House of Commons
Tuesday 14 January 2014
PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★
★ Amendments which will comply with the required notice period at their next appearance

CARE BILL [LORDS]

NOTE
The Amendments have been arranged in accordance with the Order of the Committee [9 January 2014].

Liz Kendall
Mr Jamie Reed

Clause 5, page 5, line 40, at end insert—
‘(g) the importance of ensuring independent and effective advocacy services from those with the relevant skills.’.

Liz Kendall
Mr Jamie Reed

Clause 5, page 5, line 42, after ‘sufficient’, insert ‘and appropriate’.

Paul Burstow
Sarah Newton

Clause 5, page 5, line 48, at end insert—
‘(4A) Regulations may make provision for arrangements for the independent arbitration of disputes between local authorities and providers concerning the fees paid by local authorities, the regulations shall prescribe the matters that are material to making a determination and the circumstances in which the arbitrator’s determination is binding on relevant parties.’.
Clause 6, page 6, line 38, after ‘housing’, insert ‘or other provider of housing for vulnerable or older people’.

Clause 6, page 6, line 45, after ‘housing’, insert ‘and town planning’.

Clause 6, page 7, line 23, at end insert—
(f) sharing information and data so as to ensure high quality care and support.’.

Clause 6, page 7, line 40, at end insert—
(i) housing providers.’.

Clause 7, page 8, line 23, leave out subsection (6).

Clause 10, page 9, line 41, after ‘adult’, insert ‘or an individual under the age of 18 with caring responsibilities’.

Clause 10, page 9, line 42, after ‘(an “adult needing care”),’ insert ‘or a disabled child’.

Clause 10, page 10, line 38, at end insert—
(10A) Where an adult is being assessed for NHS Continuing Care and this is to be provided in whole or in part in the community, and that person has a carer who is providing or about to provide care, the local authority must ensure that a carer’s
assessment under this section and section 12 is carried out of the carer’s ability to provide or continue to provide care.’.

Liz Kendall
Mr Jamie Reed

Clause 12, page 11, line 47, at end insert—
‘( ) specify when an assessment must be carried out face to face.’.

Liz Kendall
Mr Jamie Reed

Clause 12, page 11, line 47, at end insert—
‘( ) require joint working with organisations with appropriate expertise in exercising local authorities’ functions under sections 9, 10 and 11.’.

Paul Burstow
Heather Wheeler
Sarah Newton
Grahame M. Morris
Dr Sarah Wollaston
Mr David Ward

Clause 13, page 13, line 31, leave out subsection (7) and insert—
‘(7) Needs meet the eligibility criteria when—
(a) (i) there is, or will be, an inability to carry out several personal care or domestic routines and/or
(ii) the individual will be unable to maintain control over several aspects of their day-to-day life or;
(iii) involvement in several aspects of work, education, training or recreation cannot or will not be sustained; and/or
(iv) several domestic, family and personal relationships cannot or will not be sustained; and/or
(v) there is a risk of abuse or neglect,
(b) they form part of a combination of needs described in paragraph (a).’.

Liz Kendall
Mr Jamie Reed

Clause 13, page 13, line 36, at end add—
‘(9) The regulations in subsection (6) are subject to the affirmative resolution procedure.’.
Clause 14, page 14, line 7, at end insert—

'(3A) Services of an intimate nature can only be provided to the disabled person.

(3B) Regulations may make provision about what is, or is not, of an intimate nature for the purposes of subsection (3).’.

Clause 14, page 14, line 9, at end insert ‘and in assessing the cost a local authority incurs, it must (unless either Condition 2 in section 18, or either Condition 2 or Condition 4 in section 20, is met) ignore the cost it incurs (directly or indirectly) in assessing that need under sections 9 or 10.’.

Clause 14, page 14, line 9, at end insert—

'(4A) Where a local authority that meets an individual’s needs under sections 18 to 20 is satisfied that the individual’s means are insufficient for it to be reasonably practicable for the individual to pay the amount which would otherwise be charged, the authority shall not require the individual to pay more for it than it appears to them that is it reasonably practicable to be paid.’.

Clause 14, page 14, line 29, at end add—

'(9) A local authority should publish on its website the current cost that the local authority incurs for particular services for which it may make a charge.’.

Clause 15, page 14, line 33, leave out ‘cap on care costs’ and insert ‘set level above which an adult starts receiving financial assistance with the costs of their care’.

Clause 15, page 15, line 6, leave out ‘cap on care costs’ and insert ‘the set level above which an adult starts receiving financial assistance with the costs of their care’.

