CHILDREN AND SOCIAL WORK BILL [LORDS]

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

Edward Timpson

★ Clause 4, page 5, line 35, leave out from beginning to end of line 4 on page 6 and insert—

“(6) In this section—

“relevant child” means—

(a) a child who was looked after by the local authority or another local authority in England or Wales but ceased to be so looked after as a result of—

(i) a child arrangements order which includes arrangements relating to with whom the child is to live, or when the child is to live with any person,

(ii) a special guardianship order, or

(iii) an adoption order within the meaning given by section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002, or

(b) a child who appears to the local authority—
Children and Social Work Bill [Lords], continued

(i) to have been in state care in a place outside England and Wales because he or she would not otherwise have been cared for adequately, and
(ii) to have ceased to be in that state care as a result of being adopted.”

Member’s explanatory statement
This amendment, together with amendment 2, would extend the duty of a local authority under clause 4 (duty to provide information and advice for promoting educational achievement) to children who were adopted from state care outside England and Wales.

Edward Timpson

2

★ Clause 4, page 6, line 13, at end insert—
“(8) For the purposes of this section a child is in “state care” if he or she is in the care of, or accommodated by—
(a) a public authority,
(b) a religious organisation, or
(c) any other organisation the sole or main purpose of which is to benefit society.”

Member’s explanatory statement
See the explanatory statement for amendment 1.

Edward Timpson

3

★ Clause 5, page 6, leave out lines 24 to 36 and insert—
“(2) A registered pupil is within this subsection if the pupil—
(a) was looked after by a local authority but ceased to be looked after by them as a result of—
(i) a child arrangements order (within the meaning given by section 8(1) of the 1989 Act) which includes arrangements relating to with whom the child is to live, or when the child is to live with any person,
(ii) a special guardianship order (within the meaning given by section 14A(1) of the 1989 Act), or
(iii) an adoption order (within the meaning given by section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002), or
(b) appears to the governing body—
(i) to have been in state care in a place outside England and Wales because he or she would not otherwise have been cared for adequately, and
(ii) to have ceased to be in that state care as a result of being adopted.”

Member’s explanatory statement
This amendment, together with amendment 5, would extend the duty of a governing body of a maintained school under clause 5 (duty to appoint staff member for promoting educational achievement) to children who were adopted from state care outside England and Wales.
Edward Timpson

★ Clause 5, page 6, line 43, leave out from “is” to end of line 45 and insert ““looked after by a local authority” if the person is looked after by a local authority for the purposes of the 1989 Act or Part 6 of the 2014 Act.”

**Member's explanatory statement**

This amendment and amendment 7 make changes to reflect the fact that provision about looked after children in Wales is now in Part 6 of the Social Services and Well-being (Wales) Act 2014, instead of in the Children Act 1989.

Edward Timpson

★ Clause 5, page 6, line 45, at end insert—

“(5A) For the purposes of this section a person is in “state care” if he or she is in the care of, or accommodated by—

(a) a public authority,

(b) a religious organisation, or

(c) any other organisation the sole or main purpose of which is to benefit society.”

**Member’s explanatory statement**

See the explanatory statement for amendment 3.

Edward Timpson

★ Clause 6, page 7, line 46, at end insert “or

(c) appears to the proprietor of the Academy—

(i) to have been in state care in a place outside England and Wales because he or she would not otherwise have been cared for adequately, and

(ii) to have ceased to be in that state care as a result of being adopted;”

**Member’s explanatory statement**

This amendment, together with amendment 8, would extend the duty of an Academy proprietor included in an Academy agreement under clause 6 (duty to appoint staff member for promoting educational achievement) to children who were adopted from state care outside England and Wales.

Edward Timpson

★ Clause 6, page 8, line 11, leave out from “is” to end of line 13 and insert ““looked after by a local authority” if the person is looked after by a local authority for the purposes of the Children Act 1989 or Part 6 of the Social Services and Well-being (Wales) Act 2014 (anaw 4).”

