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Public Bill Committee

CHILDREN AND FAMILIES BILL

Eleventh Sitting

Thursday 21 March 2013

(Morning)

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Monday 25 March 2013

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: † Mr Christopher Chope, Mr Dai Havard

† Barwell, Gavin *(Croydon Central)* (Con)
† Brooke, Annette *(Mid Dorset and North Poole)* (LD)
† Buckland, Mr Robert *(South Swindon)* (Con)
† Elphicke, Charlie *(Dover)* (Con)
Esterson, Bill *(Sefton Central)* (Lab)
† Glass, Pat *(North West Durham)* (Lab)
† Hodgson, Mrs Sharon *(Washington and Sunderland West)* (Lab)
† Jones, Graham *(Hyndburn)* (Lab)
Leadsom, Andrea *(South Northamptonshire)* (Con)
Lee, Jessica *(Erewash)* (Con)
† Milton, Anne *(Lord Commissioner of Her Majesty's Treasury)*
† Nandy, Lisa *(Wigan)* (Lab)
† Nokes, Caroline *(Romsey and Southampton North)* (Con)
Powell, Lucy *(Manchester Central)* (Lab/Co-op)
† Reed, Steve *(Croydon North)* (Lab)
† Sawford, Andy *(Corby)* (Lab/Co-op)
Simpson, David *(Upper Bann)* (DUP)
† Skidmore, Chris *(Kingswood)* (Con)
† Swinson, Jo *(Parliamentary Under-Secretary of State for Business, Innovation and Skills)*
† Timpson, Mr Edward *(Parliamentary Under-Secretary of State for Education)*
† Whittaker, Craig *(Calder Valley)* (Con)

Steven Mark, John-Paul Flaherty, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 21 March 2013

(Morning)

[Mr Christopher Chope *in the Chair*]

Children and Families Bill

Written evidence to be reported to the House

CF 55 Sense

CF 56 London and Home Counties Regional Conference of Officers responsible for Special Education and Disability

CF 57 Sarah Neville

CF 58 Carol Innes

CF 59 Amy Boyd

CF 60 NASUWT

CF 61 Newlife Foundation for Disabled Children

CF 62 Research in Practice

Clause 27

Duty to keep education and care provision under review

11.30 am

Mrs Sharon Hodgson (Washington and Sunderland West) (Lab): I beg to move amendment 78, in clause 27, page 20, line 38, after first 'provision', insert ', health care provision'.

The Chair: With this it will be convenient to discuss amendment 79, in clause 27, page 20, line 41, after first 'provision', insert ', health care provision'.

Mrs Hodgson: It is an honour to serve under your chairmanship, Mr Chope. I do not think I have spoken on the Bill while you were in the Chair. I will not talk at length, because it is fairly obvious to the Committee what the amendments would do and why they are important. However, for the benefit of the Committee it might help to explain that the amendments seek to be helpful to the Government, in particular to the Minister in his mission better to integrate health provision in the Bill.

I wondered whether the fact that there was no mention of health care provision in the clause, and therefore no duty on anyone to keep it under review, was an unintended omission. However, the fact that the Government have not tabled amendments to rectify that leads me to believe it was intentional. I would be grateful for an explanation of why the Government do not think that health care provision should be kept under review for the purposes of ensuring that there are sufficient services in the local area, or even beyond, to meet need.

It may be that such a duty is provided under another Act. However, in keeping with the aim of the preceding clause, the general direction of the Bill, and particularly the amendments the Government have already made, it would be useful to spell out that local authorities do have a role in assessing the sufficiency of health services in their area, whether that is in the Bill or elsewhere.

The Parliamentary Under-Secretary of State for Education (Mr Edward Timpson): It is a delight to have you back in the Chair, Mr Chope. The amendments relate to clause 27, as the hon. Lady said. That is an important provision in the Bill as it ensures that local authorities keep their special educational provision and social care provision under review. It also ensures that local authorities consult those who use services and those who provide them as part of that process.

One of the main aims of the Bill is to bridge some of the gaps that currently exist between education and health services. The amendments are clearly in line with that aim, and seek to extend the duty on local authorities, so that they keep not only education and social care provision under review, but also health care provision. I can reassure the hon. Lady that there is no unintended omission.

As we know, local authorities are not directly responsible for commissioning health care provision. That is the responsibility of the NHS Commissioning Board and clinical commissioning groups under the NHS Redress Act 2006. The amendments would therefore impose a duty to keep provision under review on a body that had neither the powers nor the duties to secure such provision. That does not mean, however, that health care provision for children with special educational needs should not be subject to regular review and consideration.

The Bill already makes provision for joint commissioning arrangements for education, health and care provision to be secured for children and young people with SEN, ensuring that health care provision, along with education and social care provision, is planned and reviewed by both the local authority and its partner commissioning bodies. That is set out in the joint commissioning clause, 26. That requires local authorities and clinical commissioning groups to work together to agree the full range of provision, including the education, health and care provision reasonably required by children and young people with SEN for whom the local authority is responsible. The joint commissioning arrangements must also include what provision is to be secured and by whom.

Information about the services provided as a result of that activity and how to access them would be included in the local offer, as required by clause 30, which we shall come to in due course. Crucially, given the intention behind the amendments, both local authorities and clinical commissioning groups must keep the arrangements under review. I hope that reassures the hon. Lady that there is no omission in relation to health care, and I therefore urge her to withdraw her amendment.

Pat Glass (North West Durham) (Lab): I want to point out to the Minister what is happening on the ground. At the moment, there is a duty on local authorities to identify children with SEN, and to make and plan for suitable provision. While we might argue that that does not happen nearly well enough in some local authorities, at least there is some statutory guidance and requirement, and parents have somewhere to go when provision is not planned for appropriately.

As I have said in Committee, and I am sure that I will say it again, the missing link in all this is almost always health. Health, if they can be got there, never bring their cheque book, and health provision is always lacking. There is insufficient SALT—speech and language therapy—occupational therapy and physiotherapy. The Select Committee on Education, on which I and other members of this Committee sit, has called child and adolescent mental health services a national disgrace. It is always health that is missing. In my experience, primary care trusts across the country fail not only to provide, but to plan for the provision in their areas. For those reasons, it is important to have something in the Bill that parents, children and schools can point to and say, "You are failing in your statutory duty," and that there is some redress. The current situation is simply not good enough.

Mrs Hodgson: My hon. Friend makes an eloquent and powerful point. For all her reasons and mine, we want something in the Bill. I heard what the Minister said and the assurances he gave, but I hope that, as the Bill progresses through the House, he will look at whether it can be strengthened in some way. I take on board that local authorities are not responsible for health provision, but in regard to education, health and care plans, could a small bit of statutory responsibility be placed on them to keep that under review? Given his assurances, however, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mrs Hodgson: I beg to move amendment 80, in clause 27, page 20, line 43, at end insert

'including provision in institutions approved by the Secretary of State by virtue of section 41 of this Part.'.

The Chair: With this it will be convenient to discuss amendment 193, in clause 27, page 21, line 18, at end insert—

'(a) the governing bodies, proprietors or principals of institutions approved by the Secretary of State under section 41 (independent special schools and special post-16 institutions: approval).'.

Mrs Hodgson: I take great heart from the fact that I am on the same side as the hon. Member for South Swindon on this issue. Our amendments are to different parts of the clause, but they have the same aim, which is to ensure that independent special schools and colleges—I am so pleased that the Minister found a way to include them in the Bill; that is great news—are kept in mind when local authorities review services. It may save authorities money, as they may not need to fill in local gaps in provision for low incidence needs, knowing that they can call on independent schools and colleges in their region, or even on national centres of excellence, if and when children present with certain conditions.

My amendment and the hon. Gentleman's are equally meritorious in that regard, and both would make the clause stronger, so I am keen for the Minister to accept them. If he cannot, I hope that he will offer assurances that local authorities will be given guidance on their responsibilities under the clause, making specific reference to taking account of the capacity of those schools and colleges to form part of the mix of provision.

