

Children and Families Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON THIRD READING

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 11

LORD NASH
BARONESS BUTLER-SLOSS

- 1 Page 11, line 8, leave out from beginning to “any” in line 9 and insert—
“In subsection (2A) “involvement” means involvement of some kind, either direct or indirect, but not”

Clause 37

LORD NASH

- 2 Page 32, line 13, leave out “and social care”
- 3 Page 32, line 15, at end insert—
“(e) in the case of a child or a young person aged under 18, any social care provision which must be made for him or her by the local authority as a result of section 2 of the Chronically Sick and Disabled Persons Act 1970 (as it applies by virtue of section 28A of that Act);
(f) any social care provision reasonably required by the learning difficulties and disabilities which result in the child or young person having special educational needs, to the extent that the provision is not already specified in the plan under paragraph (e).”

Clause 51

LORD NASH

- 4 Page 40, line 14, after “of” insert “EHC needs assessments and”

Amendment
No.

Clause 51 – continued

5 Page 40, line 19, at end insert –

“(4A) Regulations under subsection (4)(c) may include provision conferring power on the First-tier Tribunal, on determining an appeal against a matter, to make recommendations in respect of other matters (including matters against which no appeal may be brought).”

After Clause 51

LORD NASH

6 Insert the following new Clause –

“Right to mediation

- (1) This section applies where –
 - (a) a decision against which an appeal may be brought under section 51 is made in respect of a child or young person, or
 - (b) an EHC plan for a child or young person is made, amended or replaced.
- (2) Before the end of the prescribed period after the decision is made, or the plan is made, amended or replaced, the local authority must notify the child’s parent or the young person of –
 - (a) the right to mediation under section (*Mediation: health care issues*) or (*Mediation: educational and social care issues etc*), and
 - (b) the requirement to obtain a certificate under section 52 before making certain appeals.
- (3) If the parent or young person wishes to pursue mediation under section (*Mediation: health care issues*) or (*Mediation: educational and social care issues etc*), he or she must inform the local authority of –
 - (a) that fact, and
 - (b) the issues in respect of which he or she wishes to pursue mediation (“the mediation issues”).
- (4) If the mediation issues are, or include, the fact that no health care provision, or no health care provision of a particular kind, is specified in the plan, the parent or young person must also inform the local authority of the health care provision which he or she wishes to be specified in the plan.”

7 Insert the following new Clause –

“Mediation: health care issues

- (1) This section applies where –
 - (a) the parent or young person informs the local authority under section (*Right to mediation*) that he or she wishes to pursue mediation, and
 - (b) the mediation issues include health care provision specified in the plan or the fact that no health care provision, or no health care provision of a particular kind, is specified in the plan.
- (2) The local authority must notify each relevant commissioning body of –
 - (a) the mediation issues, and

Amendment
No.

After Clause 51 – continued

- (b) anything of which it has been informed by the parent or young person under section (*Right to mediation*)(4).
- (3) If the mediation issues are limited to the health care provision specified in the plan or the fact that no health care provision, or no health care provision of a particular kind, is specified in the plan, the responsible commissioning body (or, where there is more than one, the responsible commissioning bodies acting jointly) must –
 - (a) arrange for mediation between it (or them) and the parent or young person,
 - (b) ensure that the mediation is conducted by an independent person, and
 - (c) participate in the mediation.
- (4) If the mediation issues include anything else –
 - (a) the local authority must –
 - (i) arrange for mediation between it, each responsible commissioning body and the parent or young person,
 - (ii) ensure that the mediation is conducted by an independent person, and
 - (iii) participate in the mediation, and
 - (b) each responsible commissioning body must also participate in the mediation.
- (5) For the purposes of this section, a person is not independent if he or she is employed by any of the following –
 - (a) a local authority in England;
 - (b) a clinical commissioning group;
 - (c) the National Health Service Commissioning Board.
- (6) In this section “responsible commissioning body” –
 - (a) if the mediation issues in question are or include the health care provision specified in an EHC plan, means a body that is under a duty to arrange health care provision of that kind in respect of the child or young person;
 - (b) if the mediation issues in question are or include the fact that no health care provision, or no health care provision of a particular kind, is specified in an EHC plan, means a body that would be under a duty to arrange health care provision of the kind in question if it were specified in the plan.”