Clause 15, page 15, line 22, at end add—

'(9) The Secretary of State must report to Parliament—
Care Bill [Lords], continued

(a) in advance of this section coming into force with the Government’s assessment of the likely impact of the set level above which an adult starts receiving financial assistance with the costs of their care; and

(b) annually once the section is in effect, with the Government’s assessment of the impact of the set level above which an adult starts receiving financial assistance with the cost of their care, in particular its distributional impact across different levels of income.’.

Liz Kendall
Mr Jamie Reed

Clause 15, page 15, line 27, leave out ‘cap on care costs’ and insert ‘the set level above which an adult starts receiving financial assistance with the costs of their care’.

Paul Burstow

Clause 18, page 17, line 32, after the first ‘adult’, insert ‘(or someone acting on the adult’s behalf if the adult lacks capacity to arrange for the provision of care)’.

Paul Burstow

Clause 19, page 18, line 28, leave out ‘may’ and insert ‘should’.

Paul Burstow

Clause 19, page 18, line 28, after ‘needs’, insert ‘and their carer’s needs’.
Clause 22, page 20, line 32, after ‘is’ insert ‘authorised or’.

**Member’s explanatory statement**

This amendment seeks to introduce wording which replicates the terms used in other legislation on the boundaries between social and health care in order to meet the concerns of the Joint Committee on the draft Bill about a court’s likely interpretation of any substantive differences introduced by this Bill.

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Grahame M. Morris

Clause 23, page 22, line 2, at end add—

‘(2A) Where a local authority is unable to meet the adult’s needs for care and support without the provision of housing of a specified nature or location, subsection (1) does not apply.’.

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Mrs Emma Lewell-Buck

☆ Clause 24, page 22, line 26, at end add—

‘(3A) The Secretary of State after consultation must establish by regulation a specified timeframe for the conclusion of the steps required of local authorities by virtue of this section.’.

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Norman Lamb

☆ Clause 25, page 24, line 21, at end insert—

‘(14) The regulations may in particular specify that the paragraphs in question do not apply as regards specified needs or matters.’.

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Paul Burstow

Clause 26, page 24, line 40, at end insert—

‘(4) Where the needs are to be met through a direct payment, the costs to the local authority must mean the costs to the adult of meeting those needs.’.
Clause 26, page 24, line 40, at end insert—

‘(4) A personal budget for an adult must be set at a level that would be sufficient to meet all of that adult’s eligible needs as assessed by regulations referred to in section 13(6).’.

Mrs Emma Lewell-Buck

★ Clause 27, page 24, line 4, leave out ‘keep under review generally’ and insert ‘review regularly’.

Mrs Emma Lewell-Buck

★ Clause 27, page 25, line 33, at end add—

‘(5A) The Secretary of State after consultation must establish by regulation appropriate arrangements and timetable for the regular review of care and support plans and of support plans by local authorities provided for in subsection (a).’.

Paul Burstow

Clause 28, page 25, line 37, at end insert—

‘(1A) The specified costs to the local authority must mean the costs to the adult of the meeting their eligible needs.’.

Norman Lamb

☆ Clause 33, page 29, line 22, at end insert—

‘(da) cases or circumstances in which an adult who lacks capacity to request the making of direct payments must or may nonetheless be regarded for the purposes of this Part or the regulations as having capacity to do so;’.

Norman Lamb

☆ Clause 33, page 29, line 24, leave out ‘request the making of direct payments’ and insert ‘make such a request’.

Norman Lamb

☆ Clause 33, page 29, line 25, leave out ‘the purposes of this Part or the regulations’
and insert ‘any of those purposes’.

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Liz Kendall
Mr Jamie Reed

Clause 34, page 30, line 46, at end insert—

‘(9) The Secretary of State shall make available to all local authorities a model deferred payment scheme and all local authorities must follow this model unless they can show due cause not to.’.

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Liz Kendall
Mr Jamie Reed

Clause 35, page 31, line 15, at end insert—

‘(3A) The regulations must require any interest incurred on an adult’s deferred amount or interest on an amount charged under subsection (1)(b) to count towards the set level above which an adult starts receiving financial assistance with the costs of their care.’.

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Liz Kendall
Mr Jamie Reed

Clause 35, page 31, line 20, at end insert—

‘(4A) The regulations may not specify any threshold of other assets above which a person is not eligible to receive a deferred payment loan.’.

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Liz Kendall
Mr Jamie Reed

Clause 35, page 31, line 27, at end insert—

‘(5A) Regulations under this section must provide that—

(a) a local authority shall direct anyone considering a deferred payment arrangement to an appropriately qualified financial adviser or to appropriately qualified financial advisers; and

(b) any loan under this scheme shall be sufficient to pay for advice under paragraph (a) above.’.

