

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CARE BILL [*LORDS*]

Second Sitting

Thursday 9 January 2014

(Afternoon)

CONTENTS

CLAUSES 1 to 4 agreed to.

CLAUSE 5 under consideration when the Committee adjourned till Tuesday
14 January at five minutes to Nine o'clock.

Written evidence reported to the House.

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The Committee consisted of the following Members:

Chairs: HUGH BAYLEY, †ANDREW ROSINDELL

- | | |
|---|---|
| † Abrahams, Debbie (<i>Oldham East and Saddleworth</i>) (Lab) | † Morris, Grahame M. (<i>Easington</i>) (Lab) |
| † Burstow, Paul (<i>Sutton and Cheam</i>) (LD) | † Munn, Meg (<i>Sheffield, Heeley</i>) (Lab/Co-op) |
| Doyle-Price, Jackie (<i>Thurrock</i>) (Con) | † Newton, Sarah (<i>Truro and Falmouth</i>) (Con) |
| † Esterson, Bill (<i>Sefton Central</i>) (Lab) | † Penrose, John (<i>Weston-super-Mare</i>) (Con) |
| † Griffiths, Andrew (<i>Burton</i>) (Con) | † Poulter, Dr Daniel (<i>Parliamentary Under-Secretary of State for Health</i>) |
| † Jones, Andrew (<i>Harrogate and Knaresborough</i>) (Con) | † Reed, Mr Jamie (<i>Copeland</i>) (Lab) |
| † Kendall, Liz (<i>Leicester West</i>) (Lab) | † Shannon, Jim (<i>Strangford</i>) (DUP) |
| † Lamb, Norman (<i>Minister of State, Department of Health</i>) | † Smith, Nick (<i>Blaenau Gwent</i>) (Lab) |
| † Lewell-Buck, Mrs Emma (<i>South Shields</i>) (Lab) | † Stephenson, Andrew (<i>Pendle</i>) (Con) |
| † Malhotra, Seema (<i>Feltham and Heston</i>) (Lab/Co-op) | † Wheeler, Heather (<i>South Derbyshire</i>) (Con) |
| † Morris, Anne Marie (<i>Newton Abbot</i>) (Con) | † Wollaston, Dr Sarah (<i>Totnes</i>) (Con) |
| † Morris, David (<i>Morecambe and Lunesdale</i>) (Con) | |
| | Fergus Reid, <i>Committee Clerk</i> |
| | † attended the Committee |

Public Bill Committee

Thursday 9 January 2014

(Afternoon)

[ANDREW ROSINDELL *in the Chair*]

Care Bill [Lords]

Clause 1

PROMOTING INDIVIDUAL WELL-BEING

2 pm

Liz Kendall (Leicester West) (Lab): I beg to move amendment 57, in clause 1, page 1, line 6, at end insert ‘and independent living’.

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

Amendment 58, in clause 1, page 1, line 6, at end insert—

‘(a) any duties relating to independent living should promote the wider definition of independent living as expressed in article 19 of the UN Convention on the Rights of Persons with Disabilities.’

Amendment 59, in clause 1, page 1, line 7, after first ‘Well-being’, insert ‘and independent living’.

Amendment 60, in clause 1, page 1, line 12, after ‘control’, insert ‘and choice’.

Amendment 61, in clause 1, page 1, line 15, before ‘participation’, insert ‘full and equal access to and’.

Amendment 62, in clause 1, page 1, line 15, at end insert ‘cultural, public and community life’.

Amendment 63, in clause 1, page 1, line 18, after ‘suitability’, insert ‘and choice’.

Amendment 64, in clause 1, page 2, line 1, at end insert

‘and their participation and inclusion as equal and valued citizens’.

Amendment 66, in clause 2, page 2, line 37, at end insert

‘whether or not that adult meets the local authority eligibility criteria set out in Clause 13.’

Liz Kendall: It is a pleasure to serve under your chairmanship, Mr Rosindell. I want to put on the record my gratitude to the Chair who was here this morning. This is only my second Bill Committee, and he gave a brilliantly clear and simple summary of how the Committee process works.

I welcome the people here who are not Members of Parliament or staff. I do not know who they are, but it is nice to see other people in the room. I thank in advance all hon. Members on the Committee, the officials, the Clerks of the House of Commons and the departmental

staff for their hard work on the Bill. We are all grateful because it will make a difference to our constituents’ lives.

I echo the comments this morning of my hon. Friend the Member for Copeland and the care Minister. We are determined to engage in a constructive debate on this critical issue, which affects families and the country as a whole. People—including those with disabilities—are living for longer, and we will have to get to grips with the issue as a country. The Bill is an important step forward, and it builds on work done by the previous Government. We want to make it even better through the debate.

I am pleased to address my first comments to this set of amendments, which relates to the rights of disabled people to live independently, to have genuine choice over their lives and to participate fully in all aspects of public and community life. The amendments will put that at the heart of the Bill. Much of the debate about social care is understandably focused on older people, but a third of people who receive social care are working age disabled adults. In many councils more than half the adult social care budget is spent on disabled people. In my own fantastic city of Leicester, 40% of council care users are disabled adults, but their services account for 60% of the adult social care budget. Many councils say that the money spent on adults with disabilities is increasing year on year, a fact that we do not recognise often enough. Too often, adults with disabilities are overlooked in the public debate and in public policy on social care.

