

# Children and Families Bill

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FOURTH  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*The amendments have been marshalled in accordance with the Order of 4th December 2013, as follows –*

Clauses 73 and 74	Schedule 6
Schedule 4	Clauses 96 to 105
Clauses 75 to 94	Schedule 7
Schedule 5	Clauses 106 to 119
Clause 95	

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

**Amendment  
No.**

**Clause 73**

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

- 51** Page 51, line 1, at beginning insert –  
““alternative education provision” means education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed-period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour and education provision can include online and blended learning.”
- 52** Page 51, line 1, at beginning insert –  
““alternative education provider” means an organisation that looks to provide education for those pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education and this includes providers of online and blended learning.”

Amendment  
No.

**Clause 73** – *continued*

LORD NASH

- 52ZA** Page 51, line 4, at end insert –  
 ““appropriate person” has the meaning given by section (*Application of Part to detained persons*)(5);  
 “beginning of the detention” has the meaning given by section (*Application of Part to detained persons*)(6);  
 “detained person” has the meaning given by section (*Application of Part to detained persons*)(5);  
 “detained person’s EHC needs assessment” has the meaning given by section (*Application of Part to detained persons*)(5);”
- 52ZB** Page 51, line 9, at end insert –  
 ““the home authority” has the meaning given by section (*Application of Part to detained persons*)(6) (subject to subsection (7) of that section);”
- 52ZC** Page 51, line 28, at end insert –  
 ““relevant youth accommodation” has the meaning given by section (*Application of Part to detained persons*)(5);”
- 52A** Page 51, line 40, at end insert –  
 “( ) A child or young person has a disability for the purposes of this Part if he or she has a disability for the purposes of the Equality Act 2010.”

**After Clause 73**

BARONESS JONES OF WHITCHURCH  
 BARONESS HUGHES OF STRETFORD  
 BARONESS KIDRON  
 THE LORD BISHOP OF OXFORD

- 53** 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.”

Amendment  
No.

**After Clause 73 – continued**

BARONESS MASSEY OF DARWEN  
BARONESS WALMSLEY  
LORD CORMACK  
THE LORD BISHOP OF OXFORD

**53ZA** Insert the following new Clause –

**“School policies to support well-being of children and young people**

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, spiritual, 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.
- (3) School governors shall be responsible, in their annual report, for specifying how the above is implemented.””

LORD NORTHBOURNE

**53ZAA** Insert the following new Clause –

**“School policies to prepare children and young people for the opportunities, challenges and responsibilities of adult life**

After section 78 of the Education Act 2002 insert –

**“78A Duty of schools to promote the personal and social development of pupils, and to prepare them for the responsibilities of adult life and parenthood**

- (1) All schools shall make explicit to parents, school governors and pupils how they deliver –
  - (a) guidance to young people as they explore the opportunities and challenges of the adult life which lies ahead of them;
  - (b) help for children and young people who are pupils at the school to develop the personal, social and communication skills that they are likely to need in their adult life;

Amendment  
No.

**After Clause 73 – continued**

- (c) help for children and young people who are pupils at the school to discuss and understand the responsibilities, duties and challenges of parenthood;
  - (d) provision of activities and other opportunities for pupils at the school to develop interpersonal, leadership and teamwork skills as a preparation for their adult life.
- (2) The above shall be delivered as appropriate to the age, readiness and needs of pupils in the school.””

BARONESS JONES OF WHITCHURCH  
BARONESS HUGHES OF STRETFORD  
BARONESS KIDRON

**53ZAAA** Insert the following new Clause –

**“Sex and relationship 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) insert –  
“(ga) sex and relationship education”.
- (2) In section 85(4) of the Education Act 2002 (curriculum foundation subjects for the fourth key stage), at the end insert “, and  
(d) sex and relationship 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 insert “, and  
(d) sex and relationship education.”
- (4) Before section 86 of the Education Act 2002 insert –

**“85B Sex and relationship education**

- (1) For the purposes of this Part, sex and relationship education (“SRE”) shall include 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 SRE (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 sex and relationship education is developed, including between primary and secondary schools, paying particular regard to the need for such guidance to make reference to the role of the internet, social media and technology in sex and relationship education and online bullying and harassment.
- (4) It is the duty of the governing body and head teacher of any school in which SRE 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 SRE should be accurate and balanced;