8 Insert the following new Clause –

“Mediation: educational and social care issues etc

- (1) This section applies where –
 - (a) the parent or young person informs the local authority under section (*Right to mediation*) that he or she wishes to pursue mediation, and
 - (b) the mediation issues do not include health care provision specified in the plan or the fact that no health care provision, or no health care provision of a particular kind, is specified in the plan.

Amendment
No.

After Clause 51 – continued

- (2) The local authority must –
 - (a) arrange for mediation between it and the parent or young person,
 - (b) ensure that the mediation is conducted by an independent person, and
 - (c) participate in the mediation.
- (3) For the purposes of this section, a person is not independent if he or she is employed by a local authority in England.”

Clause 52

LORD NASH

- 9 Page 40, line 40, after “certificate” insert “under this subsection”
- 10 Page 40, line 42, leave out “with the local authority” and insert “under section (*Mediation: health care issues*) or (*Mediation: educational and social care issues etc*)”
- 11 Page 41, line 1, after “certificate” insert “under this subsection”
- 12 Page 41, line 3, leave out “with the local authority” and insert “under section (*Mediation: health care issues*) or (*Mediation: educational and social care issues etc*)”
- 13 Page 41, line 5, leave out “with the local authority” and insert “under the appropriate section”
- 14 Page 41, line 8, leave out subsections (6) to (9)

After Clause 52

LORD NASH

- 15 Insert the following new Clause –

“Mediation: supplementary

 - (1) Regulations may make provision for the purposes of sections (*Right to mediation*) to 52, in particular –
 - (a) about giving notice;
 - (b) imposing time limits;
 - (c) enabling a local authority or commissioning body to take prescribed steps following the conclusion of mediation;
 - (d) about who may attend mediation;
 - (e) where a child’s parent is a party to mediation, requiring the mediator to take reasonable steps to ascertain the views of the child;
 - (f) about the provision of advocacy and other support services for the parent or young person;
 - (g) requiring a local authority or commissioning body to pay reasonable travel expenses and other expenses of a prescribed description, up to any prescribed limit;
 - (h) about exceptions to the requirement in section 52(3);
 - (i) about the training, qualifications and experience of mediators and mediation advisers;

Amendment
No.**After Clause 52** – *continued*

- (j) conferring powers or imposing requirements on local authorities, commissioning bodies, mediators and mediation advisers.
- (2) In section 52 and this section “mediation adviser” means an independent person who can provide information and advice about pursuing mediation.
- (3) For the purposes of subsection (2), a person is not independent if he or she is employed by any of the following –
 - (a) a local authority in England;
 - (b) a clinical commissioning group;
 - (c) the National Health Service Commissioning Board.
- (4) In this section “commissioning body” means a body that is under a duty to arrange health care provision of any kind.”

Clause 53

LORD NASH

- 16 Page 41, line 42, at end insert “or (2A)”
- 17 Page 41, line 43, after “disagreements” insert “within this subsection”
- 18 Page 42, line 1, at end insert –
 - “(2A) The disagreements within this subsection are those about the exercise by the local authority of its functions relating to EHC needs assessments, the preparation and review of EHC plans, and re-assessment of educational, health care and social care needs, where the disagreement is between –
 - (a) the local authority and a responsible commissioning body, or
 - (b) a responsible commissioning body and the parents of children, or young people, in the authority’s area.”
- 19 Page 42, line 5, after “disagreements” insert “within this subsection”
- 20 Page 42, line 14, leave out from beginning to end of line 15 and insert –
 - “(5A) For the purposes of subsection (5) a person is not independent if he or she is employed by any of the following –
 - (a) a local authority in England;
 - (b) a clinical commissioning group;
 - (c) the National Health Service Commissioning Board.”
- 21 Page 42, line 38, at end insert –
 - ““responsible commissioning body”, in relation to any particular health care provision, means a body that is under a duty to arrange health care provision of that kind in respect of the child or young person concerned.”

Amendment
No.