The Bill is an important opportunity to ensure that our legislation fully addresses the needs, aspirations and rights of disabled people. Disability organisations have rightly welcomed the new duties that the Bill will put on local authorities to promote well-being and prevention. However, many organisations, such as Inclusion London, Scope and Mencap, have argued that a duty to promote independent living is also essential. That is not a minor or technical point, but a point of principle. Independent living is crucial to ensuring that disabled people have the same rights, choices and chances as any other citizen in this country. Independent living is essential to getting a good education, finding a job, building a career and taking part in community and public life. It is about ensuring that people can live in their own home with whoever they choose to live with and have the opportunity to have a family life. It is about ensuring that they are able to get out and about, meet up with friends and participate in the cultural life of the community and the country. In other words, independent living for me, and more importantly for disabled people and the organisations that work with and represent them, is about being able to participate in, contribute to and be included in society, as the rest of us usually take for granted.

Disability organisations say that disabled people’s rights to independent living are being undermined by the Government’s policies in social care and the welfare system. The Government’s decision to reduce local council budgets by a third, the biggest reduction in any part of government, is having a real effect on services that are essential to helping with the basics of daily life, such as getting up, washed, dressed and fed. We do that every day, which is essential to getting on with the rest of our lives, but for disabled people—

Grahame M. Morris (Easington) (Lab): That is an important point. I have been reflecting on the statistics about the percentage of local authority budgets going to social care and on the impact of Government policy. I am not sure whether the Under-Secretary of State for Health, the hon. Member for Central Suffolk and North Ipswich, was on the visit to Sweden by the Select Committee on Health, but the hon. Member for Totnes was. I recall that, in our discussions with Swedish parliamentarians, who have a sort of Standing Committee on Health, we were told that if any responsibilities were placed on local government, it is a legal requirement for the necessary resources to be made available for the councils to carry out those services and delegate the functions.

Liz Kendall: My hon. Friend makes an important point about the needs of adults with disabilities and about the importance of having a right to the basics of daily life, which are essential. The recent joint inquiry by the all-party groups on local government and on disability showed the real problems with the services in the current system: four in 10 disabled adults are now failing to have their basic social care needs met; and nearly half of all disabled adults say that services are not supporting them to get out and about in their local community. The same erosion of independence and opportunities is happening in the social security system through the closure of the independent living fund; problems with the Work programme; how the personal independent payment is being implemented; and the bad bedroom tax.

The Government have not produced a cumulative impact assessment of how their policies are affecting disabled people, as recommended by the Joint Committee on Human Rights and disability organisations. The Government say that that would be too difficult, but the Demos report for Scope has shown that it is not; the calculation was that by 2018 disabled people will have lost more than £28 billion in financial support, affecting up to 3.7 million people, with a devastating impact on their lives.

We urgently need a new approach on all the policies affecting disabled people. We have proposed fundamental reform of health and social care. We have already discussed our proposals for whole-person care, which would see the full integration of health and social care and bring all the resources of our care system together to get the best outcomes for users and the best value for money for taxpayers. We are also exploring lessons that can be learned from Australia's model of universal disability insurance, which looks to give people with permanent and significant disabilities more power, choice and control over their services and support, so that they can achieve what they want for their lives.

That is slightly outside the scope of today's debate, but it is important to see the Bill in the wider context of what is happening to disabled people, because what happens on care fundamentally affects whether disabled people can have opportunities to learn, get skills, train or get a job, as well as being able to have a family life and to see their friends. That is exactly what our amendments 57 to 64 seek to do: put a bolder and more empowering framework, including the principles of independent living, choice and control, and the ability to participate fully in the public, community and cultural life of this country, absolutely at the heart of the Bill.

That is what local councils and others such as the NHS should have a duty to be thinking about: the rights, choices and abilities of adults with disabilities, so that they can have a full and fulfilling life. It is a matter of absolute principle.

Bill Esterson (Sefton Central) (Lab): My hon. Friend has talked about councils' responsibilities and what they will be able to do in future. In its comments on the Bill's proposals, Sefton council was clear that if current plans for budgets continue, in its opinion it would make the current delivery of care and support unviable, with all the consequences and difficulties for disabled people to live full and independent lives. I hope she agrees that that sums up the potential threat and the real problems that people will face unless the issues are addressed.

Liz Kendall: What Sefton council is saying is mirrored by the views of councils, services and constituents throughout the country. The Bill is about the basics of daily living; that is what we are talking about. We cannot have a system that promotes well-being, which is about preventing people from having the worst things happen to them and about supporting carers and families who love each other, if the basic services are being reduced.

Of course there are budgetary issues, and we will come on to that when we debate clause 13 on eligibility criteria, but there is a principle of independent living. In our amendments, we say that the criteria should be directly related to the definition of independent living as expressed in the UN convention on the rights of persons with disabilities, which the previous Labour Government ratified in July 2009. It is a very important framework to do with disabled people having the right to choose where they live and the right to access services and personal assistants to enable them to take part in the life of their community—not just to live in their homes, but to get out of their homes and be with their families and friends.

