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GENERAL COMMITTEES

Public Bill Committee

CHILDREN AND FAMILIES BILL

Twelfth Sitting

Thursday 21 March 2013

(Afternoon)

CONTENTS

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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

(Afternoon)

[Mr Christopher Chope *in the Chair*]

Children and Families Bill

Clause 30

Local offer for children and young people with special educational needs

2 pm

Mrs Sharon Hodgson (Washington and Sunderland West) (Lab): I beg to move amendment 94, in clause 30, page 23, line 25, 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 194, in clause 30, page 23, line 25, at end insert

'including institutions approved by the Secretary of State under section 41'.

Mrs Hodgson: I will not speak long to the amendment, partly because of time considerations and the need to make progress, but also because I think that the need for it is negated by the draft code of practice, which the Minister's office sent round last Thursday afternoon. Suffice it to say that I and clearly the hon. Member for South Swindon think it is important that the local offer makes it clear to parents that there are a number of independent schools and colleges providing specialist services in other parts of the country that they can theoretically access if their child's need is great enough. I am pleased to see explicit reference to the institutions in the relevant section of the indicative code of practice that we have been given, so, on that basis, I would be happy to withdraw the amendment, subject to a promise from the Minister that the final version will do so as well.

The Parliamentary Under-Secretary of State for Education (Mr Edward Timpson): I am grateful to the hon. Lady for her quick summary of the position, particularly her recognition that the draft code of practice sets out the necessary detail around specialist providers to determine that they are within scope. The regulations to be made under clause 30—the Special Educational Needs (Local Offer) (England) Regulations 2014—will enable all those areas that the hon. Lady was concerned about to be catered for.

The draft code will be subject to consultation. I suspect there will be one element of the code that the consultation will not necessarily—without pre-empting what may happen—be looking to remove from the code. I hope the hon. Lady is reassured and I urge her to withdraw her amendment.

Mr Robert Buckland (South Swindon) (Con): I speak by way of an intervention, rather than a speech, to make the same point in relation to my proposed amendment, which relates to making sure that local offers fully embrace independent specialist providers. On the same basis as the Minister is addressing the hon. Lady, I make similar representations and look forward to the consultation embracing the principles outlined in my proposed amendment.

Mr Timpson: I am grateful to my hon. Friend. That clarifies the position, Mr Chope, so I ask both hon. Members not to press their amendments.

Mrs Hodgson: As I said, with those assurances, I am happy to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Buckland: I beg to move amendment 51, in clause 30, page 23, line 33, after 'employment', insert

', retaining employment and accessing benefits'.

The Chair: With this it will be convenient to discuss amendment 95, in clause 30, page 23, line 35, at end insert ', including in online communities.'.

Mr Buckland: The amendment relates to services that should be included in the local offer in relation to employment and the access to benefits that may be necessary. It is very welcome that following the pre-legislative scrutiny process, the Government added

"provision to assist in preparation for adulthood"

in the list of information that forms part of the local offer in subsection (2). It will include information on housing, finding employment and support to participate in society more generally. But there are other services that could also be usefully included for young people—for example, employment support to help young disabled people remain in work, and information on benefits that may be available and not included in the local offer at the moment. Is the Minister willing to consider adding those additional services to the local offer? I look forward to hearing his response.

Mrs Hodgson: I once again find myself paying tribute to the hon. Member for South Swindon for what is a sensible amendment and for which he has made a good, albeit short, case. I will not detain the Committee by restating the points that he has made. Although my amendment and other amendments in this group are ostensibly quite different from the hon. Gentleman's, mine is in fact on the same theme. My amendment seeks to point out that there is more to preparing someone for adulthood and independent living than the three points in subsection (3) of the clause.

The hon. Gentleman is right that there are arguably more skills involved in keeping a job than finding one. Most jobs are given on the basis of a CV and an interview that last up to an hour. But whether a person can survive the first shift, the first week, the first mistake or the first difference of opinion with their boss depends on a range of other skills that many young people who do not have special educational needs struggle with at times. Those soft skills include awareness of the feelings and motivations of others; awareness of one's own emotions and behaviour; the ability to think through the consequences of what one says or does; resilience in overcoming setbacks; and the ability to learn from mistakes. We should ensure that every child and young person—in particular those who face the

biggest challenges—has those skills when they leave school. Those skills also relate to a young person's wider interaction with society.

I tabled my amendment to reflect the fact that much of society—certainly social interaction—is online, in particular in the form of social networks. Online networks are a great resource for young people with special educational needs and disabilities. With a keyboard in their hands and the ability to communicate at their own pace, many find that their disabilities or learning difficulties become irrelevant. The internet also provides them with an opportunity to socialise and forge stronger relationships with their peers at school and people with similar conditions, whom they might not have met face to face. In short, networks provide fantastic opportunities for those young people, and they should be encouraged to engage with them.

However, just as with younger children, for many young people with special educational needs the internet can also present dangers: the danger of sexual exploitation, the danger of psychological harm from cyber-bullying or exposure to harmful content, and the danger of financial exploitation. We need to ensure that the young people we are talking about engage with online communities, but that they are equipped with the skills to do so in a safe and positive way. We cannot protect young people from every bad person on the internet, but we need to give them the capability to protect themselves so they can enjoy the opportunities the internet presents in an independent way. I therefore hope that the Minister recognises the motives behind the amendments. If he is not able to accept them, I hope that he will at least tell the Committee how he intends to ensure they are addressed in guidance or regulations.

Mr Timpson: Amendment 51 seeks to include information to help children and young people retain employment and access benefits. My hon. Friend the Member for South Swindon is right to draw the Committee's attention to the issue of employment. Too often, young people with learning difficulties and disabilities are led by society's expectations to believe that they are not employable, and we know that often that is simply not the case. Often, they are the superstars of businesses, and we hope that more businesses recognise that fact.

The term "finding employment" in the Bill means far more than simply providing support for young people who are looking for jobs, important though that is. Young people need to understand what working life will be like, including what support they will have in work, so they can prepare for it. The indicative code of practice says that the local offer must include information about, for example, job coaches, who can support people who are already in employment, supported internships, apprenticeships, traineeships and support from employment agencies. The code also says that local authorities should provide some signposting about where young people can obtain advice and information about the financial support they can have not only when they seek employment, but after they are employed.

I fully agree with the hon. Member for Washington and Sunderland West that online communities are often an important means of engaging in wider society, especially for those with special educational needs. I hope I can reassure her that her amendment 95 is not necessary, important though it is. The Bill need not specifically address online communities. The indicative code of practice sets out some information we would expect to be included under support to help children and young people prepare for community participation. That can include information on leisure and social activities, and on the care support available to enable young people to access social opportunities, such as a personal assistant or assistive technology. It is important to note that that list is not restrictive. The code is only indicative at this stage, and there is scope to improve it.

I was struck by the hon. Lady's creative thinking on how we can ensure that young people with special educational needs or learning difficulties can have an optimum prospect of engaging in society more generally. I am happy to consider, in the further draft of the code, which will be developed as the Bill progresses through the House, a reference to online communities in the context of preparing for adulthood. I can see huge merit in drawing people's attention to agencies that interact with young people, and I thank the hon. Lady for her constructive suggestions on how we can strengthen the code. I hope that with those assurances, hon. Members will not press their amendments.

Mr Buckland: The Minister quite rightly prays in aid the draft indicative SEN code of practice, to which I shall return in the next group of the amendments. I will bear in mind what he says, and I am glad that he will consider the precise wording of the code to ensure that the spirit of the amendments is fully embraced in the work to come. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Buckland: I beg to move amendment 52, in clause 30, page 24, line 2, at end insert—

'(7A) Regulations must make provision about a national framework, including—

(a) the principles underpinning the local offer;

(b) how services in the local offer are to be reviewed;

(c) the scope of what should be covered by the local offer;

(d) the format in which a local offer will be prepared and published; and

(e) how services can be held to account for failing to deliver what is set out in the local offer.'.

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

Amendment 100, in clause 30, page 24, line 2, at end insert—

'(7A) The Secretary of State shall lay a draft of regulations setting out the minimum level of specific special educational provision, health care provision and social care provision that local authorities must provide as part of their local offer, and the regulations are not to be made unless they have been approved by a resolution of each House of Parliament.

(7B) Once regulations under subsection (6A) have been made, the Secretary of State must—

(a) issue guidance to local authorities on how to meet these regulations, and

(b) publish information on these regulations accessible to the families of children and young people with special educational needs on the Department's website, and in any other way he sees fit.'.

Amendment 101, in clause 30, page 24, line 3, leave out 'may make provision about' and insert 'should specify'.

Amendment 196, in clause 30, page 24, line 13, at end insert—

'(f) the arrangements to support all teaching staff to help children with special educational needs.'.

Amendment 96, in clause 30, page 24, line 20, at end insert—

'(ca) information on the steps the local authority is taking to improve general provision for and inclusion of children and young people in mainstream institutions;'.

Amendment 185, in clause 30, page 24, line 22, at end insert—

'(e) information about how transitional planning will be undertaken by officers of the local authority;

(f) information on additional services for children with high incidence and low severity needs.'

Mr Buckland: Amendment 52 is a five-limbed amendment that relates to regulations that

"must make provision about a national framework".

The national framework would not be about minimum standards; I do not believe that we should approach the matter from that angle at all, and I share the Government's concerns that having minimum standards could lead to a race to the bottom. My amendment is designed not to be prescriptive in that sense, but to create a consistent approach to how a local offer will be drawn up, in a way that allows flexibility from local authority area to local authority area while giving people who are setting out their local offer a benchmark from which to work. It is not dissimilar from the situation where the National Institute for Health and Clinical Excellence will issue guidelines to assist local commissioners in setting up health services.

The purpose of the amendment is not to tell every local authority exactly what services it should provide, because flexibility to meet local need has to be an important part of the equation. Instead, it is about creating a transparent and consistent way of working.

Proposed new section (7A)(a) deals with the principles that should be used when developing a local offer. The sort of principles that I have in mind include the meaningful engagement of children, young people and their families; the clarity of information about eligibility; and the transparency of all complaints.

I am encouraged to see similar wording being used in the draft indicative code of practice. The draft code, which is in submission CF51 to the Committee, contains an indicative set of principles, stating that the local offer should be "engaging", "accessible" and "transparent and comprehensive". It sounds like a manifesto for a parliamentary candidate; we all like to think that we are engaging, accessible and transparent. If those words mean something and are clear, I would welcome the draft—it is a good start to the process.

The second limb, in proposed new subsection (b), about how services in the local offer are to be reviewed. It is about the process that local areas will adopt when assessing whether their local offer meets local need and how they should judge whether the offer is sufficient. That is important because we need some benchmarks about how the quality or sufficiency of local services is reviewed and assessed.

2.15 pm

The third matter is the scope of what should be covered by the local offer. That is all about how local areas should decide whether something should go into the local offer—for example, which health services should be part of the package. Scope is an important aspect of the local offer.

The fourth matter is the format in which a local offer would be prepared and published. The concern underlying proposed new paragraph (d) is that there is a danger that, if we end up with a series of different formats for the local offer, comparing and contrasting between local areas is going to be very difficult for parents and young people. That point is made by the Association of Colleges, which said that it would help its members

"to know in advance the form in which they will be asked to provide information for the local offer".

So for each of the providers it is going to be important to know the required form, which will then build and assist the local authority in preparing a consistent format when it comes to the document that will be used and relied on by young people and their families.

The final matter—this perhaps echoes a previous debate—is how services can be held to account for falling to deliver what is in the local offer. As we can see in subsection (9)(d) of the clause, there is scope in the Bill for complaints to be heard, but where will these complaints be made to? Will people have to complain to separate agencies or will there be a single point of redress? The local offer is at the heart of part 3 of the Bill. It is a real opportunity to improve the experience of children and young people and their families, but without a clear framework we are unlikely to see the system-wide transformation that we are all hoping for.

In the main, the offer will be about children and young people who do not have a statement of SEN or similar provision. For example, three quarters of deaf children and just over half of children with sight loss currently do not have a statement. The local offer will be essential to improve transparency about what help will be available to them and their families. It will be useful if we can have a set template so that the comparison between local areas can be made. That will not stop the 100 flowers blooming—I sound like Chairman Mao; I am not a Maoist, but the phrase has already been used today by the hon. Member for North West Durham. She would agree that we want to see that, but at the same time we want to know the shape of the field that we are dealing with—what we are looking at and how we can compare each of the local initiatives.

I have already mentioned the draft code, which I know my hon. Friend the Minister will very much pray in aid. It is a very good start. There are lots of "shoulds" in there—I know why "should" is used; it is because the code is encouraging and exhorting local authorities to adopt a particular approach. Such words are very important. The more mandatory words regarding the framework that we have in the code, the better it will be when it comes to the consistency of approach that we all want to see.

Amendment 196 relates to support for all teaching staff in providing help for children with special educational needs. I am very pleased that my hon. Friend the Minister has made a commitment that the regulations will stipulate that a special educational needs co-ordinator

should and will remain a qualified teacher, but the legislation does little to improve teacher training for all teachers.

We believe that all teachers should be trained to understand particular conditions. I am thinking of dyslexia in particular, because well over 80% of children and young people with dyslexia do not have a statement and therefore will be in the mainstream, so it is absolutely vital that an understanding of its impact on learning and what constitutes friendly practice and best practice is part of training. Teachers need to be aware of when to signpost learners for assessment and when to provide appropriate intervention. There will be at least three children with dyslexia in every classroom, and the Rose review of 2009 highlighted the importance of teachers being able to find out in an easily accessible way which evidence-based teaching materials and methods result in improvements in literacy.

Although successive Governments have supported the development of good quality resources, such as the inclusion development programmes, the Lamb materials and the speech and language therapy materials, and dyslexia-specific resources such as the interventions for literacy and professional development framework tools, trainee teachers and trained teachers are still not trained in how to identify and support children with dyslexia in the classroom. There are many, many honourable exceptions where professionals are doing the job, but uniformity of training is not there. Amendment 196 is designed to tackle that.

Amendment 185 is all about the transition. I use the word "transition" because, although it may not pass the plain English test on one level, everyone understands it. Every time I mention the word in conferences and events involving special educational needs, everyone nods sagely and there are looks of agreement. There is a strong feeling about the need to ensure that the transition is right. I have looked at the draft code, which refers to support for children and young people

"moving between phases of education, and in preparation for adulthood".

I presume that that is a nod to plain English. I approve of plain English, but I want an assurance that those sorts of phrases refer to transition and not anything else. It is not just about moving between phases of education; it is about moving from education into apprenticeships and other types of training as the young person goes into adulthood. That quote is bullet-pointed in paragraph 4.2 of the draft code of practice, written evidence document CF 51, if that assists the Minister in preparing his response.

I do not think I need to say any more about transition. In the past, I have described it as the cliff edge, and I do so again. I know that the Minister gets the point, but I look forward to hearing how he will address transition in the Bill and his response to my other amendments.

Mrs Hodgson: Before I speak to the amendments, I thank the Minister for his commitment to include online communities in the code of practice. That is great news and is greatly welcomed by the Opposition, as well as by all children with special educational needs and disability across the country and their families.

There are a few provisions in the Bill on which opinion is unanimous. As the Select Committee on Education concluded in its excellent report on the Bill:

"The importance of getting the Local Offer right cannot be overstated. Where this does not happen parents will seek EHCPs as they currently seek Statements in those local authorities where provision normally available is perceived as deficient. The weight of evidence received by our Committee clearly supported minimum standards".

Again, that is not limited to the concerns of politicians and campaigners. Ian N's comments on the public reading page summed up our concerns exactly:

"There should be a national offer, setting out basic minimum requirements that every child can expect to get. This is particularly important for deaf children where there is currently a massive postcode lottery."