Mr Robert Buckland (South Swindon) (Con): It is a pleasure to serve under your chairmanship, Mr Chope. I am grateful to the hon. Member for Washington and Sunderland West for outlining in a nutshell why there is certainly merit in the amendments that she and I have tabled. In our last sitting, I dealt, in a similar context, with the status of independent providers and independent special schools. Amendment 193 seeks to make sure that they are very much in the mix in the context of clause 27. I will not reiterate all the points that I made on Tuesday afternoon; I simply adopt them for the purpose of my argument. I am interested to hear what the Minister will say about my probing amendment.

Mr Timpson: Both amendments are about ensuring that independent schools and independent specialist colleges are included in local authorities' reviews of special educational provision and social care provision for children and young people with special educational needs. I am again grateful to the hon. Member for Washington and Sunderland West and my hon. Friend the Member for South Swindon for tabling the amendments, which give the Committee an early opportunity to discuss the valuable role played by the many independent schools and colleges that offer specialised provision for children and young people with the most severe and profound special educational needs. I had the pleasure in January of visiting the Royal National Institute of Blind People college in Loughborough, an independent specialist college, where I saw for myself the high quality of the provision on offer and the benefits that the young people there are reaping from it. No doubt we will discuss such institutions in greater detail when we reach clause 41.

Amendment 80 would place in the Bill a requirement for local authorities to include independent special schools and independent specialist providers in their review of provision outside their area, when those institutions have been approved by the Secretary of State under clause 41. I understand the reasons behind the tabling of the amendment, but I hope that I can persuade the hon. Lady that it is not necessary.

Clause 27 places a duty on local authorities to review the special educational provision and social care provision available to children and young people not only in their area, but for children and young people with special educational needs for whom they are responsible outside their area. In doing so, local authorities must consult schools and other post-16 institutions that the authorities think are, or are likely to be, attended by those children or young people. That includes specialist institutions that are out of area, so the clause already includes these providers within its scope. The code of practice will also require the inclusion of details of national provision out of area for those who need it, which will include independent specialist provision, in the local offer.

Amendment 193, in the name of my hon. Friend the Member for South Swindon, would make explicit provision to include the governing bodies, proprietors or principals of independent special schools and special post-16 institutions approved by the Secretary of State under clause 41 in the list of people and organisations that the local authority must consult when reviewing its provision. As I said, clause 27(3) includes independent schools and independent specialist colleges. The amendment would require a local authority to consult all the independent

[Mr Timpson]

schools and independent specialist colleges approved by the Secretary of State under clause 41, irrespective of whether children in the authority's area were or were likely to be attending those institutions. We want local authorities to be required to carry out reasonable consultation in the interests of reviewing their SEN provision but not to be over-burdened unnecessarily by an unreasonable duty to contact all schools and colleges, some of which are unlikely to be part of the provision serving local children and young people because of the type of provision they offer, the geography involved, or other reasons that make it pertinent not to include them in either the local offer or the reviewing mechanism.

Mr Buckland: There is very often a misconception among local authorities that independent providers will always be high cost. Will the Minister assure me that it is the Government's intention to ensure that local authorities overcome those misconceptions and treat independent providers as very often better value institutions when it comes to expert and specialist provision?

Mr Timpson: My hon. Friend makes an astute and important point about ensuring that when local authorities are discussing, consulting and engaging with parents and other agencies in order to decide what is the most appropriate setting to enable a child or young person to get the most out of their education and get the best possible support, they look across the board and acknowledge that in many instances, as I saw for myself when I visited the RNIB college in Loughborough, that that can be provided in the independent specialist sector. We know that from the excellent outcomes that many of those institutions manage to achieve for these young people. The purpose of the Bill is to make the range of opportunity as wide as possible to ensure that local authorities consider every potential place where young people can receive an education. In requesting an assessment and the plan that follows, giving parents and young people the widest possible choice to request the school or college that they will attend gives more power and control to parents and young people and helps to ensure that they come to the right decision.

Caroline Nokes (Romsey and Southampton North) (Con): Does my hon. Friend agree that some local authorities seem almost anxious when they are considering provision in the independent sector—that they feel it is somehow distant and remote from their powers of inspection and influence? Does he envisage the Bill improving local authorities' confidence that provision in the independent sector will come under closer scrutiny from them?

11.45 am

Mr Timpson: My hon. Friend's analysis is correct. The Bill will help to enhance rigour in all settings where children are being educated and quality of provision, but we need to look outside the Bill, too, and consider what is happening on the ground and how that influences behaviour and relationships between local authorities and independent special schools and specialist providers.

The clause as drafted strikes the right balance between ensuring proper coverage in the consultation process, while leaving sensible discretion to local authorities to manage that process efficiently. Overall, the Bill recognises the place of independent specialist providers in the review of provision, in the local offer and in the naming of institutions in the education, health and care plan. I discussed the proposals with the Association of National Specialist Colleges, which represents independent specialist colleges in the post-16 sector, the National Association of Independent and Non-Maintained Special Schools, known as NASS, and the Independent Schools Council, and I know they all welcomed their inclusion in the Bill. I am grateful to the hon. Member for Washington and Sunderland West for her support. Given such reassurances, I hope that she will withdraw the amendment.

Mrs Hodgson: I thank the Minister for reassuring me and the hon. Member for South Swindon. On the basis of what the Minister has said, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Buckland: I beg to move amendment 50, in clause 27, page 21, line 3, at end insert—

'(2A) If the education and care provision referred to in subsection (1)(a) and (b) is deemed insufficient to meet the needs of children and young people under subsection (2), a local authority must—

(a) publish these findings; and

(b) improve that provision until it is deemed by those consulted in subsection (3) to be sufficient to meet all the needs identified under section (22).'.

The Chair: With this it will be convenient to discuss the following:

Amendment 81, in clause 27, page 21, line 3, at end insert—

'(2A) The local authority must assess the extent to which there is sufficient funding in place to secure the provision detailed in subsection (1) for all the children and young people and their families who require it.

(2B) Where a local authority exercising its duty under subsection (2A) finds that it does not have sufficient funding in place to secure adequate provision for all children and young people who require that provision, the authority must consider jointly commissioning services for which it is exclusively responsible with neighbouring local authorities, where this is appropriate.'.

Amendment 82, in clause 27, page 21, line 27, at end add—

'(6) The local authority must demonstrate that any changes in services made as a result of exercising its functions under this section will have the effect of improving provision available for children and young people with special educational needs and their families.'.

Amendment 83, in clause 27, page 21, line 27, at end add—

'(7) The local authority must prepare and publish a report at least every 24 months setting out how it has met its duties under this section.'.

Mr Buckland: The purpose of the amendment is to explore whether a local authority that finds its services are insufficient to meet local need should publicise those findings and be under a duty to improve services

until they are deemed to be sufficient. As I said on Second Reading, I firmly believe that accountability must be at the heart of the reforms to SEN provision. The current system has led to parents too often feeling powerless and overwhelmed by the need to fight their way through bureaucratic hurdles to access the services and support they need to ensure that their children can not only be educated properly, but be part of our society and communities.

It is vital that we embrace the opportunity the Bill provides and that we ensure that families with disabled children and children with special educational needs are able to hold local agencies to account effectively. Without such mechanisms it is unlikely that families with disabled children and SEN will be able to ensure that the services they need are available. For the delivery of services contained in the local offer, which we will discuss under clause 30, it is crucial that services are identified and improved.

The Government have already taken some important steps, which I welcome. For example, local authorities will now have to publish comments by parents and young people about the local offer and the action that will be taken in response. That is extremely good news, but I am keen to explore how the feedback will lead to real improvements in service provision. My concern is that, as drafted, clause 27 does not place local authorities under an obligation to make the improvements to services that parents want, even when they deem their provision to be insufficient. The amendment would ensure that if services were deemed insufficient, a local agency would have a duty to revise the offer until it was deemed sufficient by all interested parties, including local family representatives. That is particularly important because under the current provisions there is too much reliance on parents to create accountability for services within the local offer.