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Liz Kendall
Mr Jamie Reed

Clause 35, page 32, line 12, at end add—

‘(11) The regulations in subsection (1) are subject to the affirmative resolution procedure.’.
Clause 42, page 38, line 13, at end add ‘if the local authority has reason to believe enquiries are being impeded such that it cannot determine whether any action is necessary it shall record whether or not an application for an adult safeguarding access order was considered or made under section [ ]’.

Liz Kendall
Mr Jamie Reed

★ Clause 42, page 38, line 14, leave out subsection (3) and insert—
‘(3) “Abuse” includes—
(a) physical abuse;
(b) sexual abuse;
(c) psychological abuse;
(d) financial abuse, which includes—
   (i) having money or other property stolen;
   (ii) being defrauded;
   (iii) being put under pressure in relation to money or other property; and
   (iv) having money or other property misused;
(e) neglect and acts of omission;
(f) discriminatory abuse; and
(g) other, as guidance may specify.’.

Liz Kendall
Mr Jamie Reed

★ Clause 42, page 38, line 19, at end add—
‘(4) A relevant partner (as identified in section 6(7)) has a duty, where it has reasonable cause to suspect a person is an adult at risk of abuse or neglect, and the adult appears to be within the local authority’s area, to inform the local authority of that fact.’.

Liz Kendall
Mr Jamie Reed

★ Clause 42, page 38, line 19, at end insert—
‘(4) In the case of financial abuse, investigation may be instigated following a complaint from a person with power of attorney for an adult having needs for care and support.’.

Liz Kendall
Mr Jamie Reed

★ Schedule 2, page 119, line 24, at end insert—
‘(e) The Secretary of State.’.
Schedule 2, page 119, line 24, at end insert—

‘(e) The Chief Inspector for Social Care.’.

Page 41, line 2, leave out Clause 48.

Page 51, line 37, leave out ‘’Parent’ and ‘carer’ each have’ and insert ‘’Carer’ has’.

Clause 61, page 51, line 39, after ‘child’, insert ‘has or’.

Clause 61, page 51, line 40, leave out ‘after the child becomes 18’.

Clause 61, page 51, line 41, leave out ‘significant’.

Clause 61, page 51, line 44, at beginning insert ‘where the child is 16 or over’.

Clause 61, page 52, line 20, leave out ‘with “parent” having the meaning given in section 59’.

Clause 62, page 53, line 10, leave out subsections (5) and (6).
Clause 62, page 53, line 19, at end insert—

‘(5A) Where, in the case of a carer to whom a child’s carer’s assessment relates, the child becomes 18, the local authority must decide whether to treat the assessment as a carer’s assessment; and if the authority decides to do so, this Part applies to the child’s carer’s assessment as if it were a carer’s assessment that had been carried out after the child had become 18.

(5B) In considering what to decide under subsection (5A), a local authority must have regard to—

(a) when the child’s carer’s assessment was carried out, and

(b) whether it appears to the authority that the circumstances of the carer to whom the child’s carer’s assessment relates have changed in a way that might affect the assessment.’.

Clause 63, page 53, line 30, at end insert—

‘(4) “Carer” has the same meaning as in section 61.’.

Clause 64, page 54, line 20, leave out subsection (7).

Clause 65, page 55, line 40, leave out subsection (9).

Clause 67, page 56, leave out lines 43 to 46 and insert—

‘(1) Subsections (2) to (4) apply where a local authority in England providing services for a child in need in the exercise of functions conferred by section 17—

(a) are required by section 59(1) or 64(1) of the Care Act 2014 to carry out a child’s needs assessment or young carer’s assessment in relation to the child, or

(b) are required by section 61(1) of that Act to carry out a child’s carer’s assessment in relation to a carer of the child.’.
Norman Lamb  
Clause 67, page 57, line 1, leave out ‘requested’.

Norman Lamb  
Clause 67, page 57, line 3, after ‘60(6)’ insert ‘, 62(5A)’.

Norman Lamb  
Clause 67, page 57, line 7, leave out ‘requested’.

Norman Lamb  
Clause 67, page 57, line 9, after ‘60(6)’ insert ‘, 62(5A)’.

Norman Lamb  
Clause 67, page 57, line 15, leave out ‘decide to comply with the request but’.

Norman Lamb  
Clause 67, page 57, line 21, at end insert—

‘(4A) Subsection (5) applies where a local authority in England providing services for a child in need in the exercise of functions conferred by section 17—

(a) receive a request for a child’s needs assessment or young carer’s assessment to be carried out in relation to the child or for a child’s carer’s assessment to be carried out in relation to a carer of the child, but

(b) have yet to be required by section 59(1), 61(1) or 64(1) of the Care Act 2014 to carry out the assessment.’.

