HOUSE OF LORDS

Library Note

Children and Families Bill (HL Bill 32 of 2013–14)

This Library Note provides information on the Children and Families Bill, which is due for second reading in the House of Lords on 2 July 2013. The Note is intended to be read in conjunction with two House of Commons Library Research Papers: *Children and Families Bill* (15 February 2013, RP13/11) and *Children and Families Bill Committee Stage Report* (31 May 2013, RP13/32), which provide background information and summarise the second reading debate and committee stage in the House of Commons. This Note summarises the report stage and third reading debate in the House of Commons. The Bill covers several areas, including: adoption and children in care; the family justice system; children and young people with special educational needs; the Office of the Children's Commissioner for England; rights to leave and pay for parents; the right to request flexible working; and early years education and child care.

Dorothy Hughes
28 June 2013
LLN 2013/018

Table of Contents

1. Introduction

The Children and Families Bill was introduced in the House of Commons on 4 February 2013, as Bill 131 of 2012–13. The Bill completed its second reading and committee stages in the House of Commons before the end of the 2012–13 session. The Bill was one of five which were selected by the Government to carry over into the 2013–14 session, and was reintroduced on 9 May 2013, when it was read for a first and second time in the current session, without debate. The parliament website offers a page of information on the Bill, including the text of the Bill and links to each debate. The Department for Education website also has a page of information on the Bill, with a range of key documents.

The Bill was announced in the Queen's Speech on 9 May 2012; a briefing paper which was published alongside the speech provides a summary of the Bill's intentions (Department for Education, 'Children And Families Bill To Give Families Support When They Need It Most', 9 May 2012). The Bill covers several areas, including: adoption and children in care; the family justice system; children and young people with special educational needs; the Office of the Children's Commissioner for England; rights to leave and pay for parents; the right to request flexible working; and early years education and child care. Before the publication of the Bill, the Government carried out public consultation on several of the key proposals, and published some draft clauses, which were given pre-legislative scrutiny by Select Committees.

1.1 Policy Development and Pre-Legislative Scrutiny

In March 2012, the Government published proposals to improve the adoption process and reduce delays in the *Adoption Action Plan*. In November 2012, the Government published draft clauses on adoption: *Draft Legislation on Adoption: Early Permanence Through 'Fostering for Adoption' And Matching for Adoption* (November 2012, Cm 8473). Pre-legislative scrutiny was carried out by the House of Lords Select Committee on Adoption Legislation, which published a report, *Adoption: Pre-Legislative Scrutiny* (19 December 2012, HL paper 94 of session 2012–13).

In March 2011, the Government published a Green Paper entitled *Support and Aspiration: a New Approach to Special Educational Needs and Disability* (Cm 8027), which included proposals on special educational needs. Following a period of consultation, the Government published a response in May 2012, *Support and Aspiration: a New Approach to Special Educational Needs and Disability Progress and Next Steps*. The Government also set up 20 local "pathfinder" pilot schemes in September 2011. In October 2012, the Department for Education published an *Interim Evaluation Report* on the pathfinder programme. The pathfinder programme was originally due to end in March 2013, but has been extended to September 2014 (*Oral Evidence Taken Before the Education Committee* (6 November 2012, Q198, HC paper 631-II of session 2012–13, Ev30). In September 2012, the Government published *Draft Legislation on Reform of Provision for Children and Young People with Special Educational Needs* (Cm 8438). The House of Commons Education Committee conducted pre-legislative scrutiny on the proposed clauses, and published a report, *Pre-Legislative Scrutiny: Special Educational Needs* (19 December 2012, HC paper 631-I of session 2012–13).

In July 2012, the Government published draft clauses to reform the Office of the Children's Commissioner for England (Department for Education, *Reform of the Office of the Children's Commissioner*, 11 July 2012). These were based on the recommendations of a report by Dr John Dunford which was published in December 2010 by the Department for Education, *Review of the Office of the Children's Commissioner (England)*. Pre-legislative scrutiny of the draft clauses was undertaken by the Joint Committee on Human Rights, which published a report, *Reform of the*

Office of the Children's Commissioner (7 December 2012, HL paper 83/ HC paper 811 of session 2012–13).

In 2010 the Government commissioned an independent panel to review the family justice system. The *Family Justice Review: Final Report* was published in November 2011. In February 2012, the Government published a response, in which they accepted the majority of the panel's recommendations: *The Government Response to the Family Justice Review*. The Government published *Draft Legislation on Family Justice* in September 2012 (Cm 8437). In November 2012, the Government also published a draft clause on shared parenting. The House of Commons Justice Committee considered all these proposals in a report, *Pre-Legislative Scrutiny of the Children and Families Bill* (14 December 2012, HC paper 739 of session 2012–13).