Clause 66

LORD NASH

- 22 Page 48, line 35, at end insert –
“(ba) section 73;”

Clause 69

LORD NASH

- 23 Page 52, line 25, after “of” insert “detained persons’ EHC needs assessments and”
24 Page 52, line 37, leave out “(9)” and insert “(5)”
25 Page 52, line 43, leave out from first “to” to second “the” and insert “mediation under section (*Mediation: health care issues*) or (*Mediation: educational and social care issues etc*) are to be read as references to mediation with”

- 26 Page 52, line 44, at end insert –

“(7A) Where, by virtue of subsection (7), the appropriate person has informed the mediation adviser that he or she wishes to pursue mediation with the home authority –

- (a) the adviser must notify the authority, and
- (b) the authority must –
 - (i) arrange for mediation between it and the appropriate person,
 - (ii) ensure that the mediation is conducted by an independent person, and
 - (iii) participate in the mediation.

For this purpose a person is not independent if he or she is employed by a local authority in England.”

- 27 Page 53, line 1, leave out subsection (8) and insert –

“(8) Regulations under section (*Mediation: supplementary*) may make provision for the purposes of subsections (7) and (7A) of this section, and accordingly section (*Mediation: supplementary*) has effect for those purposes with the following modifications –

- (a) the references in subsection (1) to commissioning bodies are to be ignored;
- (b) the reference in subsection (1)(e) to a child’s parent is to be read as a reference to the parent of a detained person who is a child;
- (c) the reference in subsection (1)(f) to the child’s parent or young person is to be read as a reference to the appropriate person;
- (d) in subsection (3), paragraphs (b) and (c) are to be ignored;
- (e) subsection (5) is to be ignored.”

Clause 70

LORD NASH

- 28 Page 53, line 18, leave out “use its best endeavours to”

**Amendment
No.**

Clause 70 – continued

- 29** Page 53, line 22, leave out “use its best endeavours to”
- 30** Page 53, line 28, leave out paragraph (b) and insert “, or
(b) if it appears to the home authority that it is not practicable for that special educational provision to be provided, educational provision corresponding as closely as possible to that special educational provision, or”
- 31** Page 53, line 36, leave out paragraph (b) and insert “, or
(b) if it appears to the detained person’s health services commissioner that it is not practicable for that health care provision to be provided, health care provision corresponding as closely as possible to that health care provision, or”

Clause 73

LORD NASH

- 32** Page 55, line 26, at end insert –
“(ga) youth offending teams;
(gb) persons in charge of relevant youth accommodation;”

After Clause 74

LORD NASH

- 33** Insert the following new Clause –
“Review of resolution of disagreements
- (1) The Secretary of State and the Lord Chancellor must carry out a review of how effectively disagreements about the exercise of functions under this Part are being resolved.
 - (2) The Secretary of State and the Lord Chancellor must prepare a report on the outcome of the review.
 - (3) The Secretary of State and the Lord Chancellor must lay the report before Parliament before the end of the period of three years beginning with the earliest date on which any provision of this Part comes into force.”

Clause 76

LORD NASH

- 34** Leave out Clause 76

Amendment
No.

After Clause 86

EARL HOWE
LORD FAULKNER OF WORCESTER

35

Insert the following new Clause –

“Purchase of tobacco etc. on behalf of persons under 18

- (1) A person aged 18 or over who buys or attempts to buy tobacco or cigarette papers on behalf of an individual aged under 18 commits an offence.
- (2) Where a person is charged with an offence under this section it is a defence –
 - (a) that the person had no reason to suspect that the individual concerned was aged under 18, or
 - (b) in a case where the person has bought or attempted to buy cigarette papers, that the person had no reason to suspect that the individual concerned intended to use the papers for smoking.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) A local weights and measures authority in England and Wales must enforce the provisions of this section in its area.
- (5) Section 9 of, and Schedule 1 to, the Health Act 2006 (issue of fixed penalty notices in relation to certain smoking related offences) apply in relation to an offence under this section as they apply in relation to an offence under section 6(5) or 7(2) of that Act but with the following modifications –
 - (a) references to an enforcement authority are to be read as references to a local weights and measures authority;
 - (b) references to an authorised officer of an enforcement authority are to be read as references to any person authorised by a local weights and measures authority (whether or not an officer of the authority) in writing, either generally or specially, to act in matters arising under this section.
- (6) Section 11 of, and Schedule 2 to, the Health Act 2006 (offence of obstruction of enforcement officers and powers of entry etc) apply for the purposes of this section as they apply for the purposes of Chapter 1 of Part 1 of that Act but with the following modifications –
 - (a) references to an enforcement authority are to be read as references to a local weights and measures authority;
 - (b) references to an authorised officer of an enforcement authority are to be read as references to any person (whether or not an officer of the authority) authorised by a local weights and measures authority in writing, either generally or specially, to act in matters arising under this section;
 - (c) references to Chapter 1 of Part 1 of the Act of 2006 are to be read as references to this section;
 - (d) section 11(5) is to be ignored;
 - (e) paragraph 10 of Schedule 2 is to be ignored.
- (7) “Tobacco” has the same meaning in this section as in section 7 of the Children and Young Persons Act 1933 (offence of selling tobacco to children).”