It is that postcode lottery that we need to ensure is removed.

Sticking with the example of deaf children, the Minister may have had the same opportunity at his party conference that I had at my party conference to meet the National Deaf Children's Society and to see their video of three teenage girls, none of whom have statements, talking about the support that they get at school and their fear of it being withdrawn due to funding cuts. The Minister may know—I am sure he does, especially after the comments of my hon. Friend the Member for North West Durham—that the educational performance of those identified as being primarily hearing impaired in terms of their SEN is very poor compared with hearing children: about 40% get 5 A* to Cs, including English and maths at GCSE, compared with more than 70% of children without SENDs. That is a shock when we consider that most of them do not have a learning difficulty; they simply cannot access the curriculum in the same way that hearing children do. That disparity shows that their needs are not being met. What the girls said brought home to me the fact that the additional services that children get—equipment or access to specialists—are additional services that they absolutely need to be able to access the curriculum, but unless the children have a statement and have the provision specified, they really are at the mercy of budgets and the priorities of budget holders.

I had cause recently to look back at the speech that I gave in support of the Bercow report's recommendations in our debate on that report, which took place on the same day that my private Member's Bill, the Special Educational Needs (Information) Act 2008, gained Royal Assent. That was a good day. It is remarkable how many of the things we were talking about then are the same things that we are talking about now. Both I and Mr Speaker, as we call him now, talked about the need to ensure that we end, as far as possible, the postcode lottery and patchwork quilt of provision that Ian N referred to in his comment. We were talking then about speech, language and communication needs, and I know there is still a particular problem in that field, as we have heard in Committee; but to varying degrees, the same is true of any kind of provision we might name. One of my big concerns about the Bill and this clause is that that problem will be exacerbated. I cannot foresee a situation wherein the system being proposed will encourage local authorities to improve the services they provide to the children we want to help.

Especially in these times of austerity, if a Minister says to councils and to commissioning groups, "You need to list everything that a child with additional needs might expect to receive in your area, but we're not going to say what the bare minimum for that is," what do we

[Mrs Hodgson]

think will happen? My answer is: the same thing that, to a lesser degree, happens now. Some councils will make their offers as bad as they can get away with; they will look to undercut their neighbours and others around the country to discourage families from moving to their area to get better provision for their child, or encourage families with high-needs children to go elsewhere. At best, we would be moving from an unwritten postcode lottery to a written one; at worst, we would be encouraging a race to the bottom. Neither outcome benefits anyone.

I think that local offers can be good for parents, but they need underpinning. Crucially, they need underpinning by a set of minimum requirements that all children and their families should be able to expect from their local authority, whether they live in Sunderland, Swindon, Cheshire East or wherever else, regardless of whether they have the means or the knowledge to move elsewhere for better provision.

Mr Buckland: The hon. Lady is setting out her case very clearly, but I worry about the use of "minimum" when referring to standards. My worry is that if we keep phrasing it in that way, it will encourage every local authority to simply stick at that minimum, rather than to go the extra mile that we all want. Does she accept that point?

2.30 pm

Mrs Hodgson: I certainly do, and I will deal with that point.

Nobody wants to stifle innovation or creativity in delivering goods and services, or to prescribe exactly what each local authority has to do. Regarding the phraseology, whether it is a national baseline, a national framework or minimum standards, I take the hon. Gentleman's point, but whatever we call it, it will surely help local authorities to know what is expected of them and will therefore improve consistency for parents across the country. It is something that Blackpool council, in its response to the call for evidence from the Select Committee on Education, recognised will be positive. The Minister has previously rebuffed calls for this provision, including from the Education Committee. I hope that, having had more time to consider it, he will not reject the amendment out of hand.

Amendment 96 is similar in intention to amendment 196, which was tabled by the hon. Member for South Swindon. As the code of practice says—I am proud to say that I recognise this phrase from a number of my speeches—

"All teachers are teachers of children with special educational needs."

Unfortunately, though, not all teachers are trained to be teachers of children with special educational needs, either in initial teacher training or in continuous professional development programmes. That is why I support the "Every teacher" campaign of the National Association for Special Educational Needs, which aims to ensure that one in five inset days a year are given over to identifying and teaching children with high incidence needs, as well as helping teachers deal with challenging behaviour. I like to call it, "One in five for one in five", which trips off the tongue nicely.

The provision available as a matter of course in local schools will be crucial to the local offer. The local offer needs to make clear how good the provision is for children with special educational needs and disabilities, and what work is being undertaken to improve it. Again, that is something that I would be happy to see addressed in regulations if the Minister does not want to support the amendments. I hope that in his response, he gives assurances that it will be addressed.

Mr Timpson: As we heard, the amendments deal with the information that is to be included in the local offer, the structure and guidance of the local offer, and the introduction of minimum standards. Hon. Members will have seen that the indicative regulations and code of practice set out in some detail what amounts to a common framework for the offer, in terms of content, consultation, review, publication and complaints. I hope that my hon. Friend the Member for South Swindon will agree that that meets the spirit of amendment 52.

Amendment 185 is designed to ensure that the local offer covers how planning for transition between different phases of education into adulthood will be undertaken, and includes information on additional services for children with high incidence and low severity needs. Paragraph 5 of schedule 1 to the indicative regulations sets out that local authorities must include information on the support available for children and young people with SEN in moving between phases of education—for example, from early years to school and from primary to secondary—and moving into adulthood. Local authorities will need to ensure that early transition planning is in place for all young people with an education, health and care plan. The indicative code further sets out our expectations of local authorities and learning providers for good transition planning.

Moreover, the indicative regulations secure that the local offer must provide information on provision for all children with SEN, not just those with a plan. That should ensure that high incidence and low severity needs are included, which I hope reassures my hon. Friend that the amendment is unnecessary. I also hope that the hon. Member for Washington and Sunderland West is reassured by the level of detail in the indicative regulations, and therefore feels that the concerns that led her to tabling amendment 101 have been addressed.

We have deliberately not gone as far as amendment 100, which would require regulations to set out the minimum level of specific educational, health and care provision that local authorities must provide as part of their local offer. I mentioned at the start of the debate on the clause that I was wary of further central stipulation about what should be an inclusive local process. I am grateful to my hon. Friend, who told us his concerns about setting minimum standards, which could be counter-productive.

Some areas have put good processes in place. From our pathfinders, we know that areas are taking different approaches. For instance, Darlington has focused its offer on schools in its area; Greenwich has held a major event to involve parents of disabled children, the voluntary sector and other providers, which has resulted in a draft offer for autism spectrum disorder as a first step. The SE7 pathfinder has opted to develop an area-wide minimum offer. All those are valid approaches to setting a minimum offer and would not constrain any practical approaches.

An even greater concern is areas that might approach the development of a local offer with less enthusiasm and would inhibit the proper engagement of children, young people and parents in designing and refining the offer. Any central minimum standards would be, by nature, limited or risk-averse incentives that would mean that the offer did not reflect local needs. Minimum standards would constrain parents' ability to influence a local authority, which could point to meeting minimum requirements to end further discussion. That is the potential race to the bottom that my hon. Friend the Member for South Swindon was talking about, and it is vital that we avoid it.

I hope that the detail about what will be in the offer and the strength of the processes for agreeing it will reassure hon. Members that such a potentially counter-productive minimum standard is unnecessary. I reiterate that the code of practice and the indicative regulations set out a common framework from which local authorities are able to develop an offer in their area.

Amendment 196 would insert a regulation-making power into the Bill to specify arrangements to support all teaching staff to help children with special educational needs. I agree once again with my hon. Friend that it is incredibly important that all teaching staff receive the support they need to help children with SEN to achieve their potential. The hon. Member for Washington and Sunderland West quoted a phrase—she has grabbed back ownership of it—in the code of practice, which reflects the ambition we should all be striving to achieve.

Although it is up to schools to train and support their staff based on the needs of the children attending the school, we have, through the support of the Dyslexia-SpLD Trust; through CPD materials; through the development of college clusters, which enable independent special colleges and FE colleges to work more closely together, helping and training each other; and through other initiatives such as the "Achievement For All" programme, which we have continued to fund in nearly 1,000 primary schools, worked to ensure that there is a school-wide approach to learning and education for children with SEN. On that basis, it is not appropriate to specify in the Bill a regulation-making power to do so.

My hon. Friend made a point regarding paragraph 4.2 of the code of practice, which is about training provision. I assure him that it is a Ronseal bullet point: it is what it says, and it is not simply restricted to apprenticeships. The paragraph says "including Apprenticeships", which may be an error that we can return to as the code develops through its draft and into consultation.

Clause 64 requires governing bodies or proprietors of schools to publish an SEN information report. The indicative special educational needs information regulations, which I have made available to the Committee, explain what should be in the report and state that information about the expertise and training of staff in relation to children with SEN must be included. Amendment 96 would add a requirement for local authorities to publish information in the local offer on the steps that they are taking to improve provision for and inclusion of children and young people in mainstream institutions. As I have already said, I believe it is important that the local offer covers the actual provision that the local authority expects to be made.

I hope that I have reassured hon. Members with the detail that we have given on the content of the local offer, that it should cover SEN provision in mainstream settings as well as wider provision available to support that. I therefore urge them to withdraw their amendments.

Mr Buckland: My hon. Friend the Member for Kingswood and I enjoyed the Minister's reference to Ronseal. Should we say "as sturdy as a Timpson sole"? That is probably a better and kind way of describing his assurances.

The Minister is quite right to pray in aid the draft code. I am grateful to him for specifically addressing dyslexia. Part of my amendment 185 relates to additional services for children with high incidence and low severity needs, exactly the cohort of children and young people who will not be covered by a statement, for whom a local offer is going to be absolutely key.

I look forward to seeing further work on the draft indicative code to ensure that, without making it too complicated, it embraces the spirit of my amendments and that the local offer will be relevant to everyone on the spectrum of needs, whatever their individual needs. On the basis of the Minister's words, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Buckland: I beg to move amendment 215, in clause 30, page 24, line 22, at end add—

'(4A) Where a service is set out in the local offer, the responsible agency has a duty to deliver that service.'.

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

Amendment 102, in clause 31, page 24, line 38, at end insert—

'(3A) Where a specified body does not comply with a request made under subsection (1), and the requesting local authority is not satisfied with the reasons given under subsections (2) and (3), the requesting local authority may make a request to the Secretary of State for Health to investigate.

(3B) Regulations may provide for the timescales within which the Secretary of State for Health should assess and complete investigations requested under subsection (3A), as well as powers to be granted to the Secretary of State for Health to enable him to uphold any such complaints.'.

New clause 31—*Inspection and review of local authorities in England*—

'(1) Section 135 of the Education and Inspections Act 2006 is amended as follows.

(2) After section 135(1)(e), insert—

"(ea) the functions conferred on the authority under Part 3 of the Children and Families Act 2013.".

(3) After section 136(4), insert—

"(5) The Chief Inspector must inspect the performance by an authority in supporting children and young people with special educational needs.".'.

Mr Buckland: The amendment relates to the question whether the responsible agencies have a duty to deliver the service set out in the local offer. It is a probing amendment that is designed to explore how such services will actually be delivered. The local offer is one welcome stage—it will tell parents what is happening and available in their local area—but, of course, delivery is all-important.

I accept that "duty to deliver" is a pretty dramatic way of putting it, but I am concerned, as are many others, that an "expectation" is not going to be enough

[Mr Buckland]

to satisfy thousands of families up and down the country that there will be follow-through as a result of services being outlined in the local offer. In order to help to establish confidence in the local offer, it is important that everyone who relies on it knows that what is set out will be available. There is a great danger that, in the raising of expectations to lofty heights, a lack of follow-through will create even deeper cynicism and pessimism about services and the quality of the services that should be available.

Confidence in the system is essential if we are to avoid a rush to statementing or a request for an education, health and care plan. I share the Government's aspiration to ensure that the system is of such quality that the perverse incentive to seek a more acute intervention in the form of a plan with statutory backing is avoided. It is quite forgivable and understandable, but far too often since statementing was introduced, it has, quite naturally, been the wish of many parents to obtain the fullest possible statutory backing for the education package available to their child. That is why statements are favoured by so many families.

Pat Glass (North West Durham) (Lab): Does the hon. Gentleman agree that parents seek statutory backing because the local offer is not there for them? If they trusted what they were going to get from schools and local authorities—if it had been there for them in the past—they would not be fighting to secure a statutory statement. It is because of the lack of trust in the past and because provision is not there that parents are driven to seek statements.

Mr Buckland: I am grateful to the hon. Lady; she has encapsulated what I am trying to say very well indeed. There is a perverse incentive, because without things such as the local offer and measures to bring together services that will apply to children and young people irrespective of whether they have a statement, there has quite naturally been a rush and a push to obtain statutory protection. That is what we need to change. If the Bill does not change that, frankly, it will have failed, and we will have failed thousands and thousand of parents and children. I urge the Minister to consider very carefully how we can do everything we can in the Bill to stop that incentive and reverse that slide to statutory support, and to give people the confidence and the trust in the system that has been sadly lacking for too long.

2.45 pm

Mrs Hodgson: On the last group of amendments to this clause—we have made excellent progress on it, given that it is one of the clauses with a large number of groups of amendments—we are again debating something that, if the Minister accepted it, would genuinely toughen up the local offer and make it more useful for children and young people, as well as for schools and professionals.

Once again, the amendment moved by the hon. Member for South Swindon chimes with the public's views. In the public reading forum, Ms B and Mr D said:

"We believe that there needs to be a DUTY TO PROVIDE what is set out in the local offer. This will allow parents and young people to challenge local authorities if the local offer is not delivered."

If a local authority lists a service in its local offer, but is under no duty to provide that service to people who need it, how can people who believe that they need it hold the local authority to account when it is not provided? An offer should be just that—an offer. Without a duty to provide, it is not really an offer; it is merely a statement of ambition.

The Minister has already placed a duty on health bodies to provide what those bodies say they will provide for children with education, health and care plans, and he knows that that has been universally welcomed, but most children with additional needs—1.4 million of them—will rely on the local offer to meet those needs. We owe it to those children and their families to ensure that local offers have teeth, and come with the same duties to provide that plans have.

I welcome the new clause tabled by the hon. Member for South Swindon, and I agree that a key feature of Ofsted inspections of children's services should be an examination of how they fulfil their duties under part 3. I would go as far to say that the quality of their service to residents should limit their overall rating: if they are rated only good in fulfilling their responsibilities to children and young people with special educational needs, good should be their maximum overall grade. I want that to apply to schools as well to ensure that SEN is a key focus for schools in demonstrating their effectiveness, but that debate is for another time. I hope that the Minister will share his thoughts on that when he responds to the case made by the hon. Member for South Swindon for his new clause and assure us that, at the very least, the new Ofsted framework for inspecting school improvement functions will include central support for special educational needs.

My amendment 102, to clause 31, is again intended to give the arrangements set out by the Government an extra little bit of bite. The specific duty on health bodies to co-operate with local authorities that is set out in clause 31 is welcome, but we must ensure that it is sufficient to break down the current barriers to co-operation in many parts of the country. My amendment would give teeth to the clause by giving the Secretary of State for Health the power to investigate where NHS bodies are being obstructive to local authorities that try to secure provision for a child or young person with SENDs, as well as the ability to use sanctions if he finds merit in such complaints. I do not know what those sanctions could or should be, or whether they would apply to the body itself or to named individuals within those bodies. I am happy to leave that for the Government to think about and decide on in regulations.

The amendment is intended to provide a strong incentive for health agencies and professionals to work more effectively with local authorities. If the Minister does not think that it is required, I hope that he will answer the glaring question that clause 31 currently poses: if health bodies refuse to co-operate, then what?