On 5 February 2013, the Government published the Bill, accompanied by a document which provides responses to each of the pre-legislative scrutiny reports, *Children and Families Bill 2013: Contextual Information and Responses to Pre-Legislative Scrutiny*. The Joint Committee on Human Rights has since published a second report on the Bill: *Legislative Scrutiny: Children and Families Bill; Energy Bill* (27 June 2013, HL paper 29/HC paper 452 of session 2013–14). For a full account of the background to the Bill, please see the House of Commons Library paper *Children and Families Bill* (15 February 2013, RP13/11). This offers a summary of the Bill's proposals, the policy background, the current law in each area, and initial reactions to these proposals in the press and from interest groups.

1.2 The Bill as Introduced in the House of Commons

The Bill received its second reading in the Commons on 25 February 2013, when the programme motion, money resolution, ways and means resolution and carry-over motion were also agreed. Opening the debate, the Parliamentary Under-Secretary of State for Children and Families, Edward Timpson, stated:

> The coalition Government are absolutely determined that all children, whatever their background or start in life, should have the opportunity to realise their potential and to succeed. In particular, we have a fundamental responsibility as a Government to look out for the most vulnerable children in our society and to not only protect their welfare but safeguard their interests and their future. That is why the measures in the Bill are so closely entwined with what I, as someone with compassion at his core, am aiming to achieve as the Minister responsible for children and families and to what the Government want to achieve for all our children.
>
> (HC *Hansard*, 25 February 2013, col 45)

Mr Timpson explained that:

> This Bill includes measures to reform adoption, breaking down the barriers for adopters and providing more support to children. It will build on what we have already done to reform family justice, tackling appalling delays and focusing on the needs of the child. It will improve services for vulnerable young people, transforming the special educational needs system and doing more to protect children's rights... The majority of children will benefit from the introduction of a shared parental leave system and reforms to flexible working and child care. Those changes will help to create a truly family-friendly society.
>
> (ibid)

He highlighted the consultation which had taken place prior to the publication of the Bill, suggesting "The Bill is all the stronger for the fact that we consulted children and young people on the key proposals throughout, and we continue to do so"; adding that "We have, of course, also listened to adults. The Bill evolved in its current form through extensive partnership working. Numerous consultations over many months sought a wide range of views—from those who provide services to those who benefit from them. That is particularly true of provision for special educational needs. Pathfinders have tested and continue to test our reforms to make sure they are delivering on our aims" (ibid, col 47).

The Public Bill Committee on the Children and Families Bill published its call for written evidence on 27 February 2013. The Bill had 19 sittings in committee between 5 March and 25 April 2013. In its first four sessions the committee took evidence from a range of witnesses. Proceedings of the committee's sessions, along with all written evidence, can be found on the committee's page of the parliament website. A House of Commons Library Research Paper provides an account of the committee stage, and a summary of the second reading debate: *Children and Families Bill Committee Stage Report* (31 May 2013, RP13/32). This Note will summarise the report stage and third reading debate in the House of Commons.

2. Commons Report Stage

The report stage debate took place on 11 June 2013. The first section of the debate was led by the Parliamentary Under-Secretary of State for Children and Families, Edward Timpson, and focused on special educational needs. The debate then moved on to a discussion of other aspects of the Bill, including early years education, child minders and relationship and sex education, led by both Mr Timpson and the Parliamentary Under-Secretary of State for Education and Childcare, Elizabeth Truss.

2.1 Transfer of Education Health and Care Plans

The Bill introduces Education Health and Care Plans, or EHC Plans, which will replace Special Educational Needs Statements for children and Learning Difficulty Assessments for 16 to 25 year olds. Opening the report stage debate, Edward Timpson introduced new clause 9, to enable an EHC Plan issued by one local authority to be transferred to another local authority. He said:

> It is important that the responsibilities of local authorities are clear when a child or young person with an education, health and care plan moves from one area to another. The new clause provides for regulations to specify those responsibilities. Regulations will make it clear that the new local authority is treated as though it had made the plan. This ensures that plans do not lapse when children and young people move from one area to another and that support for their special educational needs is maintained.
>
> (HC *Hansard*, 11 June 2013, col 185)

Caroline Nokes, Conservative MP for Romsey and Southampton North, welcomed the new clause, suggesting that it would be particularly helpful for military families, who are often required to move around the country for work (ibid, col 210). New clause 9 was added to the Bill without a division (ibid, col 222).

