclusive and accessible education, health and social care provision

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

Amendment
No.

After Clause 73 – continued

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

LORD STOREY
BARONESS HOWARTH OF BRECKLAND
BARONESS BENJAMIN

220 Insert the following new Clause—

“PART 3A

CHILDREN WITH SPECIFIED MEDICAL CONDITIONS

Children with medical needs

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

221 Insert the following new Clause—

“Children with medical needs: duty on other bodies

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

Amendment
No.

After Clause 73 – continued

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

222 Insert the following new Clause –

“Definition of “specified health conditions”

- (1) The Secretary of State may by regulations define “specified health condition” for the purposes of this Part.
- (2) A statutory instrument containing regulations under subsection (1) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

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

223 Insert the following new Clause –

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

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

Amendment
No.

After Clause 73 – continued

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

224 Insert the following new Clause –

“PART 3B

YOUNG CARERS

Duty on local authorities

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

Amendment
No.

After Clause 73 – continued

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

225

Insert the following new Clause –

“Duty to ensure sufficient support

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

226

Insert the following new Clause –

“Duty to assess social care provision for young carers

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

227

Insert the following new Clause –

“Health bodies: duties with respect to young carers

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

Amendment
No.

After Clause 73 – continued

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

228

Insert the following new Clause –

“Schools: duties with respect to young carers

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

229

Insert the following new Clause –

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

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

Amendment
No.

After Clause 73—continued

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

230 Insert the following new Clause—

“Interpretation

In this Part—

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

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

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

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

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

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

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

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

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

Amendment
No.

After Clause 73 – continued

“health bodies” includes –

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

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

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

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

BARONESS MASSEY OF DARWEN

231

Insert the following new Clause –

“Personal and social education

After section 78 of the Education Act 2002 insert –

“78A Duty of schools to promote the academic, 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.”

232

[Withdrawn]

Amendment
No.

After Clause 73 – continued

BARONESS JONES OF WHITCHURCH
BARONESS HUGHES OF STRETFORD

232(Rcv) 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 school 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) In section 405 of the Education Act 1996 (Exemption from sex education) for “If the parent of any pupil in attendance at a maintained school requests”, there is substituted –
- “(1) If the parent of a pupil under the age of 15 in attendance at a school in England to which section 403 applies requests that the pupil may be wholly or partly excused from receiving sex and relationships education at the school, the pupil shall be so excused accordingly until –
- (a) the request is withdrawn, or
 - (b) the pupil attains the age of 15.
- (2) If the parent of any pupil in attendance at a maintained school in Wales requests.””

Amendment
No.

After Clause 73 – continued

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.”

LORD NASH

- 240A★** Page 175, line 21, at end insert—
 “() Regulations by virtue of subsection (1) which make provision about the suspension of the registration of an early years provider or a later years provider with a childminder agency must include provision conferring on the registered provider a right of appeal to the Tribunal against suspension.”
- 240B★** Page 178, line 17, leave out sub-paragraph (3)
- 240C★** Page 178, line 24, leave out sub-paragraph (4)
- 240D★** Page 179, line 32, leave out “member,”
- 240E★** Page 179, line 32, after “of” insert “, or partner in,”
- 240F★** Page 179, line 34, leave out “or otherwise work for such an agency.” and insert “be a member of the governing body of such an agency, or otherwise be directly concerned in the management of such an agency, or”
- 240G★** Page 179, line 34, at end insert—
 “(d) work for such an agency in any capacity which involves entering premises on which early years provision or later years provision is being provided.”

Amendment
No.

Schedule 4 – *continued*

- 240H★** Page 179, line 34, at end insert –
- “(1A) No early years childminder agency or later years childminder agency may employ a person who is disqualified from registration by regulations under section 76A in any capacity which involves –
- (a) being directly concerned in the management of an early years childminder agency or a later years childminder agency, or
 - (b) entering premises on which early years provision or later years provision is being provided.”
- 240J★** Page 179, leave out lines 35 to 40
- 240K★** Page 179, line 41, leave out “(2)” and insert “(1A)”
- 240L★** Page 179, line 41, at end insert –
- “() A person (“P”) who contravenes subsection (1A) is not guilty of an offence under subsection (3) if P proves that P did not know, and had no reasonable grounds for believing, that the person whom P was employing was disqualified from registration.”
- 240M★** Page 181, line 33, leave out “member,”
- 240N★** Page 181, line 33, after “of” insert “, or partner in,”
- 240P★** Page 181, line 34, after “agency,” insert “a member of its governing body or otherwise directly concerned in the management of the agency,”
- 240Q★** Page 183, line 20, at end insert –
- “ (1) Section 87 (offences by bodies corporate) is amended as follows.
- (1) In subsection (1) for “This section” substitute “Subsection (2)”.
 - (2) After subsection (2) insert –
 - “(3) Subsection (4) applies where any offence under this Part is committed by a partnership.
 - (4) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any partner, that partner (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.”
 - (3) In the title, at the end insert (and partnerships”).”