Mr Timpson: I shall deal with amendment 215 first. The strength of the local offer goes beyond the range of information that it will provide, which will not only clarify what services are available, but give locally tailored information on how they can be accessed. In particular, the process of consultation will ensure that young people and families are involved in discussions and can influence and challenge what is provided.

To make the local offer as effective as possible, we want areas to be free to include the full range of services that help those with SEN, including those offered by the voluntary and community sector and other small organisations, many of which I have had the pleasure of engaging with during the progress of the Bill. There is a genuine risk that an additional duty falling on such agencies would limit the extent of the services they were prepared to have included. Other organisations, such as local authorities and schools, already have duties to provide for children and young people with SEN, and it is right that those duties should govern what is put into the local offer, without an extra layer of requirement.

In practice, the local offer will greatly strengthen accountability for the duties in a number of ways. It will greatly increase the influence that young people with SEN and their families have on decisions about what is to be offered. It will also provide an opportunity for young people and families to compare what is offered by different providers and other local authorities. Local authorities will need to involve children and young people with SEN and their families in the review of education and care provision, to consider the extent to which the provision is sufficient to meet their needs, and that will give rise to an opportunity to challenge services about what is provided. Each local offer will also be underpinned by the duty on schools to co-operate with the local authority. Regulations will set out how we will require local authorities to publish comments from families on the local offer, including on the quality of the provision available and on any provision that is not available in the area. That represents a significant addition to the safeguards regarding provision for those with SEN, without qualifying or undermining the existing duties on key bodies.

Amendment 102 seeks to create a formal route of redress that local authorities can pursue with the Secretary of State for Health when health bodies refuse to co-operate on an individual case. The capacity for health bodies to refuse in that way is clearly limited by the clause, and regulations will set out time scales within which a body will be expected to comply with a request. I stress that we expect that a health body will rarely find a reason not to co-operate. The Bill makes significant provision for the local resolution of problems, and it provides that local authorities and their partners must have procedures to ensure that disputes between parties in relation to the commissioning of services for children and young people are resolved as quickly as possible.

The priority that the NHS has to give to delivering the services in individual education, health and care plans is clear, and it is one of only a small number of specific objectives included in the draft NHS mandate. Clinical commissioning groups will have to account for progress made in meeting the objectives, and demonstrate how their commissioning plans will deliver them. Although I accept the intention of and the motivation behind the amendment tabled by the hon. Member for Washington and Sunderland West, that significant accountability framework makes additional processes unnecessary. Complaining to central Government, who are well removed from the local issues in question, risks causing significant delay to the completion of an individual's education, health and care plan.

In new clause 31, my hon. Friend the Member for South Swindon is right to highlight the importance of Ofsted being able to inspect how well local authorities carry out their functions under the Bill. Section 136 of the Education and Inspections Act 2006 grants Ofsted the power to inspect the "education functions" of any local authority, and the consequential provisions in the Bill will ensure that that includes all the local authority's functions relating to children with special educational needs under part 3 of the Bill. Ofsted will get a view of SEN provision locally through its inspection of individual schools, during which it must consider the extent to which the education provided meets, in particular, the needs of pupils with special educational needs. Inspectors will also consider the quality of teaching and other support provided to improve learning for pupils with a range of aptitudes and needs, including disabled pupils and those who have special educational needs. In addition, Ofsted is consulting on plans to introduce a new framework for the inspection of local authorities' school improvement functions, to which the hon. Member for Washington and Sunderland West referred, and the intention will be to inspect where there are particular concerns. We will explore with Ofsted how concerns about SEN provision might be covered by the arrangements.

Clauses 50 to 52 set out the appeal and dispute resolution options available to parents. The statutory duties on local authorities will be clear, and the Secretary of State has powers to intervene under section 497 of the 2006 Act if a local authority fails to carry out any of its statutory functions.

I hope that I have provided reassurance about how the range of accountability mechanisms in place for services is being not just maintained but significantly increased by the introduction of the local offer, and I hope that my hon. Friend the Member for South Swindon feels able to withdraw his amendment.

Mr Buckland: I am grateful to my hon. Friend for clearly setting out the position with regard to the amendments. On new clause 31, I am extremely grateful for his assurance that special schools and special provision will come within Ofsted's ambit. Without information about the quality of specialist support services, the concept of informed choice for parents, children and young people becomes redundant. I am grateful to the Minister for holding true to that vital concept, and I will not press the new clause to a vote.

I am also grateful to the Minister for referring to how the local offer will link to other statutory duties. Paragraphs 4.5 and 4.6 of the indicative draft code, in CF 51, outline the underpinning of the local authority by joint commissioning arrangements and the link to other relevant statutory duties. If anything, the debate has tried to knit together, for those who are looking on with interest, the Government's approach to making sure that the local offer is not merely words, but will actually be underpinned by duties that will lead to deeds. That is what my amendment was about. I look forward to further work on the indicative code. On the basis of the reassurances that I have heard, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

Mrs Hodgson: I did not get a chance to speak again on the last group of amendments, because mine was not the lead amendment, so I rise to say—

The Chair: Order. The hon. Lady could have spoken again. In Committee, it is open to anyone, if they catch the Chairman's eye, to speak as many times as they want to, within reason.

Mrs Hodgson: I will bear that in mind for the future. You may not want to encourage me, Mr Chope, but your guidance is welcome.

I wanted to come back to the issue of the local offer. The debate on amendments to the clause has been very useful, and nowhere near as long as we feared, considering how important it is. Once the Bill has completed Committee stage, and undergoes its further stages, will the Minister engage with the subject of how we can adequately address the postcode lottery issue in a different way? At the moment, it still is not addressed and could still be an issue. There could be loopholes that some local authorities might take advantage of. Perhaps evidence from the pathfinders—if any are actually testing local offers—will throw further light on the matter. The pathfinders have not fully run their course yet, which is a problem for us in debating the Bill. When they have run their course, they might prove or disprove many of my concerns about the local offer, and the concerns of the public. I shall live to fight another day on the issue, but I just wanted to leave the Minister with those closing thoughts.

Question put and agreed to.

Clause 30 accordingly ordered to stand part of the Bill.

Clause 31 ordered to stand part of the Bill.

Clause 32

Advice and information for parents and young people

Mrs Hodgson: I beg to move amendment 103, in clause 32, page 24, line 45, after 'and', insert 'children and'.

The Chair: With this it will be convenient to discuss amendment 104, in clause 32, page 25, line 6, after '(b)', insert 'children and'.

Mrs Hodgson: This clause is a welcome retreat from the rhetoric that we heard when the Green Paper was published. It looks at the principle of educating children and young people with special educational needs alongside their peers of various needs and abilities. In all my time in Parliament, I do not think I have ever seen seven words in a Green Paper that caused as much anger and confusion as the words

"We will remove the bias towards inclusion"

did in the "Support and aspiration" Green Paper. Those who were angry were, perfectly understandably, those who campaigned for inclusion and the rights of children and young people with disabilities. They saw it as putting their cause back to pre-Warnock days, at the whim of one man who just happened to be Prime Minister. Those who were confused were pretty much everyone else in the sector who did not recognise that there was a bias towards inclusion at all. If anything, mainstream schools still lacked capacity in many places to provide a good education to children with certain learning difficulties and disabilities—am I in the right place, Mr Chope?

The Chair: Only the hon. Lady can answer that question.

Mrs Hodgson: Are we discussing clause 33? *[Interruption.]* I do apologise; I have jumped ahead of myself. I thought we had made so much progress that we had reached clause 33.

The Chair: I hope that the hon. Lady is speaking to amendment 103.

Mrs Hodgson: No, I am not.

The Chair: We are also discussing amendment 104.

Mrs Hodgson: I was talking about amendment 107, but if you would like me to talk about amendment 103, I am happy to do so.

The Chair: I insist.

Mrs Hodgson: As ever, I am grateful for your guidance, Mr Chope. I will now speak to amendments 103 and 104, having given Members a bit of an insight into what I will talk about when I get to amendment 107.

3 pm

Amendments 103 and 104 are short and simple. I will not take up too much of the Committee's time, because as I have already started on amendment 107, I am keen to get on to it. The intention behind the two amendments is simply to ensure that children have a voice. As a signatory to the UN convention on the rights of the child, the Government must take all positive steps to realise fully the rights and freedoms in the convention. Article 12 requires that:

"States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child…For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.'

In October 2008, the UN Committee on the Rights of the Child issued its concluding observations on the UK, and in relation to article 12 it urged the Government to do the following:

"Promote, facilitate and implement, in legislation as well as in practice…the principle of respect for the views of the child",

and

"Support forums for children's participation."

There is a similar duty under the convention on the rights of persons with disabilities, which the UK Government ratified in 2009. Article 7 requires the following:

"States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right."

I am sure that the Minister shares my belief that those principles are important, and that all legislation introduced by the Government should be viewed through those prisms.

As an aside, given the importance of the Bill as regards children's rights, it would have been a nice touch if the Secretary of State had declared on the front page

his belief that the Bill complies with the UN convention on the rights of the child. Perhaps my hon. Friend the Member for Wigan will talk more about that when we get to part 5.

If we want children to have a voice in decisions that affect them—and we should—they need to be given the facts and advice in a way that is appropriate to their age and disability. They can then use their voice effectively. I do not believe that that would be an onerous duty for local authorities, and hopefully many of them would do it even if it was not in the Bill. However, to ensure that that is key to all local authorities' considerations, I hope that the Minister will accept the modest amendments, or offer assurances that the code of practice will make the principle clear.

Mr Timpson: The amendments rightly aim to ensure that children receive information and advice, and know about information and advice services, so that they can understand their options and be informed in developing their views on decisions affecting them.

On Tuesday, the Committee discussed clause 19, which sets out principles for the Bill, and places great store on children's views and involvement in decisions affecting them. It makes it clear that the local authority must have regard to the importance of a child being provided with the information and support necessary to enable their participation in decisions affecting them. It also makes it clear that the local authority must have regard to a child's views as well as those of the parent, and to the importance of the child participating as fully as possible in decisions relating to the exercise of any function within the Bill. Clause 32, however, sets out local authority duties that aim to ensure that decision makers are supported to make the best choices. It therefore requires information to be provided to decision makers—the young person and their parents. That replicates the current position. As the Committee will recognise, the legal responsibility for children younger than compulsory school leaving age remains with parents. Parents are the decision makers on behalf of their children. That clarity is important in helping local authorities to deliver their functions under the Bill. Clause 19 already achieves the aim of the hon. Member for Washington and Sunderland West. I hope that reassures her, and I urge her to withdraw her amendment.

Mrs Hodgson: Given the Minister's assurances, and the fact that my probing amendments have enabled this debate to happen, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Buckland: I beg to move amendment 36, in clause 32, page 25, line 1, after 'information', insert

'in an appropriately accessible form'.

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

Amendment 105, in clause 32, page 25, line 2, at end insert—

'(1A) Local authorities must ensure that in exercising their functions under subsection (1), advice should be provided in the form of—

(a) printed materials;

(b) online resources, including signposting to resources published by others;

(c) face to face discussions;

(d) any other form which the local authority may deem necessary in pursuance of its duties under the Equality Act.

(1B) Local authorities must not make, or allow any individuals or organisations providing advice on their behalf to make, any charge to families of children with special educational needs, or young people with special educational needs, in exercising their functions under this section.'.

Amendment 106, in clause 32, page 25, line 11, at end add—

'(4) Local authorities must ensure that internet-based services provided by them or on their behalf in pursuance of their duties under this section meet British Standard 8878:2010.'.

Mr Buckland: The aim of the amendment is to look at the type of advice and support that disabled young people and young people with SEN should receive, and how it can be made accessible. Clause 32 is a welcome extension of the duty on local authorities to provide information and advice to young people between the ages of 16 and 25 who have—or, importantly, might have—SEN. Currently, local authorities are required to provide information to parents of children with special educational needs, but not to the young people themselves. That is done through parent partnership services, to whose excellent work in many areas, including Swindon, we have already paid tribute. The extension of the information and advice duty to include the young people themselves is welcome. However, those services will need properly trained staff, including staff trained to work with young people with complex communication difficulties.

I have not directly referred to speech, language and communication issues yet in this debate. As vice-chairman of the all-party group on speech and language difficulties, it is an issue I feel passionately about. It underpins many of the lifelong conditions, such as autism, that are at the heart of these reforms. It is a sad truth that undiagnosed communication difficulties often underlie the problems of young people who enter the criminal justice system. Seven out of 10 young people who are in detention at the moment have some form of communication disorder. That is a scandal, and it is something that we as a society should act on more directly. Training for staff in those services to make sure that disabled young people understand what is on offer for them is vital.

There are also overlapping information and advice duties placed on local authorities, parent partnership services, schools and other bodies; we therefore need to consider existing functions and duties. Section 29 of the Education Act 2011 places schools under a duty to secure access to independent careers guidance for their pupils in school. The current code of practice for special educational needs states that the Connexions service is required to play the lead role in transition planning for young people. There has clearly been a change—we know about the reform in regard to Connexions—so we need clarity about what the lead agency will be in the future. Clause 2 of the draft Care and Support Bill, which is currently being considered by Parliament, will require local authorities to establish and maintain a service providing people with information and advice relating to care and support for adults, and support for carers. I would be grateful to my hon. Friend the

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Minister if he confirmed how those overlapping duties could be brought together, so that they make sense to the young people who use them.

I mentioned communication difficulties, and I should mention in particular young people who are deaf, and who require a particular approach to be taken to the information they need to access the opportunities they deserve. I would be extremely grateful if, in his response, the Minister considered the currently rather disjointed landscape for young people who, because of their condition, need clarity, accessibility and guidance, so that they can help themselves obtain the opportunities that they deserve. It is in that spirit that I commend amendment 36 to the Committee.

Mrs Hodgson: These amendments are in a similar vein to those in the last group. Essentially, if we want people to have a say—in this case not just children, but young people and families as well—they need to have available to them all the information and advice that they need in a format and wording that they can understand. Plain English is a start, of course. It is easy for those involved daily in areas such as special educational needs to talk in acronyms and to assume that their audience has more knowledge than it does. We are all guilty of that, especially on this Committee.

Where someone does not have that intimate involvement with, and in-depth knowledge of, the various facets of policy and processes, talking to them in a way that assumes they do, or giving them literature that assumes they do, is at best completely meaningless. At worst, it can be used to ensure that they are kept in the dark. Similarly, we must recognise that while children and young people with SENDs may want to avail themselves of the information, many of their parents may have disabilities or learning disabilities themselves.

As well as speaking in plain English, we also need to ensure that information is presented in a way that can physically be read or heard by all those who might want to read or hear it. Again, many authorities will already ensure that as part of their obligations under the Equality Act 2010, if not out of a sense of duty to their residents. However, having the provisions in the Bill will ensure that all local authorities are left without any doubt as to what is expected of them.

I realise that amendment 106 is quite prescriptive; it requires web-based services to meet British Standard 8878. I mention BS 8878 because it is consistent with the Equality Act and is referenced in the Government's e-accessibility action plan as the basis of updated advice on developing accessible online services. It specifically provides guidance to bodies providing web services for the public on involving disabled people in the development process, and using automated tools to assist with accessibility testing. Simply, as yet there is no better standard for producing accessible web services, and those services should be central to how local authorities discharge their duties under the clause.

However, given that technology marches relentlessly forward, I am aware that BS 8878 may not remain the gold standard for ever, or even for very long, so it should probably be specified in guidance or regulations. If the Minister can give me an assurance that it will be, or that there will at least be some guidance to local authorities on what it means to have accessible web services, I would be happy to withdraw amendment 106. Similarly, if the Minister cannot accept amendment 105, or even amendment 36, tabled by the hon. Member for South Swindon, I hope that he will at least ensure that the principle behind them finds its way into guidance or regulations.