Jim Shannon (Strangford) (DUP): Does the hon. Lady also feel that there is a need for a diversity of service providers? I know that that is not the issue at this stage; none the less, to achieve independent living, we need a diversity of service providers.

Liz Kendall: Absolutely. As always, the hon. Member for Strangford has hit the nail on the head. We will come to a specific clause about diversity of provision and an amendment that Opposition Members have tabled. We really need a diversity of providers—public, private, voluntary and not-for-profit mutual—of different sizes. There is increasing evidence that smaller providers provide better quality outcomes, but they are being squeezed out of the system, so different sizes is essential.

Debbie Abrahams (Oldham East and Saddleworth) (Lab): My hon. Friend is making a fantastic speech, bringing together the issues around the reforms in welfare provision and the lack of coherence in what is happening around the Bill. Does she agree that the recent report from the Joint Committee on Human Rights, which describes regressive practice in the UK because of the welfare reforms for disabled people and the manner in

[Debbie Abrahams]

which they have been implemented, is a serious matter? We are trying to redress some of that in the Bill through the amendments.

Liz Kendall: My hon. Friend is right. We can set a different framework here based on the absolute principles of rights to independence and to choices. We need to ensure that disabled people and their families have real choice and control. We need to bring together the budgets for health and social care and some of the welfare, work and education programme budgets so that disabled people can decide for themselves the life that they want to lead and the support that they need.

The Minister of State, Department of Health (Norman Lamb): I totally agree with the hon. Lady's point about a diversity of providers. That sort of choice is so important. Does she also agree that that same principle should apply across the health care system, or is it on only the care side of the divide?

2.15 pm

Liz Kendall: As the care Minister knows, I am in favour of giving people absolute choice and control over their services wherever they are. I believe that the purpose of politicians is to give power away. People are best placed to know what services and support they need. They are the best people to know how to prevent problems from happening, because they are the ones who experience the problems of failures later. They are the ones who are best able to join up their services and support, because they do not see their needs through the prism of separate service silos. My constituents are the most vociferous critics of waste and inefficiency when services do not work together, because they see money being spent on waste, which could be better spent on their lives.

I apologise, Chair; I am slightly digressing on to a wider issue. Care and support are essential for people's full lives. If we want people to be equal citizens, we have to get that right.

Grahame M. Morris: Does my hon. Friend agree that, in characterising the care crisis as for the frail elderly, we should not forget that there is another care crisis, involving the young and disabled, which was highlighted in a report by five leading national charities, including Scope, called "The Other Care Crisis"? It is critical that we get it right in relation to the eligibility thresholds, so that they, too, can live full and independent lives.

Liz Kendall: I agree. I would love it if the debates in Committee were more widely known. I know that there are people who read them, but many do not. Perhaps we all have to take a bigger responsibility, particularly in our public comments, always to ensure that we talk about care in the context of the young and of working age adults with disabilities, as well as of older people.

The Prime Minister rededicated himself to supporting the United Nations convention on the rights of persons with disabilities last July at the disability employment conference. He said that although he thought that the UK was in a good position on disability rights, he wanted us to

"go further in changing the perceptions of disability in our society".

The Bill, and Labour's amendments, provide the Government with an opportunity to hardwire the Prime Minister's words into law, which is why I hope the Minister will accept our amendments.

Amendment 66 is fundamentally linked to the points I have been attempting to make. The amendment relates to clause 2, which, as hon. Members know, places a duty on local authorities to provide or arrange for the provision of services that seek to prevent or delay people's needs for care and support. The clause is absolutely critical. Prevention is the holy grail of health and social care policy; I would argue that it is the holy grail of many other policies, such as education. However, that is incredibly difficult to achieve, as I know from my previous experience. Before I became an MP, I worked at the ambulance service network—really at the emergency critical failing end. Many of the people with whom paramedics work could have stayed at home with up-front prevention and support.

I worked on the issue with the King's Fund, and in my days working in the Department of Health, on the unfortunately probably forgotten 2006 White Paper, "Our Health, Our Care, Our Say", which talked about how we get the shift towards prevention.

Providing up-front support rather than last-minute crisis interventions is better for people and for taxpayers. It is always important to get the best value for money, but especially at this time, when we as a country must deal with the deficit and balance the books of our economy. Too much of our health and care system is focused on last-minute interventions, when up-front help and support could help people to stay living in their own homes, or help them to get out to work, train and have opportunities, rather than having them stuck in hospitals or their own homes and not doing what they can do.

I know the care Minister agrees with arguments about prevention. In a speech to a *Guardian* ageing quarterly event last year, he said that the duty in clause 2 was "potentially a game-changer" and that it "puts a new emphasis on preventing people from reaching crisis point".

He said that prevention is

"central to a modern care and support system"

and that

"effective prevention is vital if we are to sustain the commitment made to public services and a welfare state by our forebears."

Good words; excellent.

Norman Lamb: I agree.

Liz Kendall: The words are right, but too often the reality is altogether different. I have already said that I believe that disproportionate cuts to local councils are making the preventive agenda harder, not easier, to achieve. Other hon. Members have rightly spoken about the crisis in care that we face. Age UK says the care service has been pushed to the brink of collapse, while Scope says that we are failing to ensure a sustainable funding system for the entire social care system, and that ultimately this is not just bad for people, but a false economy. If elderly or disabled people cannot get the support they need up front, they will end up requiring more expensive hospital services.