**Member’s explanatory statement**

See the explanatory statement for amendment 4.
Edward Timpson

That clause 11 be transferred to the end of line 12 on page 22.

*Member’s explanatory statement*

This motion would facilitate the division of Chapter 2 of Part 1 into three shorter Chapters, to be entitled “safeguarding of children”, “children’s social care: different ways of working” and “other provision relating to children”. Transferring clause 11 would enable it to appear in the Chapter entitled “other provision relating to children”.

Edward Timpson

That clause 32 be transferred to the end of line 39 on page 19.

*Member’s explanatory statement*

The consequential amendments introduced by clause 32 are in Part 2 of Schedule 1. They replace or remove references to Local Safeguarding Children Boards (abolished by clause 30). Transferring clause 32 would enable it to appear in the new Chapter relating to the safeguarding of children (see the explanatory statement for the motion to transfer clause 11).

Edward Timpson

★ Clause 62, page 33, line 12, at end insert—

“(A1) Section (Placing children in secure accommodation elsewhere in Great Britain) and paragraphs 2, 4, 5 and 14 of Schedule (Placing children in secure accommodation elsewhere in Great Britain) extend to England and Wales and Scotland.”

*Member’s explanatory statement*

This amendment would ensure that, where paragraphs of NS1 provide for legislation to extend to England and Wales and Scotland, the paragraphs themselves have the same extent.
Edward Timpson

★ Clause 62, page 33, line 13, leave out subsection (1)
  
  **Member’s explanatory statement**
  
  The subsection left out by this amendment is replaced by amendment 13.

Edward Timpson

★ Clause 62, page 33, line 14, at beginning insert “Except as mentioned in subsection (A1),”
  
  **Member’s explanatory statement**
  
  This amendment is consequential on amendment 9.

Edward Timpson

★ Clause 62, page 33, line 15, leave out “enactment” and insert “provision”
  
  **Member’s explanatory statement**
  
  This amendment is consequential on amendment 9.

Edward Timpson

★ Clause 62, page 33, line 16, leave out subsection (3) and insert—
  
  “( ) Subject to subsections (A1) and (2), Parts 1 and 2 extend to England and Wales only.

  ( ) This Part extends to England and Wales, Scotland and Northern Ireland.”
  
  **Member’s explanatory statement**
  
  This would ensure that the final Part of the Bill extends throughout the United Kingdom, as well as making changes consequential on amendment 9.

Edward Timpson

★ Clause 63, page 33, line 19, leave out “This Part comes” and insert “The following come”
  
  **Member’s explanatory statement**
  
  This amendment and amendment 15 would provide for NC1 and NS1 (placing children in secure accommodation elsewhere in Great Britain) to come into force on the passing of the Bill.

Edward Timpson

★ Clause 63, page 33, line 19, at end insert “—
  
  (a) section (Placing children in secure accommodation elsewhere in Great Britain) and Schedule (Placing children in secure accommodation elsewhere in Great Britain);

  (b) this Part.”
  
  **Member’s explanatory statement**
  
  See the explanatory statement for amendment 14.
Edward Timpson

★ To move the following Clause—

“Placing children in secure accommodation elsewhere in Great Britain

Schedule (Placing children in secure accommodation elsewhere in Great Britain) contains amendments relating to—

(a) the placement by local authorities in England and Wales of children in secure accommodation in Scotland, and

(b) the placement by local authorities in Scotland of children in secure accommodation in England and Wales.”

Member’s explanatory statement
This new clause would introduce NS1, which amends legislation to allow local authorities in England and Wales to place children in secure accommodation in Scotland, and makes provision relating to the placement by local authorities in Scotland of children in secure accommodation in England and Wales.