**Amendment  
No.**

**After Clause 73 – continued**

- (b) SRE 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) SRE 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 SRE, a local authority, governing body or head teacher shall have regard to any guidance issued from time to time by the Secretary of State.”
- (5) Section 403 of the Education Act 1996 (sex education: manner of provision) is amended as set out in subsections (6) to (10).
- (6) In subsection (1), for the words from the beginning to “at a maintained school” substitute “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 insert –
- “(1ZA) The schools to which this section applies are –
- (a) maintained schools;
  - (b) city technology colleges;
  - (c) city colleges for the technology of the arts;
  - (d) academies.
- A reference in this section or section 404 to the governing body of a school, in relation to a school within paragraph (b), (c) or (d), shall be read as a reference to the proprietor of the school.”
- (8) In subsection (1A) –
- (a) for “when sex education is given to registered pupils at maintained schools” substitute “when sex and relationship education is given to registered pupils at schools to which this section applies”;
  - (b) in paragraph (a), after “, and” insert “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” substitute “sex and relationship 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” substitute “sex and relationship education”;
  - (b) at the end insert “but does not include education about human reproduction provided as part of any science teaching;”.

Amendment  
No.

**After Clause 73 – continued**

- (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”, substitute –
- “(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 relationship 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.””

BARONESS HOWE OF IDLICOTE  
BARONESS HUGHES OF STRETFORD  
LORD CORMACK  
BARONESS BENJAMIN

**53ZAAB** Insert the following new Clause –

**“Duty to provide an internet service that protects children**

- (1) Internet service providers must provide to subscribers an internet access service which excludes adult content unless all the conditions of subsection (3) have been fulfilled.
- (2) Where mobile telephone operators provide a telephone service to subscribers which includes an internet access service, they must ensure this service excludes adult content unless all the conditions of subsection (3) have been fulfilled.
- (3) The conditions are –
  - (a) the subscriber “opts-in” to subscribe to a service that includes adult content;
  - (b) the subscriber is aged 18 or over; and
  - (c) the provider of the service has an age verification policy which meets the standards set out by OFCOM in subsection (4) and which has been used to confirm that the subscriber is aged 18 or over before a user is able to access adult content.
- (4) It shall be the duty of OFCOM to set, and from time to time to review and revise, standards for the –
  - (a) filtering of adult content in line with the standards set out in section 319 of the Communications Act 2003; and
  - (b) age verification policies to be used under subsection (3) before a user is able to access adult content.
- (5) The standards set out by OFCOM under subsection (4) must be contained in one or more codes.
- (6) It shall be the duty of OFCOM to establish procedures for the handling and resolution of complaints in a timely manner about the observance of standards set under subsection (4).

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

- (7) In this section, internet service providers and mobile telephone operators shall at all times be held harmless of any claims or proceedings, whether civil or criminal, providing that at the relevant time, the internet access provider or the mobile telephone operator—
- (a) was following the standards and code set out by OFCOM in subsection (4); and
  - (b) acting in good faith.
- (8) In this section—
- “adult content” means material which might seriously impair the physical, mental or moral development of persons under the age of eighteen;
- “opts-in” means a subscriber notifies the service provider of his or her consent to subscribe to a service that includes adult content.”

**Schedule 4**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

**53ZAB** Page 171, line 15, after “agency” insert “, or any individual childminder registered at the agency,”

**53ZAC** Page 171, line 21, 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.”

BARONESS WALMSLEY  
LORD STOREY  
BARONESS TYLER OF ENFIELD  
BARONESS SHARP OF GUILDFORD

**53A** Page 171, line 32, at end insert—

- “( ) the quality of the care and early education offered by the early years providers registered with the agency,”

LORD NASH

**53AA** Page 171, line 35, leave out “and”

**53AB** Page 171, line 37, at end insert “, and

- (c) the effectiveness of the arrangements of the early years childminder agency for assuring itself of the quality of the care and education provided by the early years providers registered with it.”

**53AC** Page 178, line 44, leave out “and”

Amendment  
No.

**Schedule 4** – *continued*

- 53AD** Page 179, line 2, at end insert “, and
- (c) the effectiveness of the arrangements of the later years childminder agency for assuring itself of the quality of the care and education provided by the later years providers registered with it.”

**Clause 76**

BARONESS TYLER OF ENFIELD  
LORD STOREY  
BARONESS WALMSLEY  
BARONESS SHARP OF GUILDFORD

- 53B** Page 52, line 25, at end insert –
- “( ) The Secretary of State must, within four years of the coming into force of subsection (1), conduct a review of the impact of removal of section 11 of the Childcare Act 2006 on the sufficiency of childcare in England.
  - ( ) The Secretary of State must –
    - (a) lay a copy of the report before Parliament, and
    - (b) publish the report in such a manner as they think fit.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH

- 53C** Leave out Clause 76

**After Clause 78**

BARONESS WALMSLEY  
LORD STOREY  
BARONESS SHARP OF GUILDFORD  
BARONESS TYLER OF ENFIELD

- 54** 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””.



Amendment  
No.

**After Clause 79**

THE EARL OF LISTOWEL

55 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.”