2.2 Medical Conditions

Adrian Sanders, Liberal Democrat MP for Torbay and Chairman of the All-Party Group on Diabetes, tabled new clause 8, which would require school governors to publish and implement a "medical conditions policy" in order to support the needs of children with health conditions. Mr Sanders said that schools should have a policy in place for conditions such as diabetes, epilepsy, and asthma, suggesting that schools should provide individual healthcare plans for students with these conditions, and should train school staff in this condition (ibid, col 207). He said:

> All too often, schools do not have adequate plans in place to deal with the day-to-day needs of those with long-term conditions. That leads to children being made to feel separate and neglected, leaving them more open to bullying, and can also have a detrimental impact on their education. Diabetes and other long-term conditions should have no impact on a child's ability to learn—they do not have special educational needs—but if those conditions are not managed appropriately in the classroom, they will impede a child's education.
>
> (ibid, col 208)

During the committee stage debate, Opposition Members had tabled a similar amendment (new clause 19, which was discussed by the Public Bill Committee during their tenth sitting on 19 March 2013, col 350). Sharon Hodgson, Shadow Minister for Education, spoke in support of the new clause during the report stage, suggesting that:

> Some 29,000 children in our schools have diabetes, 1.1 million have asthma, 60,000 have epilepsy and many more have heart conditions or suffer from regular migraines or the after-effects of meningitis or cancer. Those children and their parents deserve to know that their school can effectively manage those conditions while they are there; that the child will be given their medication, inhaler or whatever they need whenever they need it; that staff will know when they are being affected by their condition; and that allowances will be made for them where appropriate.
>
> (HC *Hansard*, 11 June 2013, col 190)

Edward Timpson responded to such concerns, explaining that "The Education Act 2002 already places a duty on the governing body of a maintained school to promote the well-being of pupils and schools are already under a duty through the Equality Act 2010 not to discriminate against pupils with long-term health problems". He said that guidance on "managing medicines" would be published this year, providing clarification on schools' responsibilities. However, he stated that he took such concerns "extremely seriously" and said he would "look closely at the detail" of the proposal contained in new clause 8 (ibid, col 216). Mr Sanders did not press his amendment to a division.

2.3 The Local Offer

The Bill proposes that local authorities would be required to publish a 'local offer' of the support available for children and young people with SEN. The Public Bill Committee discussed the content of the local offer; Sharon Hodgson moved amendments which sought to require local authorities to publish information on the provision for SEN which was currently available,

not, as the Bill stands, provision which it expects to be available. During the report stage debate, the Opposition tabled amendments 66 and 67 to the same effect, and amendment 69, which would require the Secretary of State to set national standards for what the local offers should include. Sharon Hodgson spoke to amendment 69, stating:

> I am no enemy of localism, as the Minister might argue—local offers should absolutely reflect local needs and priorities and be drawn up in consultation with local parent groups. However, if we are to tackle the unwritten postcode lottery, there should surely be a baseline of services that any child or young person anywhere in England should be able to expect. I have said before that local offers may simply codify the unwritten postcode lottery, and that they have the potential to result in a race to the bottom as local authorities look at their budgets and seek to undercut the local offers of their neighbours.
>
> (ibid, col 188)

Edward Timpson responded to say that, since "The local authority does not have control of all the services set out in the local offer, it can only set out what it expects to be available" (ibid, col 212). He also suggested that national standards for local offers would be unhelpful, saying:

> Amendment 69 concerns minimum standards in the local offer. The key to the success of the local offer in each area will be the transparency of information, and the involvement of local parents, children and young people in developing and reviewing the local offer. Central prescription would stifle the very innovation and responsiveness we want to see the local offer trigger, and stipulating minimum standards for the local offer would weaken local accountability.
>
> (ibid, col 212)

However, Mr Timpson did say that he would consider the Opposition's amendment 68, which would include a reference to "online communities" in the local offer. He said "I will consider including a reference to online communities in the code" (ibid, col 212). The Opposition's amendments relating to the local offer were not made.

2.4 Young Offenders

Clause 69 of the Bill in the Commons (now clause 70 of the Bill as introduced in the Lords) states that none of the provisions on SEN apply to young people in custody. During report stage the House debated amendment 47, which was tabled by Robert Buckland, Conservative MP for South Swindon and signed by Sharon Hodgson, and sought to remove clause 69 from the Bill. Mrs Hodgson spoke to their amendment, explaining:

> We are both extremely keen to see some movement from the Government on clause 69, which states that children and young people in custody should not benefit from the reforms in this part of the Bill. I feel—and I think the Minister agrees—that this is a massive missed opportunity. Many of the inmates of young offenders institutes will have special educational needs. For example, 18 percent of young offenders have a statement, compared with just 2 percent to 3 percent of the general population. At least 60 percent will have communication problems and a similar percentage will have literacy and numeracy difficulties. Many of those special educational needs will never have been

> identified, despite the fact that in many cases they were probably a contributory factor to those people finding themselves in this position. As it stands, they will not be able to continue to receive the support they were already getting if they are placed in custody, and nor will they be eligible for an assessment if someone working with them in the institution thinks they need one.
>
> (ibid, col 189)

She predicted that, if the clause was not removed, it would "face even tougher opposition from the noble Lords in the other place" (ibid, col 190). The Public Bill Committee divided on the same issue; the committee voted by 9 votes to 7 for clause 69 to stand part of the Bill. For a summary of discussion of this issue during the committee stage, please see the section on 'Detained Children and Young People' on page 33 of the House of Commons Library paper *Children and Families Bill Committee Stage Report* (31 May 2013, RP13/32).