Hon. Members will know that delayed discharges from hospital have gone up by a third since the election. Over the past year, they have cost the NHS more than £220 million, which could have paid for more than 5,000 community nurses or a whole year's worth of home care for 30,000 elderly people. We are spending money in the wrong place and in a way that does not help people. Such spending is also far more expensive, so it is bad for people and a false economy.

Andrew Griffiths (Burton) (Con): The hon. Lady talks a huge amount of sense when she refers to the savings that can be made down the line if we introduce such measures. The big question, of course, is the risk in spending the money now to save that money later. Will she elaborate a little more about how she thinks such things could be paid for now?

Liz Kendall: I think the solution is a single budget. At present we say to hospitals, "Keep people out," but we pay them to admit people, and rows follow. The council generally does not have the money to put preventive services in the home, but if it does, and if that saves money by preventing people from going into hospital, it is not the council but the hospital that accrues the savings. I see the hon. Member for Totnes in the room. We have all paid homage to Torbay and we have all been to see it. Absolutely at the heart of the issue is a single-budget approach to avoid rows between the various providers.

I also think that we need what we call a year-of-care budget, rather than paying for individual interventions. With such a budget, especially for people with long-term chronic conditions, it would be possible to shift budgets. It is not just about finances. I believe, too—sorry, Mr Rosindell, to digress—that this is about changing cultures to create one team. If a doctor knows who the community nurse is and who the occupational therapists and physios are, they can have confidence in discharging someone because they will know that the person will have a package and team in place around them. These are big and complicated issues that many of us want to see addressed, so I hope we will be able to discuss them further.

Our big worry about the Bill is that we will never get a system that is focused on prevention if the eligibility criteria, which we will discuss under clause 13, are substantial, because that will mean that people will not get help and support from the preventive services. We argue that prevention should apply to everybody, not just those who are already in the system with substantial care needs, and that is what amendment 66 tries to achieve. We are saying that if we reduce all our preventive services and do not provide them unless someone already has substantial needs, we are in a rather difficult position.

Paul Burstow (Sutton and Cheam) (LD): Does the hon. Lady recall that when I made a point about eligibility on Second Reading, the Minister assured us that clause 2, which is on prevention, stands separately from clause 13—the eligibility clause? In other words, eligibility is not relevant to whether preventive services are available.

Liz Kendall: I do remember that interchange, but I am trying to put the Minister's words in the Bill. I was about to say that I hope the Minister does not move

post, but I hope he does—after the next general election. We want not just the words of the Minister, passionate though he is about this issue, but for that view to be set out in the Bill.

Norman Lamb: It is a pleasure to serve under your chairmanship, Mr Rosindell. While I sympathise with the intention of many of the amendments tabled by the hon. Member for Leicester West, they would not have any practical effect. In some cases, they could even confuse the operation of the well-being principle.

Before I develop my argument, I join the hon. Lady in thanking all the officers serving the Committee, specifically those in the Department of Health. An exceptional team has done the work throughout the process of the Care Bill. I think that the approach on the Bill has been the most collaborative that I have come across, in terms of co-production with the sector out there, and of being willing to address legitimate issues and concerns to amend the Bill, both in its draft form and in the House of Lords. The officers and the civil servants in the Department have done excellent work in getting us to this point.

Amendments 57 to 59 would add independent living to the well-being principle, but they are unnecessary because the concept of independent living is already a core part of that principle. I completely share the hon. Lady's view of independent living and agree with everything she said, apart from her provocative comments about spending.

Debbie Abrahams: May I quote the Joint Committee on Human Rights? It says:

"We conclude that there is a risk of retrogression of the UK's obligations under Article 19"

of the UN convention on the rights of persons with disabilities, which enshrines the right of independent living for disabled people,

"as a result of the cumulative impact of spending cuts and reforms."

The proposal is an attempt to strengthen the situation so that we can get back to where we need to be on fulfilling our obligation to disabled people.

Norman Lamb: I am grateful for that intervention. In response to an intervention by my right hon. Friend the Member for Sutton and Cheam, the shadow Minister made a case that I completely share. She will correct me if I am wrong, but I got the impression that she was talking not about more money in total for the health and care system, but deploying resources much more effectively. What we need to do, as she rightly said, is to make the big shift from what I call repair to prevention.

If I may gently make a point about the previous Government, over the past decade there was substantial investment in the health service, which I supported, but the bulk of it was at the acute end of the spectrum. The system of payment by results, which is in fact payment for activity, incentivised activity in acute hospitals, thus creating more investment at that acute end, rather than focusing resources at the prevention end. The exciting thing about the Bill, together with the better care fund, is that it starts to effect that shift in not only the framework and the focus on integrated care and prevention, but on shifting resources through that fund to achieve

[Norman Lamb]

the sort of prevention that I am sure we all agree with. However, the principle of independent living is not one with which I disagree.

2.30 pm

The precise term “independent living” is not easy to define. It is often associated, as we heard, with article 19 of the UN convention, as is the case in amendment 58, but it is not actually defined there. We have focused on reflecting in the Bill the outcomes and rights in article 19 of the UN convention that are relevant to care and support, which means the substance of article 19, rather than the phrase “independent living”, which is not actually defined in that article. For instance, clause 1 deals with such things as control, the suitability of living accommodation, contribution to society and, crucially, requiring local authorities to consider each person’s views, wishes and feelings.