56 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 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.

**After Clause 79 – continued**

BARONESS WALMSLEY

57 Insert the following new Clause –

**“PART 4A**

PROTECTION OF CHILDREN

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

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

BARONESS PITKEATHLEY  
BARONESS LISTER OF BURTERSETT

57ZA Insert the following new Clause –

**“Amendments to the Carers (Recognition and Services) Act 1995**

- (1) The Carers (Recognition and Services) Act 1995 is amended as follows.
- (2) Section 1(2)(b) is repealed.
- (3) After section 1(2) insert –
  - “(2A) Subject to subsection (3), in any case where it appears to the local authority that a person with parental responsibility for a disabled child (“the carer”) may have needs for support (whether currently or in the future) the authority must –
    - (a) assess whether the carer does have needs for support (or is likely to do so in the future),
    - (b) where the carer has such needs, (or is likely to in the future), take the results of that assessment into account in making their decision as to whether the needs of the disabled child call for the provision of any services.””

Amendment  
No.

**After Clause 79 – continued**

**57ZB**

Insert the following new Clause –

**“Amendments to the Carers and Disabled Children Act 2000**

For section 6(1) of the Carers and Disabled Children Act 2000, substitute –

- “(1) Where it appears to the local authority that a person with parental responsibility for a disabled child (“the carer”) may have needs for support (whether currently or in the future), the authority must assess –
- (a) whether the carer does have needs for support (or is likely to do so in the future), and
  - (b) where the carer has such needs, what those needs are (or are likely to be in the future).”

**57ZC**

Insert the following new Clause –

**“General responsibilities of local authorities in relation to carers of disabled children**

- (1) The general duty of a local authority in exercising a function under this Part in the case of an adult, is to promote that carer’s well-being.
- (2) “Well-being”, in relation to an individual, means that individual’s well-being so far as relating to any of the following –
  - (a) personal dignity (including treatment of the individual with respect);
  - (b) physical and mental health and emotional well-being;
  - (c) protection from abuse and neglect;
  - (d) control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
  - (e) participation in work, education, training or recreation;
  - (f) social and economic well-being;
  - (g) domestic, family and personal relationships;
  - (h) suitability of living accommodation; or
  - (i) the individual’s contribution to society.
- (3) In exercising a function under this Part in the case of an individual, a local authority must have regard to the following matters in particular –
  - (a) the importance of beginning with the assumption that the individual is best-placed to judge the individual’s well-being;
  - (b) the individual’s views, wishes, feelings and beliefs;
  - (c) the importance of preventing or delaying the development of needs for care and support or needs for support and the importance of reducing needs of either kind that already exist;
  - (d) the need to ensure that decisions about the individual are made having regard to all the individual’s circumstances (and are not based only on the individual’s age or appearance or any condition of the individual’s or aspect of the individual’s behaviour which might lead others to make unjustified assumptions about the individual’s well-being);

Amendment  
No.

**After Clause 79 – continued**

- (e) the importance of the individual participating as fully as possible in decisions relating to the exercise of the function concerned and being provided with the information and support necessary to enable the individual to participate;
  - (f) the importance of achieving a balance between the individual’s well-being and that of any friends or relatives who are involved in caring;
  - (g) the need to protect people from abuse and neglect; and
  - (h) the need to ensure that any restriction on the individual’s rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised.
- (4) “Local authority” means –
- (a) a county council in England;
  - (b) a district council for an area in England for which there is no county council;
  - (c) a London borough council; or
  - (d) the Common Council of the City of London.
- (5) In this Part, an “individual” is –
- (a) an adult aged 18 or over who has parental responsibility for a disabled child under Part III of the Children Act 1989.
- (6) An adult is not to be regarded as a carer if the adult provides or intends to provide care –
- (a) under or by virtue of a contract, or
  - (b) as voluntary work.”

**Before Clause 80**

LORD NASH  
LORD STEVENSON OF BALMACARA

57A Insert the following new Clause –

**“Extension of licensing of child performances to children under 14**

Section 38 of the Children and Young Persons Act 1963 (licences for performances by children under 14 not to be granted except for certain dramatic or musical performances) is repealed.”

EARL HOWE

57B★ Insert the following new Clause –

**“Regulation of retail packaging etc of tobacco products**

- 3 (1) The Secretary of State may make regulations under subsection (6) or (8) if the Secretary of State considers that the regulations may contribute at any time to reducing the risk of harm to, or promoting, the health or welfare of people under the age of 18.

Amendment  
No.