Accountability will be achieved under the current proposals either by using each individual provider's complaints procedure where the services delivered are deemed inadequate, or by parents taking their local authority to task over services included, for example, in a neighbouring authority's local offer but missing from their own local area. It is all a bit too ad hoc for there to be an effective accountability mechanism.

Chris Skidmore (Kingswood) (Con): I am interested in what my hon. Friend is saying. What are his thoughts on a possible future role for Ofsted, although it is not covered in the Bill, in ensuring that local authorities are more accountable? My concern about his amendment relates to the transparency and independence of the data. Even if the local authority were required to publish the data, they would still be published by the local authority, rather than a third-party organisation such as Ofsted making that independent assessment.

Mr Buckland: I am grateful to my hon. Friend, who makes an interesting point about Ofsted's role. New clause 31, which we will debate towards the end of our proceedings in Committee, deals with the potential role of Ofsted in inspecting local authorities' performance in supporting children and young people with special educational needs. He has presaged that debate with admirable incisiveness. I will answer his point directly. It is not so much about the complaints mechanism, but the means by which parents and families can take direct action and have a direct means of influencing and getting change at local level. I accept that Ofsted may have an important role to play from time to time, but I worry that that is not enough of an immediate check and balance on a local authority's provision.

My concern if we rely on parents to self-police available services is that the age-old battle that families often face will not be reduced and the adversarial nature of the complaints process will remain. Rather than on parents, the onus should be on local authorities to improve services themselves. The system should be much more proactive than reactive. The Government explicitly stated that the key objective of their reforms is to reduce the agonising battles that families face. Although the Bill goes a long way to delivering that, we are not there yet. If we can consign the battles, fights and struggles faced by parents to the history books, we will have achieved something notable. In that spirit, I commend my amendment to the Committee and look with interest to hear what the Minister says.

Mrs Hodgson: Once again, the aims of the hon. Member for South Swindon and the Opposition are allied. In amendments 50 and 81, we are both asking the Minister what happens when there is not enough provision. As the National Deaf Children's Society points out in its submission to the Committee, local authority budgets are already under severe pressure, to the point where they are cutting the central support that they provide, such as specialist teachers of the deaf and speech and language therapists.

All the signs point to the financial climate being much more difficult by the time the Bill reaches the statute book. Local authorities will probably have even greater burdens on them as a result of the Bill, including an increased responsibility for 16 to 25-year-olds. What happens when local authorities find that they cannot afford the level of provision they need to meet the needs of children and young people in their area? One way that they could try to address that is to work together and share services with neighbouring authorities, particularly services for low incidence needs, but clearly there will be areas where that will work better than others. London boroughs, for example, are particularly well placed to share services, and already do so in many cases, but rural county councils may find it much harder to work in that way.

It harms no one to have a requirement in the Bill to consider whether one local authority can work with others to plug gaps identified in its services. If the Minister disagrees, I hope he will provide assurances that the Department will support local authorities in improving their joint working and managing their budgets for SEN support, so that the services we rely on to improve outcomes for children and young people do not suffer any more than they already have.

Amendments 82 and 83 are more technical and focus on how local authorities are made to account for the efforts that they have undertaken to fulfil their duties under the clause and to demonstrate how those efforts have resulted in better services for the children, young people and families that they serve. There are no reporting requirements on local authorities in the clause. If the Minister does not accept the amendments, how does he intend to ensure that local authorities do what they are

[Mrs Hodgson]

supposed to? How will he improve parental confidence in their local authority, if they are to be left in the dark about what efforts are being made?

I do not think that the duties in question would be onerous for a local authority, given that keeping services under review will generate paperwork and statistics anyway. Simply publishing every two years a statement that pulls those things together, as local authorities already do for child care—although if the Government get their way on clause 75, it will become something that they used to do—will ensure that minds are focused on doing a good job.

Caroline Nokes: It is a pleasure to serve under your chairmanship, Mr Chope. I welcome the probing amendment tabled by my hon. Friend the Member for South Swindon on the strengthening of accountability measures, so that families with children who have special educational needs can hold local agencies and authorities to account properly, to ensure that the services they need are available.

For too many families—I am not the only Member to have experience of this—the process of obtaining support involves navigating one's way around a complex, inflexible system that is steeped in bureaucracy. Frustrated parents who have been doing their best to get provision for their children and struggling to find their way through the maze of the system often say in surgeries that they feel they are banging their head against a brick wall. Time and again, parents struggle with the challenges involved in getting even the most basic support, whether that is speech and language therapy or time with an educational psychologist. They feel that they must be persistent and tireless, and that when it comes to getting the services that are needed, it is commonly the most articulate families, or those who shout the loudest—in essence the middle-class families—who are listened to and heard by the authorities.

That is why I am pleased to support the amendment, under which parents would be made to feel that the system was working for them, not against them. It would mean that if a local offer were deemed insufficient to meet the needs of children and young people, the local authority would have a duty to revise it until it was deemed sufficient. That would create a situation in which local authorities worked with families, school governors, children's centres and nurseries, with the common aim of making the support as good as possible.

In the present times of financial difficulty, when every penny counts, ensuring that children with special educational needs are given timely and effective support in the community would prevent families from reaching crisis point and needing more expensive specialist support further down the line. Time is of the essence for children with speech and language difficulties, for example. The appropriate therapy is crucial to their development, and there are severe implications for later life if support is not provided in time.

We should not underestimate the importance of partnership working. Too often, parents feel they are powerless and that their needs are not listened to. I am sure that there is not one Member present who has not had to deal with parents who have been forced to fight for a statement and to go to a tribunal to get their child the right support. That is unacceptable and wastes time, money and resources, which is emotionally draining for parents who already have immense challenges.

I welcome the Government's commitment to ensuring that local authorities publish comments from parents and young people about the local offer, but I feel that we can and should do more. The provisions are the biggest reforms to SEN provision in 30 years. Let us make them the best they can be, and bring about a culture change in the provision of services.

Pat Glass: We are all here today because we believe that it is crucial that children with special educational needs, particularly those with low incidence SEN, can get access to the specialist services that they need. Those services are rarely wholly educational. Specialist services in education rely heavily on advice and support from specialist services in health and sometimes social care. That is particularly true in the context of low incidence SEN, which is sometimes called "low incidence, high cost".

Those services can be provided within a local authority, but they must be planned for regionally. The Special Educational Consortium has voiced concern that cuts to local authority budgets are leading to a lack of proper funding for specialist SEN services, and that further cuts are being made in some places where the services were probably already considered inadequate. That is why it is vital that local authorities should be required not only to evaluate the funding implications of SEN and to confirm that there is no risk to existing provision, but to work with other local authorities in the region and with other agencies to ensure that there are appropriate services regionally.

12 noon

Low incidence SEN services are costly and not easy to provide. I arrived to take over inclusion services in a local authority that included SEN only weeks after the previous assistant director had closed the hearing impairment unit on the grounds that it was surplus to requirements. I soon found out that low incidence SEN is variable: a service can go for years with no children needing admission to specialist provision, then all of a sudden four or five are born in the same year. The service has to plan not only to provide for adequate provision over a period, but for full and fallow years.

To use low incidence, high cost SEN services for the deaf and blind as an example, specialist teachers for the deaf and blind do not hang around on the backs of doors. It takes five years to train and qualify such specialists properly, and the qualification is mandatory. I was working in the north of England, and the nearest training course for teachers of the blind was in Edinburgh. Local authorities must identify not only suitable teachers—people with the right skills—but people who are willing to put their lives on hold for two years to go off to Edinburgh to get the qualification. The local authority has to set aside wages from a budget that does not exist for a teacher or teachers who will not be working in the authority for two years, unless it can persuade schools to contribute and top-slice through the dedicated schools grant for funding. It also has to pay the course fees, which are incredibly expensive, and expenses to the teachers as well.

Training is neither cheap nor easy to provide, so good, responsible local authorities tend to have a constant programme of identification, training and funding as part of their accessibility strategy. The not-so-good authorities, the predatory ones, simply do not plan for it: they do not bother to set money aside or qualify their own teachers; they simply advertise and pay a little more so that they can poach teachers from responsible authorities. That is what is happening, and the situation is getting worse as local authority budgets are reduced.