Amendment
No.

After Clause 86 – continued

36

Insert the following new Clause –

“Prohibition of sale of nicotine products to persons under 18

- (1) The Secretary of State may by regulations make provision prohibiting the sale of nicotine products to persons aged under 18.
- (2) A person who breaches a prohibition in regulations under subsection (1) commits an offence.
- (3) Subsection (2) does not apply if –
 - (a) at the time of the sale, the person to whom the nicotine product is sold is employed by a manufacturer of nicotine products to which regulations under subsection (1) apply or by a dealer in such products (whether wholesale or retail), and
 - (b) the purchase of the product is for the purposes of the manufacturer’s or dealer’s business.
- (4) Where a person is charged with an offence under this section it is a defence that the person took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) The Secretary of State may by regulations –
 - (a) amend section (*Purchase of tobacco etc. on behalf of persons under 18*) (purchase of tobacco etc on behalf of persons under 18) so as to apply it (with or without modifications) in relation to nicotine products, or
 - (b) provide for that section to apply (with or without modifications) in relation to nicotine products.
- (7) Regulations under this section may make provision in relation to –
 - (a) all nicotine products,
 - (b) nicotine products of a specified kind, or
 - (c) nicotine products subject to specified exceptions.
- (8) The Secretary of State must obtain the consent of the Welsh Ministers before making regulations under this section which would (if contained in an Act of the National Assembly for Wales) be within the legislative competence of that Assembly.
- (9) For the purposes of this section “nicotine product” means –
 - (a) a device which is intended to enable nicotine to be consumed by an individual or otherwise to be delivered into the human body,
 - (b) an item which is intended to form part of a device within paragraph (a), or
 - (c) a substance or item which consists of or contains nicotine and which is intended for human consumption or otherwise to be delivered into the human body.
- (10) It does not matter for the purposes of subsection (9)(a) whether the device is also intended to enable any other substance to be consumed by an individual or otherwise to be delivered into the human body.

Amendment
No.

After Clause 86 – continued

- (11) The following are not nicotine products for the purposes of this section –
- (a) tobacco;
 - (b) cigarette papers;
 - (c) any device which is intended to be used for the consumption of lit tobacco.
- (12) In this section –
- “specified” means specified in regulations under this section;
- “tobacco” has the same meaning as in section 7 of the Children and Young Persons Act 1933 (offence of selling tobacco to children).”

37 Insert the following new Clause –

“Amendments consequential on section (*Prohibition of sale of nicotine products to persons under 18*)

- (1) The Children and Young Persons Act 1933 is amended in accordance with subsections (2) to (6).
- (2) In the italic heading before section 12A, after “tobacco” insert “or nicotine products”.
- (3) In section 12A (restricted premises orders) –
 - (a) in subsection (1), after “tobacco” insert “or nicotine”,
 - (b) in subsection (3), for “or cigarette papers” substitute “, cigarette papers or nicotine product”, and
 - (c) in subsection (7)(a), after “tobacco” insert “or nicotine”.
- (4) In section 12B (restricted sale orders) –
 - (a) in subsection (1), after “tobacco” insert “or nicotine”,
 - (b) in subsection (3) –
 - (i) in paragraph (a), for “or cigarette papers” substitute “, cigarette papers or nicotine product”,
 - (ii) in paragraph (b), for “or cigarette papers” substitute “, cigarette papers or nicotine products”,
 - (iii) in each of paragraphs (c) and (d) omit “cigarette” in each place, and
 - (iv) in each of those paragraphs, after “tobacco” insert “or nicotine products”,
 - (c) in subsection (5), after “tobacco” insert “or nicotine”, and
 - (d) in subsection (6) –
 - (i) omit “cigarette”, and
 - (ii) after “tobacco” insert “or nicotine products”.
- (5) In section 12C(1)(a) (enforcement), for “or cigarette papers” substitute “, cigarette papers or nicotine product”.
- (6) In section 12D (interpretation) –
 - (a) in subsection (1), in the opening words, for ““tobacco offence”” substitute ““tobacco or nicotine offence””,

Amendment
No.