**Before Clause 80 – continued**

- (2) Subsection (1) does not prevent the Secretary of State, in making regulations under subsection (6) or (8), from considering whether the regulations may contribute at any time to reducing the risk of harm to, or promoting, the health or welfare of people aged 18 or over.
- (3) The Secretary of State may treat regulations under subsection (6) or (8) as capable of contributing to reducing the risk of harm to, or promoting, the health or welfare of people under the age of 18 if the Secretary of State considers that –
  - (a) at least some of the provisions of the regulations are capable of having that effect, or
  - (b) the regulations are capable of having that effect when taken together with other regulations that were previously made under subsection (6) or (8) and are in force.
- (4) Regulations under subsection (6) or (8) are to be treated for the purposes of subsection (1) or (2) as capable of contributing to reducing the risk of harm to, or promoting, people’s health or welfare if (for example) they may contribute to any of the following –
  - (a) discouraging people from starting to use tobacco products;
  - (b) encouraging people to give up using tobacco products;
  - (c) helping people who have given up, or are trying to give up, using tobacco products not to start using them again;
  - (d) reducing the appeal or attractiveness of tobacco products;
  - (e) reducing the potential for elements of the packaging of tobacco products other than health warnings to detract from the effectiveness of those warnings;
  - (f) reducing opportunities for the packaging of tobacco products to mislead consumers about the effects of using them;
  - (g) reducing opportunities for the packaging of tobacco products to create false perceptions about the nature of such products;
  - (h) having an effect on attitudes, beliefs, intentions and behaviours relating to the reduction in use of tobacco products.
- (5) Regulations under subsection (6) or (8) are to be treated for the purposes of subsection (1) as capable of contributing to reducing the risk of harm to, or promoting, the health or welfare of people under the age of 18 if –
  - (a) they may contribute to reducing activities by such people which risk harming their health or welfare after they reach the age of 18, or
  - (b) they may benefit such people by reducing the use of tobacco products among people aged 18 or over.
- (6) The Secretary of State may by regulations make provision about the retail packaging of tobacco products.
- (7) Regulations under subsection (6) may in particular impose prohibitions, requirements or limitations relating to –
  - (a) the markings on the retail packaging of tobacco products (including the use of branding, trademarks or logos);
  - (b) the appearance of such packaging;
  - (c) the materials used for such packaging;
  - (d) the texture of such packaging;
  - (e) the size of such packaging;

Amendment  
No.

**Before Clause 80 – continued**

- (f) the shape of such packaging;
  - (g) the means by which such packaging is opened;
  - (h) any other features of the retail packaging of tobacco products which could be used to distinguish between different brands of tobacco product;
  - (i) the number of individual tobacco products contained in an individual packet;
  - (j) the quantity of a tobacco product contained in an individual packet.
- (8) The Secretary of State may by regulations make provision imposing prohibitions, requirements or limitations relating to –
- (a) the markings on tobacco products (including the use of branding, trademarks or logos);
  - (b) the appearance of such products;
  - (c) the size of such products;
  - (d) the shape of such products;
  - (e) the flavour of such products;
  - (f) any other features of tobacco products which could be used to distinguish between different brands of tobacco product.
- (9) The Secretary of State may by regulations –
- (a) create offences which may be committed by persons who produce or supply tobacco products the retail packaging of which breaches prohibitions, requirements or limitations imposed by regulations under subsection (6);
  - (b) create offences which may be committed by persons who produce or supply tobacco products which breach prohibitions, requirements or limitations imposed by regulations under subsection (8);
  - (c) provide for exceptions and defences to such offences;
  - (d) make provision about the liability of others to be convicted of such offences if committed by a body corporate or a Scottish partnership.
- (10) The Secretary of State may by regulations provide that regulations under subsection (6) or (8) are to be treated for the purposes specified in regulations under this subsection as safety regulations within the meaning of the Consumer Protection Act 1987.
- (11) The Secretary of State may by regulations make provision amending, repealing, revoking or otherwise modifying any provision made by or under an enactment (whenever passed or made) in connection with provision made by regulations under any of subsections (6), (8), (9) or (10).
- (12) The Secretary of State must –
- (a) obtain the consent of the Scottish Ministers before making regulations under any of subsections (6), (8), (9) or (10) containing provision which would (if contained in an Act of the Scottish Parliament) be within the legislative competence of that Parliament;
  - (b) obtain the consent of the Welsh Ministers before making regulations under any of those subsections containing provision which would (if contained in an Act of the National Assembly for Wales) be within the legislative competence of that Assembly;

Amendment  
No.