Mr Timpson: I am grateful to my hon. Friend the Member for South Swindon, and the hon. Member for Washington and Sunderland West, for tabling these amendments, which would place in the Bill various requirements about the way in which advice and information under clause 32 should be provided. I agree with them that the advice and information should be accessible, and I hope that I can lay to rest their concerns.

Amendment 36 would place a requirement on local authorities to provide advice and information in an appropriately accessible form. I recognise the importance of making sometimes convoluted and legalistic documents much more accessible to a wider range of people in society, particularly young people, as we have done by producing a young person's version of the Bill. Amendment 105 sets out the ways in which advice should be offered to parents and young people, and also seeks to ensure that the advice and information is accessible. As hon. Members know, local authorities already provide advice and information on special educational needs for parents under section 332A of the Education Act 1996. Such services are generally known as SEN parent partnerships and are greatly valued by parents. My hon. Friend mentioned his understanding and appreciation of the work that they do. He knows that accessibility is an important factor in their operation.

3.15 pm

Clause 32 extends the current duty on local authorities to provide advice and information to parents so that young people are included as well. I understand that some parents of children with special educational needs may themselves have learning difficulties or disabilities, and the young people receiving that advice and information will all have special educational needs. The advice and information should therefore be tailored to their needs.

The indicative draft code of practice, which we have made available to the Committee, includes some detail—in chapter 2, paragraph 2.3—on the expectations on parent partnership services, including the importance of being in accessible premises that are perceived as independent of the local authority. We intend to say more in the draft code of practice about how we expect the advice and information for young people to be delivered, when we have learned more from the pathfinder experience. I assure Committee members that accessibility and impartiality will be the core principles at the heart of advice and information that parents and young people are given.

The advice and information offered under clause 32 is in respect of matters relating to the individual needs of children or young people, so confidentiality is an important consideration as well as accessibility. The form in which the advice and information is provided will need to take account of those factors. Such decisions should be left to local determination and individual circumstances. Any service offered under the clause will of course have to comply with the Equality Act 2010.

Therefore it is not necessary to amend the Bill to achieve what my hon. Friend is seeking. I hope that he is reassured.

Amendment 105 would introduce a prohibition on the making of any charge. I hope that I can reassure the hon. Member for Washington and Sunderland West that we do not intend any charge to be made for the service to parents and young people and we have given local authorities no power to make any charge. There is no charge to parents for the advice and information offered by parent partnership services. The principle of not charging is of course important, but I do not believe it is necessary to set that out in legislation.

Andy Sawford (Corby) (Lab/Co-op): The Minister is saying that there is no power for local authorities to charge. Yet under the general power of competence, for example, I would think—perhaps the Minister will correct me—that local authorities would have the legal power to charge. The purpose of the amendment, which I support, is to expressly prohibit charging, which, in terms of the legal position, is necessary to give effect to what we are agreed is the intention, which is that people will not be charged for those services.

Mr Timpson: If the hon. Gentleman has knowledge of any case in which a parent has been charged for the service under section 332A of the 1996 Act, which would apply in this case, I would be grateful if he shared those details with me, because that would demonstrate the case that he is trying to make. In the absence of that, I am confident that the process that we have set out, and which is enduring in any event, does, without providing local authorities with that power, give the protection that is required. If he has some examples, I would be happy to receive them.

Amendment 106 would require local authorities to ensure that internet-based services provided by them or on their behalf, under the duty in the clause, meet British standard 8878:2010. I understand the intention behind the amendment and agree that accessibility is important for web-based services, as it is for any advice or information provided under the clause. However, we do not need to specify the standard for web-based products in the Bill. The hon. Member for Washington and Sunderland West mentioned the 2010 Act, which states that web-based products must be accessible to all, and the BS 8878:2010 code of practice applies to all products delivered by a web browser. I gave her one example of a internet hit during discussion of previous clauses, and I see the merit in that case, but in this case I thinkthere is already sufficient guidance in the code of practice, underpinned by the 2010 Act. I hope that the hon. Lady and my hon. Friend are reassured and that my hon. Friend asks leave to withdraw the amendment.

Mr Buckland: I am obliged to my hon. Friend the Minister. I am reassured. In this instance, the importance of this Committee reflecting the aspirations of young people and understanding the barriers that too often exist cannot be overemphasised. Collectively, we have to "get" the reality on the ground. I note the commitments to plain English and removing the barriers, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 32 ordered to stand part of the Bill.

Clause 33

CHILDREN AND YOUNG PEOPLE WITH EHC PLANS

Mrs Hodgson: I beg to move amendment 107, in clause 33, page 25, leave out line 22 and insert—

'(b) meeting the specific needs of the child or young person'.

As I discuss my reasoning behind the amendment, this could turn into a scene from "Groundhog Day" or a form of déjà vu, because you might feel that you have heard some of it before, Mr Chope.

The clause is a welcome retreat from the rhetoric we heard at the time of the "Support and Aspiration" Green Paper's publication. It sets out that educating children and young people with special educational needs alongside their peers is a principle, and that is on the face of the Bill. In all my time in Parliament, I have never seen seven words in a Green Paper cause so much anger and confusion as did

"We will remove the bias towards inclusion",

Those who were angry were obviously those who campaign for inclusion and the rights of children and young people with disabilities, which is perfectly understandable, as they saw it as putting their cause back to pre-Warnock days at the whim of one man who happened to be the Prime Minister. Those who were confused were pretty much everyone else in the sector; they did not recognise that there was a bias towards inclusion at all. If anything, mainstream schools in many places still lack capacity to provide a good education to children with certain learning difficulties and disabilities. Where I think there was, and still is, a bias is between maintained schools and non-maintained and independent special schools, and that primarily comes down to how costly they are perceived to be by those holding the purse strings, as we discussed earlier.

Whatever the reason for dropping those seven words, everyone is pleased that they have been dropped. The reason I tabled my amendment to the clause was not to pick a further fight with the Government, but to test them as to whether, given the progress we have made towards inclusion since the Special Educational Needs and Disability Act 2001 was passed, it was time that we looked again at the grounds on which it can be argued that children should not be educated in mainstream schools.

Mr Buckland: The hon. Lady knows that I have followed the debate about inclusion for many years. I well remember the report in the last Parliament of the then Select Committee on Children, Schools and Families, and this debate raged throughout the report. As a member of my local group, I submitted evidence. The concern was that, in the minds of some providers, "inclusion" was being misused as an agenda to close some special schools; there was real concern about that. That was not at all the Government's intention—their view was much more neutral—but that was the backdrop, which informed the emotion that gave rise to the phrase. I hope that that is helpful.

Mrs Hodgson: That is helpful. There is a lot of confusion and misunderstanding of the debate by a lot of people in Parliament and outside. I agree with inclusion, but I think we need a mix. I am not one of those who

[Mrs Hodgson]

think that every single child should be in the mainstream and that there is no role for special schools in any shape or form. I believe that special schools serve a very important function. I have visited a number of non-maintained and independent schools, as well as maintained special schools, and I know that the children get exactly the mix of services and provision that they need. Until we reach some utopia where all mainstream schools can provide the equivalent, we will always need some special schools. Whether or not we will or can reach that utopia, I am not sure that there will ever be the funding for all schools to be able to provide for all children, including those with extreme, multiple and complex needs we see in some of our special schools. It was a good point, well made by the hon. Gentleman, as is customary for someone of his ability.

Annette Brooke (Mid Dorset and North Poole) (LD): I would like to add to the words of the hon. Member for South Swindon. I recall that there was a push towards inclusion, but without adequate resourcing for mainstream schools. That was a bad policy and created the worst of all worlds for pupils and teachers. I hope that, through all the things we are discussing in great detail, inclusion will be matched with resources. That is so important.

Mrs Hodgson: Yes, and the need for resources is the crux of a lot of what we hope the Bill will go on to achieve when enacted. It was an aspirational dream that everything in the Green Paper could be achieved. Whether these measures can do that is down to resources and funding. The worry we all share is that many of the measures are totally dependent on how much local authorities can resource them. I do not think we will square that circle in Committee; it will be ongoing. We need the economy to pick up so that there is money to spend on resourcing these children.

Charlie Elphicke (Dover) (Con): Andrew Lamb was until recently the head teacher of Whitfield and Aspen school, which is a combined special and mainstream school in my constituency. It is a rare type of school. He said to me, "The problem I have with the word 'inclusion' is that no one defines it. It is an empty word and it seems to just be used as rhetoric in politics. Why don't the politicians define it properly and say what it really means?" Does the hon. Lady agree?

Mrs Hodgson: I agree to a certain extent. If the hon. Gentleman is looking for definitions, he should be asking the Minister and his team. Perhaps the time is right to try to come up with a definition of inclusion. We probably all know what it means in the broader sense of the word. The inclusion lobby is clear what it means when it talks about inclusion and how it is about not only schools, but the whole of society. We all agree and share that ambition, but discussing how the best provision is achieved for those children through their educational experience can lead to the understanding of that word getting complicated and confused. I will leave it to the Minister and all his experts to decide what the word means in the Bill and for the education of children with SENDs.

My amendment would mean that the needs of the child or young person and their preferences and those of their parents would be the only considerations in deciding whether that child or young person should be educated in mainstream schools. There are still real concerns that some schools, particularly those focused primarily on league tables and EBacc subjects, are still reluctant to admit children with special educational needs and can rely on the "efficient education of others" principle to refuse a placement that they would find inconvenient. Instead of leaving that to chance, let us have another look at who should be taking these decisions and the amount of latitude that we give to schools to refuse to admit local children. Schools are there to serve their local communities.

I would be grateful if the Minister addressed those questions in his response and reassured me that, in line with the tone and content of the clause, promoting inclusion and supporting schools to improve their policies and provision in this regard will be a priority for the Government in their remaining years in office.

3.30 pm

Pat Glass: Inclusion is a moveable feast: it means different things in different places for different children in different settings. I managed SEN services in a local authority. When I started, I had an education background but no SEN experience at all. It was a somewhat chaotic authority, and it gave me the opportunity to start asking some questions—some of the stupider questions—to probe why we did things. Anyone who has worked in SEN knows that it is something of a secret garden. There are highly specialised educational psychologists and teachers doing something in the corner very special. However, it is not easy to get into that.

I remember attending a conference early on—something like 17 years ago—where a young man who had severe cerebral palsy got up to speak. At the time, he was the welfare rights officer from Sheffield. He stood there and said something like, "You made me special by making me different. You have sent me to a special school and you took away my future." It was really powerful. I came back and started asking, "Why are we doing these things? What do parents want? What do the children themselves want? What difference does it make?" I started to look into children with similar needs, some of whom were included in special schools and others in mainstream schools. In many cases, for children who were attending special schools, a person could not complain at all about the quality of care that those children received. We had to start asking serious questions about what kind of focus was being placed on those children's education, outcomes and futures.

Craig Whittaker (Calder Valley) (Con): Does the hon. Lady agree that one of the problems for young SEN children in mainstream schools is that often they are not offered the mainstream curriculum? That causes as much of a problem as what she is highlighting.

Pat Glass: Absolutely. We are talking about what inclusion means. It is largely about the ethos, culture and welcome that children receive in mainstream schools. If that is there, they will get access to the appropriate curriculum. I agree with what was said earlier—good inclusion is based on a good base of special schools. Some children, for some time, will need special schools. It might not be for their whole lives, but we need a level of specialism.

Mr Buckland: It is important that we debate this. The hon. Lady makes the vital point that some children are able to move from the special sector, and I can give examples of young children who I know are doing that. Special resource provision can be included in mainstream schools; a unit can be attached. We have several of them in Swindon for children on the autism spectrum. There are now 32 places for children and young people in our secondary schools, who can access the mainstream curriculum but have a space where they can have one-to-one contact. It is that abandonment of the binary divide and the move to much more of a synthesis that reinforce the hon. Lady's points.

Pat Glass: I absolutely agree. It is about what is right for their child and their family at that time. It is not about one sector against the other, but about both sectors working together to provide excellent opportunities for children.

Mrs Hodgson: Does my hon. Friend welcome the benefits of inclusion? I think about my own journey through school compared with my children's journey through school in a more inclusive schooling environment. She mentioned her lack of knowledge of SEN when she took on her role. I definitely think that my children have far more knowledge of SEN than I ever did in my journey through school. That should be welcomed.

Pat Glass: I agree.

As an authority, we started to look at the journey towards inclusion. We thought, quite naively, that we would start with the easy ones. I remember a mother of young twin boys coming to see me. One of them was going to go to the local school. The other had severe cerebral palsy—he was quadriplegic and had a little bit of head movement, but that was pretty much all, physically—but he was an incredibly intelligent and bright child. She wanted, quite rightly, both children to go to the local school. So we did not, after all, start off with the easy children—but sometimes that is better.

We made arrangements for Dalton—that is his name—to go to the local school, where they loved him. His mother told me that she had gone outside one day, and he—a child in a wheelchair—was not there. She had that horrible feeling that parents get when their child is suddenly not there. She raced around like an idiot, and found him on the school field, where he was playing cricket. He was batting, because he had some head movement and could hold a bat. She said, "You can't bowl a ball at Dalton's head," and the kids said, "But it's a soft ball—it's a sponge ball—and let's face it: he can't field." She had to walk away and leave her child on the field with those children, because he was completely included in that community, which came about from his being included in the school.

We planned well in advance for Dalton to move on to the excellent and outstanding Oxclose secondary school, which I think is in the Washington and Sunderland West constituency.

Mrs Hodgson: I knew straightaway the child that my hon. Friend is talking about, because Dalton came second in my annual MP's Christmas card competition. He painted his entry by mouth and I wanted it to win, but I was not judging. He came second totally on merit. I thought she would be interested to hear that.

Pat Glass: That was not a set-up, Mr Chope.

When Dalton moved on to the excellent Oxclose secondary school, it was love at first sight: he loved the school, and the head teacher and the school loved him. He is now going on to further education, which I am not sure we could have predicted for him had he gone through the special school sector as it was.

I note what was said earlier about special schools closing under the policy of inclusion. Some special schools were indeed closed, and in my view some of them deserved to be closed, because they were simply not good enough. I understand that there were more secondary school places at the end of that period than at the beginning, but those special school places were really good provision, and that is what we all want.

As I said at the start, inclusion is a moving feast. Children, like the parents, have the right to decide where they should be placed. I am worried by the line about

"the provision of efficient education for others."

That can too often be used as an excuse, with schools saying, "We can't take this child, because it's not compatible with the education of others." That does not sit easily with the Government's policy of not allowing such barriers to stand in the way of children's progress. Too many schools have said to me, for example, "Oh, we can't take this child, because we don't have a lift." Good schools will find a way to admit a child, and if those schools are wanted by parents, who know their children best, we should not stand in the way.

We sometimes get it wrong, as lots of professionals do. One parent desperately wanted a mainstream school for their child, who was very little. The papers eventually made their way to me, and I read through them carefully. I would have said that, on paper, she was a child with borderline profound and multiple learning difficulties. I was really concerned, but the parents, whom I met, insisted, and we agreed that she could go into nursery. It is highly costly to have such a child in a mainstream nursery, but we thought that we would give it a year and see how it went. When I spoke to the nursery head teacher during the year, she said, "The other children have gained massively from having Clodagh in the class. I'm not sure how much Clodagh has gained, but the other children have gained."

We agreed to allow Clodagh to go on to primary school. I visited the school, and all the children were in the dining room. I looked around the dining room, and eventually asked the head teacher, "Where's Clodagh?" and he had to point her out to me. Once he did so, I could see the support assistant sitting next to her, but I came away thinking that the parents had been right and I had been wrong.