We think that this language is clearer and that it focuses on the outcomes that people want to achieve. Interestingly, when the Law Commission considered including the phrase “independent living” in the statute, it concluded that it was too imprecise to be expressed as a statutory principle. The commission stated that the more important issue was that people’s wishes and feelings were respected. We agree with that and have reflected it in the drafting of the clause. This very clear concept of well-being as set out on its own, which was very ably described by my right hon. Friend the Member for Sutton and Cheam when speaking to the previous group, could be an incredibly powerful principle. I hope that it will be applied in future legislation, because it focuses on what we all ought to be thinking about: someone’s happiness and giving people a good life, rather than a service that we deliver to them as a passive recipient. The principle has enormous power as something that is simple and uncomplicated.

I am afraid that amendments 60 to 64 would add nothing to the principles as drafted, and might be harmful by confusing carefully worded principles. I will deal with each in turn. First, I do not consider that the word “choice” adds anything to the concept of individual control over day-to-day life. The shadow Minister looks anxious and concerned, but let me try to reassure her.

Liz Kendall: Are you anti-choice?

The Chair: Order.

Norman Lamb: Thank you, Mr Rosindell, for protecting me from such an aggressive challenge from the shadow Minister. I am absolutely not anti-choice. As a Liberal, choice is at the heart of what I believe in, but if one is in control of one’s life and can control one’s day-to-day living, that necessarily involves the concept of being able to choose what one wants to do. Such a concept of control necessarily includes personal choice, so amendment 60 is unnecessary.

Secondly, amendment 61 is unnecessary because providing for “full” access to work, education and training is implicit in the concept of participation in those areas, as well as in the reference to social and economic well-being. The phrase “equal access” would add nothing to existing equalities legislation. The shadow Minister will be familiar with the range of equalities duties directly addressing equal access.

Thirdly, the reference to “cultural, public and community life”

in amendment 62 is already sufficiently encapsulated by the references to social well-being and an individual’s contribution to society elsewhere in clause 1(2), so the amendment is unnecessary. Fourthly, the concept of control over day-to-day life and the suitability of living accommodation naturally also encompass choice of living accommodation, where appropriate, so amendment 63 is unnecessary.

The notions in amendment 64 are already captured by the concepts of social and economic well-being and participation in work, education, training and recreation. The well-being principle has been widely praised as marking a significant step forward for adult care and support in the law. We have listened to stakeholders’ views and made amendments when we have agreed that clarification or addition would be helpful. The amendment not only would serve to confuse the clear, proactive message about what care and support is for, but would not add anything to what the Bill already provides for.

I turn to amendment 66. Clause 2 requires local authorities to provide or arrange services that could prevent, delay or reduce the needs of adults and carers for care and support. For the first time, it creates a clear legal duty on local authorities to ensure the provision of preventive services, and it is incredibly important that we do that. I reassure hon. Members that the prevention duty applies before any person develops a need for care and support, as the clause makes clear. A local authority therefore will ensure the provision of services that contribute towards preventing, reducing and delaying the development by an adult in its area of needs for care and support, regardless of whether they meet eligibility criteria. I mentioned that on Second Reading, as my right hon. Friend the Member for Sutton and Cheam said, and I repeat it now to try to reassure the shadow Minister. The amendment is therefore unnecessary, as it merely states what is already clear in the clause. I hope that I have reassured hon. Members and that the shadow Minister will therefore withdraw amendment 57.

Liz Kendall: I think that amendment 57 is required. Independent living is a fundamental principle, which is why it is included in a UN convention. Disability organisations have called for it to be incorporated as they rightly see that as an important principle, especially in the context of the issues faced by adults with disabilities.

I am happy not to press amendment 66 to a Division as we could get tied up in knots about that. We are, however, worried that the aspiration on prevention will not be met in reality. I want to press amendment 57 to a Division because independent living and the duties relating to the UN convention are important.

Question put, That the amendment be made.

The Committee divided: Ayes 10, Noes 12.

Division No. 1]

AYES

Abrahams, Debbie
Esterson, Bill
Kendall, Liz
Lewell-Buck, Mrs Emma
Malhotra, Seema

Morris, Grahame M. (*Easington*)
Munn, Meg
Reed, Mr Jamie
Shannon, Jim
Smith, Nick

NOES

| | |
|--------------------|---------------------|
| Burstow, rh Paul | Newton, Sarah |
| Griffiths, Andrew | Penrose, John |
| Jones, Andrew | Poulter, Dr Daniel |
| Lamb, Norman | Stephenson, Andrew |
| Morris, Anne Marie | Wheeler, Heather |
| Morris, David | Wollaston, Dr Sarah |

Question accordingly negatived.

Liz Kendall: The difficulty with the rest of the amendments is that they refer back to the initial amendment which talks about independent living. I will ask the Clerk for advice on this. I thought that if the first amendment fell—

Norman Lamb: I would just withdraw them.

Liz Kendall: I am asking for advice.

The Chair: The other amendments fall too.