**Before Clause 80 – continued**

- (c) obtain the consent of the Office of the First Minister and deputy First Minister in Northern Ireland before making regulations under any of those subsections containing provision which would (if contained in an Act of the Northern Ireland Assembly) be within the legislative competence of that Assembly.
- (13) For the purposes of this section a person produces a tobacco product if, in the course of a business and with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, the person –
- (a) manufactures the product,
  - (b) puts a name, trademark or other distinguishing mark on it by which the person is held out to be its manufacturer or originator, or
  - (c) imports it into the United Kingdom.
- (14) For the purposes of this section a person supplies a tobacco product if in the course of a business the person –
- (a) supplies the product,
  - (b) offers or agrees to supply it, or
  - (c) exposes or possesses it for supply.
- (15) In this section –
- “enactment” includes –
- (a) an Act of the Scottish Parliament,
  - (b) a Measure or Act of the National Assembly for Wales, or
  - (c) Northern Ireland legislation;
- “external packaging”, “internal packaging” and “wrapper” have the meanings given by regulations under subsection (6);
- “packaging”, in relation to a tobacco product, means –
- (a) the external packaging of that product,
  - (b) any internal packaging of that product,
  - (c) any wrapper of that product, or
  - (d) any other material attached to or included with that product or anything within paragraphs (a) to (c);
- “retail packaging”, in relation to a tobacco product, means the packaging in which it is, or is intended to be, presented for retail sale;
- “retail sale” means sale otherwise than to a person who is acting in the course of a business which is part of the tobacco trade;
- “tobacco product” means a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked or chewed;
- “travel retail sector” means retail outlets in the United Kingdom at which tobacco products may be purchased only by people travelling on journeys to destinations outside the United Kingdom.”

LORD HUNT OF KINGS HEATH  
BARONESS HUGHES OF STRETFORD

[As an amendment to Amendment 57B]

57BA

Line 3, leave out “may” and insert “must”

Amendment  
No.

**Clause 81**

LORD KENNEDY OF SOUTHWARK  
BARONESS HOWE OF IDLICOTE  
LORD PATEL

**57C** Page 57, line 16, at end insert –

- “(7) In preparing and implementing individual health care plans and following the guidance issued by the Secretary of State, local authorities, clinical commissioning groups and governing bodies must work together in fulfilling their functions under this Act.”

**After Clause 81**

BARONESS BRINTON

**57D** Insert the following new Clause –

**“Provision and support for bullied children**

- (1) The Secretary of State must produce an anti-bullying strategy (“the Strategy”) (and consequential Code of Practice and Statutory Guidelines) for schools and further education institutions on ways of preventing and protecting children and young people from bullying and ensuring effective recovery programmes to counter the consequences of severe bullying.
- (2) The Strategy produced under subsection (1) must include a comprehensive definition of bullying.
- (3) The Strategy shall ensure cross links between the SEN and Anti-Bullying Codes of Practice and Statutory Guidelines, so that schools are aware that some bullied children and young people will have special educational needs.
- (4) Where the impact of bullying results in a pupil or student having social, mental or emotional needs, schools and further education institutions should use the graduated approach detailed in the SEN Code of Practice, but if those needs are complex and will not be met through this approach, then an education, health and care plan should be made.
- (5) Where any bullied child or student who has been out of school or further education institution for a period of three months or longer, and who has mental or emotional problems (whether or not they are impacting on the child or student’s learning), the school or further education institution will have a duty to help provide an urgent referral to the child or young person’s local Child and Adolescent Mental Health Service.
- (6) A bullied pupil or student who is unable to attend their school or institution, but who is still on the roll, must be brought to the attention of the local authority by their school or institution within three months of starting to miss school.
- (7) Where a pupil or student is brought to the attention of the local authority under subsection (6), it has a duty to find alternative provision that is suitable for the pupil or student and their needs, and the pupil or student’s educational establishment has a duty to co-operate with the local authority.



Amendment  
No.

**After Clause 81 – continued**

- (8) During an inspection, OFSTED will expect a school or institution to provide details of the plan for any child out of school for an extended period who is still on the school roll.”

**Clause 82**

BARONESS JONES OF WHITCHURCH  
BARONESS HUGHES OF STRETFORD

**57E** Page 57, line 34, at end insert –

- “(4AD) For the avoidance of doubt, a direction made pursuant to the provisions of subsection (4A) as amended by subsection (4AA) shall not have the automatic effect of transferring the functions of the Director of Children’s Services and the Lead Member of Children’s Services in sections 18 and 19 of the Children’s Act 2004 to the Secretary of State’s nominee.
- (4AE) Before giving a direction to an authority pursuant to the provisions of subsection (4A), the Secretary of State must give the authority 14 days’ notice in writing of the proposed direction.
- (4AF) The proposed direction shall include a determination as to which functions shall be exercised by the Secretary of State or a person nominated by him and which functions shall be exercised by the authority, including those set out in subsection (4AD) above.
- (4AG) The authority may make written representations to the Secretary of State about the proposed direction within that period.
- (4AH) The Secretary of State may modify or withdraw a direction under this section by notice in writing to the authority or authorities to which it was given.”