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.

Amendment
No.

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.

After Clause 76

LORD NASH

240R★ Insert the following new Clause—

“Discharge of authority’s duty to secure free early years provision

- (1) Part 1 of the Childcare Act 2006 (general functions of local authorities in England in relation to childcare) is amended as follows.
- (2) After section 7 (duty to secure early years provision free of charge in accordance with regulations) insert—

“7A Discharge of duty under section 7

- (1) Regulations may require an English local authority to discharge its duty to a young child under section 7 by making arrangements which secure that an early years provider chosen by a parent of the child provides the early years provision to which the child is entitled in cases where—
 - (a) the early years provider is willing to provide it, and
 - (b) the early years provider is also willing to accept—
 - (i) any terms as to the payments which would be made to him or her in respect of the provision, and
 - (ii) any requirements which would be imposed in respect of it.
- (2) Arrangements made by an authority to satisfy any requirement imposed under subsection (1) may be made with an early years provider or with an early years childminder agency or any other person who is able to arrange for an early years provider to provide early years provision.
- (3) The regulations may provide that such a requirement—
 - (a) applies only if the early years provider is of a prescribed description;
 - (b) applies only if the early years provision provided by the early years provider is of a prescribed description;
 - (c) does not apply in prescribed circumstances.
- (4) The regulations may provide that arrangements made by an authority for the purpose of complying with such a requirement must include provision allowing the local authority to terminate the arrangements in prescribed circumstances.

Amendment
No.

After Clause 76 – continued

- (5) In this section –
 “early years childminder agency” and “early years provider”
 have the same meanings as in Part 3;
 “parent” has the same meaning as in section 2.”
- (3) After section 9 (arrangements between local authority and childcare providers) insert –
- “9A Arrangements made by local authorities for the purposes of section 7**
- Regulations may provide that arrangements made by an English local authority for the purpose of discharging its duty under section 7 –
- (a) may impose requirements on the person with whom the arrangements are made only if the requirements are of a prescribed description;
- (b) may not impose requirements of a prescribed description on the person with whom the arrangements are made.””

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.

**Amendment
No.**

After Clause 78 – continued

- (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
 - (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.

Amendment
No.

After Clause 78 – continued

- (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;
 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

Amendment
No.

After Clause 78 – continued

- (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.
- (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.”

Amendment
No.

After Clause 78 – continued

241B★

Insert the following new Clause –

“Local authority functions relating to children etc: intervention

- (1) Section 497A of the Education Act 1996 (which confers power on the Secretary of State to secure the proper performance of local authority education functions, and is applied to social services functions relating to children by section 50 of the Children Act 2004 and to functions relating to childcare by section 15 of the Childcare Act 2006) is amended in accordance with subsection (2).
- (2) After subsection (4A) insert –
 - “(4AA) So far as is appropriate in consequence of a direction given under subsection (4A), a reference (however expressed) in an enactment, instrument or other document to a local authority is to be read as a reference to the person by whom the function is exercisable.
 - (4AB) Subsection (4AC) applies if a direction given under subsection (4A) expires or is revoked without being replaced.
 - (4AC) So far as is appropriate in consequence of the expiry or revocation, a reference (however expressed) in an instrument or other document to the person by whom the function was exercisable is to be read as a reference to the local authority to which the direction was given”.
- (3) In section 15 of the Local Government Act 1999 (Secretary of State’s power to secure compliance with requirements of Part 1 of that Act) after subsection (6) insert –
 - “(6A) So far as is appropriate in consequence of a direction given under subsection (6)(a), a reference (however expressed) in an enactment, instrument or other document to a best value authority is to be read as a reference to the person by whom the function is exercisable.
 - (6B) Subsection (6C) applies if a direction given under subsection (6)(a) expires or is revoked without being replaced.
 - (6C) So far as is appropriate in consequence of the expiry or revocation, a reference (however expressed) in an instrument or other document to the person by whom the function was exercisable is to be read as a reference to the best value authority to which the direction was given.”