Norman Lamb  
Clause 67, page 57, line 38, after first ‘assessment’,” insert “‘child’s carer’s assessment’.”.

Norman Lamb  
Clause 67, page 58, leave out lines 11 to 13 and insert—

‘(1) Subsections (2) to (4) apply where a local authority in England making arrangements for a disabled child under section 2 are required by section 59(1) of the Care Act 2014 to carry out a child’s needs assessment in relation to the child.’.

Norman Lamb  
Clause 67, page 58, line 14, leave out ‘requested’
Clause 67, page 58, line 20, leave out 'requested'

Clause 67, page 58, line 27, leave out 'decide to comply with the request but'

Clause 67, page 58, line 33, at end insert—

'(4A) Subsection (5) applies where a local authority in England making arrangements for a disabled child under section 2—

(a) receive a request for a child’s needs assessment to be carried out in relation to the child, but

(b) have yet to be required by section 59(1) of the Care Act 2014 to carry out the assessment.'.

Clause 67, page 59, line 6, leave out subsection (4).

Clause 79, page 71, line 18, at end insert—

‘Child’s carer’s assessment Section 61(2)
Child’s needs assessment Section 59(2)’.

Clause 79, page 71, line 29, at end insert—

‘Parent Section 59(6)’.

Clause 79, page 72, line 3, at end insert—

“Young carer Section 64(6)
Young carer’s assessment Section 64(2)”
Paul Burstow

Clause 81, page 72, line 34, at end insert—

‘(1A) Regulations must make provision for—
(a) the definition of “significant improvement”, and
(b) the assessment of progress towards the improvements so specified.’.

Paul Burstow

Clause 88, page 79, line 18, leave out subsection (4).

Member’s explanatory statement
This amendment is one of a number intended, collectively, to restore the powers of the Care Quality Commission to review or investigate local authority social care provision or commissioning without first securing, singular or joint, Ministerial approval.

Paul Burstow

Clause 89, page 80, line 23, at end add ‘in particular indicators relating to specified relevant physical and mental health conditions’.

Paul Burstow

Clause 89, page 81, line 19, leave out ‘(5) Omit subsection (1A) of that section.’.

Member’s explanatory statement
This amendment is one of a number intended, collectively, to restore the powers of the Care Quality Commission to review or investigate local authority social care provision or commissioning without first securing, singular or joint, Ministerial approval.

Paul Burstow

Clause 109, page 95, line 35, after ‘Health;’, insert—

‘( ) the Chief Nursing Officer of the Department of Health,’.
Rights of appeal

Norman Lamb

To move the following Clause:—

‘(1) In section 26 of the Health and Social Care Act 2008 (registration procedure: notice of proposals), after subsection (4) insert—

“(4A) Where a proposal under subsection (4) names an individual and specifies action that the Commission would require the registered person to take in relation to that individual, the Commission must give that individual notice in writing of the proposal.”

(2) In section 28 of that Act (notice of decisions), in subsection (6), for “subsection (7)” substitute “subsections (7) to (9)”.  

(3) In that section, after subsection (7) insert—

“(8) But in a case where notice of the proposal has been given to an individual under section 26(4A) subsection (7) does not apply unless, by the time the Commission receives the applicant’s notification, it has received notification from the individual that he or she does not intend to appeal.  

(9) And if the Commission receives notification from the individual after it receives the applicant’s notification and before the end of the period mentioned in subsection (6)(a), the decision is to take effect when the Commission receives the individual’s notification.”

Integration of care and support with health services etc: integration fund

Norman Lamb

To move the following Clause:—

‘(1) At the end of section 223B of the National Health Service Act 2006 (funding of the National Health Service Commissioning Board) insert—

“(6) Where the mandate specifies objectives relating to service integration, the requirements that may be specified under section 13A(2)(b) include such requirements relating to the use by the Board of an amount of the sums paid to it under this section as the Secretary of State considers it necessary or expedient to impose.  

(7) The amount referred to in subsection (6)—

(a) is to be determined in such manner as the Secretary of State considers appropriate, and  

(b) must be specified in the mandate.  

(8) The reference in subsection (6) to service integration is a reference to the integration of the provision of health services with the provision of
health-related services or social care services, as referred to in sections 13N and 14Z1.”

(2) After section 223G of that Act (meeting expenditure of clinical commissioning groups out of public funds) insert—

“223GA Expenditure on integration

(1) Where the mandate includes a requirement in reliance on section 223B(6) (requirements relating to use by the Board of an amount paid to the Board where mandate specifies service integration objectives), the Board may direct a clinical commissioning group that an amount (a “designated amount”) of the sums paid to the group under section 223G is to be used for purposes relating to service integration.