**57F** Page 58, line 2, at end insert –

- “(6D) For the avoidance of doubt, a direction made pursuant to the provisions of subsection (6)(a) as amended by subsection (6A) shall not have the automatic effect of transferring the functions of the Director of Children’s Services and the Lead Member of Children’s Services in sections 18 and 19 of the Children’s Act 2004 to the Secretary of State’s nominee.
- (6E) Before giving a direction to a best value authority pursuant to subsection (6)(a), the Secretary of State must give the best value authority 14 days’ notice in writing of the proposed direction.
- (6F) The proposed direction shall include a determination as to which functions shall be exercised by the Secretary of State or a person nominated by him and which functions shall be exercised by the best value authority, including those set out in subsection (6D).
- (6G) The best value authority may make written representations to the Secretary of State about the proposed direction within that period.

Amendment  
No.

**Clause 82 – continued**

- (6H) The Secretary of State may modify or withdraw a direction under this section by notice in writing to the best value authority or authorities to which it was given.”

**After Clause 82**

LORD NASH

**57G** Insert the following new Clause –

**“Application of suspension etc powers to establishments and agencies in England**

- (1) In section 14A of the Care Standards Act 2000 (power of Welsh Ministers to suspend registration of person in respect of establishment or agency), in subsection (1) –
  - (a) for “Welsh Ministers” substitute “registration authority”, and
  - (b) omit “for which the Welsh Ministers are the registration authority”.
- (2) In subsection (2) of that section, for “Welsh Ministers give” substitute “registration authority gives”.
- (3) In section 15(4A) of that Act (duty of Welsh Ministers to give notice of decision to grant application for cancellation or variation of suspension) –
  - (a) for “Welsh Ministers decide” substitute “registration authority decides”,
  - (b) for “they” substitute “it”, and
  - (c) for “their” substitute “its”.
- (4) In section 20B of that Act (urgent procedure for suspension or variation etc: Wales), in the heading omit “: Wales”.
- (5) In subsection (1) of that section –
  - (a) in paragraph (a) omit “for which the Welsh Ministers are the registration authority”, and
  - (b) in paragraph (b) –
    - (i) for “Welsh Ministers have” substitute “registration authority has”, and
    - (ii) for “they act” substitute “it acts”.
- (6) In subsection (2) of that section, for “Welsh Ministers” in both places substitute “registration authority”.
- (7) In subsection (4)(b) of that section, for “Welsh Ministers” substitute “registration authority’s”.

Amendment  
No.

**After Clause 82 – continued**

BARONESS MASSEY OF DARWEN  
BARONESS DRAKE

**58** Insert the following new Clause –

**“Local authority’s duty to investigate: work with families**

In section 47 of the Children Act 1989 after subsection (8) insert –

“(8A) Where, as a result of complying with this section, a local authority conclude that a child may need to become looked after in order to safeguard and promote their welfare, the local authority must, unless emergency action is required, seek to identify and consider the willingness and suitability of any relative, friend or other person connected with the child, to care for them as an alternative to them becoming looked after by unrelated carers.”

**59** Insert the following new Clause –

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

After section 17B of the Children Act 1989 insert –

**“17C Support for family and friends carers when children are not looked after**

Each local authority must make arrangements for the provision within their area of family and friends care support services, including –

- (a) counselling, advice and information; and
- (b) such other services as are prescribed, in relation to family and friends care.”

**After Clause 85**

LORD NASH

**59ZA** Insert the following new Clause –

**“Provision of free school lunches**

- (1) The Education Act 1996 is amended as follows.
- (2) In section 512ZB (provision of free school lunches and milk at maintained schools) –
  - (a) in subsection (2)(a) after “subsection (4)” insert “or (4A) (or both)”, and
  - (b) after subsection (4) insert –
    - “(4A) A person is within this subsection if the person –
      - (a) is a registered pupil at a maintained school or pupil referral unit in England, and
      - (b) is in reception, year 1, year 2 or any other prescribed year group at the school.

Amendment  
No.