Edward Timpson

★ To move the following Clause—

“Power to test different ways of working

(1) The purpose of this section is to enable a local authority in England to test different ways of working under children’s social care legislation with a view to—

(a) promoting the physical and mental health and well-being of children, young people or their families,

(b) encouraging children or young people to express their views, wishes and feelings,

(c) taking into account the views, wishes and feelings of children or young people,

(d) helping children, young people or their families gain access to, or make the best use of, services provided by the local authority or its relevant partners (within the meaning given by section 10(4) of the Children Act 1989),

(e) promoting high aspirations for children or young people,

(f) promoting stability in the home lives, relationships, education or work of children or young people, or

(g) preparing children or young people for adulthood and independent living.

(2) The Secretary of State may by regulations, for that purpose—

(a) exempt a local authority in England from a requirement imposed by children’s social care legislation;

(b) modify the way in which a requirement imposed by children’s social care legislation applies in relation to a local authority in England.
Children and Social Work Bill [Lords], continued

(3) Regulations under this section may not be used so as to remove any prohibition on a local authority in England arranging for functions to be carried out by a body whose activities are carried on for profit.

(4) Regulations under this section may not be used to exempt a local authority in England from, or modify, its duties under—
   (a) section 17 of the Children Act 1989 and Part 1 of Schedule 2 to that Act (duty to provide appropriate services to children in need);
   (b) section 20 of that Act (provision of accommodation for children who appear to require it for certain reasons);
   (c) section 22 of that Act (duty to safeguard and promote welfare of looked after children etc);
   (d) section 47 of that Act (duty to make enquiries and take action to safeguard or promote welfare of children at risk);
   (e) section 10 of the Children Act 2004 (duty to make arrangements for promoting co-operation to improve well-being of children);
   (f) section 11 of that Act (duty to make arrangements to ensure that regard is had to the need to safeguard and promote the welfare of children).

(5) The Secretary of State may make regulations under this section relating to a local authority in England only on an application by that authority.

(6) Subsection (5) does not apply to regulations under this section that only revoke earlier regulations under this section.

(7) Regulations under this section may be made in relation to one or more local authorities in England.

(8) Regulations under this section may include consequential modifications of children’s social care legislation.”

Member's explanatory statement
This new clause would give the Secretary of State a power to enable local authorities in England to test different ways of working under children’s social care legislation for one of the purposes mentioned in subsection (1). Subsections (3) and (4) include safeguards on the use of the power. The power may only be exercised on an application by a local authority. See also the following, which are related: NC3, NC4, NC5, NC6, NC7, NC8 and NC9.

Edward Timpson

★ To move the following Clause—

“Duration

(1) Regulations under section (Power to test different ways of working) must specify a period at the end of which they lapse.

(2) The period must not be longer than 3 years beginning with the day on which the regulations come into force.

(3) But the Secretary of State may by further regulations under section (Power to test different ways of working) amend the specified period to extend it by up to 3 years.

(4) The specified period may be extended on one occasion only.

(5) Before extending the specified period the Secretary of State must lay a report before Parliament about the extent to which the regulations have achieved the purpose mentioned in section (Power to test different ways of working)(1).
(6) The Secretary of State may by regulations make transitional provision in connection with the lapsing of regulations under section (Power to test different ways of working).”

Member’s explanatory statement
This would ensure that exemptions or modifications under the power to test different ways of working in NC2 are of a temporary nature. The regulations may be made for up to 3 years and may be renewed for one further period of up to 3 years.