We should be very careful about such clauses such as this one, because it is too easy for schools to make excuses for why they cannot take children. I think we have to rely on parents' judgments. There were occasions when parents said that they wanted a special school and I thought that that was not appropriate, so I said to them, "You can have a special school if that's what you want—that's what the law says—but let me take you to see what the inclusive provision would be, and if you still say that you want a special school, you can have it." After doing that, quite a lot of them then said, "We want the mainstream school." I think that is how we

[Pat Glass]

should approach it. Good local authorities should work with parents when they think the decision is not right. We should not assume that professionals are always right. I think that parents know best and we should not allow such clauses. Giving schools the opportunity to say that admitting certain children is incompatible with

"the provision of efficient education for others"

is going to slam the door in the faces of far too many children.

Mr Buckland: This has been an important debate that has allowed us to use some of our own experiences. As a parent of a child who attends a special school, I can testify how important that has been and the difference that it makes to her development through the educational system. Having gone through the process of obtaining a statement, my wife and I thought long and hard about the options we should take. We are encouraged that we made the right decision.

That personal experience has helped me support a number of parents in my constituency who are going through a similar decision-making process. It has perhaps allowed me to be a little more frank with them than others who are not in the same position. Sometimes having a frank conversation with fellow parents about what could be right for their child is helpful for them. It is not easy, because parents go through a range of emotions. They start off wanting to believe that nothing is wrong—in my case, as my child is a twin, we started off hoping that the twins could be educated together. Then the slow acceptance and understanding that things have to be approached differently permeates. For some parents that can take a long time; we have to respect that. We have to acknowledge that, while parents are, as I always say, the ultimate experts about their child, coming to terms with the enormity of such decisions is very difficult. It is a human process that we must all respect.

The understanding and the forbearance of the authorities in not seeking to dictate terms should not be underestimated. It is important to get it right. Having said that, the points made by the hon. Member for North West Durham were well made. We do not want mainstream schools to find excuses to avoid integration where possible. That is why I am a strong advocate of the sort of provision that we see in authorities such as Swindon, where we have the halfway house of special resource provision attached to a mainstream school. That allows young people with life-long conditions such as autistic spectrum conditions to access the mainstream, but be able to withdraw to a space they can call their own for one-to-one support and the management of their condition that they will sometimes need if they are to cope fully with mainstream education.

There are plenty of examples of fully statemented children enjoying mainstream provision for part of the week. That works well for a number of children who are in special schools. They remain attached and registered to the special school but, because of a relationship with a local mainstream school, they are able to access some mainstream education. That is to be encouraged and applauded. That is what more and more authorities should adopt. In the case of my daughter's special school, one of the classes is now located in a neighbouring mainstream primary school, which is bang next door. The children in that class tend to be higher functioning. They are physically in a mainstream school while getting a specialist education.

One of the consequences of the increase in diagnosis for autism locally is that we physically do not have room in the Chalet school to house all the children. The benign by-product has been that a number of the children are now in a mainstream setting but still getting special education. I know that is the Minister's aspiration—he wants to see local initiative and variation in a positive way. I believe it is time to move away from the rather sterile binary debate about inclusion versus specialism, and to acknowledge that more and more we see a synthesis and a spectrum approach that is truly tailored to the needs of individual children.

3.45 pm

Chris Skidmore (Kingswood) (Con): I will add briefly to what my hon. Friend the Member for South Swindon said about the definition of "inclusion", which was discussed earlier. I welcome the comment of the hon. Member for North West Durham that we need a more nuanced attitude; we should not divide into binary camps on the issue of inclusion, with mainstream schools on one side and specialist schools on the other.

Let me add historical context to the definition of "inclusion". We know that the definition stems largely from the UNESCO Salamanca statement in 1994. The framework for action established there set a guiding principle that

"ordinary schools should accommodate all children, regardless of their physical, intellectual, social, emotional, linguistic or other conditions."

The framework says that all educational policies should stipulate that disabled children attend the neighbourhood school

"that would be attended if the child did not have a disability."

A lot of the language of the debate has probably stemmed from that initial statement. I think we have a more nuanced attitude in England. We have made sure that it is the duty of a mainstream school to ensure that it provides an education for every pupil with SEN if they wish to attend that school. We have moved away from the UNESCO statement with the idea that it should not be automatically assumed that every pupil, regardless of their SEN or disability, must go to the "neighbourhood school". In this country, we leave it to parents. It is right that, depending on a pupil's condition, it is up to parents, alongside professionals, to make the best decision.

The hon. Lady raised the issue of exclusions, particularly permanent exclusions, earlier. There are many excellent examples in all of our constituencies of mainstream inclusive education, but we know that although pupils with SEN represent only 20% of the school population, they represent 80% of all permanent exclusions and two thirds of all fixed-period exclusions. We also know that 20%—a fifth—of the population represents half of all persistent unauthorised absences. That is the context.

We have looked at what has happened in the past couple of decades. We have spoken about special schools and mainstream schools. We cannot forget, when it comes to parental choice, what has happened outside the state sector. In the past decade, 52,594 additional

places in the private sector have been created for pupils with SEN, which is a 300% increase. Parents have decided at some point, for whatever reason—obviously, many of them have specific reasons—that neither the specialist nor the mainstream part of the state sector was adequate for their child, and they have decided to move out. That is a shame, because obviously we have not been able as a country to accommodate the specific needs of those pupils.

I just wanted to put on record not only the historical context of the definition of "inclusion", and the fact that we have a separate definition from what we might see on the continent, but the point that we have seen in the past decade a trend that we need to remedy in some way.

Charlie Elphicke: I want to raise points put to me by Andrew Lamb, who used to run Whitfield and Aspen primary school in my constituency. It is a school with a unit where children with special needs can get an education, but they can also be included in mainstream classes in the mainstream school on the site. It is an ideal set-up that is quite rare across the country. Children with severe disabilities, and in many cases illnesses as well, are able to receive an education and mix fully with a range of children, from special needs children through to entirely mainstream primary schoolchildren. There is a complete mix, and to my mind that is real inclusion.

Mr Lamb underlined to me that the issue is not just inclusion; we are talking about a special school co-located with a mainstream school, where all can join and mix together, and where the special needs of young children, some of whom are not expected to survive to adulthood, can be catered for fully, while they are able to participate in classes that are entirely mixed. That is a really good model. I have visited the school, and it ensures that all children have a much greater understanding of what life can throw at us—what it doles out to us in terms of disabilities, learning difficulties and ability. That kind of understanding is useful in our society.

Mr Lamb also underlines the issue of ensuring that children with special educational needs are catered for and given the kind of education and help with development that they should have. He said that one of the most important points was that the Green Paper, "Support and aspiration", says that life chances for the 2 million children in England with a disability or who are identified as having SEN are "disproportionately poor". It continues:

> "Young people with SEN are twice as likely not to be in education, employment or training"

than others. However, the Green Paper also says that

> "properly supported from childhood, many of these barriers should not hold young people back from leading a fulfilling adolescence and adulthood."

That side of inclusion is really important. I am talking about ensuring that children with special educational needs can be fully included in society as a whole, and not just in their schools.

Mr Lamb also pointed out this part of the Green Paper to me:

> "The kind of day-to-day support that can help children and young people who are disabled or who have SEN to fulfil their potential varies hugely. Excellent classroom practice with skilled teachers is sufficient for many; others will need expert, but time-limited, support such as speech and language therapy; and some will need 24-hour personal care with input from specialists across health and social care."

Mr Lamb says that from

> "reading the literature and…conversing with concerned individuals and concerned organisations",

his views is that

> "all are in agreement with the overarching principles"

of what the Bill is seeking to do and its essential aims. However, he then says that his sense is that we politicians use the term "inclusion" too often as

> "an emotive piece of SEN terminology",

and sometimes there is not enough of an attempt to provide a precise definition of what it means in practice. He acknowledges that the Green Paper in particular

> "attempts to address this issue",

but says that it

> "does not address this basic need sufficiently."

I am simply putting to the Committee the comments that Mr Lamb has made before I turn to amendment 107—the part of the amendment that is about the needs of the child.

The other issue that Mr Lamb raises is admissions. This is where we come to the whole issue of

> "the provision of efficient education for others".

Let me briefly tell the Committee what happens at Whitfield and Aspen school. As it has the special unit, and because the school is brilliant and works really well, many parents want to send their children there. The county council is keen to accommodate the parents, so it keeps saying, "Send these children to this school," but it has only so many places. The county council has, under existing legislation, the ability to keep forcing children to be put into the school, unless there is an appeal, so Mr Lamb spent much of his time going to appeals, saying, "I would love to take these children, but I have only so much space. I'm really sorry, but I can't." He had to explain to each appeal panel, on a case-by-case basis, that he was very sorry, but it was not possible; the school was full. It has only so much land and can take only so many portakabins.

Mr Lamb said to me that parental choice was really important and really good, but if there are no spaces and no land available to take children because the school is full, what do we do? The question in his mind is this: will the local authorities help to steer parents in the right direction? Who should help to steer parents in the right direction, and where is the balance between the places available at the school and parental choice? That is something that he wrestled with.

Pat Glass: I am listening carefully to what the hon. Gentleman is saying, but is this not the same for every parent, whether their child has SEN or not? There are highly popular schools that are oversubscribed. There are admissions criteria and a standard number. Local authorities cannot go above that standard number. If a child cannot be admitted, whether they have SEN or not, they must go to an appeal. If the child has a statement and wishes to have the school named in the statement, that is a different matter. Then the local authority must consider whether, in the light of all the other children, the school can meet the child's needs. That is sometimes a difficult decision. If they say no, parents have the right to appeal to a tribunal. I understand what the hon. Gentleman is saying, and I have experience of working with Kent county council, so I sympathise with him—

The Chair: Order. Interventions are getting longer and longer.

Charlie Elphicke: I thank the hon. Lady for her intervention. There is an inevitable balance between the school's ability to take pupils and the parents' desire to send them. The difficulty is that under the special educational needs set-up, the normal rules for being able to say that a school is full do not seem to apply. County councils seem to have some ability to override schools and say, "You have to have portakabins; you have to take these pupils." It is important to strike that balance so that head teachers are able to say, "I'm really sorry; we are completely full. Unless we can expand the school, we really need to be able to draw a line." Head teachers must not be in the situation that Mr Lamb was—for so many years he was tied up in endless appeals down at county hall in Maidstone, when he should have been helping to develop the children in his school.

Andy Sawford: Listening to the hon. Gentleman's case, I can think of similar issues that I have talked about with schools in my constituency. It is important that the issue is resolved locally. It should be incumbent on the local authority to provide additional places, rather than the issue being resolved through national legislation, which the Opposition fear will have an impact on children with special educational needs.

Charlie Elphicke: I would have more sympathy with the hon. Gentleman's point were it not that the national legislation enabled the county council to override the normal "Our school is full" position and effectively force more children in, unless the head teacher goes to an appeal at county hall. I wanted to contribute that, in the hope that Ministers and the Department for Education will give the issue due consideration.

That model of school is really great, and works really well. Having what is effectively a special unit co-located with an otherwise mainstream school enables mixing, but also special attention and special catering for the needs of the children to whom fate has not been kind. This model of school enables true inclusion, and I wish we had more of them in this country.

Mrs Hodgson: I want to share something with the Committee that is hot off the press. I fear that the Minister might not have had sight of it yet because we have been stuck in Committee all day. The Office of the Children's Commissioner has today published the report of a national inquiry, which found that children—boys in particular—

"with special educational needs…continue to be far more likely to be permanently excluded from school than other pupils. The report, 'They Go The Extra Mile', published today, highlights an unacceptably high correlation between a pupil's background…whether or not they have a special educational need…and the likelihood of permanent exclusion.

The Inquiry also found that…teacher training does not always prepare newly qualified teachers to manage the behaviour of a pupil population with a wide range of needs.

According to data submitted to the Inquiry, during 2010-11, children with a special educational need were nine times more likely to be permanently excluded from school than those without."

That follows on nicely from the point that the hon. Member for Kingswood made. He mentioned that high numbers of children with special educational needs were excluded from school.

"The report makes a series of recommendations to help reduce the numbers of children from groups that are most likely to be excluded. These include making sure schools understand their duties with regard to exclusions and ensuring that best practice on managing the needs of diverse groups of pupils is shared among schools."

Maggie Atkinson, the Children's Commissioner, who gave evidence to this Committee, said:

"Permanently excluding a child from school can have a life-long impact on them and also a huge social cost: excluded children are far more likely to get into trouble with the law and less likely to gain employment."

She went on to say:

"The single most important thing that a school can do is realise that including all children in the life of the school is part of their core purpose...We agree with the Government that schools should set strong behavioural and academic expectations for each and every child. Children who need support to meet these expectations should be given it. They should not be written off".

I am sure that the Minister has not had a chance to read the report, but I am confident that he will, and that he will take the recommendations on board in order to try to reverse the shocking "nine times more likely" statistic with regard to exclusions for children with SEND. He will not have an answer for me today, but I am sure he will look at the report.

4 pm

Mr Timpson: Before I speak to amendment 107, I want to acknowledge that this has been the most engaging debate we have had so far. That is not to diminish any of the other debates, which have been useful in teasing out the issues that we are here to debate. I hope that those who are listening or following the Committee will be confident that there is a huge amount of professional and personal understanding of the issues, and a joint purpose to do what we can to get things right.

We ended up moving into an interesting and well informed debate about inclusion. It is only right that I make it clear that in the legislation, "inclusion" is not referred to. That is because we want to move away from the binary academic debate that my hon. Friend the Member for South Swindon referred to. Debates on inclusion tended to be more around emphasis than essential differences. I think that has been the tone of this debate, that we are in many respects all singing from the same hymn sheet, and that we understand that there needs to be flexibility.

We heard from my hon. Friends the Members for South Swindon, and for Dover, about examples in their own families and constituencies of how a combination of educational settings can be the right approach for a particular child or family. That was a theme among the young people at an all-party parliamentary group meeting that I went to last night. They saw the benefit of having a specialist and a mainstream aspect to their education.

Although the vast majority of children with special educational needs are taught in mainstream settings, as they always have been, we need to build on what is in the code of practice and the excellent contribution from the hon. the Member for North West Durham. Paragraph 5.3 of the indicative code of practice states:

"All children and young people have different needs and children and young people can be educated effectively in a range of settings, including mainstream and special schools and colleges.

Alongside the general principle of inclusion parents of children with an EHC plan and young people with such a plan have the right to seek a place at a special school, special post-16 institution or specialist college."

That will ensure that parents have as much choice as possible, so that when decisions are made about where to place their children, in one or a combination of educational settings, it is done because that is what is right for that child.

Clause 38 gives parents of children with plans, and young people with plans, the right to express a preference for a particular institution to be named in their plan. We have done what we can within the Bill to make the choice as wide as possible. It includes any maintained school or maintained nursery school, academy or free school, further education institution, non-maintained special school, or independent specialist college or school approved by the Secretary of State under clause 41.

Clause 33 relates to circumstances in which the child's parent or the young person has not expressed a preference for a particular institution, or they have done so and their preference has not been met. In such circumstances, clause 33 requires the local authority to ensure that the child or young person's plan provides for them to be educated in a maintained nursery school, mainstream school, or mainstream post-16 institution unless that is against the wishes of the child's parent or the young person, or the provision of efficient education for others.