Responding to the amendment during report stage, Edward Timpson explained why he was unwilling to remove clause 69 from the Bill:

> Since our debate in committee, I have considered the issue further and remain of the view that clause 69 is necessary, not because we are not committed to supporting young offenders, but because it prevents our legislation from coming into conflict with existing comprehensive statutory provisions governing how education support is delivered in custody, as set out in the Apprenticeship, Skills, Children and Learning Act 2009.
>
> (HC *Hansard*, 11 June 2013, col 220)

Amendment 47 was not made.

2.5 Social Care Provision Under EHC Plans

Amendment 37, which was also co-signed by Robert Buckland and Sharon Hodgson, sought to introduce the requirement that, if an EHC Plan "specifies social care provision, the responsible local authority must secure the specified social care provision for the child or young person". Discussions took place in the Public Bill Committee about how health and social services would be compelled to fulfil the requirements set out in an EHC Plan. In response, the Government introduced a series of amendments to impose new duties on health commissioners to deliver the health care provision specified in EHC plans. An account of these discussions and the Government amendments is available in the section entitled 'New Duties on Health Commissioners' on pages 13 to 15 of the House of Commons Library paper *Children and Families Bill Committee Stage Report* (31 May 2013, RP13/32).

Speaking to amendment 37 in the report stage debate, Sharon Hodgson acknowledged the efforts that the Government had made to address Members' concerns during the committee stage but suggested that further work was necessary:

> Education, health and care plans should do what they say on the tin and entitle the holder to expect all of the provisions they detail. At the beginning of this process we fear that they will be no better than the statements they are replacing, and simply provide entitlements to education provision. Ministers had said that there was no way of imposing duties on health bodies to keep up their end of the bargain, but the

> Minister, to his credit, quickly found a way of placing duties on them to deliver what they are expected to, and improved the plans immeasurably in doing so.
> One piece of the jigsaw remains, however: the social care element. Once again, we have an opportunity in this Bill vastly to improve the rights of children and young people and their families in accessing the services they need. Amendment 37 would add the finishing touch to education, health and care plans by placing a duty on local authorities to secure the social care provision detailed within them, meaning that those plans would provide families with the certainty and confidence they need. I urge the Minister to find a way to make that happen.
>
> (HC *Hansard*, 11 June 2013, col 190)

Robert Buckland suggested that, without this amendment, a "silo effect" would be created. He said:

> I enjoyed the exchange that I had with the Minister about this matter in committee. It is correct that the groundbreaking Chronically Sick and Disabled Persons Act 1970 contains an important duty that can be applied to social care services for disabled children. However, there is a danger that in failing to link that existing duty with the duties that we are creating, we will not escape the silo effect of assessments. What do I mean by that? There is a danger that a wholly separate social care assessment will continue to be made, without the global approach that I and the Minister believe is the ethos behind the Bill. It would therefore be a missed opportunity if, for want of a few short amendments, we missed this trick.
>
> (ibid, col 191)

Edward Timpson responded that the existing legal duties were sufficient:

> Amendment 37 seeks a specific duty on authorities to deliver social care provision in EHC plans. As I said in committee, existing duties in section 17 of the Children Act 1989 provide important protections. I understand concerns that this is a general, not an individual duty, but I fully expect that local authorities will provide care services to meet assessed needs. In the case of disabled children, the Chronically Sick and Disabled Persons Act 1970 applies, and once the authority is satisfied it is necessary to provide support and assistance, it is required to do just that. I do not think it right to prioritise, as a matter of course, children with EHC plans over all other children in need, who would then risk being marginalised—I am thinking, for example, of children suffering neglect or abuse.
>
> (ibid, col 214)

Amendment 37 was not made.

2.6 Fostering for Adoption

The Bill would require local authorities to consider a 'fostering for adoption' placement when placing a child for adoption. Opposition Members expressed concern that this process could be instigated at too early a stage, before every effort had been made to allow the child to return to their family. Lisa Nandy, Shadow Minister for Education, spoke to amendment 33, which she

said would: "ensure that children are not placed in fostering or adoption placements before it has been decided that adoption is the plan" (ibid, col 256).