(2) The designated amount is to be determined—

(a) where the mandate includes a requirement (in reliance on section 223B(6)) that designated amounts are to be determined by the Board in a manner specified in the mandate, in that manner;
(b) in any other case, in such manner as the Board considers appropriate.

(3) The conditions under section 223G(7) subject to which the payment of a designated amount is made must include a condition that the group transfers the amount into one or more funds (“pooled funds”) established under arrangements under section 75(2)(a) (“pooling arrangements”).

(4) The conditions may also include—

(a) conditions relating to the preparation and agreement by the group and each local authority and other clinical commissioning group that is party to the pooling arrangements of a plan for how to use the designated amount (a “spending plan”);
(b) conditions relating to the approval of a spending plan by the Board;
(c) conditions relating to the inclusion of performance objectives in a spending plan;
(d) conditions relating to the meeting of any performance objectives included in a spending plan or specified by the Board.

(5) Where a condition subject to which the payment of a designated amount is made is not met, the Board may—

(a) withhold the payment (in so far as it has not been made);
(b) recover the payment (in so far as it has been made);
(c) direct the clinical commissioning group as to the use of the designated amount for purposes relating to service integration or for making payments under section 256.

(6) Where the Board withholds or recovers a payment under subsection (5)(a) or (b)—

(a) it may use the amount for purposes consistent with such objectives and requirements relating to service integration as are specified in the mandate, and
(b) in so far as the exercise of the power under paragraph (a) involves making a payment to a different clinical commissioning group or some other person, the making of the payment is subject to such conditions as the Board may determine.
Care Bill [Lords], continued

(7) The requirements that may be specified in the mandate in reliance on section 223B(6) include requirements to consult the Secretary of State or other specified persons before exercising a power under subsection (5) or (6).

(8) The power under subsection (5)(b) to recover a payment may be exercised in a financial year after the one in respect of which the payment was made.

(9) The payments that may be made out of a pooled fund into which a designated amount is transferred include payments to a local authority which is not party to the pooling arrangements in question in connection with the exercise of its functions under Part 1 of the Housing Grants, Construction and Regeneration Act 1996 (disabilities facilities grants).

(10) In exercising a power under this section, the Board must have regard to the extent to which there is a need for the provision of each of the following—

(a) health services (see subsection (12)),
(b) health-related services (within the meaning given in section 14Z1), and
(c) social care services (within the meaning given in that section).

(11) A reference in this section to service integration is a reference to the integration of the provision of health services with the provision of health-related services or social care services, as referred to in sections 13N and 14Z1.

(12) “Health services” means services provided as part of the health service in England.”.

As an Amendment to Norman Lamb’s proposed New Clause (Integration of care and support with health services etc: integration fund) (NC2):—

Paul Burstow

Line 74, after ‘regard to’, insert ‘the duty to promote wellbeing in section 1 of the Care Act 2014, and’.

Adult safeguarding access order

Paul Burstow
Sarah Newton

To move the following Clause:—

‘(1) An authorised officer may apply to a justice of the peace for an order (an adult safeguarding access order) in relation to a person living in any premises within a local authority’s area.

(2) The purposes of an adult safeguarding access order are—
Care Bill [Lords], continued

(a) to enable the authorised officer and any other person accompanying the officer to speak in private with a person suspected of being an adult at risk of abuse or neglect;
(b) to enable the authorised officer to assess the mental capacity of a person suspected of being an adult at risk of abuse;
(c) to enable the authorised officer to ascertain whether that person is making decisions freely; and
(d) to enable the authorised officer properly to assess whether the person is an adult at risk of abuse or neglect and to make a decision as required by section 41(2) on what, if any, action should be taken.

(3) While an adult safeguarding access order is in force, the authorised officer, a constable and any other specified person accompanying the officer in accordance with the order, may enter the premises specified in the order for the purposes set out in subsection (2).

(4) The justice of the peace may make an adult safeguarding access order if satisfied that—
(a) the authorised officer has reasonable cause to suspect that a person is an adult who is experiencing or at risk of abuse or neglect;
(b) it is necessary for the authorised officer to gain access to the person in order to make the enquiries needed to inform the decision required by section 41(2) on what, if any, action should be taken;
(c) making an order is necessary in order to fulfil the purposes set out in subsection (2); and
(d) exercising the power of access conferred by the order will not result in the person being at greater risk of abuse or neglect.

(5) An adult safeguarding access order must—
(a) specify the premises to which it relates;
(b) provide that the authorised officer may be accompanied by a constable; and
(c) specify the period for which the order is to be in force.