Liz Kendall: I beg to move amendment 65, in clause 1, page 2, line 21, leave out ‘the individual’ and insert ‘an adult or a disabled child’.

The Chair: With this it will be convenient to discuss amendment 85, in clause 10, page 9, line 42, after ‘(an “adult needing care”’, insert ‘or a disabled child’.

Liz Kendall: These amendments focus on the critical issue of parents who care for sick or disabled children. The issue was repeatedly raised in the other place and I pay tribute to Baroness Pitkeathley who has been a stalwart champion here. I also acknowledge several right hon. and hon. Members who raised the issue of parent carers on Second Reading. The Opposition welcome the new rights for carers in the Bill. They build on the rights that the previous Government put in place for carers and take an important step forward. But there is a serious omission: parents who care for children who are sick or disabled.

The 2010 NHS Health and Social Care Information Centre survey found that around 13% of informal carers in England care for a sick or disabled child. According to the latest census data on the total number of informal carers, that means that there are around 434,000 parent carers in England today. This is not a minor issue. Many of these parents face a desperate daily struggle trying to care for their child, battling all the different agencies to get support, often at the same time as trying to hold down work, let alone have a decent relationship with one another with all the pressures and strains. Because parent carers often care for longer than those caring for an elderly relative, they often have even worse physical and mental health problems than other family carers. Some 72% of parent carers experience mental health problems, anxiety, depression and breakdown.

The pressures of looking after very vulnerable children are terrible for many parents, who too often fall through the gap altogether. Carers UK’s research shows that while a third of all full-time carers go without any practical support, that rises to almost half of those

caring full time for a disabled child. I am particularly passionate about this issue because it has been raised with me as a local MP by staff at the Carers Centre Leicestershire and Rutland. I want to thank them for all their help with the work I have been doing on the Bill. They are regularly contacted by parents of sick and disabled children experiencing appalling problems with different services.

2.45 pm

One such case is that of Missy and Phil Luntley from Burbage. They are not actually in my constituency but I spoke to Missy recently and it was a case that particularly struck me. They need to provide round-the-clock care for their young daughter, Andie, who is profoundly disabled and has epilepsy. Missy was the primary carer, and she had to give up her job as a specialist nurse in the NHS, which she loved, because of her caring responsibilities—it is a common problem that carers have to give up work. The family ran into trouble 18 months ago when Missy fell critically ill. She had appendicitis and suspected—

The Parliamentary Under-Secretary of State for Health (Dr Daniel Poulter): Peritonitis.

Liz Kendall: I thank the Minister for helping me with the medical terms.

She was rushed into hospital. She was there for three weeks, and needed four months’ recuperation. Phil started to struggle, and he asked the council for help so he could continue to care for Andie, be a good dad to their son, Elliot, visit Missy in hospital and carry on working. The family desperately needed to bring in some income after Missy quit her job, but they did not get the extra support they needed. Phil repeatedly asked for a carer’s assessment, but he did not get one. When Missy got out of hospital she was bedridden and Phil had to care for her too. He had to take seven weeks’ absence from work, which was granted only because he had a sympathetic employer. He lost a stone in weight and his blood pressure has been permanently raised.

They still do not have support at the weekends. Phil has had to go down to four days a week at work. It has been a complicated process. Essentially, when they asked the council why they were not getting the support they needed, they were told that they did not have any rights because

“parents are not considered unpaid carers, they chose to have children, they have a parental responsibility.”

Jim Shannon: The hon. Lady is talking about a legal matter. I am sure she is aware that the Law Commission has called for the law to be strengthened for adult carers who look after children under 18. Therefore, there has been a request from the law bodies, which backs up what the hon. Lady said.

Liz Kendall: The hon. Gentleman is absolutely right.

The council gave the Luntleys the wrong advice, because they did have a right to an assessment. If councils are not doing what they are already required to do in law and they are not included on the face of the Bill, the result will be that at the very least the same appalling situation will continue, and I am worried that

[Liz Kendall]

it will get worse. If councils are not specifically included in the Bill, they will still carry out only their statutory responsibilities.

The Luntleys asked for something very basic. Their area has an emergency carer card scheme, so if a person has a card and falls ill, whoever sees the card knows that they have to put care in place to look after the person who needs support while the carer is ill. However, they were told,

“this is an adult social care scheme...the scheme for when there is no one, not when there is someone but they want to go to work.”

The family was denied support because they chose to go out to work. That is not good for their daughter, Andie, it is not good for the health of Phil and Missy and it will end up costing the taxpayer more if Phil also has to give up work on top of Missy losing her job, with the result that the entire family ends up on benefits.

What the council told the Luntleys was not accurate; the law recognises parent carers. The Carers (Recognition and Services) Act 1995, which was the result of a private Member’s Bill of the late and much missed Labour MP Malcolm Wicks, who used to be on my corridor, gave parent carers the right to an assessment, and it was built on by the Carers and Disabled Children Act 2000. The Carers (Equal Opportunities) Act 2004 set out that the assessment of all carers should consider the ability of carers to participate in work or training. The Luntleys’ experience shows that many councils do not fulfil their obligations, even under the current, inadequate legislation. That is why the Law Commission review said that the rights of parent carers must be in line with those of other carers, and they should be consolidated in the Bill. The Joint Committee on Human Rights said the same in its report on the Children and Families Bill in June.