Edward Timpson said:

> I am pleased to reassure honourable Members that I am giving consideration to amending the clause to be clearer that local authorities must first consider placing a child with relatives and friends before they consider a "fostering for adoption" placement. This is an issue that I expect to be returned to in the other place, and I know that Members will welcome that reassurance.
>
> (ibid, col 267)

During the third reading debate, Mr Timpson added that the Government were looking at "introducing new safeguards through regulations to ensure that a local authority notifies the child's birth parents when considering a fostering for adoption placement" (ibid, col 288).

Amendment 33 was not made.

2.7 Adoption and Ethnicity

The Bill proposes to remove the statutory requirement for the ethnicity of a child being placed for adoption to be considered in determining that placement. Lisa Nandy, Shadow Minister for Education, tabled amendment 34 at report stage, which proposed that the welfare checklist (which, under current legislation, courts and adoption agencies must have regard to when making a decision in relation to the adoption of a child) should be revised to include ethnicity. She said:

> The amendment would not ensure that children were matched only with prospective adopters with the same background as them. Crucially, however, it would ensure that thoughtful consideration was given to ethnicity so that such factors were explored.
>
> (ibid, col 257)

Amendment 34 was not made. Lisa Nandy had tabled an amendment to the same effect in the Public Bill Committee (Public Bill Committee, sixth sitting, 12 March 2013, cols 199–218). The House of Lords Select Committee on Adoption Legislation also recommended that ethnicity should be added to the welfare checklist, stating:

> We are concerned as to how the removal in England of section 1(5) of the Adoption and Children Act 2002 will be interpreted by those working in the field, and that it may be seen as a signal that race and ethnicity should be given no weight in the matching process. A better balance needs to be achieved. We therefore propose that the welfare checklist, at section 1(4) of the Act, should be amended to include considerations of ethnicity. This will ensure that issues of race, religion, culture and language are considered alongside the other elements of a child's welfare.
>
> (House of Lords Select Committee on Adoption Legislation, *Adoption: Pre-Legislative Scrutiny*, First Report, HL paper 94 of session 2012–13, p 4)

The House of Commons Library has published a note which provides information on *Inter-Racial Adoption* (21 January 2013, SN06351).

2.8 Child Witnesses

During the report stage debate, the Opposition tabled new clause 19, in order to introduce measures to provide support for child witnesses who are required to give evidence in court. Lisa Nandy stated that this "would prevent the harrowing and aggressive questioning of young witnesses in court" (HC *Hansard*, 11 June 2013, col 257). The Lord Chancellor and Secretary of State for Justice, Chris Grayling, published a Written Ministerial Statement on this subject on 11 June 2013:

> The Government are committed to improving the experience of witnesses in court to ensure that they are supported to give their best evidence. Recent harrowing court cases involving children and other vulnerable people have highlighted that there is more we can do. For some time now, the Ministry of Justice has been working with our partners in the criminal justice system to actively look at the issues around implementing section 28 of the Youth Justice and Criminal Evidence Act 1999. Section 28 would allow for recorded pre-trial cross-examination of vulnerable and intimidated witnesses in cases where there may be a delay in the holding of the trial or where the nature of the case is such that the witness could be cross-examined in advance of trial. I am confirming today the Government's plan to pilot section 28 by the end of the year in three Crown court locations—Liverpool, Leeds and Kingston upon Thames. The pilots will run for six months followed by an assessment period after which we will consider how best to take this measure forward.
>
> (ibid, col 6WS)

Lisa Nandy welcomed this announcement, and asked for further details on the pilot scheme (ibid, col 257).

2.9 Tax Free Childcare

Following the above discussions on special educational needs, the House moved on to debate other aspects of the Bill. The Parliamentary Under-Secretary of State for Education and Childcare, Elizabeth Truss, introduced new clause 10, which she explained "introduces paving legislation to allow Her Majesty's Revenue and Customs to begin to set up tax-free child care" (ibid, col 224). She provided the following information on the tax-free child care scheme:

> Under the current employer-supported child care voucher scheme, which was introduced by the previous Government, the question of who receives support is arbitrary. It is also highly inefficient, with 33 percent of the total amount being spent on overheads. At present, only 5 percent of employers offer employer-supported child care, and only a fifth of employees are eligible for it. Those who are self-employed do not have access to it, and whether a parent can or cannot get it is a lottery. Strangely, as more than one parent can claim employer-supported child care, in some cases there are two claimants for one child. That means that the costs for one child could be covered more than for a single parent with several children, and that is neither a sensible nor fair way to continue.