(6) Other conditions may be attached to an adult safeguarding access order, for example—
(a) specifying restrictions on the time that the power of access conferred by the order may be exercised;
(b) providing for the authorised officer to be accompanied by another specified person; or
(c) requiring notice of the order to be given to the occupier of the premises and to the person suspected of being an adult at risk of abuse.

(7) A constable accompanying the authorised officer may use reasonable force if necessary in order to fulfil the purposes of an adult safeguarding access order set out in subsection (2).

(8) On entering the premises in accordance with an adult safeguarding access order the authorised officer must—
(a) state the object of the visit;
(b) produce evidence of the authorisation to enter the premises; and
(c) provide an explanation to the occupier of the premises of how to complain about how the power of access has been exercised.
Care Bill [Lords], continued

(9) In this section “an authorised officer” means a person authorised by a local authority for the purposes of this section, but regulations may set restrictions on the persons or categories of persons who may be authorised.’.

Duty to report adults at risk of abuse

Paul Burstow
Sarah Newton

To move the following Clause:—

‘(1) If a relevant partner of a local authority has reasonable cause to suspect that the local authority would be under a duty to make enquiries under section 42, it must inform the local authority of that fact.

(2) If the person that the relevant partner has reasonable cause to suspect would be the subject of enquiries under section 42 and appears to be within the area of a local authority other than the one of which it is a relevant partner, it must inform that other local authority.

(3) If a local authority has reasonable cause to suspect that a person within its area at any time would be the subject of enquiries under section 42 and is living or proposing to live in the area of another local authority (including a local authority in Wales, Scotland or Northern Ireland), it must inform that other local authority.

(4) In this section “relevant partner”, in relation to a local authority, means—

(a) the local policing body and the chief officer of police for a police area any part of which falls within the area of the local authority;

(b) any other local authority with which the authority agrees that it would be appropriate to co-operate under this section;

(c) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a relevant partner of the authority;

(d) any provider of regulated activities as listed in Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010;

(e) a local health board for an area any part of which falls within the area of the authority;

(f) an NHS trust providing services in the area of the authority; and

(g) such person, or a person of such description, as regulations may specify.’.
Child’s carer’s eligibility criteria

Paul Burstow
Sarah Newton

To move the following Clause:—

‘(1) Where a local authority is satisfied on the basis of a child’s carer’s assessment that a carer of a child has needs for care and support, it must determine whether any of the needs meet the eligibility criteria (see subsection (6)).

(2) Having made a determination under subsection (1), the local authority must give the carer concerned a written record of the determination and the reasons for it.

(3) Where at least some of a child’s carer’s needs for care and support meet the eligibility criteria, the local authority must—
   (a) consider what could be done to meet those needs that are eligible;
   (b) ascertain whether the carer wants to have those needs met by the local authority in accordance with this Part; and
   (c) establish whether the child needing care is ordinarily resident in the local authority’s area.

(4) Where none of the needs of the carer concerned meet the eligibility criteria, the local authority must give him or her written advice and information about—
   (a) what can be done to meet or reduce the needs; and
   (b) what can be done to prevent or delay the development of needs for care and support, or the development of needs for support, in the future.

(5) Regulations may make provision about the making of the determination under subsection (1).

(6) Needs meet the eligibility criteria if—
   (a) they are of a description specified in regulations; or
   (b) they form part of a combination of needs of a description so specified.

(7) The regulations may, in particular, describe needs by reference to—
   (a) the effect that the needs have on the carer concerned; or
   (b) the carer’s circumstances.’.

Duty and power to meet a child’s carer’s needs for support

Paul Burstow
Sarah Newton

To move the following Clause:—

‘(1) A local authority, having made a determination under section 62( ), must meet a carer’s needs for support which meet the eligibility criteria if—
   (a) the child needing care is ordinarily resident in the local authority’s area; and
   (b) the local authority is satisfied that support would be better provided to the carer under this section than to the carer and/or the child under section 17 of the Children Act 1989.

(2) A local authority may meet a carer’s needs for support if it satisfied that it is not required to meet the carer’s needs under this section.
Care Bill [Lords], continued

(3) Where a local authority has carried out an assessment under section 61(1)(b) it must give the carer—

(a) an indication as to whether any of the needs for support which it thinks the carer is likely to have after the child becomes 18 are likely to meet the eligibility criteria (and, if so, which ones are likely to do so), and

(b) advice and information about—

(i) what can be done to meet or reduce the needs which it thinks the carer is likely to have after the child becomes 18; and

(ii) what can be done to prevent or delay the development by the carer of needs for support in the future.’.

Public awareness campaigns

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘The Secretary of State and local authorities shall ensure through national and local public awareness campaigns that there is a high level of public awareness and understanding of the terms and implications of the cap on care costs.’.