241C★

Insert the following new Clause –

“Objectives and standards for establishments and agencies in England

- (1) In section 22 of the Care Standards Act 2000 (regulation of establishments and agencies), in subsection (1), for the words from “may in particular” to the end substitute “–
 - (a) regulations made by the Secretary of State may in particular make any provision such as is mentioned in subsection (1A), (2), (7) or (8) and
 - (b) regulations made by the Welsh Ministers may in particular make any provision such as is mentioned in subsection (2), (7) or (8).”

Amendment
No.

After Clause 78 – continued

(2) In that section, after subsection (1) insert –

“(1A) Regulations made by the Secretary of State may prescribe objectives and standards which must be met in relation to an establishment or agency for which the CIECSS is the registration authority.”

241D★ Insert the following new Clause –

“National minimum standards for establishments and agencies in England

In section 23 of the Care Standards Act 2000 (national minimum standards), after subsection (1) insert –

“(1A) The standards applicable to an establishment or agency for which the CIECSS is the registration authority may, in particular, explain or supplement requirements imposed in relation to that establishment or agency by regulations under section 22.”

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

242 Insert the following new Clause –

“PART 4A

CHILDREN’S CENTRES

Birth registration pilot scheme

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

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

BARONESS WALMSLEY
BARONESS BRINTON

243 Insert the following new Clause –

“PART 4A

PROTECTION OF CHILDREN

Actions due to a belief of possession by spirits

- (1) Section 1 of the Children and Young Persons Act 1993 (cruelty to persons under sixteen) is amended as follows.

Amendment
No.

After Clause 78 – continued

- (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.”

Clause 89

LORD STEVENSON OF BALMACARA

266AZA Page 59, line 10, at end insert –

- “(7) Entitlements provided by regulations made under this section may be transferred to another family member or other related party in the following exceptional circumstances –
- (a) where a mother is incapacitated;
 - (b) where a medical practitioner prescribes that the mother is unable to look after the child; or

Amendment
No.

Clause 89 – continued

(c) where the mother dies in childbirth.”

BARONESS LISTER OF BURTERSETT
LORD STEVENSON OF BALMACARA

266AA Page 60, leave out lines 9 and 10 and insert –

“(8) Regulations under section 75E may provide for the taking of leave under section 75E in a single period, or in non-consecutive periods, or in periods shorter than the period which constitutes, for the employee, a week’s leave.”

LORD STEVENSON OF BALMACARA

266AB Page 66, line 39, leave out “may” and insert “must”

266AC Page 66, line 43, leave out “may” and insert “must”

After Clause 89

BARONESS LISTER OF BURTERSETT
BARONESS YOUNG OF HORNSEY

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 –

“80EA 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”.

Amendment
No.

After Clause 89 – continued

- (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.””

LORD STEVENSON OF BALMACARA

266C

Insert the following new Clause –

“Right to return to the same job after shared parental leave

- (1) An employee who returns to work after any period of –
- (a) ordinary maternity leave,
 - (b) ordinary adoption leave,
 - (c) paternity leave,
 - (d) shared parental leave of 26 weeks or less, or
 - (e) parental leave of four weeks or less, which was –
 - (i) a period of isolated leave, or
 - (ii) a consecutive period of any statutory leave under subsection (1) of 26 weeks or less,
- is entitled to return from leave to the job in which the employee was employed before the employee’s absence.
- (2) An employee who returns to work after any period of –
- (a) additional maternity leave,
 - (b) additional adoption leave,
 - (c) parental leave of more than four weeks, or
 - (d) a consecutive period of any statutory leave under subsection (1) of more than 26 weeks,
- is entitled to return from leave to the job in which the employee was employed before the employee’s absence, or, if it is not reasonably practicable for the employer to permit the employee to return to that job, to another job which is both suitable for the employee and appropriate for the employee to do in the circumstances.
- (3) The reference in subsections (1) and (2) to the job in which an employee was employed before the employee’s absence is a reference to the job in which the employee was employed –
- (a) if the employee’s return is from an isolated period of statutory leave, immediately before that period began, or
 - (b) if the employee’s return is from consecutive periods of statutory leave, immediately before the first such 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 93 – continued

LORD STEVENSON OF BALMACARA

267BA Insert the following new Clause –

“Review of statutory rights to leave and pay for kinship carers and special guardians

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

- (a) carry out a review of the impact of the lack of statutory pay and leave on kinship carers and special guardians remaining in employment; and
- (b) publish, and lay before both Houses of Parliament, a report of the conclusions of the review.”