> Our new tax-free child care scheme will resolve those anomalies. It will be available to any working family, except where one or both earners pay the additional rate of income tax. It will be on a per-child basis and include the self-employed and those on the national minimum wage. Tax-free child care means that around 2.5 million families will now have access to support. That support will be worth the same as the basic rate of income tax at 20 percent of costs, making child care costs effectively tax free. It will mean that the average family with two children will receive up to £2,400 each year. Those on lower incomes will continue to have 70 percent of their child care costs paid through tax credits and, in future, universal credit, and there will be an additional £200 million to help those in receipt of universal credit ensure that work always pays.
>
> (ibid, col 228)

Ms Truss explained that the Government were not intending to introduce the tax-free child care scheme immediately, but would launch a consultation. She said that "new clause 10 has been tabled to enable HMRC to start developing the scheme. Although we will consult in full on its details, the basic tenets have been set out. To ensure that the scheme is in operation by the autumn 2015 target, work on its foundations must commence now" (ibid). A Government press release provides further information on the scheme (HM Treasury, 'New Scheme to Bring Tax-Free Childcare for 2.5 Million Working Families', 19 March 2013).

Meg Hillier, Labour MP for Hackney South and Shoreditch asked the Minister for clarification, saying:

> What she seems to be proposing is that after people have passed through many hoops, including having both parents working and receiving certain levels of income, 20 percent is paid, which is not tax-free for the higher rate taxpayer. I want her to clarify this point: she talked about those paying additional tax not qualifying, so will she explain what tax threshold this will and will not apply to.
>
> (HC *Hansard*, 11 June 2013, col 238)

Elizabeth Truss said "I want to reassure the hon Member for Hackney South and Shoreditch (Meg Hillier) that "tax-free" refers to the 20 percent that parents will benefit by. The critical point is that it is open to many more families" (ibid, col 240). New clause 10 was added to the Bill without a division (ibid, col 240).

2.10 Ratio of Children to Staff in Nurseries and Childcare

In January 2013, the Government published a policy document, *More Great Childcare*, which set out proposals to increase the ratio of children to staff which is permitted in childcare and nursery settings. The Public Bill Committee discussed this matter at length; although the Government did not introduce the proposals as part of the Bill, the Opposition tabled amendments to pre-emptively combat such changes. A summary is provided in the House of Commons Library paper, *Children and Families Bill Committee Stage Report* (31 May 2013, RP13/32) in the section on 'Staff: Child Ratios' on pages 35 and 36.

Elizabeth Truss made an announcement on this subject during the report stage debate. She said:

> As the House knows, we have proposals, on which we have consulted, for providers with highly qualified staff to be able to operate more flexible staff-to-child ratios, in line

> with best practice in leading European countries such as France, Holland and Germany. I highlight the fact that these proposals would be entirely optional for nurseries and are about empowering the front line.
>
> The proposals received support from, among others, Sir Martin Narey, formerly of Barnado's, and Sir Michael Wilshaw of Ofsted. I firmly believe that these flexibilities would allow nurseries to offer more choice of high-quality child care places to parents, invest additional revenue in attracting the best staff, and reduce costs for parents. However, as I made clear on the media this morning, it has not been possible to reach cross-Government agreement, so we are not proceeding with this reform. That will not stop me working to make affordable, quality child care available to all. I am absolutely committed to this goal.
>
> (HC *Hansard*, 11 June 2013, col 224)

Graham Stuart, Conservative MP for Beverley and Holderness and Chair of the Education Select Committee, expressed regret that these proposals would not be implemented; he said "I think there is merit in the work my hon. Friend has done and I pay tribute to her for the effort and energy she has put into it. I am disappointed that it has been brought to a halt. Will she confirm that the Deputy Prime Minister agreed to the proposals initially, only to renege on that agreement later?" (ibid, col 225).

The Opposition tabled new clauses 6 and 7, which would have inserted into the Bill the current ratios permitted in different nursery and childcare settings. Further information on the current ratios is set out in the Government document, *More Great Childcare* (January 2013). Sharon Hodgson said that she welcomed the Government's announcement that they would not be pursuing their proposals on ratios. She cited opposition which had been expressed for the proposals by professional and parent groups and argued that the new clauses were necessary in order to "ensure that parents will never again face such a threat from a Minister who just brings forward a mad idea out of the blue, against all the evidence and without any support from anyone—whether professional, parent or expert—in the country" (HC *Hansard*, 11 June 2013, col 232).

Dan Rogerson, Liberal Democrat MP for North Cornwall, sought to "clarify these matters from the perspective of the Liberal Democrat Benches"; he suggested that "Liberal Democrats policy is clear. We are not convinced that the ratio change is necessary"; however, he argued that new clauses 6 and 7 were "entirely unnecessary", suggesting: "There are a number of things that any future Government might propose to do about child care with which we may be unhappy, but as those things are not being proposed, it is utterly pointless to say we have to have a vote on them now" ibid, col 236). New clause 6 was defeated on a division (Ayes 222, Noes 303, ibid, col 268).