After Clause 86 – continued

- (b) in that subsection omit the “or” at the end of paragraph (b) and at the end of paragraph (c) insert “, or
 - (d) an offence committed under section (*Prohibition of sale of nicotine products to persons under 18*) of the Children and Families Act 2014 on any premises (which are accordingly “the premises in relation to which the offence is committed”).”, and
- (c) after subsection (2) insert –
 - “(2A) In sections 12A to 12C “nicotine product” means a nicotine product within the meaning of section (*Prohibition of sale of nicotine products to persons under 18*) of the Children and Families Act 2014 the sale of which to persons aged under 18 is for the time being prohibited by regulations under subsection (1) of that section.”
- (7) In section 5 of the Children and Young Persons (Protection from Tobacco) Act 1991 (enforcement action by local authorities in England and Wales) –
 - (a) in subsection (1)(a), for “and sections 3 and 4 above” substitute “, sections 3 and 4 above and section (*Prohibition of sale of nicotine products to persons under 18*) of the Children and Families Act 2014 (prohibition of sale of nicotine products to persons under 18)”, and
 - (b) after subsection (1) insert –
 - “(1A) Subsection (1) applies in relation to section (*Prohibition of sale of nicotine products to persons under 18*) of the Children and Families Act 2014 only if regulations under subsection (1) of that section are for the time being in force.”
- (8) 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 or under section (*Prohibition of sale of nicotine products to persons under 18*).
- (9) In subsection (8) “enactment” includes a Measure or Act of the National Assembly for Wales.”

Clause 87

EARL HOWE
LORD FAULKNER OF WORCESTER

- 38 Page 63, line 1, after first “regulations” insert “–
 - (a) ”
- 39 Page 63, line 4, at end insert “;
 - (b) make provision for the appropriate minister to direct, in relation to cases of a particular description or a particular case, that any duty imposed on a local weights and measures authority in Great Britain or a district council in Northern Ireland by virtue of provision under paragraph (a) is to be discharged instead by the appropriate minister.”

Amendment
No.

Clause 87 – continued

40

Page 63, line 36, at end insert –

““appropriate minister” –

- (a) in relation to England, means the Secretary of State,
- (b) in relation to Wales, means the Welsh Ministers,
- (c) in relation to Northern Ireland, means the Department of Health, Social Services and Public Safety, and
- (d) in relation to Scotland, means the Scottish Ministers;”

Clause 88

EARL HOWE
LORD HUNT OF KINGS HEATH
BARONESS FINLAY OF LLANDAFF
LORD RIBEIRO

41★

Page 64, leave out lines 11 to 13 and insert –

- (1) The Health Act 2006 is amended as follows.
- (2) In section 5 (smoke-free vehicles) –
 - (a) after subsection (1) insert –
 - “(1A) Regulations under this section may in particular provide for a private vehicle to be smoke-free where a person under the age of 18 is present in the vehicle.”, and
 - (b) in subsection (2), for “The regulations” substitute “Regulations under this section”.
- (3) In section 9 (fixed penalties), after subsection (1) insert –
 - “(1A) The appropriate national authority may by regulations provide that, in the circumstances specified in the regulations, an authorised officer of an enforcement authority (see section 10) who has reason to believe that a person has committed an offence under section 8(4) in relation to a vehicle in relation to which the authorised officer has functions may give the person a penalty notice in respect of the offence.”
- (4) In section 10(1) (power to designate bodies or descriptions of body as enforcement authorities) –
 - (a) after “designating the” insert “persons or”, and
 - (b) after “descriptions of” insert “person or”.
- (5) In section 79 (orders and regulations) –
 - (a) in subsection (4) (powers to which affirmative procedure applies), in paragraph (a) (powers in Part 1), for “or 8(7)” substitute “, 8(7) or 9(1A)”,
 - (b) in that subsection, in paragraph (f) (powers in Schedule 1), for “or 8” substitute “, 8 or 17”, and

Amendment
No.

Clause 88 – continued

(c) after that subsection insert –

“(4A) No statutory instrument containing regulations under section 9(1A) or paragraph 17 of Schedule 1 may be made 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.”