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”.

LORD KNIGHT OF WEYMOUTH

267D Insert the following new Clause –

“Parental bereavement leave

In the Employment Rights Act 1996, after section 57A insert –

“57AA Parental bereavement leave

- (1) The Secretary of State must make regulations entitling an employee who satisfies specified conditions –
 - (a) as to duration of employment, and
 - (b) as to relationship with a child,
 to be absent from work on leave under this section in consequence of the death of a child.
- (2) Regulations under subsection (1) shall secure that, where an employee has a right to leave under this section, he or she is entitled to a leave period of at least 2 weeks.
- (3) Regulations under subsection (1) shall secure that an employee who exercises his or her right 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 or she had not been absent,

**Amendment
No.**

After Clause 97 – continued

- (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.
- (4) In subsection (3)(a) “terms and conditions of employment” includes –
- (a) matters connected with an employee’s employment whether or not they arise under his or her contract of employment; and
 - (b) terms and conditions about remuneration.””

After Clause 98

LORD STEVENSON OF BALMACARA

267E Insert the following new Clause –

“Review of the provisions of this Part

- (1) The Secretary of State must from time to time –
 - (a) carry out a review of the provisions under this Part;
 - (b) set out the conclusions of the review in a report, and
 - (c) publish and lay a copy of the report before both Houses of Parliament.
- (2) The report must in particular –
 - (a) set out the objectives intended to be achieved by this Part including, the objective of encouraging fathers to share in caring for their children;
 - (b) assess the extent to which these objectives are achieved for all families including those with premature or multiple births; and
 - (c) assess, having regard to the objectives set out in paragraph (a) –
 - (i) the number of families having access to the provisions under this Part and whether this could be increased;
 - (ii) whether the amount of paid leave available to fathers independently of any shared parental leave arrangements is suitable;
 - (iii) whether and how shared parental leave could be taken on a part time basis.
- (3) The first report under subsection (1) must be published before the end of three years beginning with the day on which this Part comes into force.”

Clause 99

LORD STEVENSON OF BALMACARA

267F Page 92, line 26, after “take” insert “reasonable”

267G Page 92, leave out lines 29 to 33

Amendment
No.**Clause 99 – continued**

- 267H** Page 95, line 21, after “take” insert “reasonable”
- 267J** Page 95, leave out lines 25 to 29
- 267K** Page 95, leave out lines 25 to 27 and insert –

“(2) In relation to a singleton pregnancy, an employee is not entitled to take time off for the purpose specified in subsection (1) on more than two occasions, and in relation to a multiple pregnancy, an employee is not entitled to take time off for the purpose specified in subsection (1) on more than six occasions.”

Clause 104

LORD STEVENSON OF BALMACARA

- 267L** Page 112, line 10, leave out “If an employer allows an employee to appeal” and insert “Where an employee appeals”
- 267M** Page 112, line 34, leave out “the employer allow the employee to appeal” and insert “an employee appeals”

Lord Stevenson of Balmacara gives notice of his intention to oppose the Question that Clause 104 stand part of the Bill.

After Clause 106BARONESS 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 –
 - “(a) 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”.

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

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

Amendment
No.

After Clause 106 – continued

BARONESS JONES OF WHITCHURCH
BARONESS HUGHES OF STRETFORD

268A Insert the following new Clause –

“Promoting flexible working: review

- (1) Before the end of one year beginning with the day on which this Act is passed, the Secretary of State must –
 - (a) carry out a review looking into ways of promoting flexible working; and
 - (b) publish, and lay before both Houses of Parliament, a report of the conclusions of the review.
- (2) A review under subsection (1) will consider in particular –
 - (a) how to promote the right to request flexible working among employees;
 - (b) how to encourage employers to discuss flexible working at the earliest opportunity; and
 - (c) whether all advertisements for employment opportunities in the public sector should specify the possibility of discussing flexible working at interview.”

Clause 107

LORD NASH

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

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

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

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

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

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,”

Amendment
No.

Clause 111

LORD NASH

- 273A★** Page 116, line 5, after “18” insert “, (*Local authority functions relating to children etc: intervention*)”
- 273B★** Page 116, line 5, after “18” insert “(*Objectives and standards for establishments and agencies in England*)”
- 273C★** Page 116, line 5, after “18” insert “(*National minimum standards for establishments and agencies in England*)”

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

NINTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

4th November 2013

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