2.11 Sex and Relationship Education

New clause 20, tabled by the Opposition and also signed by Caroline Lucas, Green Party MP for Brighton, Pavilion, sought to introduce sex and relationship education as a compulsory subject in the national curriculum, whilst retaining the right for parents to request that their

children should be withdrawn from the lesson. Lisa Nandy, Shadow Minister for Education, said that:

> New clause 20 would ensure that sex and relationship education is available to all children across the country. The nation has been shocked by child grooming scandals where young girls have been systematically exploited by older men—often men who they thought were taking care of them. Research by the Children's Commissioner has found that far too many young people—boys and girls—do not know what a good relationship looks like. Worryingly, it also found that many of them did not even understand the concept of consent. Our view is that we are failing to equip young people with the knowledge, skills and resilience they need to keep themselves safe. We must do much more to tackle child abuse, but more importantly we must prevent it from happening in the first place.
>
> ... We believe that parents should retain the right to withdraw children aged 15 or under because they know their children best, but equally we know that the vast majority of parents would like their children to have access to sex and relationship education. For children whose parents do not talk to them about these issues, this could be critical in keeping them safe.
>
> (ibid, col 255)

Fiona Bruce, Conservative MP for Congleton, agreed that sex education was "essential" but suggested that introducing this subject to the national curriculum would not be the right approach:

> At present, all secondary schools must provide sex education by law, and although there is no centrally determined curriculum, governors and teachers, in conversation and consultation with parents, should develop a curriculum on a school-by-school basis, according to the ethos of the school. When properly applied, that decentralised approach means that this sensitive subject can be framed in a manner that has regard for parental views and concerns. If the curriculum were set centrally, that could and probably would disappear.
>
> (ibid, col 260)

Dan Rogerson suggested that "the Liberal Democrats remain committed to progress on sex and relationship education, although there is no majority across the Government" (ibid, col 292). Edward Timpson responded for the Government, suggesting that:

> On personal, social and health education, we all recognise that this is an important issue, but we do not have unanimity on what constitutes the best approach. The expectation that all schools should teach PSHE is outlined in the introduction to the framework of the proposed new national curriculum. It is not a statutory requirement, however, as we strongly believe that teachers need the flexibility to use their professional judgment to decide when and how best to provide PSHE in their local circumstances.
>
> (ibid, col 267)

New clause 20 was defeated on a division (Ayes 219, Noes 303, ibid, col 274).

2.12 Young Carers

A group of Members, including Labour, Conservative and Liberal Democrat Members, tabled new clause 5, which sought to place duties on local authorities to assess and meet the needs for support of children who care for adults or disabled children. This matter was also discussed in committee (for a summary of the Public Bill Committee's discussions on this subject please see the paper produced by the House of Commons Library, *Children and Families Bill Committee Stage Report*, 31 May 2013, RP13/32, p 46). Paul Burstow, Liberal Democrat MP for Sutton and Cheam, spoke to the new clause during the report stage debate:

> I want briefly to draw attention to new clause 5, which addresses the issue of young carers and the fact that the good intentions of the Government in the Care Bill to extend new rights to adult carers have inadvertently created a gap that leaves young carers in a position where they would be less well favoured than adult carers in the future.
>
> As a result of the new clause, tabled by a cross-party group of Members, the Government can ensure that young carers are treated in a way that is fair and appropriate for them and are not placed in a position where they are undertaking inappropriate and burdensome caring responsibilities. I hope that the Government will be able to give us a good sign of intent to deliver on this agenda. They are doing a great job for adults in the Care Bill and, in carers week, we need to do the same for young carers.
>
> (HC *Hansard*, 11 June 2013, col 264)

New clause 5 was not added to the Bill. However, Edward Timpson said that the Government agreed that this matter needed attention and was considering whether to take legislative action:

> In committee we heard heart-felt arguments about the need to do more for young carers. I promised to reflect carefully on the arguments for legislative change. Since then I have discussed the matter with the Minister for care services, my hon Friend the Member for North Norfolk (Norman Lamb), and we have agreed that our joint aim is to ensure that young carers are protected. We firmly believe that taking a "whole family" approach to the assessment of care needs will be the key to achieving just that. I have now given the matter careful thought and, with the changes being introduced by the Care Bill for adult carers, I am persuaded that the time is right to see what we can do to remove any barriers that may be preventing these vulnerable young people and their families from receiving the life-changing support they need.
>
> I have asked officials to look at how the legislation for young carers might be changed so that rights and responsibilities are clearer to young carers and practitioners alike. We will also look at how we can ensure that children's legislation works with adults' legislation to support the linking of assessments, as set out in the Care Bill, to enable "whole family" approaches. We will ensure that interested parties, including hon. Members, are consulted on that work.
>
> (ibid, col 267)

2.13 Time Constraints

Towards the end of the report stage debate, several Members expressed frustration at the lack of time which was left for discussion, due to the Programme Motion which was agreed on 25 February 2013 (HC *Hansard*, 25 February 2013, cols 132–3). Tim Loughton, Conservative MP for East Worthing and Shoreham, said:

> It is unfortunate that we have a large group of new clauses and amendments here, covering a very wide variety of important subjects to do with personal, social and health education, foster care continuing support, young carers, care leaver assistants, birth registration, adoption and so on, and yet we are left with barely an hour, particularly for Back Benchers who have not had the opportunity in committee to point out things that we think are missing from the Bill or things that could be improved. On second reading we were time-limited in our contributions, too.
>
> (HC *Hansard*, 11 June 2013, col 250).