Edward Timpson

★ To move the following Clause—

“Parliamentary procedure
(1) Regulations under section (Power to test different ways of working) are subject to the negative resolution procedure if they only—
(a) relate to requirements imposed by subordinate legislation that was not subject to affirmative resolution procedure, or
(b) revoke earlier regulations under that section.
(2) Any other regulations under section (Power to test different ways of working) are subject to the affirmative resolution procedure.
(3) At the same time as laying a draft of a statutory instrument containing regulations under section (Power to test different ways of working) before Parliament, the Secretary of State must lay before Parliament a report—
(a) explaining how the purpose mentioned in subsection (1) of that section is expected to be achieved, and
(b) confirming that the regulations are not expected to have a detrimental effect on the welfare of any child and explaining any measures that have been put in place to ensure that is the case.
(4) If regulations under section (Power to test different ways of working) are subject to the affirmative resolution procedure and would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, they are to proceed in that House as if they were not a hybrid instrument.
(5) For the purposes of subsection (1)(a) subordinate legislation “was not subject to affirmative resolution procedure” if it was not subject to any requirement for a draft to be laid before, and approved by a resolution of, each House of Parliament.”

Member’s explanatory statement
This new clause would set out of the procedure for making regulations about testing different ways of working under NC2. Most regulations are subject to affirmative resolution procedure, with the two exceptions mentioned in subsection (1)(a) and (b) of the clause. The Secretary of State is also required to lay a report before Parliament dealing with the matters mentioned in subsection (3).
Edward Timpson

★ To move the following Clause—

“Consultation by local authority

(1) Before making an application for the Secretary of State to make regulations under section (Power to test different ways of working) a local authority in England must—
   (a) consult such of the other safeguarding partners and relevant agencies in relation to its area as it considers appropriate, and
   (b) any other person that the local authority considers appropriate.

(2) In deciding who to consult under subsection (1)(b) a local authority in England must, in particular, consider consulting any children or young people who might be affected by the regulations.”

Member’s explanatory statement
This would impose a consultation requirement on local authorities before making an application under NC2.

Edward Timpson

★ To move the following Clause—

“Consultation by Secretary of State

(1) Where a local authority in England make an application for the Secretary of State to make regulations under section (Power to test different ways of working) the Secretary of State must invite an expert panel to give advice about—
   (a) the capability of the authority to achieve the purpose mentioned in subsection (1) of that section if the regulations are made,
   (b) the likely impact of the regulations on children and young people, and
   (c) the adequacy of any measures that will be in place to monitor the impact of the regulations on children and young people.

(2) The expert panel is to consist of—
   (a) the Children’s Commissioner,
   (b) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills, and
   (c) one or more other persons appointed by the Secretary of State to consider the application.

(3) The Secretary of State may appoint a person under subsection (2)(c) to consider an application only if the Secretary of State thinks that the person has expertise relevant to the subject matter of the application.

(4) Having invited the expert panel to advise, the Secretary of State must wait at least 6 weeks before making regulations under section (Power to test different ways of working) in response to the application.
Before making regulations under section (Power to test different ways of working) in response to the application, the Secretary of State must also publish any written advice given during that 6 week period by the expert panel.”

**Member’s explanatory statement**
This would impose consultation requirements on the Secretary of State before making regulations under NC2.

Edward Timpson

To move the following Clause—

“Guidance

(1) The Secretary of State must give local authorities in England guidance about—

(a) factors that a local authority in England should take into account in deciding whether to make an application under (Power to test different ways of working),

(b) the form and content of applications under (Power to test different ways of working) and the process for making them,

(c) consultation under section (Consultation by local authorities),

(d) monitoring and evaluating the effect of the regulations under section (Power to test different ways of working), and

(e) the exercise of functions under, or in connection with, children’s social care legislation as modified by regulations under section (Power to test different ways of working).

(2) Before giving guidance under this section the Secretary of State must—

(a) consult such persons as the Secretary of State considers appropriate, and

(b) publish a summary of the consultation responses.”

**Member’s explanatory statement**
This would require the Secretary of State to give local authorities guidance on certain matters to do with NC2 and NC5.
Edward Timpson

To move the following Clause—

“Annual report

If the Secretary of State makes regulations under (Power to test different ways of working) the Secretary of State must, in respect of each year in which they remain in force, publish a report about the extent to which the regulations have achieved the purpose mentioned in section (Power to test different ways of working)(1).”