I understand why the hon. Member for North West Durham wishes to ensure that local authorities take account of the specific needs of the child or young person in any decisions that they take. I can reassure her that the Bill provides that in a number of ways. First, clause 19 sets the general principle that a local authority should support and involve children or young people and parents. Secondly, the purpose of an assessment for an education, health and care plan under clause 36 is precisely to establish the specific needs of the child or young person. When, following an assessment, the local authority makes an EHC plan, it must ensure that the plan sets out the assessed needs of the child or young person, specifying special educational provision to meet all those needs. The authority then has a statutory duty under clause 42, which I may be ambitious in hoping to reach this afternoon, to ensure that the provision in the plan is made. It cannot place a child or young person in an institution that is not able to deliver the special educational provision in the plan.

Thirdly, all mainstream schools and post-16 institutions have a duty under clause 61 to use their best endeavours to secure special educational provision for children and young people with special educational needs. The cumulative effect of the provisions is to ensure that the specific needs of individual children with education, health and care plans are safeguarded.

Annette Brooke: I seek reassurance on subsection (2)(b). Reading it, one can envisage particular schools, perhaps under parental pressure, finding that they can put a case to the local authority not to take a child, rather than asking for the resources needed to support that child. I have a faint concern about what might be an easy option for a particular school: rather than meeting the needs of a child and the parents, a school could take the easier option, which sometimes happens when children are excluded.

Mr Timpson: I am grateful to my hon. Friend for thinking carefully about the practical implications of the clause. The provision, however, relates to local authorities; local authorities, not schools, get to consider the efficient education of others, or what is important in any respect. Sometimes the interests of other children in the school may have to be safeguarded; for example, a child who displays particularly challenging behaviour might put the safety of other children at risk, and that must clearly be a consideration.

I can reassure my hon. Friend and Opposition Members that the provisions in subsections (3) and (4) guard against the condition of efficient education being used indiscriminately by making it clear that a local authority, not a school, may only rely on it if there are no reasonable steps that can be taken to prevent the placement of the child or young person being incompatible with efficient education of others. There is a sense that the school has a stronger hand than the clause suggests. I reassure my hon. Friend that the local authority makes the decision. The school may be able to make some noises, but under the legislation it does not make the decision.

Caroline Nokes (Romsey and Southampton North) (Con): When the Minister says that the local authority makes the decision, not the school, does the same apply in the case of academies?

Mr Timpson: Yes. I am grateful to my hon. Friend for giving me the opportunity to put that on the record and clarify that point for the benefit of the Committee.

Before closing my remarks, I take up the challenge of the hon. Member for Washington and Sunderland West, who made a nifty and nimble move from inclusion to exclusion and the very recent report from the Office of the Children's Commissioner—so recent that I do not think that any of us in Committee have had the opportunity to read it. We will all be considering its recommendations carefully, but from what she read out, the report seems to reinforce the Government's approach.

As ever, we examine such reports carefully, whether they are from the commissioner or her deputy; I will be doing so in this case. I am sure that it will be a helpful contribution to understanding the issues raised and how we can better address them in the future. In that vein, I thank all hon. Members who have taken the trouble to share with the Committee their views on clause 33, but on the basis of the reassurances I have given, I ask them to withdraw their amendments.

Mrs Hodgson: Following the helpful intervention that the hon. Member for Mid Dorset and North Poole made on the Minister and the reassurance that he gave her that clause 33(2)(b) is there for use by, and only by, the local authority, rather than by individual schools, I am now far more confident than I was that I can withdraw my amendment. I therefore beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 33 ordered to stand part of the Bill.

Clause 34

CHILDREN AND YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS BUT NO EHC PLAN

Mrs Hodgson: I beg to move amendment 108, in clause 34, page 26, line 25, at end insert

'if all the following have agreed to his or her continued enrolment at the school or post-16 institution—

(a) the local authority which is responsible for him or her;

(b) the head teacher of the school or the principal of the Academy or post-16 institution;

(c) the child's parent or the young person;

(d) anyone else whose advice is required to be obtained in connection with the assessment by virtue of regulations under section 36(11).'.

The Chair: With this it will be convenient to discuss amendment 109, in clause 34, page 26, line 42, at end insert

'if all the following have agreed to his or her continued enrolment at the school or post-16 institution—

(a) the local authority which is responsible for him or her;

(b) the head teacher of the school or the principal of the Academy or post-16 institution;

(c) the child's parent or the young person;

(d) anyone else whose advice is required to be obtained in connection with the assessment by virtue of regulations under section 36(11).'.

Mrs Hodgson: Once again, I do not wish to spend a great deal of time discussing these amendments. They are straightforward and seek simply to ensure that the voices of parents and young people are heard when the local authority is looking to place a child or young person who does not have an education, health and care plan. Accepting the amendments to subsections (6) and (9) would simply replicate the caveats that the Government have already put into subsection (5) and, bar one category of person, subsection (7).

Amending subsection (6) in this way is, I believe particularly important, as a parent may agree that a child should be placed in a special school for the purpose of conducting an assessment, as subsection (5) provides for, but they may not wish for that stay to be extended. With the clause as currently drafted, they would not have to be consulted about whether their child should stay at that school after the assessment process, which seems to be a glaring oversight. So I look to the Minister to either accept the amendment or clarify why a parent should not be consulted about where their child gets their education, albeit temporarily.

On amendment 109 to subsection (9), concerns similar to those I have just laid out apply, but I am also curious as to why a child or young person would be admitted to a special academy school or special academy post-16 institution if they did not have an EHC plan. Does the clause relate specifically to special free schools? Are there any special free schools, or does the Department intend there to be special free schools, that do not require a child to have an EHC plan? If so, will the Minister tell us whether enrolment at such schools is solely on the basis of parental choice, or does the local authority make or suggest placements because other local schools will not accept a child with special needs that can be met there?

Some clarity on all that would be greatly appreciated, if not a commitment that groups of children are not going to be placed in special free schools without the legal protections and the focus on outcomes that an EHC plan affords, and that the wishes of parents—as well as of children and young people themselves—will be central to these decisions.

Mr Timpson: I would like to speak to amendments 108 and 109, which are about the provisions in clause 34 designed to allow flexibility in the application of the general principle of inclusion in mainstream settings for children and young people with special educational needs.

Amendment 108 would, in the case of a child admitted to a special school or special post-16 institution for an assessment, enable the child to remain in the school or post-16 institution after the assessment had been carried out only with the agreement of all those who agreed to the child being admitted to the school to be assessed. In our indicative draft regulations for clause 34 we provide in regulation 2(1) that the child or young person can remain at the school following an assessment

"for a period of ten school or college days after the local authority serves a notice"

on the parents or young person, informing them

"that it does not propose to make an EHC plan; or…until an EHC plan is made."

We do not think that it is necessary to also require the consent of those persons specified in the amendment. The assessment, and those people, will have contributed significantly to the knowledge and understanding of the child or young person, and that can be put to good use, including in a note in lieu of a plan, to make arrangements for a placement in another school or post-16 institution where no plan is to be made. We know that those arrangements are sensible, and the evidence is that they currently work.

4.15 pm

In respect of amendment 109, subsection (9) enables a child or young person with special educational needs but without a plan to be admitted to an individual special academy or special post-16 academy whose academy arrangements permit that. The admission of a child or young person without an education, health and care plan to such an academy would be limited to those for whom the Secretary of State had agreed the funding agreement. Funding agreements would stipulate that the special academy or special post-16 academy could admit only children or young people with the type of SEN for which they were designated, and that their admission should be supported by relevant professional opinion, such as from an educational psychologist. The academy would also have to adopt fair practices and arrangements that were in accordance with the school admissions code for the admission of a child without a plan.

In view of all those factors, we do not think it necessary to also have the consent of everyone identified in the amendment. I hope that that reassures the hon. Lady that safeguards are in place, and I urge her to withdraw the amendment.

Mrs Hodgson: Given the Minister's assurance and explanation, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 34 ordered to stand part of the Bill.

Clause 35

CHILDREN WITH SEN IN MAINTAINED NURSERIES AND MAINSTREAM SCHOOLS

Question proposed, That the clause stand part of the Bill.

Mrs Hodgson: The clause speaks of inclusion in the wider life of the school, and its ambitions are welcome. I would be grateful if the Minister could assure us that he will make it clear to schools that if they plan to exclude a child or young person from activities or specific lessons, they communicate that clearly and with as much notice as possible to the child or young person and the parent. The Minister will be aware that many people are concerned that schools take decisions on such matters without ever really engaging with parents to explain their decisions, or even without telling them about them, leaving them to find out from their children, who are often upset about having been left out. I think that the Minister is committed to promoting inclusion, and I hope therefore that he will ensure that parents are included in such decisions whenever it is practical. I should perhaps have raised the issue of the Children's Commissioner report under this clause, rather than before. I look forward to the Minister's comments.

Mr Timpson: It is of course important that mainstream schools and maintained nurseries ensure, as far as possible, that children with special educational needs can join in activities alongside their peers who do not have special educational needs, and the clause carries forward an existing duty that ensures that. The clause continues the current protection for children in mainstream nurseries and schools, but it is not necessary to include further education colleges in the duty. The nature of FE provision involves significant independent study and less collective activity than in schools.

The clause is important, however, because it makes it clear that a duty that currently exists is carried through. I will take away and carefully consider what the hon. Lady has said about the practical manifestation of the clause as a way of ensuring, as we move into the implementation phase of the legislation, that its veracity makes it right through to the school gate and beyond, to avoid the unhelpful situation in which children with special educational needs who are able to join in with an activity miss out. With that reassurance, I hope that Members will allow me to move that the clause stand part of the Bill.

Question put and agreed to.

Clause 35 accordingly ordered to stand part of the Bill.

Clause 36

ASSESSMENT OF EDUCATION, HEALTH AND CARE NEEDS

Mrs Hodgson: I beg to move amendment 112, in clause 36, page 27, line 17, leave out from 'by' to end of line 18 and insert—

'(a) the parent of a child or young person;

(b) a young person, where this is in respect of themselves;

(c) a person acting on behalf of a school or post-16 institution;

(d) a person acting on behalf of an early years setting or Children's Centre;

(e) a qualified healthcare professional.'.

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

Amendment 212, in clause 36, page 27, line 18, after second 'a', insert 'provider of early years education.'.

Amendment 115, in clause 36, page 27, line 41, leave out 'parent' and insert 'family, including the child themselves where appropriate,'.

Amendment 116, in clause 36, page 27, line 44, after 'parent', insert ', child'.

Amendment 120, in clause 36, page 28, line 35, at end add—

'(l) about what constitutes a "qualified healthcare professional" under subsection (1)(e).'.

Mrs Hodgson: All the amendments, those tabled by me and my hon. Friend the Member for Wigan and the one tabled by the hon. Member for South Swindon, seek to make points that have largely been made already, including by Government Members, so I will not go into too much detail. Suffice it to say that if we want a nought-to-25 system, which we do, we have to allow those who have contact with children before they reach school age to be able to use their professional judgment to intervene at the earliest possible point and take the steps to get a child the help that they need, which we know could save the system money in the long run.

Parents should always be the driver, but we need to accept that many may lack the confidence, knowledge or even desire to approach a local authority to get their child help. In those cases, we should look to the professionals who have daily contact with a child to get the ball rolling. We trust teachers to do it, so why not health visitors, early years professionals or Sure Start managers? Amendment 112 would ensure that those professionals can trigger an assessment. Amendment 120 is a minor consequential amendment to 112.

I should like a firm commitment from the Minister that he will consider the amendments, rather than regulations or guidance, as guidance will not mean that local authorities will have to acknowledge requests from the professionals. We need the legislation to be clear on that point.

Amendments 115 and 116 would require the local authority to take into account the views of the child where appropriate, not just those of their parents. At present, the clause requires local authorities to involve young people over 16, but it does not recognise that many people younger than that will have strong views on their own needs—my son certainly did—particularly when considering options to take, say, after key stage 3. As I have said previously, those children have a right to be heard. Again, that would not be particularly onerous. Professionals assessing a child will have contact with them. It would not take much to ensure that they ask them their opinions, write down their answers and take those into account. If the Minister does not agree to the amendment, I hope that he will give assurances that that will feature prominently in the final code of practice.

[Mrs Hodgson]

Mr Buckland: Amendment 212 is shorter, with respect to the hon. Member for Washington and Sunderland West, although it would deal with the same issue, which is that requests should be able to be made at all stages of education, including early years. The Government are rightly introducing education, health and care plans, looking to as wide a spectrum as possible, so that an appropriate intervention can be made at the right stage. Moving away from the education trigger and threshold has to be part of the thinking.

Whereas I accept that many particular needs that will trigger an assessment will not be identified until a child is approaching school age, a lot of needs can and should be identified earlier. I do not accept that every need starts as an educational need. In fact, every need starts as a health need, often at an early stage, which is why such provision is vital, bearing in mind the Government's welcome commitment to increase the number of health visitors, which will be happening, including in my area, as increasing numbers are being trained. They will be part of the approach whereby needs can be identified and requests can be made, where appropriate, for assessments.

It is important that, in drafting the clause—we need to give serious consideration to it in primary legislation—we ensure that we do not miss out any stage in the development of the child or young person. I look forward to hearing the Minister's reasoning on this issue and how we can ensure that, in early years, whether at a children's centre or another such setting, there is a means to trigger and secure an assessment for an EHC plan.

Mr Timpson: First, I shall speak, as briefly as I can, about the overall approach of education, health and care needs assessments and plans.

The assessment process must be co-ordinated across education, health and care to ensure a cohesive experience for children, parents and young people. Information from existing relevant assessments should be used and professionals should share information, so that families do not have to keep giving the same information to different professionals.

EHC plans are integrated support plans for children and young people with SEN from nought to 25. They are focused on achieving outcomes and helping children and young people make a positive transition to adulthood, including into paid employment and independent living. They will be produced in partnership with parents, children and young people and will be based on a co-ordinated approach to the delivery of services across education, health and care.

Amendments 112 and 120 were tabled by the hon. Member for Washington and Sunderland West, while amendment 212 was tabled by my hon. Friend the Member for South Swindon. I understand their concerns. It is vital that anyone working with a child, including practitioners working in early years providers and health, who thinks that the child may need an EHC plan, can refer them to the local authority, so that their needs can be identified and addressed promptly and properly.

I reassure the hon. Member for Washington and Sunderland West that, under clause 23, the Bill already enables early years and health practitioners and anyone else working with children and young people to make a referral to the local authority. In response to a referral, the local authority must determine whether an EHC assessment is needed, in the same way that it will following a request under clause 36. In essence, there are two routes to a request—one route for a parent or young person and another, through referrals, for those who work with children.

Clause 36(1) was specifically added to reassure parents and schools following concerns expressed on their behalf during pre-legislative scrutiny. Clause 23 will provide any person or organisation with the ability to make a referral for an assessment. I hope that that reassures hon. Members and that they will agree that amendment 120 would also be not required, as we would not need to define a qualified health care professional.

Regarding amendments 115 and 116, I wholeheartedly agree that children should be at the heart of the assessment and planning process, and that they should be supported to participate. As we discussed at some length on Tuesday, clause 19 will set out the principle that the local authority should have regard to the views, wishes and feelings of children, and the importance of children participating as fully as possible in decisions. However, the legal responsibility for children under 16 remains with parents, and it is important that there is clarity on who is formally notified and consulted with by the authority during the assessment process.

Amendment 115 also seeks to add a requirement for the family rather than the parent to be notified, I believe, to reflect cases where a child or young person is cared for or supported by a family member other than their parent. I reassure the hon. Member for Washington and Sunderland West that the meaning of parent used in the Bill is that in section 576 of the Education Act 1996, which includes individuals who have parental responsibility or who care for the child or young person. It is therefore unnecessary to use the word "family" instead.

On that basis, I urge hon. Members to withdraw their amendments.