Appealing decisions taken by the local authority

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘(1) The local authority must have in place a procedure, which includes a review element that is independent of the local authority, by which adults or carers can appeal a decision made by the local authority about—

(a) whether an adult or carer’s needs meet eligibility criteria under section 13;

(b) whether to charge for meeting needs under section 14;

(c) the result of a financial assessment under section 17;

(d) the content of a care and support plan or support plan under section 25;

(e) the amount of a personal budget made under section 26 or independent personal budget made under section 28;

(f) the payment of an “additional cost” under section 30.

(2) Regulations may make further provision about any aspect of the appeals procedure mentioned in subsection (1).

(3) Wherever a decision has been made of a type referred to in subsection (1), the local authority must make the adult or carer aware of their right of to appeal the
Care Bill [Lords], continued

decision and how to request details of the appeals procedure. Details of the procedure must be made available on request.’.

Promoting health of carers

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘(1) In exercising their functions health bodies shall—
(a) promote and safeguard the health and well-being of carers;
(b) ensure that effective procedures exist to identify patients who are or are about to become carers;
(c) ensure that appropriate systems exist to ensure that carers receive appropriate information and advice; and
(d) ensure the systems are in place to ensure that the relevant general medical services are rendered to their patients who are carers.’.

Local authorities: duties with respect to young carers

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘(1) A local authority must ensure that it takes all reasonable steps to ensure that in relation to—
(a) any school within its area and under its control; and
(b) any functions it discharges in pursuance of its responsibilities as a children’s services authority, there is in place a policy that both identifies young carers and makes arrangements for the provision of support for pupils who are young carers.
(2) In discharging its duty under subsection (1), a local authority must have regard to any guidance given from time to time by the Secretary of State.’.
Care Bill [Lords], continued

Further and higher education: duties with respect to student carers

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘(1) The responsible body of an institution to which this section applies must identify or make arrangements to identify student carers and have a policy in place on providing support for student carers.

(2) This section applies to—
   (a) a university;
   (b) any other institution within the higher education sector; and
   (c) an institution within the further education sector.

(3) A responsible body is—
   (a) in the case of an institution in subsection (2)(a) or (b), the governing body;
   (b) in the case of a college of further education under the management of a board of management, the board of management; and
   (c) in the case of any other college of further education, any board of governors of the college or any person responsible for the management of the college, whether or not formally constituted as a governing body or board of governors.’.

End of life care

Dr Sarah Wollaston

To move the following Clause:—

‘Following consultation, the Secretary of State may make regulations establishing arrangements for terminally ill persons to—
   (a) have their preference for place of death recorded by local health and social care services and for that preference to be implemented wherever practicable; and
   (b) to be exempted from charges for adult social care necessary in order to allow them to die in their place of preference.’.
Care Bill [Lords], continued

Funding for new costs arising from Part 1

Meg Munn

To move the following Clause:—

‘(1) The Secretary of State must provide local authorities with sufficient funding to enable them to meet new costs arising directly or indirectly to them by virtue of this Part.

(2) The costs mentioned in subsection (1) include (but are not limited to)—
   (a) costs of introducing the new measures set out in this Part;
   (b) on-going costs of implementing those measures (to be allocated through the annual spending review);
   (c) costs identified by the Department of Health to be funded through the Better Care Fund.’.

Social care free at the point of use

Bill Esterson

To move the following Clause:—

‘The Secretary of State must prepare a report on the costs and benefits of requiring, and providing funding for, local authorities to offer all social care free at the point of use. This report must be laid before each House of Parliament within 12 months of section 3 coming into force.’.

Joint Care and Support Reform Programme Board: assessment of funding

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘(1) Before any provision of Part 1 is brought into force, the Joint Care and Support Reform Programme Board must have informed the Secretary of State whether sufficient funding is in place or will be put in place to ensure that the provision in question can be implemented satisfactorily.

(2) In subsection (1), the “Joint Care and Support Reform Programme Board” means the board of that name consisting of representatives including the Local Government Association, the Association of Directors of Adult Social Services and the Department of Health.’.
Ministerial advisory committee

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘An independent ministerial advisory committee shall be set up to keep under review the workings of the set level as set out in section 15, and the means-testing arrangements set out in section 17.’.

Initial funding assessment

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘The Secretary of State must ask the Office for Budget Responsibility to complete by the end of 2014 a review of the funding of adult social care that assesses—

(a) the adequacy of current public funding of these services;
(b) the proposals for funding the provisions in this Act;
(c) the implications of the Act and its funding for the NHS over the next five years; and
(d) in particular the short and long term costs of setting the eligibility criteria at the level set out in regulations.’.