That situation does not apply only to specialist provision for the deaf and blind; it is equally true for specialist teachers of pupils with autism or autistic spectrum disorders, and those with profound and multiple learning difficulties or severe learning difficulties. Through the whole range of specialist SEN, we are seeing an increase in the poaching of specialist teachers and the reduction of training, which will come home to roost because it takes years to train such people properly. It is essential for the pupils and their families that the Government ensure proper planning by local authorities of specialist SEN between agencies and across local authority boundaries, to ensure sufficient funding to support local provision. If local authorities and other agencies were forced to plan properly for and fund those services, not only locally but regionally, that would go some way to avoiding the current situation in which far too many children with SEN are taught by non-specialists, which is having a negative impact on learning and long-term prospects.

The Royal National Institute for Deaf People gave us figures showing that approximately 37% of children who are deaf or hearing impaired get five A-to-C grades, compared with 70% of their peers who do not have SEN. Clearly, we want to ensure that the current situation for those children, which is not good enough for too many of them, does not get worse.

Mr Timpson: The Government share the aims of the amendments, which are to ensure that education and social care provision are sufficient to meet the special educational and social care needs of children and young people and to promote improvements in such provision. As I set out in our debate on the preceding group of amendments, however, those aims must be balanced with the need to retain local decision making. I hope to reassure hon. Members that the Bill achieves that balance.

I shall pick up on some of the insightful and well-informed points made in particular by the hon. Member for Durham—

Pat Glass: North West Durham.

Mr Timpson: The hon. Member for North West Durham—I apologise, because I should have known. I spent three years up in Durham, and although it was before the hon. Lady represented the constituency, I should have been alive to the fact. I now have it imprinted on my brain. I listened carefully to her experience of specialist teaching and specialist provision. After the debate, I will revisit her comments and consider whether everything we are doing in the Bill and elsewhere is helping to address the issues that she raised.

The Green Paper set out an extensive commitment to develop more training opportunities for teachers, school leavers and support staff. The £1.3 million for SEN initial teacher training to help special schools provide a further round of extended SEN placements for trainee teachers and support the development of a new framework has been a useful way of trying to address that issue. There is also a further round of national scholarships, which opens in April with £1.5 million for SEN scholarships for teachers and support staff to increase their knowledge of SEN and access training to master's level in SEN specialisms. That will help us to plug some of the gaps that the hon. Member for North West Durham talked about. I will take away what she said and consider it carefully.

It must be for local authorities, schools and other services to determine spending on provision for children and young people with special educational needs, taking account of their legal responsibilities. Local authorities will be required by clause 27(3) to take account of the views of a wide range of people and organisations in doing so, including children and young people with special educational needs and parents of children with special educational needs. However, it must ultimately remain the local authority's decision.

It is important that we note the local offer required under clause 30 when discussing these amendments. My hon. Friend the Member for South Swindon took the opportunity to development his argument in more detail. He will forgive me if I use the opportunity, when we come to clause 30, to set out our rationale and our case for the local offer in the Bill, the code of practice and the regulations. I take up my hon. Friend's challenge about parents who feel that they will have to police the system. I take the view that we are giving them the opportunity to drive the system, and enabling them to have more say, involvement and control, through the transparency that the local offer will provide. However, I am sure we will discuss that issue in more detail when we come to clause 30.

The local offer involves an ongoing dialogue between local authorities and their partners, and children and young people and their families. It will keep the focus on the sufficiency of local provision. It will also support closer working among local authorities to improve the availability of services across local areas, in particular for children and young people with more complex needs. Local authorities continue to seek the best ways of making the most effective use of resources.

I was at a meeting of a whole host of all-party groups—including the all-party groups on disability, autism, and visual impairment—yesterday evening. A young lady who is partially sighted made a good point about regional commissioning. She said that we need to encourage local authorities, through the joint commissioning arrangements in the Bill, to think more imaginatively about commissioning services not just within their boundaries but regionally. I encourage them to look at that not only as an efficient way of spending the resources at their disposal, but as a means of providing a better service with a better quality of provision.

We need to be aware that by placing local authorities under a legal duty jointly to commission services with other local authorities we could undermine the local decision making for all authorities. Provisions are already

[Mr Timpson]

in place that require local authorities to demonstrate to parents, their local communities and decision makers how the changes they propose to their SEN provision are likely to lead to improvements in the standard, quality and/or range of special educational provision. The provisions are set out in the "Planning and developing special educational provision" statutory guidance.

I do not believe that it is appropriate to place further and similar statutory requirements on local authorities. It is important that local authorities reflect the outcomes of the reviews that they undertake under clause 27, but I believe that is best done through the local offer rather than a specific requirement under the clause. We have made provision in clause 30 for local authorities to involve children and young people with special educational needs, and parents with children with special educational needs, in developing and reviewing the local offer. That is assisted by the funding that the Department gives to the parent/carer forums, which are a strong voice for the many parents who are trying to battle the system as it currently stands.

Including the requirement for the local authority to publish comments received from or on behalf of children and young people with special educational needs, and their parents, as my hon. Friend said, and their response, will achieve the aims of the amendment. We will develop some arguments a little bit further when discussing clause 30, but based on what I have said, I urge my hon. Friend to withdraw his amendment.

Mr Buckland: I am grateful to my hon. Friend the Minister. He makes with great force the important point that parents, whether individually or through parents and carers' advisory groups—there is an excellent one in Swindon—help drive the agenda and are very much part of it. "No decision about me, without me" is an important way of encapsulating that.

I listened carefully to what the Minister said. I know that he will take away Committee members' observations and, perhaps, consider the issues further as the Bill develops. On the basis of what he said, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 27 ordered to stand part of the Bill.

Clause 28

Co-operating generally: local authority functions

Amendment made: 60, in clause 28, page 22, line 21, leave out from 'which' to end of line 22 and insert 'is under a duty under section 3 of the National Health Service Act 2006 to arrange for the provision of services or facilities for any children and young people for whom the authority is responsible;'.—*(Mr Timpson.)*

Mrs Hodgson: I beg to move amendment 84, in clause 28, page 22, line 27, at end insert—

'(n) the proprietors or management of early years settings providing education other than nursery schools in its area or which are attended, or are likely to be attend, by children and young people for whom the local authority is responsible.

(o) the management or advisory board of Children's Centres in its area or which are attended, or are likely to be attended, by children and young people for whom the local authority is responsible.

(p) any organisation providing out of school childcare or short break services in its area or which are attended, or are likely to be attended, by children and young people for whom the local authority is responsible.

(q) other local authorities.'.

In common with some amendments that we discussed earlier, there is an omission, in that the list of local partners that a local authority should work with in securing the best possible outcomes for children with special educational needs does not include children's centres, private, voluntary and independent early years settings, out-of-school child care providers or, as we discussed in relation to the previous clause, other local authorities.

I do not want to spend too long retracting arguments about why early years settings should be considered crucial partners in delivering special educational provision, but with regard to children's centres, the "Support and aspiration" Green Paper could not have been clearer. Paragraph 1.29 on page 33 states:

"Sure Start Children's Centres play a key role for disabled children and children with SEN and their families. They can bring health, early learning and other early years services together and offer a space for an integrated response using, for example, the Early Support approach described in chapter two. In particular, health professionals can work alongside other professionals in Sure Start Children's Centres to improve early identification of SEN and impairments."

The Minister is aware that children's centres have suffered since the Green Paper was written and will no doubt suffer even more in the next couple of financial years, given that their notional budget is now some 40% lower than at the election. Indeed, the next paragraph states:

"We have set out our intention to retain the national network of Sure Start Children's Centres".

This rings particularly hollow two years later, when there are now some 401 fewer of them. Admittedly, not many actual buildings may have closed, but that is more a product of the fact that closing a centre is hard to do politically and financially, due to capital clawback provisions, than of any design of the Minister's colleagues at the Department for Education. Notwithstanding that, children's centres can and should still be a key partner with the local authority in meeting the needs of children and young people in their catchment area, in the same way as both early years and out-of-school child care providers should be.