Lisa Nandy, Shadow Minister for Education, said: "Many Members here today are deeply frustrated that they have not yet had any opportunity to scrutinise some really important areas of the Bill, and I share their frustration" (ibid, col 255). Sharon Hodgson suggested that the report stage should have been given two days of debate:

> It is a great shame that the Government refused to structure this debate in a way that would have given us time to debate all the issues, and that we did not have two days to consider such a large and wide-ranging Bill that contains important measures relating to vulnerable children. Nor have we had time to do justice to our new clauses or that tabled by the hon. Member for South Swindon (Mr Buckland), which seek to improve the lives of young carers.
>
> (ibid, col 289)

3. Commons Third Reading

Following the completion of report stage, Edward Timpson moved that the Children and Families Bill should be given a third reading. He said:

> The debates in committee and today have reflected the importance of the issues the Bill seeks to address. It seeks to improve the lives of some of our most vulnerable children. Improving the life chances of every child, whatever their background, by putting their needs first in all that we do is at the heart of the Government's agenda.
>
> (ibid, col 285)

Hugh Bayley, Labour MP for York Central, asked the Minister to consider the position of foster carers in relation to the bedroom tax:

> I rise on behalf of a constituent who fosters three children. As a consequence of the Government's decision to exempt only one bedroom from the bedroom tax for foster carers, she is required to pay £14 a week to carry on fostering. If she moved into smaller accommodation, she could foster only one of those three children, and there would be a cost of about £3,000 a week if the children went into care. Will he, together

> with the Minister responsible for welfare reform, look at the issue and reflect on whether they can give a further concession?
>
> (ibid, col 286)

This matter was also discussed by the Public Bill Committee (Public Bill Committee, sixth sitting, 12 March 2013, cols 218–20). The House of Commons Library has published a note which covers the arrangements which have been made for foster carers in relation to the bedroom tax, including Discretionary Housing Payments, a payment which will be available to assist people who receive certain benefits, at the discretion of local authorities (*Housing Benefit: Size Criteria and Discretionary Housing Payments*, 27 March 2013, SN04887).

Edward Timpson responded to Hugh Bayley's question at third reading:

> I have worked hard, both before coming into government and since, to try to ensure that foster carers are given the best possible support in their endeavours, because we want to encourage more people to foster, and we know from the research we have done that many more would like to take up that opportunity. The Welfare Minister, Lord Freud, and I have written jointly to all local authorities to explain the importance of this, with regard to both the single room subsidy and making the discretionary housing fund available to foster carers where appropriate. We have committed to an independent review of that progress, and I will be keeping a keen and close eye on how that develops. I know that the Fostering Network, which has done some excellent work on the issue, will also take a lead in ensuring that we have a clear understanding of the impact of the changes.
>
> (HC *Hansard*, 11 June 2013, col 286)

Sharon Hodgson summed up the views of the Opposition on the Bill. She said:

> We will not oppose the Bill on third reading and we are as keen as Ministers for it to make speedy progress to the other place. However, I hope that the House and the Government are left in no doubt that there are a number of issues that my noble colleagues and, I am sure, peers on all sides in the other place will revisit. We are expecting big things from Ministers before then and I sincerely hope that they do not disappoint.
>
> Most notably, we want measures to ensure that support is not denied to young offenders with special educational needs and measures to increase the chance of young carers being identified and given the support that they need in order to improve their outcomes. We hope that the Government reconsider their position on PSHE and, in particular, sex and relationship education, and that they bring forward measures to make it compulsory before the Bill reaches the other place... In the hope that those improvements will be made, the Bill proceeds with our blessing.
>
> (ibid, col 291)

The Parliamentary Under-Secretary of State for Business, Innovation and Skills, Jo Swinson, responded for the Government, explaining that "the Bill is a joint effort between the Department for Education and the Department for Business, Innovation and Skills". She said:

> It will now go to the other place, where I am sure there will be a wide range of debates. I look forward to watching with interest which issues it chooses to develop, but the consultation process in advance of the Bill has been hugely beneficial and has got it into an excellent state. The House can be proud of the scrutiny we have given the Bill and the work we have done on it. I commend the Bill to the House.
>
> (ibid, col 294)

The Bill received its third reading without a division (ibid, col 294).