Mrs Hodgson: I am somewhat reassured by the Minister's response, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mrs Hodgson: I beg to move amendment 113, in clause 36, page 27, line 18, at end insert—

'(1A) On receiving a request for an assessment under subsection (1), the local authority must endeavour to respond to that request within six weeks of having received it.'.

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

Amendment 211, in clause 36, page 28, line 9, at end insert—

'(8A) An EHC needs assessment, as set out in section 8, must be secured within 29 days of the notification.'.

Amendment 121, in clause 36, page 28, line 35, at end add—

'(m) imposing time limits on the determination of an assessment.'.

Amendment 122, in clause 36, page 28, line 35, at end add—

'(n) imposing time limits on corresponding with parents in pursuance of other duties under this section.'.

Amendment 123, in clause 36, page 28, line 35, at end add—

'(12) Failure to abide by time limits prescribed by virtue of this section does not relieve the authority of the duty to serve a notice, or make a decision or assessment.'.

Mrs Hodgson: My amendment 113, and amendment 211, tabled by the hon. Member for South Swindon, would insert a six-week limit for local authorities to respond to requests for assessments. The limit appears in the draft code of practice that was circulated by the Minister's team to the Committee last week, so I will not spend significant time on that point, other than to ask: if that is what we expect of local authorities, why not insert it into the Bill? After all, the Minister was keen, contrary to all the best advice, to insert a 26-week limit into the Bill in earlier clauses regarding fostering and adoption. Accepting either amendment would provide significant reassurance, and I urge the Minister to consider it.

4.30 pm

Amendments 121 and 122 are in the same vein and would ensure that clear time limits for the process are set out in regulation. I am happy to withdraw them if reassurances on that are forthcoming.

New subsection (12), which would be inserted by amendment 123, would make it clear that a failure to abide by the time limits, which are either laid down in regulations or by amendments 123 or 133 if they are accepted by the Minister, would not excuse a local authority from having to complete its deliberations as soon as possible. If the authority has overrun the time limit, it needs to be clear that the authority has to complete the process immediately and not just step off the gas because it has already missed the target. I am happy to withdraw the amendment if the Minister can reassure me that that will be communicated clearly in statutory documents.

Mr Buckland: I rise to speak to amendment 211, which in a very direct way deals with the six-week point. The reference to 29 days means working days, which means it is one day short of six working weeks. A working week is, of course, a week of five days.

The amendment was tabled to ensure that we have a proper debate about the need to maintain existing time scales and rights for those seeking an assessment within the new legislation. I am glad to see that paragraph 6 of the draft indicative code of practice sets out the proposed time scales within which local authorities must respond to a request for a statutory EHC assessment. I would welcome reassurance from the Minister that the Government are committed to ensuring that there will be no diminution of the existing rights and frameworks within which assessments are made. Through that, further assurance can be given to everyone concerned with these issues that the new legislation represents a firm step forward, rather than two steps forward, one step back. In a nutshell, that is the reason for my probing amendment.

Mr Timpson: I will deal first with amendment 113, which was tabled by the hon. Member for Washington and Sunderland West. It would introduce a deadline by which local authorities must respond to parents or young people regarding a decision on whether to undertake an education, health and care assessment. I understand that hon. Members are keen to ensure parents and young people have clarity about the timetables for assessments. From the publication of the draft clauses, I know that parents are particularly concerned to know that that, as the detail of the Bill plays out through the code of practice and regulations, will be reinforced so that the existing protections, as my hon. Friend the Member for South Swindon said, will not be diluted in any way and that there will be no diminution of existing rights.

I share that concern and reassure them that we are maintaining the current protection through regulations. In the indicative regulations, we have set out that the local authority must notify the parent or young person of its decision on whether it will undertake an EHC assessment as soon as practicable, and at the latest within six weeks of receiving a request for assessment or otherwise becoming responsible for the child or young person.

Amendment 211, which was tabled by my hon. Friend the Member for South Swindon, and amendments 121 and 122, which were tabled by the hon. Member for Washington and Sunderland West, would add regulation-making powers on the time scales for the assessment process and the time limits for correspondence with parents. I reassure both hon. Members that the existing regulation power at clause 36(11)(e) allows regulations to be made on how assessments are to be conducted, and that includes time scales.

I recognise the importance of maintaining current protections. The indicative regulations include a time scale for the overall assessment and planning process with a maximum of 20 weeks. The minimum time for parents and the young person to comment on the draft education, health and care plan is 15 days. The pathfinder experience has been that a quality EHC assessment and plan process can be completed within 20 weeks, with some pathfinders completing plans in less time than that. That has helped to inform the time scales in the indicative regulations.

Amendment 123 seeks to ensure that where a local authority does not meet a time limit made under regulations relating to the assessment process, it must none the less still fulfil its duties to serve notices, make decisions and undertake assessments.

I understand the intentions of my hon. Friend the Member for South Swindon. Local authorities and their partners should make all efforts to ensure that communications with parents and young people are as timely as possible and that decisions are taken promptly. The indicative regulations set out time limits to ensure that parents have clarity—for example, on when they can expect decisions on whether there will be an assessment. There may be occasions when the time limits are not complied with for some reason, but the duty to notify, to conduct the assessment and so on will remain, and will be unaffected by whether a local authority complies with time limits in regulations.

I hope that what I have said is helpful to hon. Members, and I urge the hon. Member for Washington and Sunderland West to withdraw the amendment.

Mrs Hodgson: With the assurance that the time limits will remain in the final, rather than just the draft, code of practice and with the Minister's other assurances, I beg to ask leave to withdraw the amendment.

[Mrs Hodgson]

Amendment, by leave, withdrawn.

Mrs Hodgson: I beg to move amendment 114, in clause 36, page 27, line 27, at end insert—

'(4A) In making a determination under subsection (3), the local authority must have regard to the competencies and needs of the child or young person's parents and immediate family, where this is relevant to the child or young person's well-being.'.

The Chair: With this it will be convenient to discuss amendment 124, in clause 37, page 29, line 4, at end insert—

'(e) any provision deemed necessary to be made available to the family of the child or young person which may assist in the promotion of the well-being of the child or young person concerned.'.

Mrs Hodgson: This group of amendments seeks to place the needs of the wider family at the heart of the new system. I have made the case for doing that in debates on other causes, and I have spoken at length on the issue, so you are probably getting the theme of my thoughts, Mr Chope. The Minister has acknowledged my case and has said that I need not worry, as the issue will be covered in other documents and legislation. I do worry, however, because supporting families is at the core of provision.

In most cases, the children's family are their main educators when they are growing up—if not in an academic sense, then certainly in a social and emotional sense. The vast majority of children spend almost all their time with their family. That is even more true for many children and young people with special educational needs, who may not have the confidence or capabilities to go out and play with other children in the evenings or at weekends. In many ways, we should be looking at families if we want to improve outcomes for children and young people with special educational needs and disabilities.

Chris Skidmore: I am interested in the hon. Lady's two amendments, but I want clarification about the definition of "family". Her amendment 114 mentions a young person's "parents and immediate family", and her amendment 124 refers simply to "the family". Will she clarify whether she defines family as the immediate dependants or parents, or is she going on any other definition?

Mrs Hodgson: I admit that I was not seeking to define a family in that sense. Most of us define it as those in our family who we have contact with. In some cases that will just be direct parents and siblings, but in others it will be grandparents, aunts and uncles, as I said in a previous debate. The hon. Gentleman has spotted that I have not exercised extreme consistency in the definition, but for the purposes of the debate, we all understand what we mean by family.

Pat Glass: Does my hon. Friend agree that the working definition—I am not sure whether it is the legal definition—used by most people is a group who live together and care for one another?

Mrs Hodgson: As ever, my hon. Friend sheds light on such matters in her excellent way. I agree that that is a very good definition. When I talk about family, perhaps the hon. Member for Kingswood will use that definition; then we will all be on the same page.

At the very least, home life should be considered when provision is being made. Proposed new subsection (4A) would place the capabilities or otherwise of the child's or young person's family at the heart of the assessment process, which is important in informing the provision that he or she may need to have specified in an education, health and care plan. Amendment 124 would make a corresponding change to clause 37 to ensure that that kind of provision is part of the EHC plan framework.

I recognise that support for families and family-centred planning is littered across the draft code of practice, which the Minister has circulated, and that is to be welcomed. On assessments, however, it states:

"EHC plans should explore how informal (family and community) support as well as formal support from statutory agencies can be used to achieve agreed outcomes."

That is sort of what we want, but it does not go far enough, in my view. It needs to talk explicitly about the help that can be given to families to enable them to provide that support. There also needs to be explicit reference to family support in the next section of the code, which is about the content of plans. If the Minister cannot or will not accept the amendments, I hope he will at least say that he will take another look at the code of practice before he publishes the next draft.

Mr Timpson: I will deal first with amendment 114. Again, I fully understand the hon. Lady's intentions and motivation in seeking to ensure that the needs of the family are taken into account in the assessment process, so as to promote children's and young people's well-being.

Education, health and care plans are for those children and young people with the most complex needs—those whose special educational needs can be met only through provision beyond what is normally available. Where the local authority thinks that is the case, the assessment process must include advice from education, health and care services, which will include looking at the needs of the child, young person and family in the round.

Local authorities are responsible for ensuring that the needs of the child, within the context of their family, are met to promote their well-being. There is a general duty, under section 17 of the Children Act 1989, for local authorities to provide services to meet the needs of children in need in their area, including disabled children, whether or not they have a plan.

The definition of a child in need is deliberately extremely wide. Determining which children fall into that definition requires judgments from social workers, who will consider family, educational, social and environmental circumstances among others. Examples of provision made under section 17 include individual family support and parenting advice, counselling and mediation, and practical help where appropriate. Where an education, health and care assessment involves an assessment under section 17, the needs of the child and family would be assessed; social workers would then take a decision on how best to meet those needs.

Amendment 124 would add a requirement that an education, health and care plan specify provision for the family that may assist in promoting the well-being

of the child or young person. I share the hon. Lady's concerns. EHC plans should be holistic and describe the range of services that are needed to meet the needs of a child or young person and help them achieve their aspirations and outcomes. However, the ultimate focus of plans must be the child or young person. The provision of short breaks for the child or young person will also have a benefit to the parents and any siblings, building resilience in the family. The needs of the wider family could also be supported by the provision of transport and other services aimed at the child or young person with SEN. With that in mind, I do not think it necessary to specify separately support for the family.

However, we are continuing, as the hon. Lady knows, to develop the code of practice to ensure that it provides further guidance on how to describe support for children, young people and families in EHC plans, learning from what has worked for families in the pathfinders. That is something that we will continue to do. I hope I have encouraged the hon. Lady to withdraw her amendment.

Mrs Hodgson: Again, I listened carefully to the Minister's response. Given his assurances, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mrs Hodgson: I beg to move amendment 117, in clause 36, page 27, line 33, at end insert—

'(c) of their right to request an internal review or appeal against this decision under section 50.'.

The Chair: With this it will be convenient to discuss amendment 118, in clause 36, page 28, line 15, at end insert—

'(d) their right to request an internal review or appeal against this decision under section 50.'.

Mrs Hodgson: The amendments are not complicated, and I do not intend to spend too much time on them. If we want parents, young people and children to be able to hold their local authority to account adequately for their efforts regarding assessments and drawing up education, health and care plans, we should seek to ensure that they are made aware of their right to complain or appeal to the tribunal. All the amendments seek to do is ensure that that happens when the local authority believes that special educational provision is not needed. If the Minister is not minded to adopt the amendments, I hope that he will set out that a requirement to make those rights known will be communicated clearly to local authorities through regulations or guidance.

Mr Timpson: Of course it is important to ensure that parents and young people are fully aware of their rights. I hope to assure the hon. Lady that her amendments are not required to meet her concerns, important as they are. The indicative regulations require the local authority to provide notice of the right to appeal when the local authority decides not to conduct an education, health and care needs assessment, and when the local authority decides not to secure a plan. There are requirements in the legislation and the regulations for parents and young people to be fully involved in and consulted on the assessment and plan process. The local authority will therefore have been engaging with the parents and young person throughout the process, and will have heard their thoughts on it, so a separate internal review should not be needed.

4.45 pm

Furthermore, requesting an internal review is not an existing right, and it is not one that we feel it necessary to add; it would create an extra level of bureaucracy in the system. The local authority receiving such a request would already have considered the case in detail and would therefore be unlikely to change its opinion. That would cause delay and lead to the parent or young person using their right to appeal anyway.

I hope that the provisions in the Bill on mediation will mean that the internal review will not be necessary, and will reduce the number of tribunal cases. Of course, it is always best to try to resolve issues without going to appeal, with all the time that takes and the stress it causes to parents and young people. Clause 51, which I am sure we are looking forward to discussing when we reach it, provides for parents and young people to engage with an independent mediation adviser, who will provide them with information about pursuing mediation with the local authority.

Parents and young people do not have to pursue mediation. Following the listening exercise in the pre-legislative scrutiny, we moved to a position that held sway with most parents and young people considering how best to access support through mediation if that was appropriate. They may bring their appeal without pursuing mediation if they wish, but they must have a certificate from a mediation adviser confirming that they have informed the adviser that they do not wish to pursue mediation. On that basis, I urge the hon. Lady to withdraw her amendment.

Mrs Hodgson: Again, having received welcome reassurances from the Minister, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr Buckland: I beg to move amendment 37, in clause 36, page 28, line 16, leave out subsection (10).

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

Amendment 218, in clause 36, page 28, line 16, leave out subsection (10) and insert—

'(10) In forming an opinion for the purposes of this section in relation to a young person aged over 18, a local authority must have regard to the young person's right to the continuation of an EHC Plan up to the age of 25 and access education provision in an age-appropriate setting.'.

Amendment 119, in clause 36, page 28, line 17, at end insert 'and previous educational outcomes.'

Amendment 219, in clause 37, page 29, line 5, leave out subsection (3) and insert—

'(3) In making a decision for the purposes of this section in relation to a young person aged over 18, a local authority must have regard to the young person's right to the continuation of an EHC Plan up to the age of 25 and access education provision in an age-appropriate setting.'.

Amendment 125, in clause 37, page 29, line 6, at end insert 'and previous educational outcomes.'.

Amendment 220, in clause 44, page 32, line 27, leave out subsection (5) and insert—

'(5) In reviewing an EHC Plan maintained for a young person aged over 18, or deciding whether to secure a re-assessment of the needs of such a young person, a local authority must have

[The Chair]

regard to the young person's right to the continuation of an EHC Plan up to the age of 25 and access education provision in an age-appropriate setting.'.

Before we start our debate, may I say that we have now been sitting for two and three quarter hours? If we are to go on indefinitely, I suggest that we suspend the sitting so that we can have a 15-minute break, but it may be that there are other intentions. Perhaps this would be a good time to try to ascertain what those intentions are, so that, if need be, I can suspend the sitting for 15 minutes; then we can carry on into the blue yonder.

The Lord Commissioner of Her Majesty's Treasury (Anne Milton): Mr Chope, I was going to suggest that we try to get through these following clauses. I would like to move the Adjournment motion at about 5 o'clock, but it depends. I am looking at the shadow Minister, and I see that she is nodding her head vigorously, which suggests that she will not be very long.

Graham Jones (Hyndburn) (Lab): Mr Chope, we are keen to make progress. We are deeply concerned about the progress of the Committee, and I wait to see how things proceed in the next few minutes. If it is the will of the Chair that we adjourn for a short period before returning, I would be happy.

The Chair: I give notice now that at 5 o'clock we will, in any event, adjourn for 15 minutes. Okay? We may want to come back after that.

Anne Milton: On a point of clarification, Mr Chope, if we are not wrapped up by 5 o'clock and you want to adjourn the Committee, can I move the Adjournment motion at that point?