I hope that the Minister accepts the amendment or assures the Committee that he will look again at the list and return on Report, or in the House of Lords, with a more comprehensive one that includes the four organisations that I suggested, as well as any others that may have been missed.

12.15 pm

Mr Timpson: As the hon. Lady said, we have already discussed early years and the importance of early identification. The amendment, which also relates to that, would require early years free entitlement providers to co-operate with local authorities. Local authorities would in turn have to co-operate with early years providers

to exercise their functions, meaning that local authorities would be required to co-operate with children's centres, as the hon. Lady said, any organisation providing out-of-school child care or short break services, and other local authorities.

It is important that local authorities are able to work with early years providers to best meet the needs of young children with SEN, but we must recognise that the early years sector is large and that many free entitlement providers are in the private or voluntary sectors. The extra burden that the amendment could place on some providers might be difficult for them to manage, as they may be very small and may not have the level of resources needed. For example, the duty would extend to voluntary providers such as those providing church hall sessional provision and childminders. Equally, many providers of short breaks for disabled children are small, and it would not be in the interests of children to subject those providers to additional regulation.

Many early years providers, particularly short break providers, have expertise in supporting children with SEN. Where they do, we will of course expect them to co-operate with the local authority. Crucially, where an early years provider provides special educational provision for a child or young person for whom the local authority is responsible, they are required to co-operate with the local authority, as they become a partner under subsection (2)(h). That provision adds to the list of partners who must co-operate with the local authority

"any other person (other than a school or post-16 institution) that makes special educational provision for a child or young person for whom the authority is responsible".

A blanket provision would not serve the interests of children with SEN. It will be fairer and more realistic to leave it to individual local authorities and providers to decide on the best way forward in individual cases, with the précis of subsection (2)(h), as I have already set out.

As the hon. Lady said, we discussed co-operation between local authorities under clause 26. As I said then, it should be noted that it is already good practice for local authorities to work together where necessary. The current focus of clause 28(2) is, rightly, on institutions with which local authorities will need to co-operate, as local authorities are already expected to co-operate generally. When specific co-operation with another local authority is required, the Bill provides for that in clause 31 and in clauses 39 and 40, when local authorities are considering naming a school maintained by another local authority in an education, health and care plan.

Regarding children's centres—I have discussed the overarching approach under subsection (2)(h)—they will similarly be consulted by local authorities under the clause's provision for them to co-operate. As a local service, where there is co-operation under subsection (2)(h), children's centres will fall into that group.

I hope that that provides the hon. Lady with the reassurance she seeks. I therefore urge her to withdraw the amendment.

Mrs Hodgson: With those reassurances, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Buckland: I beg to move amendment 34, in clause 28, page 22, line 27, at end insert—

'(2A) The Local Government Ombudsman has jurisdiction for the purposes of this Part over the partners set out in subsections (2)(a) to (2)(i).

(2B) The NHS Ombudsman has jurisdiction for the purposes of this Part over the partners set out in subsections (2)(j) to (2)(m).'.

The amendment relates to the potential jurisdiction of the local government ombudsman and the national health service ombudsman in relation to complaints made by families of children and young people, or by young people themselves, about issues and problems with the system.

Ombudsmen already act in a wide range of cases. It is important to stress that the amendment is not about an appeals mechanism, which deals with the merits of a decision, but about the opportunity via a complaints process for a proper review of the decision-making process itself. It not only is important for the individuals concerned, but informs the entire system for future decision making.

Already we know that the LGO will provide a single route of redress for the majority of complaints made pursuant to EHC plans. The LGO has jurisdiction over the actions of local authorities and all social care providers. Where complaints are made to the local government ombudsman that include health care provision, it can be considered through its statutory powers to conduct a single joint investigation with the parliamentary health service ombudsman. The only gap that therefore remains that prevents the LGO from providing a complete route of redress for education, health and care complaints is the lack of jurisdiction over education providers. Amendment 34 is drafted to plug that gap.

In the Bill as currently drafted, the education aspects of EHC plans would be subject to complaint procedures that differ from wider provision, principally through their own internal complaint mechanisms. This separation of education complaints runs somewhat counter to the Government's integration agenda, and will, it is feared, weaken the means of redress for those using the system. More attention needs to be given to fine-tuning this part, and other relevant parts, of the Bill to ensure that that gap can be plugged.

The fundamental issue that concerns me and others is the need for simplicity—for a single, independent point of complaint to deal with any allegations of unfair treatment of individual children and young people.

Chris Skidmore: On the issue of complexity, I am a member of the Health Committee, and a year or two ago we published a report on complaints and litigation in the NHS. One of the big problems is that for health care cases—this will be extended to special educational needs and the requirements of commissioning groups—there are several routes, which can be quite confusing. There are patient advice and liaison services and there is the NHS Litigation Authority. With the ombudsman specifically, there is currently a large backlog of around 15,000 cases. The ombudsman normally reports on only about 150 cases a year. I am slightly concerned that placing an extra duty on the ombudsman might unfairly give parents the hope and aspiration that they can go straight to the ombudsman when in fact there are other means of redress in the NHS. I was wondering—

The Chair: Order. That was a rather long intervention. If the hon. Gentleman wishes to make a speech in due course, he can.

Chris Skidmore: I will leave it as an intervention, Mr Chope. I am sorry.

Mr Buckland: I am grateful to my hon. Friend. He rightly raises the issue of the burden on the ombudsman service, and we know that delays are an issue. However, the local government ombudsman has written to the Committee in a letter dated 20 March. In fact, it is from Mr Michael King, the executive director of the LGO. In his submission, he writes that he sees the benefits in plugging the loophole that currently prevents the LGO from providing a complete route of redress for complaints because of its lack of jurisdiction over education providers. If the LGO itself is saying that that is a worrying lacuna, I would urge my hon. Friend the Minster and the Government to consider it very carefully as the Bill progresses.

We would not want to end up with a situation where, as a result of what we hope will be an avoidable complaint, the LGO has no remit because of a mere technicality. Therefore, for the sake of being tidy and orderly, I would submit that the amendment has some merit. I accept that it may need some redrafting—it initially concerned only the LGO, but by my way of thinking, I wanted to ensure that the NHS was involved as well, because of health elements. However, there are already some agreements between the two to ensure that health provision is covered, so the amendment really seeks to address the issue of education. I look forward to my hon. Friend's response with interest.

Mrs Hodgson: I share the desire of the hon. Member for South Swindon to see some oversight of the relationships that local authorities need to maintain, especially with regard to redress and complaints. As with so many other clauses, there is the question, "What happens if this doesn't happen?" or "How do we make sure that this does happen?" Ultimately, it will no doubt be down to parents flagging up concerns, but for that to have any impact there needs to be someone who has the power to listen and the clout to compel the relevant bodies to do things differently. I therefore welcome the amendments, and if the Minister is not minded to agree to them, I hope he will set out how he sees parents being able hold public bodies to account for how they co-operate with each other.

Mr Timpson: I understand that the amendment is essentially a probing amendment, to explore whether the local government ombudsman and the health service ombudsman could act together as a single point of redress for complaints against all the bodies listed in subsection (2). The list covers independent schools, youth offending teams, post-16 institutions and NHS bodies, including local health bodies in Wales. The complaints would relate to how the bodies were carrying out their functions under this part of the Bill, which relates to special educational needs.

The local government ombudsman and the health service ombudsman work together on cases in which they both have an interest. They could, therefore, offer something of a co-ordinated response to complaints under this part of the Bill. I can see an argument for providing a more co-ordinated response for parents and young people who want to complain. I applaud my hon. Friend's efforts to increase the simplicity for parents and young people as they navigate the complaints processes, but there would be difficulties if the amendment were agreed to.