**After Clause 85 – continued**

- (4B) The Secretary of State may by order provide for the following to be treated as persons within subsection (4A) –
- (a) registered pupils, or any description of registered pupils, at a maintained nursery school in England;
  - (b) children, or any description of children, who receive relevant funded early years education, or any description of such education, in England.
- (4C) In subsection (4A) –
- “maintained school” means –
- (a) a community, foundation or voluntary school, or
  - (b) a community or foundation special school;
- “reception” means a year group in which the majority of children will, in the school year, attain the age of 5;
- “year 1” means a year group in which the majority of children will, in the school year, attain the age of 6;
- “year 2” means a year group in which the majority of children will, in the school year, attain the age of 7;
- “year group” means a group of children at a school the majority of whom will, in a particular school year, attain the same age.”;
- (c) in subsection (5), after ““prescribed”” insert “, “relevant funded early years education””.
- (3) After section 512A insert –
- “512B Provision of school lunches: Academies**
- (1) Academy arrangements in relation to an Academy school or an alternative provision Academy must include provision imposing obligations on the proprietor that are equivalent to the school lunches obligations.
  - (2) “The school lunches obligations” are the obligations imposed in relation to maintained schools and pupil referral units in England by –
    - (a) section 512(3) (provision of school lunches on request), and
    - (b) section 512ZB(1) (provision of free school lunches to eligible persons).
  - (3) Academy arrangements in relation to an Academy (other than a 16 to 19 Academy) that are entered into before the date on which section (*Provision of free school lunches*)(3) of the Children and Families Act 2014 comes into force are to be treated as if they included the provision required by subsection (1), to the extent that they do not otherwise include such provision.”

Amendment  
No.

**After Clause 85 – continued**

BARONESS MASSEY OF DARWEN  
LORD RAMSBOTHAM

**59A** 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.”

**Clause 86**

LORD RAMSBOTHAM  
BARONESS MASSEY OF DARWEN

**59B** Page 59, line 15, at end insert –

- “( ) 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”

LORD NASH

**59C** Page 60, line 2, after “must” insert “, in particular,”

**Clause 92**

LORD NASH

**59D** Page 63, line 9, leave out “involve children” and insert “consult children or otherwise involve them”

**59E** Page 63, line 10, at end insert “, and

- (d) a summary of how the Commissioner has taken into account the results of any such consultation and anything else resulting from involving children in the discharge of his or her functions.”

Amendment  
No.

**Clause 93**

LORD RAMSBOTHAM  
BARONESS MASSEY OF DARWEN

**59F** Page 63, 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.”

**After Clause 95**

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

**60** Insert the following new Clause—

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

- (1) The Children and Young Persons (Protection from Tobacco) Act 1991 is amended as follows.
- (2) After section 3A (sales from vending machines in England and Wales) there is inserted—

**“3B Standardised packaging**

- (1) The appropriate national authority must, 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 in England and Wales.
- (2) Regulations made under subsection (1) must 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 the person owns or manages retail or commercial premises or a leisure facility; and
  - (b) the person sells or supplies, or has in the premises or facility for sale or supply, any tobacco product; and
  - (c) the retail packaging of the tobacco product does not comply with a specified retail tobacco packaging requirement.

Amendment  
No.

**After Clause 95 – continued**

- (4) A person (“person A”) is guilty of an offence if –
- (a) person A manufactures any tobacco product; and
  - (b) either –
    - (i) person A packages the product for retail sale; or
    - (ii) person A enters into a contract or arrangement, or arrives at an understanding, for another person (person B) to package the product for retail sale; and
  - (c) (in a case falling within paragraph (b)(ii)) the tobacco product is packaged for retail sale by person B; and
  - (d) the retail packaging does not comply with a specified retail tobacco packaging requirement.
- (5) Sections 13, 14 and 15 of the Tobacco Advertising and Promotion Act 2002 (enforcement etc.) apply for the purposes of this section and regulations made under it as they apply for the purposes of provisions of that Act.
- (6) The power of the appropriate national authority to make regulations under this section –
- (a) is exercisable by statutory instrument,
  - (b) may be exercised to make different provision for different cases or circumstances, and
  - (c) includes power to make supplementary, incidental, consequential or transitional provision.
- (7) A statutory instrument containing regulations made under this section may not be made –
- (a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament, and
  - (b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (8) In this section –
- “the appropriate national authority” –
    - (a) in relation to England, means the Secretary of State; and
    - (b) in relation to Wales, means the Welsh Ministers;
  - “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;

Amendment  
No.

**After Clause 95 – continued**

- (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) the labelling of or on packages, packaging or tobacco products, or associated with retail packaging or tobacco products;
  - (e) the contents of retail packaging (including the shape and size of tobacco products);
  - (f) any covert or overt markings, coded numbering or any other security features on retail packaging or tobacco products; or
  - (g) 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.””

LORD HUNT OF KINGS HEATH  
BARONESS HUGHES OF STRETFORD

61 Insert the following new Clause –

**“Protection of children’s health: standardised tobacco packaging**

The Secretary of State shall, within six months of this Act coming into force, bring forward legislation making it an offence, where the sale or supply of any tobacco product would have a detrimental impact on the health or wellbeing of children under 18, for anyone to sell or supply any tobacco product, the retail packaging of which is not free of any colour, shape, trademark or any other mark as may be specified in regulations by the Secretary of State.”