Member’s explanatory statement

This would require the Secretary of State to publish an annual report on any regulations under NC2.

Edward Timpson

To move the following Clause—

“Interpretation

In sections (Power to test different ways of working), (Duration), (Parliamentary procedure), (Consultation by local authority), (Consultation by Secretary of State), (Guidance), (Annual report) and this section—

“child” means a person under the age of 18 (and “children” means people under the age of 18);

“children’s social care legislation” means—

(a) any legislation specified in Schedule 1 to the Local Authority Social Services Act 1970 so far as relating to those under the age of 18;
(b) sections 23C to 24D of the Children Act 1989, so far as not within paragraph (a);
(c) the Children Act 2004, so far as not within paragraph (a);
(d) any subordinate legislation under the legislation mentioned in paragraphs (a) to (c);

“local authority in England” means—

(a) a county council in England;
(b) a district council;
(c) a London Borough council;
(d) the Common Council of the City of London (in their capacity as a local authority);
(e) the Council of the Isles of Scilly;
(f) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

“relevant agency”, in relation to a local authority area, has the meaning given by section 16E(3) of the Children Act 2004;

“safeguarding partner”, in relation to a local authority area, has the meaning given by section 16E(3) of the Children Act 2004;
“subordinate legislation” has the same meaning as in the Interpretation Act 1978;
“young people” means people, other than children, under the age of 25.”

**Member’s explanatory statement**

This defines terms used in NC2, NC3, NC4, NC5, NC6, NC7, NC8 and this clause.

---

**NEW SCHEDULE**

Edward Timpson

★ To move the following Schedule—

“SCHEDULE

**PLACING CHILDREN IN SECURE ACCOMMODATION ELSEWHERE IN GREAT BRITAIN**

*Children Act 1989*

1 The Children Act 1989 is amended as follows.

2 (1) Section 25 (use of accommodation in England for restricting liberty of children looked after by English and Welsh local authorities)—

(a) is to extend also to Scotland, and

(b) is amended as follows.

(2) In subsection (1)—

(a) for “or local authority in Wales” substitute “in England or Wales”;

(b) after “accommodation in England” insert “or Scotland”;

(3) In subsection (2)—

(a) in paragraphs (a)(i) and (ii) and (b), after “secure accommodation in England” insert “or Scotland”;

(b) in paragraph (c), for “or local authorities in Wales” substitute “in England or Wales”;

(4) After subsection (5) insert—

“(5A) Where a local authority in England or Wales are authorised under this section to keep a child in secure accommodation in Scotland, the person in charge of the accommodation may restrict the child’s liberty to the extent that the person considers appropriate, having regard to the terms of any order made by a court under this section.”

(5) In subsection (7)—

(a) in paragraph (c), after “secure accommodation in England” insert “or Scotland”;

(b) after that paragraph, insert—

“(d) a child may only be placed in secure accommodation that is of a description specified in the regulations (and the description may in particular be framed by reference to whether the accommodation, or the person providing it, has been approved by the Secretary of State or the Scottish Ministers).”
Children and Social Work Bill [Lords], continued

(6) After subsection (8) insert—

“(8A) Sections 168 and 169(1) to (4) of the Children’s Hearings (Scotland) Act 2011 (asp 1) (enforcement and absconding) apply in relation to an order under subsection (4) above as they apply in relation to the orders mentioned in section 168(3) or 169(1)(a) of that Act.”

3 In paragraph 19(9) of Schedule 2 (restrictions on arrangements for children to live abroad), after “does not apply” insert “—

(a) to a local authority placing a child in secure accommodation in Scotland under section 25, or

(b) ”.


4 The Children (Secure Accommodation) Regulations 1991 (S.I. 1991/1505) are amended as follows.

5 In regulation 1—

(a) in the heading, for “and commencement” substitute “, commencement and extent;

(b) the existing text becomes paragraph (1);

(c) after that paragraph insert—

“(2) This Regulation and Regulations 10 to 13 extend to England and Wales and Scotland.