The Chair: I was not suggesting that I would seek to adjourn the Committee; I would seek to suspend the sitting. Okay? Obviously, it is open to anybody to move the Adjournment motion at any stage.

Mr Buckland: I am mindful of the time, and I know that Members—myself included—have commitments after 5 o'clock that are of long standing.

I will deal first with amendment 37. It would delete a phrase that is causing some concern—the need to "have regard" to the age of a young person over 18. This is in the context of the welcome news that provision will be extended up to the age of 25. I am sure that the Government would not want to give local authorities an opportunity to discontinue a plan for those over compulsory school age when that would not be in the best interests of that young person. We have to accept that resources are pressurised; we would not want the measure to be used as a way of denying proper provision.

Under the current learning difficulty assessment guidance, it is made clear that

"Having determined that a young person requires a LDA"—

a learning difficulty assessment—

"a local authority must continue to support the young person up to the age of 25 if they stay in further education or training (provided they still have learning difficulties)."

It is imperative that young people who need a plan continue to receive one until the age of 25, so as not to dilute the current entitlements for young people. I have some questions for my hon. Friend the Minister. First, what are the barriers to ensuring that all young people who need a plan are supported up to the age of 25? Secondly, how will the Government ensure that local authorities take decisions that are in the best interests of young people and not based purely on resources?

Regulation 27 of the indicative draft Education (Special Educational Needs) (Assessment and plan) Regulations states that young people between the ages of 16 and 18 who cease to receive education or training will maintain a plan. For those over the age of 18, a local authority may review the plan when they become not in education, employment or training, and maintain support only where it and the young person agree that it is best for the individual to re-engage in education or training. That seems to remove the support available for 19 to 25-year-olds that might help them to cease being NEET—those notorious NEETs. It also provides local authorities with another excuse not to continue a plan for a young person. There is therefore a concern, which I can perhaps express by asking another question: what are the barriers to young people aged between 19 and 25 maintaining a plan when they become NEET in the same way that 16 to 18-year-olds can?

The draft regulations also say:

"It will no longer be necessary for a local authority to maintain a child or young person's EHC plan…where the young person leaves education or training to take up employment for which he is paid, including where training is provided as part of that employment (other than where the young person is on an apprenticeship)".

Although it is good that apprenticeships are included—there was a welcome concession on that issue some time ago—other forms of employment, such as supported employment programmes, and schemes such as the Department for Work and Pension's Work Choice or Work programmes, do not seem to be part of it. That is particularly important for individuals who cannot access an apprenticeship because of the entry requirements, but who may also struggle to complete other programmes because of barriers relating to the English and maths elements of the framework.

Education, health and care plans will help young people to become more work-ready. It is a worrying statistic that disabled young people are twice as likely as their non-disabled peers to be NEET. In 2012, the Office for Disability Issues estimated that 46% of working-age disabled people are in employment, compared to 76% of working-age non-disabled people. These reforms represent an opportunity to address the NEET issue. I would like to put some further questions to the Minister. First, if apprenticeships have been included, why are we omitting other forms of employment-related training? Secondly, what are the barriers to including, as well as apprenticeships, all forms of supported employment as schemes alongside which it is possible to maintain an EHC plan?

There is a danger that we could create a perverse incentive for young people to remain in education until the age of 25 if their plan stops when they are over the age of compulsory participation and leave education or training. There is a need to increase the scope of courses, schemes and programmes that young people can undertake

and still maintain a plan, if people are to be fully and properly supported to reach their full potential. I said this on Second Reading and I say it again: we must not move the cliff edge to the age of 25. In a nutshell, that is why I tabled amendment 37.

Very briefly, the other amendment that I tabled—amendment 218—would delete subsection (10) and replace it with a subsection that asserts the right of young people to have an EHC plan maintained up to the age of 25. That would allow the continuation of their education in an age-appropriate setting—in a college, as opposed to a school. That is designed to reinforce and enhance the extension of the system from nought to 25. We have to be careful that, in all the expectation that we have raised by making the extension, we do not in effect mislead people into believing that provision will in some way be instantly universal and cover all. I would like it to cover as much as possible, but I am realistic about resources. Having said that, the legislative framework should be enabling rather than disabling.

Andy Sawford: I support the remarks made by the hon. Member for South Swindon. I have met Ambitious about Autism and the Corby autism support group; parents talked to me about their fears for the post-school period of their children's lives, and their worry about their children's prospects. It is important to acknowledge that the Bill recognises those worries and seeks to improve the situation for children up to the age of 25. The point about the cliff edge is well made, however, and it has been made to me by Ambitious about Autism. The questions are pertinent; I will not repeat the hon. Gentleman's questions, which have also been put to me, but I will add one. Are private and voluntary training providers now included in the definition of education and training?

Mrs Hodgson: Once again, I pay tribute to the hon. Member for South Swindon for raising this issue through his amendments to the clause and subsequent clauses. Once again, our intentions are aligned, although we have tried to achieve them in different ways. He has put an excellent case as to why more than a child or young person's age should be regarded by local authorities as being important when deciding whether that child or young person needs, or remains in need of, a plan. Many children spend long periods out of school not getting any education while an appropriate placement is found for them, meaning that they could be, for example, two years behind where they might have been—and that is on top of how far behind children and young people of their age they are due to their learning difficulty.

The decision as to whether to give or continue to maintain an EHC plan should be based primarily on outcomes—those achieved and those that could be achieved. Support cannot go on indefinitely, of course, so 25 is an appropriate age target to work towards to ensure that any transition to adulthood plans are in place. As the hon. Gentleman stated, that should involve not only moving the cliff edge from 18 to 25, but using the extra years to put transition plans properly in place. While young people are within that age range, however, the focus should be on how far they can get with their education, obviously in line with their own wishes, abilities and ambitions. Simply, if we are having a nought-to-25 system, we should continue to have ambition for young people with plans up to the age of 25. I hope that the Minister, in responding to the debate, will reaffirm that that is his intention, and that the regulations and guidance will be clear in that regard.

Mr Timpson: As hon. Members have heard, the group of amendments is concerned with what happens when young people with SEN aged over 18 request an assessment for an EHC plan, or have their existing plan reviewed or reassessed. I welcome the opportunity that the amendments provide to clarify how the reforms will work for young people aged 18 and over.

I will first speak to amendments 37, 218, 219 and 220, tabled by my hon. Friend the Member for South Swindon. I agree strongly that some young people with special educational needs may need to continue their education after 18 to achieve the good outcomes that we all want. We should support them in doing so. None of those young people should be denied a plan if it is clear that they need the benefit of one to complete or consolidate their learning. I know that my hon. Friend welcomes the extension of rights and protections to young people that our reforms introduce. I also know that he supports the expectation in the Bill that the new system will be ambitious for young people with SEN, supporting them to achieve outcomes, with the expectation that, wherever possible, they will be able to make a successful transition to adulthood at age 18, along with the majority of their peers. That is why it is important that local authorities have regard to a young person's age once they turn 18 when they are considering an assessment for an EHC plan, or reviewing or reassessing plans.

5 pm

I want to avoid creating an expectation that all young people with SEN will simply stay in formal education until age 25, as that is often not in their best interests, as the hon. Member for Washington and Sunderland West acknowledged. With the right support and opportunities, many such young people will have completed their education and made a successful transition to adulthood before that age.

Young people over 18 with SEN must be supported to remain in formal education if it enables them to complete or consolidate their learning, achieve their outcomes and make a successful transition to adulthood. Local authorities must, in consultation with young people, consider whether that has already been achieved by the time compulsory participation ends at age 18, or whether the young person needs further support through a plan.

On that basis, I reassure my hon. Friend the Member for South Swindon that clauses 36, 37 and 44 will not enable local authorities to refuse to assess a young person, refuse them a place in education, or cease to maintain their plan based on their age alone. Young people will have a clear right to ask for an assessment and, in accordance with clause 50, may appeal to the tribunal if they do not agree with the local authority's decisions. We have set out more detail on those requirements and principles in draft regulations, and in appropriate places in chapter 6 of the indicative code of practice. I hope that that reassures my hon. Friend.

Regarding amendments 119 and 125, I know the hon. Member for Washington and Sunderland West also seeks to ensure that young people over 18 are not refused, based on their age alone, the support and

access to education that they may need. I agree with her that local authorities must consider whether young people over 18 have achieved their educational outcomes when deciding whether to assess them for an EHC plan. That is why the Bill is clear throughout that supporting children and young people to achieve outcomes is of primary importance; we are all on the same page in trying to achieve that. That is why we want local authorities to have regard to a young person's age, so that they can consider whether those outcomes have been achieved and the young person has successfully transitioned into adulthood.

In addition, the draft regulations are clear that, in carrying out an assessment, local authorities must seek evidence about the child or young person's education. Section 6.4 of the indicative code of practice requires local authorities to consider

"evidence of the child or young person's academic attainment and their rate of progress"

when making a decision on whether to assess them for a plan. I hope that reassures hon. Members about the intent and thrust of our approach to the transition to adulthood through increasing the use of plans up to the age of 25, and using the period between 19 and 25, if necessary, to complete education and move into employment.

Along with apprenticeships, we are introducing supported internships as part of post-16 study programmes. From memory, I think we have already invested £3 million in that. We are also developing traineeships, which are aimed at the most vulnerable young people, including those with SEN, as part of a vocational learning route. EHC plans will apply to all those routes into employment. I am happy to consider further with my hon. Friend the Member for South Swindon how we can better reflect that in the code of practice and regulations as the Bill progresses.

Mr Buckland: The Minister has said something important: he does not want to see young people just staying in education for the sake of it. I do not want that either; I want young people to go into the most appropriate form of training or provision. I am grateful to him for his remarks about looking at ways in which we can tackle the problem of young people not in education, employment or training. Far too often in this place, we talk about the fact of NEETs, but not about the why. This debate is an opportunity for us to answer the question of why and to do something about it. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Motion made, and Question proposed, That further consideration be now adjourned.—*(Anne Milton.)*

Graham Jones: The Committee has 14 sittings to debate the Bill. I would have liked 20 or 22. It is always difficult to gauge the time it takes for a Bill to pass through Parliament, but with 14 sittings, we always had to have brevity. I do not mind—we have had incredible interest, enthusiasm and participation—but as a consequence, with 14 sittings, we are in danger of having a concertina at the end. The Bill has 110 clauses and some new clauses to be debated, and yet only three days remain.

We start at 9.25 am on Tuesdays, and last Tuesday we finished at 4.30 pm. If we say that we are going to conclude part 3 in the next day's sitting, that will leave parts 4 and 5 for the second remaining day and parts 6 to 9 and the new clauses for the final day. That will be a heavy work load to get through. Either we have brevity or we need to extend the hours if we are to thoroughly inspect the clauses, debate the Bill fully and be in a position where we can say conclusively that we have reached the end after a comprehensive debate.

I therefore believe that we should carry on. I put it to the Committee that we should vote against adjourning and proceed.

Lisa Nandy (Wigan) (Lab): I support what my hon. Friend says, not because I do not understand that many hon. Members have other things they need to be doing in their constituencies, but because of the importance of some of the issues we are discussing. We have seen from the debates on parts 1 to 3 that there is no huge disagreement on the principles of the vast majority of the clauses, but there has been real disagreement and concern about the practical, real-world implications of the clauses as drafted for some of the most vulnerable children and young people in this country. We owe it to them to give the clauses adequate scrutiny, in the detail needed to make sure that when courts and other authorities make decisions as a direct consequence of the decisions we make in Committee, there are no adverse consequences.

We have seen the unintended consequences of rushing through legislation that relates to children and young people. When the Academies Bill passed through Parliament, my hon. Friend the Member for North West Durham and I raised real concerns about its impact on children with SEN and on communities. Our concerns were not taken on board, and we have been dealing with the impact of that legislation in our constituencies ever since. Parts 6 to 8 of this Bill have profound and important implications for families up and down the country, and we owe it to them to give those clauses, as well as those currently under discussion, the scrutiny they deserve.

Anne Milton: I can only reiterate that when we agreed the timing of this Committee's sittings, 9.25 am seemed a sensible time to start. I am certainly happy to extend further proceedings should that be necessary to make sure the Bill is given sufficient time. We start at 9.25 am because I think it sensible when we are debating a Children and Families Bill, as it allows some members of the Committee to drop children off at school beforehand. I am certainly happy to extend our sittings, however, and I do not want to cut short the debate.

I slightly disagree with the hon. Member for Wigan. I think that there has been a huge amount of agreement so far in these proceedings. There are matters of detail, but a lot of that will be dealt with, as the Minister has pointed out, through regulations and the guidance. I know that hon. Members do not have that yet, but there will be time for more debate. Also, the Bill has been subject to pre-legislative scrutiny.

I maintain that we should adjourn today, but I assure the hon. Lady that we can extend the sitting through the night if necessary.

Mr Timpson: I think it is worth emphasising, before we make a decision, that we have been making important progress on the Bill. The debate has been very well informed, and I would not have wanted us to gloss over important issues without giving them due consideration. We need to ensure that we are able to consider the Bill in a meaningful fashion, so rather than try to cut short debate when it is flourishing, on occasions it has been good for us to have that level of discourse.

I am conscious that we all want to ensure that the Bill has proper scrutiny. I echo what my hon. Friend the Member for Guildford said, and I think this view is shared by the hon. Member for Wigan. This may make me unpopular with the Committee, but if it is necessary, and after we have refreshed and recharged our batteries over Easter, I am happy to extend future sittings—subject to your will, Mr Chope—so that we can provide the proper scrutiny to the rest of the Bill.

I am confident that the work we have done has been good work and that the Committee has functioned extremely well. I see no reason why that cannot continue to its conclusion.

The Chair: Before putting the question, let me say to the Committee that I and my co-Chairman, Mr Havard, are at your service. If you want to sit, we will be here. All I was saying earlier is that there comes a time when it is reasonable to take a 15-minute break. I am happy to stay here until midnight. Ultimately, it is for the Committee to decide what it wants to do. The Minister seems to be implying that it might be necessary to go through the usual channels or to have another meeting of the Programming Sub-Committee to see where we go from here.

Graham Jones: Thank you for that advice, Mr Chope. I accept the offer from the Minister and the Government Whip. I think it is a genuine offer. I would still like to test the will of the Committee about this evening, though. We are happy to continue sitting. If the will of the Committee is that we extend subsequent sittings, that is fine, but I think we should test the will of the Committee today and find out what it determines. If the will of the Committee is to adjourn for today, I will take on board the point made by the Minister that we can extend future sittings.

Mrs Hodgson: I want to add my voice to that of my hon. Friends about the importance of reaching later clauses in the Bill. I welcome the Minister's assurance that he feels the same way.

I remind you, Mr Chope, that we have history, having once served on a Committee that sat through the night. If it comes to that again, I am sure we will deal with it with the same good grace. It might not come to that, but it is doable. Let me say to any new Members who are not aware of such things that the facilities stay open as long as we are here.

I am pleased with the Minister's assurance that he intends to reach the later parts of the Bill and give them the same level of scrutiny, but for all the reasons that my hon. Friend the Member for Hyndburn gave, I also look forward to testing the will of the Committee tonight.

Question put.

The Committee divided: Ayes 9, Noes 6.

Division No. 2]

AYES

Barwell, Gavin	Nokes, Caroline
Brooke, Annette	Skidmore, Chris
Buckland, Mr Robert	Timpson, Mr Edward
Elphicke, Charlie	Whittaker, Craig
Milton, Anne	

NOES

Glass, Pat	Nandy, Lisa
Hodgson, Mrs Sharon	Reed, Steve
Jones, Graham	Sawford, Andy

Question accordingly agreed to.

5.14 pm

Adjourned till Tuesday 16 April at twenty-five minutes past Nine o'clock.