To begin with, the two ombudsmen already have jurisdiction over some of the partners listed in the clause. The health service ombudsman can investigate complaints against the health bodies in England that are listed, and I am grateful to my hon. Friend the Member for Kingswood, who sits on the Health Committee, for sharing with us some of his expertise on the issue. The local government ombudsman can investigate complaints against district councils, and some complaints against schools. The amendment would, therefore, be unnecessary, and a potentially confusing re-enactment of the existing powers.

In addition, the local government ombudsman already considers complaints against local authorities in relation to special educational needs, and against social care providers, and would be able to continue to do so. The amendment would also lead to a widening of the local government ombudsman's remit into areas such as complaints about the internal management and conduct of schools, for which there are already well-established complaint mechanisms. The amendment would not prevent those other mechanisms from dealing with complaints about matters covered by part 3 of the Bill, so it would add another route of redress and make the situation more complex rather than clarifying matters. The LGO currently will not investigate where an avenue of redress exists unless there are good reasons not to use that route, and such consideration is on a case-by-case basis.

We are also introducing arrangements to help parents and young people know how to complain, and we will come on to that under the auspices of clause 30, which states that regulations may require that the local offer include information about how to make a complaint about education, health care and other provision. The indicative regulations that are with the Committee require the local offer to contain such information. It would be better to maintain the current arrangements for complaints rather than to add to them, and to work towards a single interface or point of contact for anyone wanting to complain about SEN provision, so that they can be clearly guided to the right route of redress.

My hon. Friend the Member for South Swindon referred to a letter from the local government ombudsman that is hot off the press, and I understand that a copy has been sent to my Department. I will look at it carefully and consider its contents, and will be happy to come back to him when I have done so. However, while acknowledging his efforts to be of assistance by trying to streamline the system, on the basis of the argument that I have set out and due to the potential complexities, I urge him to withdraw the amendment.

Pat Glass: Throughout our scrutiny of the Bill, I think that the Minister is going to get sick and tired of getting the benefit of my experience. I apologise for that, but I do consider it necessary to say a few words on the issue.

12.30 pm

I remember going into an authority shortly after 1995, when the code of practice was introduced. It was an authority that had not issued a statement within the six-month period—I would be surprised if they had issued one within the previous two years. There were some major issues. A group of parents had formed a group to petition the local authority about the issue of provision. The authority had failed to provide statements for their children and failed to provide provision. The parents complained to the local government ombudsman, who found maladministration that had led to injustice and he awarded compensation.

One of my first jobs was to go along and get the compensation signed off by the director. He looked at the case and said, "Oh yeah, it's far cheaper to pay compensation than it is to meet the provision." That is the danger in not giving parents proper redress. We are never as swift as when we are chased, and the SEN tribunal really did shake up local authorities. It gave parents teeth. If we do not go down that route, right across the piece, with health, education and social care, parents will be left in a position where it is cheaper to pay compensation than to make provision.

Mr Buckland: It is a pleasure, as ever, to follow the hon. Member for North West Durham. We will never tire of hearing from her.

I am grateful to the Minister for acknowledging the late intervention from the local government ombudsman. His letter is interesting, important and thorough. It addresses later clauses in the Bill as well. The Minister must be forgiven for not yet having been able to give a full response to that important intervention. On that basis, I am prepared to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 61, in clause 28, page 22, line 39, at end add—

'(4) Regulations may prescribe circumstances in which a clinical commissioning group that would otherwise be a local partner of a local authority by virtue of subsection (2)(k)(ii) is to be treated as not being a local partner of the authority.'.—*(Mr Timpson.)*

Clause 28, as amended, ordered to stand part of the Bill.

Clause 29

Co-operating generally: governing body functions

Mrs Hodgson: I beg to move amendment 85, in clause 29, page 22, line 44, after 'schools', insert

'including academies and free schools'.

The Chair: With this it will be convenient to discuss amendment 86, in clause 29, page 23, line 1, at end insert—

'(g) non-maintained special schools;

(h) institutions approved by the Secretary of State under section 41;

(i) Ofsted-registered early years settings other than maintained nursery schools.'.

Mrs Hodgson: This minor amendment addresses what must have been another omission. Given the role that non-maintained and independent special schools and colleges play in providing for children and young people with special educational needs, it seems strange that they would not be required to co-operate with the local authorities that are placing children with them under the terms of the clause. As has been argued before, the same goes for early years providers.

If I have misunderstood the clause in wondering why such bodies are not included under it, I apologise for wasting the Minister's and the Committee's time, but it seems clear that those bodies have functions under this part of the Bill, as per subsection (1). If the Minister is not minded to accept the amendment, I would be grateful if he could explain the difference between the functions that those bodies have compared with those of the bodies that made it into the list.

Mr Timpson: The amendments deal with the important issue of co-operation between individual institutions and local authorities to improve support for children and young people with special educational needs. I can assure the hon. Member for Washington and Sunderland West that she is not wasting my time or that of the Committee, because she has given me the opportunity to clarify the position for the record, and I am sure she will be reassured.

We have already discussed co-operation in terms of clause 28 and we will discuss it again when we reach clause 31. Co-operation is a key feature of the Bill. Specifically, clause 29 is about co-operation between local authorities and individual bodies when those bodies are carrying out their functions under the Bill. I am pleased to confirm for the hon. Lady that academy schools, including free schools, which are a type of academy school, are captured in clause 29(2)(a) by virtue of being mainstream schools as defined in clause 72(2).

Mainstream schools, maintained nursery schools, 16-to-19 academies, further education institutions, pupil referral units and alternative provision academies are all included within the scope of clause 29, since they have a range of duties towards children and young people with special educational needs under the Bill where co-operation with the local authority may be beneficial, including, for example, training for special educational needs co-ordinators or the deployment of specialist teachers. Non-maintained special schools, independent schools and independent specialist colleges approved under clause 41, however, in common with maintained special schools, are specifically organised to make provision only for children and young people with SEN. They do not therefore have the range of functions of other institutions listed in clause 29(2) around which co-operation can take place, such as the duty to use those institutions' best endeavours to meet the needs of children with special educational needs or, in the case of schools, to appoint a SENCO.

Children and young people placed in non-maintained special schools and the specialist institutions approved under clause 41 will have an education, health and care plan. Local authorities will co-operate with those institutions on the placement and support of those children and young people to ensure that the provision specified is made and to review those arrangements. Early education

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providers other than maintained nursery schools are not party to the co-operation duties for the reasons already outlined.

I hope that the hon. Lady is reassured by what I have said and will withdraw her amendment.

Mrs Hodgson: I am reassured by the Minister's full and detailed response, for which I thank him. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 29 ordered to stand part of the Bill.

Clause 30

LOCAL OFFER FOR CHILDREN AND YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS

Mrs Hodgson: I beg to move amendment 87, in clause 30, page 23, line 17, leave out 'it expects to be' and insert 'which is'.

The Chair: With this it will be convenient to discuss amendment 88, in clause 30, page 23, line 20, leave out 'it expects to be' and insert 'which is'.

Mrs Hodgson: I am so pleased that we have come on to clause 30. I appreciate that we are to have six separate debates on the local offer, but it is a fundamentally important part of discussion of SEN, and I am pleased that we have reached the clause before we break for lunch.

All the amendments to the clause that have been tabled could attest to clause 30 being particularly contentious, but, in fact, it is anything but. Everyone—Government and Opposition Members in Committee, parents, professionals and campaigners—welcomes the idea of a local offer and the services contained in it, which will be relied on by the vast majority of children with SEN, notably the 87% of SEN children, which is 1.4 million children, one in six of all pupils, or whatever other statistic we might wish to use to describe them, who will not be eligible for the new education, health and social care plans.

The local offer is intended to give parents and young people clear information about the local services and support available to them, something I wholeheartedly welcome. Having good access to information can play a critical part in ensuring that families get the support they need, which is why I have tabled a number of other amendments that seek to increase such access. Access to information, however, is only half the story. Currently, the local offer is little more than a directory of services, with no requirement on local agencies to improve either the quality or the availability of services, and therefore no impetus to improve outcomes for children and families. Having ample information about substandard services does not change the fact that they remain substandard. That is why so many amendments to the clause have been tabled.