However, the Government repeatedly refused to accept those recommendations in the other place. In response to amendments to give rights to parent carers tabled by Baroness Pitkeathley, the Minister, Earl Howe, claimed that provision for parent carers is

“sufficient...under Section 17 of the Children Act 1989”.—[*Official Report, House of Lords*, 9 October 2013; Vol. 748, c. 97.]

That clearly is not the case; otherwise, Missy and Phil would not be experiencing their problems. Even worse—I am sorry to tell the Committee this—when Baroness Pitkeathley again tabled the amendments to the Children and Families Bill, Lord Nash, the Minister responsible, said:

“We are clear that any change to the Children Act 1989 to assess the needs of parent carers separately would change fundamentally the principles of the Act and risk the needs of the children becoming second to those of their parent.”

This is the bad bit:

“Recent serious case reviews for Daniel Pelka and Keanu Williams have shown starkly what can happen when the needs of parents are put ahead of those of the child.”—[*Official Report, House of Lords*, 20 November 2013; Vol. 749, c. GC479.]

That is an astonishing claim that giving parent carers rights could lead to child abuse, with which we clearly do not agree.

At the very least I think the current bad position would be entrenched if parent carers are not in the Act. In reality I think it will get worse. If they are not

explicitly recognised in the Act, councils will fulfil their statutory responsibilities and no more. Indeed, Missy and Phil were recently told by the lead councillor for children’s services:

“The County Council has to identify £110m worth of savings and until we have the budget, any non-statutory aspect of Children and Family Services is on hold.”

So if the law does not require councils to include parent carers, the most likely result is that they will not.

Phil recently said in a blog he wrote for Carers UK:

“Parent Carers need equal status in law to carers of adults and to sibling carers. To make a distinction”—

his words, not mine—

“is to discriminate which places Parent Carers at a massive disadvantage.”

National carers’ organisations such as the Carers Trust and Carers UK agree. Carers UK says:

“Parents of disabled children will be the only group of carers with lesser rights to assessment and support, as the rights of other adult carers and young carers are strengthened. Existing rights for parent carers will become even more difficult for professionals to navigate and use if they are left in rump legislation.”

Opposition Members agree; that is what our amendments seek to address and I hope the Minister accepts them.

Paul Burstow: It is a pleasure to serve under your chairmanship, Mr Rosindell. I want to speak briefly to these amendments because I suspect we will return to them when we come to clause 61 or 62, as I have tabled amendments addressing similar issues. However, they do bear close examination in Committee.

I echo the comments made about what I regard as ill-judged remarks during the Lords consideration of amendments on this. The Minister may have been poorly advised; he was certainly not well advised to use the language he did in drawing a parallel that I think was wrong.

Having said that, when we took evidence at the Joint Committee on this question of the gaps that the attempt to provide a new modern statute would create, we were persuaded that the process of providing an adult statute had had the unintended consequence of creating a situation where the succession of private Members’ Bills that had been passed that gave rights to parent carers and some rights to young carers would be left behind—would be less clear and visible. We were also told that there would be a higher access threshold. That seemed wrong to the Committee, and from my view as a Minister would not have been my intention at the time.

There is a separate Bill still before the House—the Children and Families Bill—and I know Ministers are actively responding to representations on this matter made by me and Members across the House. I hope the Minister can assure us that—whether through the Bill before us or, more appropriately, by amendment of the Children and Families Bill—the special circumstances of parent carers will be recognised, so that they are not disadvantaged relative to other carers or their rights left behind, as my cross-party Committee feared they might be. I hope that the Minister, in responding to the shadow Minister’s amendments, can give us some reassurance on that.

I will offer some words by way of an amendment that will be debated in a couple of weeks. I hope that the Minister will give consideration to that before our debate.

Bill Esterson: It is a pleasure to serve under your chairmanship, Mr Rosindell. Both previous speakers expressed concern about remarks made by the Minister in the Lords about how support for parent carers could lead to children being neglected or abused, which was a worrying comment. After all, surely support for parent carers helps to avoid neglect and abuse. If the parents are looked after and cared for properly, it must be more likely that they in turn will look after the children. That will also create a relationship whereby concerns about the way children are being cared for can be identified and acted on. I therefore think that the opposite of the Minister's view is the case: supporting parent carers is in the best interests of children.

Will the Minister explain how this legislation fits with the legislation in the Children and Families Bill, which is still going through the Lords? I served on that Bill Committee in this room some time ago. Quite properly, because it is a very important piece of legislation, that Bill is taking a long time to work its way through the system. The two Bills have many crossovers, so I shall be grateful if the Minister will explain how they fit together.

On Report, Baroness Pitkeathley gave the good example—as did my hon. Friend the shadow Minister—of the parents who had been caring for their 30-year-old very physically and mentally disabled son. They had struggled to find support, whether respite care or other types. They had been told, “You're not carers. These rights don't apply to you—you're only parents.” As Carers UK told us, it costs something like three times as much on average to bring up a disabled child as it does to bring up a child who is not disabled. There must come a point at which caring for a disabled child well into adulthood goes beyond just being a parent and becomes a caring responsibility for which they should quite rightly expect support from the rest of society.