(6) In Schedule 1 (fixed penalties), after paragraph 16 insert –

“Power to amend or modify Schedule

17 The appropriate national authority may by regulations –

- (a) amend this Schedule so as to modify its application in relation to penalty notices issued by an authorised officer of an enforcement authority of a particular kind, or
- (b) provide for this Schedule to apply with modifications in relation to such notices.”

After Clause 89

LORD NASH

42 Insert the following new Clause –

“Parent carers

(1) In the Children Act 1989, after section 17ZC (as inserted by section 89) insert –

“17ZD Parent carers’ needs assessments: England

- (1) A local authority in England must, if the conditions in subsections (3) and (4) are met, assess whether a parent carer within their area has needs for support and, if so, what those needs are.
- (2) In this Part “parent carer” means a person aged 18 or over who provides or intends to provide care for a disabled child for whom the person has parental responsibility.
- (3) The first condition is that –
 - (a) it appears to the authority that the parent carer may have needs for support, or
 - (b) the authority receive a request from the parent carer to assess the parent carer’s needs for support.
- (4) The second condition is that the local authority are satisfied that the disabled child cared for and the disabled child’s family are persons for whom they may provide or arrange for the provision of services under section 17.
- (5) An assessment under subsection (1) is referred to in this Part as a “parent carer’s needs assessment”.

Amendment
No.

After Clause 89 – continued

- (6) Subsection (1) does not apply in relation to a parent carer if the local authority have previously carried out a care-related assessment of the parent carer in relation to the same disabled child cared for.
- (7) But subsection (1) does apply (and so a parent carer’s needs assessment must be carried out) if it appears to the authority that the needs or circumstances of the parent carer or the disabled child cared for have changed since the last care-related assessment.
- (8) “Care-related assessment” means –
 - (a) a parent 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 6 of the Carers and Disabled Children Act 2000;
 - (iii) section 4(3) of the Community Care (Delayed Discharges) Act 2003.
- (9) A parent carer’s needs assessment must include an assessment of whether it is appropriate for the parent carer to provide, or continue to provide, care for the disabled child, in the light of the parent carer’s needs for support, other needs and wishes.
- (10) A local authority in carrying out a parent carer’s needs assessment must have regard to –
 - (a) the well-being of the parent carer, and
 - (b) the need to safeguard and promote the welfare of the disabled child cared for and any other child for whom the parent carer has parental responsibility.
- (11) In subsection (10) “well-being” has the same meaning as in Part 1 of the Care Act 2014.
- (12) A local authority, in carrying out a parent carer’s needs assessment, must involve –
 - (a) the parent carer,
 - (b) any child for whom the parent carer has parental responsibility, and
 - (c) any person who the parent carer requests the authority to involve.
- (13) A local authority that have carried out a parent carer’s needs assessment must give a written record of the assessment to –
 - (a) the parent carer, and
 - (b) any person to whom the parent carer requests the authority to give a copy.
- (14) A local authority in England must take reasonable steps to identify the extent to which there are parent carers within their area who have needs for support.

17ZE Parent carers’ needs assessments: supplementary

- (1) This section applies for the purposes of section 17ZD.

**Amendment
No.**

After Clause 89 – continued

- (2) The references in section 17ZD to providing care include a reference to providing practical or emotional support.
- (3) Where a local authority –
 - (a) are required to carry out a parent carer’s needs assessment, and
 - (b) are required or have decided to carry out some other assessment of the parent carer or of the disabled child cared for,
 the local authority may combine the assessments.
- (4) The Secretary of State may by regulations make further provision about carrying out a parent 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 parent carer’s needs assessment;
 - (b) specify matters which a local authority is to determine in carrying out a parent carer’s needs assessment;
 - (c) make provision about the manner in which a parent carer’s needs assessment is to be carried out;
 - (d) make provision about the form a parent carer’s needs assessment is to take.
- (5) The Secretary of State may by regulations amend the list in section 17ZD(8)(b) so as to –
 - (a) add an entry,
 - (b) remove an entry, or
 - (c) vary an entry.