The Opposition can see the value of the local offer, and we want to make it stronger. We want to make it a meaningful document that parents can rely on to tell them exactly what support their child and indeed they can expect from public agencies. As we will discuss later, we want to ensure that what parents can expect, in terms of the bare minimum expectation, does not depend on whether it is a priority for their local council. Amendments 87 and 88 are the first steps in that direction. By changing only a few words in the clause, the local offer can be transformed from a list of things that the local authority might hope to be available to an actual directory of services that are available, taking it from a statement of speculation to a statement of fact, which parents and families can have confidence in and for which they can hold their council to account. After all, how can we hold someone to account for saying that a particular service might be available?

If the Minister has read the comments posted as part of the public reading, he knows that such an amendment would have the support of the public. Andrew K said:

"Merely requiring local authorities to set out what they 'expect' to be available hardly amounts to a revolution in parental choice and control."

Ramandeep K echoed those concerns:

"My biggest concern is the use of the word 'expect'...I'm afraid that we all have expectations but they are very rarely met in terms of SEN provision."

I hope that the Minister will listen to those concerns and see the value of the amendments.

I am tempted to test the opinion of the Committee on these amendments and a number of other amendments to the clause. If the Minister is not minded to accept them, I will look for strong assurances that either future amendments or the regulations will firm up that expectation to reduce the amount of wiggle room it gives to local authorities.

Mr Timpson: I thank the hon. Lady for her comments and her broad support for the clause. As she said, the local offer is a critical element of these reforms, and the detail has rightly attracted a lot of interest, some of which the hon. Lady shared with the Committee. I take those views on board and I take them seriously, as I did during the pre-legislative scrutiny and beyond.

It will be helpful, before I get to the specific points of amendments 87 and 88, to take a minute or two to set out the context of the local offer. As the draft code of practice makes explicit, the local offer is more than a list of services. The hon. Lady is concerned that the local offer should not simply be a directory of existing services. She is right, and chapter 4, page 22 of the current draft code of practice says precisely that:

"The local offer should not"—

"not" is underlined—

"simply be a directory of existing services."

It then goes into some detail about what information should be included and published, who should be consulted, how children and young people with SEN and their parents will be involved in the preparation and review of the local offer, and the publication of comments and the local authority's response, which my hon. Friend the Member for South Swindon referred to earlier. The local offer is designed to be a tool by which children and young people with SEN and their families can hold local authorities to account. It applies to young people with SEN, whether they have an education, health and care plan or not. It will also apply to children with

disabilities whose special educational needs do not meet the educational trigger for an EHC plan—concerns were raised about that in the Committee on Tuesday.

The local offer will help families hold local authorities to account in two ways. First, through transparency: if a family knows which services are expected to be available, they can challenge the local authority and other agencies if those services are not provided. The Committee heard evidence from Christine Lenehan, chief executive of the Council for Disabled Children, who said this:

"There is a lot of wasted energy in the system, because people do not get accurate information about entitlements, support and a whole range of things. The potential in the Bill to take fight away is there."—[*Official Report, Children and Families Public Bill Committee,* 5 March 2013; c. 42.]

I think she is right. This is not an empty promise. In other areas, from health services to education, we have seen how giving patients and parents information about the availability of services and the expected level of standards gives them more power. They cannot demand a service that they do not know exists. Our constituents tell us time and again how they struggle to access services such as transport to school or speech therapy at schools, which the hon. Member for North West Durham talked about earlier. It will be easier when the local offer tells them that those services are expected to be available.

The local offer does not just tell families what should be available to them; it involves families in designing those services. Children and young people and their parents must be consulted when the local offer is drawn up, and they must be consulted in reviewing and revising it. Their views and comments will help to develop services for the future. In essence, the local offer is a living feedback mechanism. For that reason, we do not want to place minimum requirements on it or stipulate which services should be provided in it. We will return to that when we consider later amendments to the clause.

12.45 pm

Central prescription would stifle the very innovation and responsiveness that we want the local offer to trigger. The local offer should be a living, breathing document, developed and revisited in tandem with local families, so that services are designed for the needs of local people and not prescribed by Whitehall. We know what will happen if we stipulate a minimum standard—we will remove local accountability and everyone will prescribe just the minimum standard. We have greater ambitions for the reforms than that. Perhaps Srabani Sen from Contact a Family put it best when she, in giving evidence to the Committee, said:

"It is really clear that you will need to prioritise in an area what services you provide, but as long as that prioritisation is based on a proper, thorough analysis of local need and you have involved young people and parents in shaping it, that is a great outcome, even if it means that you do not get absolutely every service you would like in an ideal world."—[*Official Report, Children and Families Public Bill Committee,* 5 March 2013; c. 49, Q108.]

The local offer is not something that can be done by local authority officials sitting in their offices—drawn up, published and then stuck online, job done. It will require work locally, over many months. It will need to be developed, consulted on and revisited. As one pathfinder said to the evaluation team, who was doing exactly that type of work:

"The involvement of parent carers has brought the views and perspectives of parent carers right into the heart of all the planning discussions and has challenged existing ways of thinking and talking."

One of the first discussions we had in Committee was about the legislation forming part of the framework that will drive the necessary cultural changes on the ground. The legislation cannot do it on its own, but it will give parents the space and opportunity to be much more central in driving the change forward. I thank the Committee for the indulgence allowed to me to set the scene and some of the context of the debates that we will have later.

I will respond to amendments 87 and 88 fairly briefly. The amendments seek to require each local authority to publish in the local offer information about provision that is available rather than, as the Bill stands, provision that it expects to be available.

I understand completely why the hon. Member for Washington and Sunderland West tabled the amendments. I know that she is concerned that local offers should not set out provision that is not subsequently delivered. However, the local offer ranges far more widely than the services provided by the local authority itself. It encompasses academies and free schools, independent special schools, post-16 institutions and health services, as well as services available in other local authorities, such as maintained special school places.

Parents will be able to hold those services to account because of the provision that the local offer states is expected to be available, but the local authority does not have control of all those services. Would a local authority be prepared to be held accountable for the failure of provision of a special school place in a neighbouring authority, if that school closed completely out of its control, or for the provision of medical support, or for an advice service from a local community organisation? It would not, and under the amendment it would have to exclude them from the local offer. That is why the word is "expects", rather than "is"—it reflects ambition, not weakness.

Any service that a local authority expects to be made available will be accountable to the children and young people who need it. The local offer will make it clear how parents and young people can complain or appeal if they are unhappy with any of the provision set out in the local offer, so that they can take it up with the service concerned, whether it is the local authority, a school, a post-16 institution, the health service or a voluntary sector organisation.

I encourage members of the Committee to look carefully at the indicative draft regulations regarding the local offer, particularly schedule 1 of regulation 3, which sets out in quite some detail the information to be published by local authorities in their local offer. I think that will provide the hon. Lady with a large amount of reassurance that the local offer is explicitly not to be a directory of services, but will provide a wide-ranging and detailed level of information that puts parents in a stronger position than where they have been in the past. We know from the Green Paper and the responses to it how important that is to parents and young people.

Hon. Members will have seen that we intend to use our regulation-making power under the clause to require local authorities to set out in the local offer how to

complain, and to publish information. I hope that that reassures the hon. Member for Washington and Sunderland West, and I urge her to withdraw her amendment.

Pat Glass: The Select Committee on Education, of which I am a member, conducted pre-legislative scrutiny of the Bill. While welcoming the Bill in principle, our strongest recommendation was about the local offer.

I listened carefully to what the Minister said, and I would agree with him if we were talking about SEN services that were not massively variable throughout the country or that were good enough across the piece. We are not, however, in that position.

The Education Committee took the view that it did because of the real concerns expressed to us that the local offer would, in too many areas, become simply a local directory of services, many of which would not exist. I understand that the Government do not want to impose national requirements and prefer to see each local authority and school develop its own local offer, but the danger in this is that, instead of 1,000 flowers blooming, we will get yet another postcode lottery, with too many children and parents losing out. I know that that is not the Government's intention.