Amendment  
No.

**After Clause 95 – continued**

LORD RIBEIRO  
BARONESS FINLAY OF LLANDAFF  
BARONESS TYLER OF ENFIELD  
LORD FAULKNER OF WORCESTER

62

Insert the following new Clause –

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

- (1) The Health Act 2006 is amended as follows.
- (2) After section 8 there is inserted –
  - “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)”.

**Clause 99**

LORD NASH

62A

Page 92, line 22, at end insert –

- “(3CA) Regulations may provide for a reduction in the duration of the maternity allowance period as it applies to a woman to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.”

62B

Page 92, line 23, leave out “(3C)” and insert “(3CA)”

Amendment  
No.

**Clause 99** – *continued*

**62C**

Page 93, line 2, at end insert –

“(3D) Regulations may provide for a reduction in the duration of the maternity pay period as it applies to a woman to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.”

**62D**

Page 93, line 32, at end insert –

“(2CA) Regulations may provide for a reduction in the duration of the adoption pay period as it applies to a person to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.”

**After Clause 100**

BARONESS DRAKE  
BARONESS MASSEY OF DARWEN

**63**

Insert the following new Clause –

**“Kinship carers’ adjustment leave**

- (1) A qualifying employee who satisfies prescribed conditions may be absent from work at any time during an adjustment leave period.
- (2) An adjustment leave period is a period calculated in accordance with regulations made by the Secretary of State.
- (3) The regulations under subsection (2) 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 a period prescribed by the Secretary of State.
- (4) An employee who exercises his or her 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 or she 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 –
  - (a) he or she is a family and friends (kinship) carer looking after a child full-time because the parent(s) is unable to look after the child, and
  - (b) he or she meets the criteria set out in the regulations under subsection (2).”

Amendment  
No.

**Clause 103**

LORD NASH

**63A** Page 98, line 16, leave out “(2C)” and insert “(2CA)”

**After Clause 104**

BARONESS HOWARTH OF BRECKLAND  
LORD KNIGHT OF WEYMOUTH

**63AZA★** 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 to leave under this section –
  - (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,
  - (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.””

Amendment  
No.

**After Clause 113**

BARONESS LISTER OF BURTERSETT  
BARONESS PITKEATHLEY

**63AZB** Insert the following new Clause –

**“Review of care leave**

- (1) The Secretary of State must make arrangements –
  - (a) for a review of the need for further types of leave arrangements for employees in the United Kingdom, in addition to those that currently exist, with a view to helping families combine care for a disabled child or adult with work, and
  - (b) for a report on the outcome of the review to be produced and published.
- (2) The arrangements made by the Secretary of State must provide for the review to begin as soon as practicable.”

**Clause 114**

LORD NASH

**63AA** Page 121, line 35, at end insert –  
“( ) regulations under section (*Application of Part to detained persons*)(3),”

EARL HOWE

**63B** Page 121, line 36, after “55(1),” insert –  
“(ba) regulations under subsection (6), (8), (9) or (10) of section (*Regulation of retail packaging etc of tobacco products*),  
(bb) regulations under subsection (11) of that section which amend, repeal or revoke any provision of an enactment within the meaning of that section,”

**Clause 118**

LORD NASH

**64** Page 123, line 2, at end insert –  
“(1A) Section (*Contact between prescribed persons and adopted person’s relatives*) –  
(a) so far as it relates to England, comes into force on such day as the Secretary of State appoints by order, and  
(b) so far as it relates to Wales, comes into force on such day as the Welsh Ministers appoint by order.”

**64ZA** Page 123, line 5, after “82,” insert “(*Application of suspension etc powers to establishments and agencies in England*),”

**64A** Page 123, line 5, leave out “and 84” and insert “, 84 and (*Extension of licensing of child performances to children under 14*)”

**Amendment  
No.****Clause 118** – *continued*

- 64B** Page 123, line 6, at end insert –  
“( ) Part 6 comes into force on 1 April 2014.”
- 65** Page 123, line 9, after “subsection” insert “(1A),”
- 65A** [Renumbered as Amendment 64A]

**Clause 119**

EARL HOWE

- 65B** Page 123, line 18, at end insert –  
“(3A) Section (*Regulation of retail packaging etc of tobacco products*) extends to the whole of the United Kingdom.”

LORD NASH

- 65C** Page 123, line 24, at end insert “, subject to subsection (8).  
(8) Subsection (7) does not apply to the repeal made by section (*Extension of licensing of child performances to children under 14*), which extends to England and Wales only.”

**In the Title**

LORD NASH

- 66** Line 2, after “needs” insert “or disabilities”





# Children and Families Bill

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FOURTH  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*24th January 2014*

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