17ZF Consideration of parent carers’ needs assessments

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

- (a) whether the parent carer has needs for support in relation to the care which he or she provides or intends to provide;
 - (b) whether the disabled child cared for has needs for support;
 - (c) if paragraph (a) or (b) applies, whether those needs could be satisfied (wholly or partly) by services which the authority may provide under section 17; and
 - (d) if they could be so satisfied, whether or not to provide any such services in relation to the parent carer or the disabled child cared for.”
- (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) after “(3AA),” insert “(3AB),” and
 - (b) after subsection (3AA) insert –

“(3AB) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 17ZE(5).”

Amendment
No.

After Clause 89 – continued

43

Insert the following new Clause –

“Arrangements for living with former foster parents after reaching adulthood

- (1) The Children Act 1989 is amended as follows.
- (2) After section 23C (continuing functions in respect of former relevant children) insert –

“23CZA Arrangements for certain former relevant children to continue to live with former foster parents

- (1) Each local authority in England have the duties provided for in subsection (3) in relation to a staying put arrangement.
- (2) A “staying put arrangement” is an arrangement under which –
 - (a) a person who is a former relevant child by virtue of section 23C(1)(b), and
 - (b) a person (a “former foster parent”) who was the former relevant child’s local authority foster parent immediately before the former relevant child ceased to be looked after by the local authority,
 continue to live together after the former relevant child has ceased to be looked after.
- (3) It is the duty of the local authority (in discharging the duties in section 23C(3) and by other means) –
 - (a) to monitor the staying put arrangement, and
 - (b) to provide advice, assistance and support to the former relevant child and the former foster parent with a view to maintaining the staying put arrangement.
- (4) Support provided to the former foster parent under subsection (3)(b) must include financial support.
- (5) Subsection (3)(b) does not apply if the local authority consider that the staying put arrangement is not consistent with the welfare of the former relevant child.
- (6) The duties set out in subsection (3) subsist until the former relevant child reaches the age of 21.”
- (3) In Part 2 of Schedule 2 (local authority support for looked after children) after paragraph 19B (preparation for ceasing to be looked after) insert –

“Preparation for ceasing to be looked after: staying put arrangements

19BA(1) This paragraph applies in relation to an eligible child (within the meaning of paragraph 19B) who has been placed by a local authority in England with a local authority foster parent.

Amendment
No.

After Clause 89 – continued

- (2) When carrying out the assessment of the child’s needs in accordance with paragraph 19B(4), the local authority must determine whether it would be appropriate to provide advice, assistance and support under this Act in order to facilitate a staying put arrangement, and with a view to maintaining such an arrangement, after the local authority cease to look after him or her.
- (3) The local authority must provide advice, assistance and support under this Act in order to facilitate a staying put arrangement if—
- (a) the local authority determine under sub-paragraph (2) that it would be appropriate to do so, and
 - (b) the eligible child and the local authority foster parent wish to make a staying put arrangement.
- (4) In this paragraph, “staying put arrangement” has the meaning given by section 23CZA.””

After Clause 101

LORD RAMSBOTHAM

44★ Insert the following new Clause—

“Use of the Human Rights Act in legal proceedings

After section 2F of the Children Act 2004 (as inserted by section 101) insert—

“2G Use of the Human Rights Act in legal proceedings

The Commissioner may, in the course of legal proceedings for judicial review which it institutes (or in which it intervenes), rely on section 7(1)(b) of the Human Rights Act 1998 (c. 42) (breach of Convention rights); and for that purpose—

- (a) the Commissioner need not be a victim or potential victim of the unlawful act to which the proceedings relate,
- (b) the Commissioner may act only if there is or would be one or more victims of the unlawful act,
- (c) section 7(3) and (4) of that Act shall not apply, and
- (d) no award of damages may be made to the Commissioner (whether or not the exception in section 8(3) of that Act applies);

and an expression used in this subsection and in section 7 of the Human Rights Act 1998 has the same meaning in this subsection as in that section.””

Amendment
No.

Clause 126

EARL HOWE
LORD FAULKNER OF WORCESTER

45

Page 134, line 24, at end insert—

“(ca) regulations under section “(*Prohibition of sale of nicotine products to persons under 18*) or (*Amendments consequential on section (Prohibition of sale of nicotine products to persons under 18)*),”

Children and Families Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON THIRD READING

4th February 2014

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS
LONDON – THE STATIONERY OFFICE LIMITED

HL Bill 83 – I

(36896)

55/3



ISBN 978-0-10-854550-4