I offer as an example what happened with the accessibility legislation, of which I am a great fan. It was a great piece of legislation, but the failure to provide a framework that included minimum standards led to excellent planning, and subsequently excellent provision, in some areas, but a list of services, many of which did not exist, in other areas. In the best places, local authorities worked with schools and health and social care agencies to set out clear standards across every SEN and every school. In some areas there are level 1 or tier 1 schools—the local school—and what every school would provide was set out in terms of physical access, access to the curriculum, information for parents and, in some places, the training that would be expected to be in place. That was set out for every local school, then for tier 2 schools, where there was additional provision, and up to tier 3 or special schools. Parents could see clearly what was on offer for their child with SEN, whatever the SEN was, in their local school, and also in the tier 2 schools if that was appropriate for the child's SEN.

Where the delivery of provision fell short of what was included in the accessibility plan, the parent had something concrete on which to base a complaint or seek redress. The plan also gave a level of provision for schools to aim for; they could see clearly what they needed to provide now and what they needed to provide and aim for in two or five years' time. There was no minimum standard in the legislation, however, so too many local authorities and schools took the easy way out, which fails children with SEN. I want to ensure that we do not make the same mistake with this excellent Bill. SEN is already too variable throughout the country; a framework that gives minimum standards would give some schools and local authorities a clear view of what they need to strive to achieve and, for others, it would be a basis from which to work. Most importantly, it would give something for parents to demand for their children.

Mrs Hodgson: I feel strongly about these small amendments, but I listened closely to what the Minister said, and also to my hon. Friend the Member for North West Durham. I was minded to press the amendment to a vote, to test the will of the Committee, but I will save my powder for later in our discussion of the clause and some of the other amendments. Perhaps, however, the Minister could ensure that "which is" applies to directly provided services when he turns his attention to later drafts of the Bill, as it progresses through the House. I have heard what he has said, but this small amendment would make a huge difference and be popular with the public. Nevertheless, I am happy to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mrs Hodgson: I beg to move amendment 89, in clause 30, page 23, line 19, after 'needs', insert 'and their families'.

The Chair: With this it will be convenient to discuss the following:

Amendment 90, in clause 30, page 23, line 22, at end insert 'and their families'.

Amendment 91, in clause 30, page 23, line 29, after 'young people', insert 'and their families'.

Amendment 97, in clause 30, page 23, line 30, at end insert—

'(f) services providing advice and support to the wider family of children and young people with special educational needs.'.

Amendment 98, in clause 30, page 23, line 39, at end insert—

'(5A) Any revision to a local offer made by virtue of subsection (5) must be communicated clearly to children and young people with special educational needs and their families with whom the authority has had prior contact, as well as described in an addendum to the revised document.'.

Amendment 99, in clause 30, page 23, line 39, at end insert—

'(5B) In exercising its duty under subsection (5), the local authority must have regard to any review carried out under section 27.'.

Amendment 92, in clause 30, page 23, line 43, leave out 'parents' and insert 'families'.

Amendment 93, in clause 30, page 24, line 9, leave out 'parents' and insert 'families'.

Mrs Hodgson: As we have discussed before, a child or young person with special educational needs or disabilities does not exist in a vacuum. He or she has parents, foster parents or guardians, and may be lucky enough to have grandparents, aunts or uncles also playing an active role in upbringing and care giving. In many cases, the children or young people will have siblings with whom they share a home. In short, any number of stakeholders are involved in the well-being of these children or young people and the services they receive.

In the vast majority of cases, we expect the parents to be the advocate for their child as well as their primary caregiver, and most parents would not have it any other way. However, we need to recognise that not all families have the capability to perform that dual role to a level that will actually be beneficial to their child. We need to recognise that some parents are able to play a much greater role in helping their child develop, given the right support, but we need also to recognise that in some cases performing such a role is going to place great strain on a family, which could ultimately make things worse for all concerned.

Using myself as an example, there have been many heartbreaking moments sat around the kitchen table with my severely dyslexic son struggling with his homework, when I realised that I did not have a clue how to help him to understand the words on the page or how to articulate his response to them. Had I or my husband had a few hours with a specialist to understand how his brain operates in a different way because of his dyslexia, and to learn techniques that we could then have used to help him, who knows how much more progress he might have made?

Many families have it much, much harder, of course, especially those with children whose condition may make them prone to violent or abusive outbursts. Building up the family's resilience, giving parents the breaks they need where appropriate and, more importantly, hints and tips on why their child has these outbursts and how to avoid or get over them—so they do not have to figure it out for themselves through years of trial and error—may make the difference not only in the child making good progress towards their educational goals and transition into adulthood, but in whether the family stays together and thrives or falls apart under the strain and suffers extreme trauma.

Not all families will need or want support, but it should be available if they do, and they should be able to find out about it easily when it is available. That support does not necessarily have to cost anything, or even involve hours of a professional's time. It could simply be that parents are signposted to third sector organisations or parent-led support groups, or just given helpful literature or web links. Supporting families in that way and making that support a central consideration of the local offer is the crux of the amendments. I therefore hope that the Minister will either accept some or all of the amendments, or give clear assurances that he will ensure that the needs of the wider families of children and young people with special educational needs and disabilities are central to local authority provision and, therefore, the local offer.

Mr Timpson: Many of the amendments concern provision for, or engagement with, the families of children or young people with special educational needs. I understand why the hon. Lady has tabled these amendments and spoken to one of them. The term "parents" in the Bill includes those with the responsibilities of a parent and those who care for a child or young person. That may be a different family member when the child's actual parents are unable to play a role. When that happens, the Bill already provides for those responsible carers to be fully involved.

Other family members, such as aunts, uncles, grandparents—as the hon. Lady said—or siblings may also be closely involved in the life of a child or young person with special educational needs, without being a responsible carer. However, the main users of the services set out in the local offer will be children and young people with special educational needs and their parents or carers. They have the most direct interest, which is why the provisions are expressed in the way that they are.

However, I hope I can reassure the hon. Lady that the needs of wider family members are addressed in our provisions. I fully agree that the families of children and young people with special educational needs require support themselves. It is widely recognised that families can find looking after a child with special educational needs stressful and tiring at times. As we have heard, it can also be frustrating as they struggle to find out about the range and availability of local support.

The local offer signals a significant change in the relationship between local authorities and families, and provides far greater transparency for everyone. In particular, clause 30 includes a regulation-making power at subsection (9)(b), which requires local authorities to include information about additional sources of advice, support and information not only for children and young people with special educational needs, but for those who care for them.

Paragraph 14 of schedule 1 to the indicative local offer regulations requires local authorities to provide information about sources of information, advice and support available in their area for children, young people and their families. That includes information about support groups for families, child care for children with special educational needs, leisure activities and other sources of support. The duty on local authorities to provide information about sources of support to children, young people and their families is very wide ranging. There is no reason why it could not include support for families of young people who are preparing for adulthood, which I know is an issue that concerns the hon. Lady.

I can also reassure the hon. Lady that local authorities must involve local children with special educational needs—as set out in regulation 5 of the draft local offer regulations—and their parents or carers and young people with special educational needs in preparing and reviewing the local offer. They must seek comments from them about the local offer and publish their responses to those comments. The way in which changes to the local offer are communicated to families is best determined locally, following consultation with, and comments from, local people who use SEN services.

I agree that in reviewing its local offer, the local authority should have regard to the review of special educational needs, which it carries out under the provision in clause 27. The local offer chapter of the indicative code of practice explicitly makes the link, at paragraph 4.4, between the review of provision and the local offer, including the sufficiency of that provision. I hope that the hon. Lady is reassured of our intentions on this matter, and I therefore urge her to withdraw her amendment.

Mrs Hodgson: Yes, I am somewhat reassured, but I definitely want to see the term "and families" wherever possible in the Bill, and for that to be a huge ongoing part of the mix. I also want the regulations to be clear so that local authorities understand that their obligation is to the wider family, not just the child in isolation. With that said, and with the reassurances the Minister has offered, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned. —*(Anne Milton.)*

1.1 pm

Adjourned till this day at Two o'clock.