Impact assessments of regulations

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘(1) Before bringing into force sections 13, 17 and 35, the Secretary of State must lay before Parliament an impact assessment of the regulations set out in those sections.

(2) In relation to the regulations set out in subsection 13(6), the assessment must show how the provisions will affect the likely impact of the set level above which an adult starts receiving financial assistance with the costs of their care.’.
Corporate responsibility for neglect

Nick Smith
Liz Kendall
Mr Jamie Reed

★ To move the following Clause:—

‘(1) This section applies where a person registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (a “registered care provider”) in respect of the carrying on of a regulated activity (within the meaning of that Part) has reasonable cause to suspect that an adult in their care is experiencing, or is at risk of, abuse and neglect.

(2) The registered care provider must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult’s case and, if so, what and by whom.

(3) Where abuse or neglect is suspected, the registered care provider is responsible for informing the Safeguarding Adults Board in its area and commits an offence if (without reasonable cause) it fails to do so.

(4) A registered care provider is guilty of an offence if the way in which its activities are managed or organised by its board or senior management neglects, or is a substantial element in, the existence and or possibility of abuse or neglect occurring.

(5) A person guilty of an offence under this section is liable on conviction to imprisonment for a term not exceeding five years, or to a fine, the range of which will be specified by regulations, or to both.’.

Portability of care

Liz Kendall
Mr Jamie Reed

★ To move the following Clause:—

‘(1) The Secretary of State must prepare a report containing an assessment of what primary or secondary legislation would be required to ensure people in receipt of care and support in the community in the UK receive continuity of such care and support if they change their place of residence, with particular reference to moves between countries of the United Kingdom.

(2) The report under subsection (1) must be laid before each House of Parliament six months after this Bill receives Royal Assent.’.
Care Bill [Lords], continued

Accounting

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘(1) The Secretary of State shall make provision for accounting guidelines for persons and organisations offering care services to be published.

(2) All persons and organisations offering care services shall have a duty to follow guidelines published in accordance with subsection (1) in charging for those services and shall, in particular, ensure that all accounting paperwork is easy to understand, fully explains any interface with the local authority and is complete.’.

Duty of candour

Liz Kendall
Mr Jamie Reed

To move the following Clause:—

‘(1) Local authorities must take reasonable steps to create an open and honest culture that enables employees to report reasonable suspicions of abuse and neglect of individuals in the care of the local authority or a provider commissioned by the local authority.

(2) “Reasonable steps” include—
   (a) ensuring that staff are aware of and trust processes open to them;
   (b) provision of advice about the process;
   (c) review of procedures; and
   (d) regular communications to staff about the processes.’.

Norman Lamb

Title, line 5, after ‘Authority;’ insert ‘to make provision about integrating care and support with health services;’.

ORDER OF THE HOUSE [16 DECEMBER 2013]
That the following provisions shall apply to the Care Bill [Lords]:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously...
Care Bill [Lords], continued

concluded) be brought to a conclusion on 4 February 2014.

3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Consideration and Third Reading

4. Proceedings on Consideration and Third Reading shall be concluded in two days.

5. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the second of those days.

6. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

7. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

8. Any other proceedings on the Bill (including any proceedings on consideration of any message from the Lords) may be programmed.

ORDER OF THE COMMITTEE [9 JANUARY 2014]

That—

(1) the Committee shall (in addition to its first meeting at 11.30 am on Thursday 9 January) meet—
(a) at 2.00 pm on Thursday 9 January;
(b) at 8.55 am and 2.00 pm on Tuesday 14 January;
(c) at 11.30 am and 2.00 pm on Thursday 16 January;
(d) at 8.55 am and 2.00 pm on Tuesday 21 January;
(e) at 11.30 am and 2.00 pm on Thursday 23 January;
(f) at 8.55 am and 2.00 pm on Tuesday 28 January;
(g) at 11.30 am and 2.00 pm on Thursday 30 January;
(h) at 8.55 am on Tuesday 4 February;
(2) the proceedings shall be taken in the following order: Clauses 1 to 39; Schedule 1; Clauses 40 to 43; Schedule 2; Clauses 44 to 73; Schedule 3; Clause 74; Schedule 4; Clauses 75 to 94; Schedule 5; Clauses 95 to 102; Schedule 6; Clauses 103 to 107; Schedule 7; Clauses 108 to 111; Schedule 8; Clauses 112 to 125; new Clauses; new Schedules; remaining proceedings on the the Bill.
(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 11.25 am on Tuesday 4 February.

NOTICES WITHDRAWN

The following Notices were withdrawn on 10 January 2014:

NS1.
Care Bill [Lords], continued

The following Notices were withdrawn on 13 January 2014:

Amendment 93.