(3) Except as provided by paragraph (2), these Regulations extend to England and Wales.”

6 In regulation 2(1) (interpretation), in the definition of “children’s home”, for the words from “means” to the end, substitute “means—

(a) a private children’s home, a community home or a voluntary home in England, or

(b) an establishment in Scotland (whether managed by a local authority, a voluntary organisation or any other person) which provides residential accommodation for children for the purposes of the Children’s Hearings (Scotland) Act 2011, the Children (Scotland) Act 1995 or the Social Work (Scotland) Act 1968”.

7 For regulation 3 substitute—

“3 Approval by Secretary of State of secure accommodation in a children’s home

(1) Accommodation in a children’s home shall not be used as secure accommodation unless —

(a) in the case of accommodation in England, it has been approved by the Secretary of State for that use;

(b) in the case of accommodation in Scotland, it is provided by a service which has been approved by the Scottish Ministers under paragraph 6(b) of Schedule 12 to the Public Services Reform (Scotland) Act 2010.

(2) Approval by the Secretary of State under paragraph (1) may be given subject to any terms and conditions that the Secretary of State thinks fit.”

8 In regulation 17 (records), in the words before paragraph (a), after “children’s home” insert “in England”.
Secure Accommodation (Scotland) Regulations 2013 (S.S.I. 2013 No. 205)

9 The Secure Accommodation (Scotland) Regulations 2013 (S.S.I. 2013 No. 205) are amended as follows.

10 In regulation 5 (maximum period in secure accommodation), after paragraph (2) insert—

“(3) This regulation does not apply in relation to a child placed in secure accommodation in Scotland under section 25 of the Children Act 1989 (which allows accommodation in Scotland to be used for restricting the liberty of children looked after by English and Welsh local authorities).”

11 In regulation 15 (records to be kept by managers of secure accommodation in Scotland), after paragraph (2) insert—

“(3) The managers must provide the Secretary of State or Welsh Ministers, on request, with copies of any records kept under this regulation that relate to a child placed in secure accommodation under section 25 of the Children Act 1989 (which allows local authorities in England or Wales to place children in secure accommodation in Scotland).”


12 In Article 7 of the Children’s Hearings (Scotland) Act 2011 (Consequential and Transitional Provisions and Savings) Order 2013 (S.I. 2013 No. 1465) (compulsory supervision orders and interim compulsory supervision orders), after paragraph (2) insert—

“(3) Where—

(a) a compulsory supervision order or interim compulsory supervision order contains a requirement of the type mentioned in section 83(2)(a) of the 2011 Act and a secure accommodation authorisation (as defined in section 85 of that Act),

(b) the place at which the child is required to reside in accordance with the order is a place in England or Wales, and

(c) by virtue of a decision to consent to the placement of the child in secure accommodation made under article 16, the child is to be placed in secure accommodation within that place, the order is authority for the child to be placed and kept in secure accommodation within that place.”

Social Services and Well-being (Wales) Act 2014 (anaw 4)

13 In section 124(9) of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (restrictions on arrangements for children to live outside England and Wales), after “does not apply” insert “—

(a) to a local authority placing a child in secure accommodation in Scotland under section 25 of the Children Act 1989, or

(b) ”.
Children and Social Work Bill [Lords], continued

Saving for existing powers

14 The amendments made by this Schedule to provisions of subordinate legislation do not affect the power to make further subordinate legislation amending or revoking the amended provisions.”

Member’s explanatory statement
See the explanatory statement for NC1.

ORDER OF THE HOUSE [5 DECEMBER 2016]
That the following provisions shall apply to the Children and Social Work 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 concluded) be brought to a conclusion on Tuesday 17 January 2017.

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

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.

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

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

Other proceedings

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