That is what my hon. Friends' amendments try to do and I agree that what is stated is important. There is a significant difference between “the individual” and specifying a disabled child as well as a disabled adult; otherwise, there is a danger that insufficient importance would be attached to the role that parents of disabled children bring in caring for their children.

Norman Lamb: First, I agree with the shadow Minister that the pressures and strains, as she put it, on parent carers are often significant. None of us would want to understate the challenges that they face. The case study that she offered us of Missy and Phil described strongly how the system can fail individual families. To me, that seems to be an example of rather poor care and support for that family, irrespective of what the legislative framework happens to be.

Amendments 65 and 85 would extend assessment provisions relating to adults caring for adults to adults caring for children. Policy on assessing and supporting children and their families lies with the Department for Education, including support for families where that is in the best interests of the child.

3 pm

I fear that it is a recipe for confusion to include a provision for those caring for children within a Bill that focuses on provision relating to adults. The term “an individual” in clause 1 already includes both an adult and a child. Replacing that with “an adult or a disabled

child” as proposed in amendment 65 would in fact narrow the definition in this case, by excluding children without disabilities from that definition. I am sure that, on reflection, the shadow Minister would not want to do that to the phraseology of the “individual” in clause 1.

Amendment 85 seeks to extend the provisions in clause 10, which relate to a carer's assessment, to include an adult caring for a disabled child. As the definition of a carer in clause 10 provides the definition of a carer for the purposes of the Bill, it would in effect extend all the provisions within the Care Bill relating to adults caring for adults to include those caring for disabled children under 18. I suspect that it is an unintended consequence of the amendments tabled by the Opposition. We must be wary of simply replicating arrangements for adults caring for adults without understanding the interrelationship with other legislation for children and families, in particular the provisions available under the Children Act 1989. That could lead to unintended consequences.

In light of debates in the other place on the Care Bill and on the Children and Families Bill, the Government have agreed to work with carers' organisations, parent carers and other stakeholders to review existing legislation, guidance and practice for assessing the support needs of those caring for children. My right hon. Friend the Member for Sutton and Cheam referred to that. It is important that no one group is left behind. A round table discussion will take place on Friday this week to explore these issues further. The Government's review is the right place to explore these issues. These amendments to the Care Bill are not—

Jim Shannon: Will the Minister give way?

Norman Lamb: Just in time. With one word to go, I give way.

Jim Shannon: Have the Minister and the Government had any representations from the Law Commission? We talked about this earlier. I presume it put forward its thoughts on how best to change the legislation to enable this to happen. If so, is the Minister involving it in the talks process that he says he is having on Friday?

Norman Lamb: I am grateful for that intervention, late as it was in my speech. I understand that we have not had representations from the Law Commission. In a sense, this also addresses the question posed by the hon. Member for Sefton Central. He might have thought I had forgotten about him. I also take the opportunity to apologise if I inadvertently misstated his position in a debate before lunch. The intention was not to do so. We have tried to have the two Departments working closely together at officer level and at ministerial level. That led to the amendment on young carers, which was widely welcomed over the summer by all those who have been lobbying for change. Sometimes Government Departments working together can achieve things in unexpected ways.

The objective is for the two pieces of legislation to knit together and ensure that there is a whole-family approach. That is the important thing—to look at the whole of that family unit, the needs of the parents, who may be caring, the needs of youngsters, who may have care needs, and also the important concerns relating to young carers within that family unit. We would be

[Norman Lamb]

misguided if we sought to address the issues surrounding adult care and children's care in isolation. The two must be seen as part of the whole.

Liz Kendall: With the greatest respect to the Minister, we do not need representations from the Law Commission. It has already made its recommendation in its big review. Lots of the other proposals were put forward by the Law Commission. Its review has resulted in the Bill, but parent carers have been left out and the Law Commission says they should be included in the Bill. Parents are adults; they are carers. These amendments relate to a clause saying that they should have their needs assessed. We do not need a review; we need action. We do not need a round table. We need the rights in the legislation, as carers organisations and the Law Commission say.

Does the Minister disagree with the Minister in the other place? Earl Howe says that what is already in the Bill is good enough. I do not agree and the Minister probably does not agree, either. The recommendations have been made and should be fulfilled. Parent carers are adults and should be part of the legislation. I am happy to look at making the changes in the Children and Families Bill, but Lord Nash has refused to do that. It is getting very late in the day. We want action, so I intend to press both amendments to the vote.

Norman Lamb: Following the earlier practice of the hon. Member for Strangford, may I ask the hon. Lady, before she presses these matters to a vote, whether she is conscious of the unintended consequences of what she seeks to do through these amendments and the way in which she would narrow the definition of "individual" in terms of the application of the principle of well-being and applying the definition throughout the entire Bill, in amendment 85?

Liz Kendall: I believe our amendments are the right ones. We have tabled further amendments to later parts of the Bill. We will keep coming back to the issue. Like us, the right hon. Member for Sutton and Cheam has tabled further amendments. Is the Minister aware of the implications of his Government's failure to include parent carers in the Bill at all?

The Chair: I note that amendment 85 will be taken later in the proceedings.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 11.

Division No. 2]

AYES

| | |
|-----------------------|---|
| Abrahams, Debbie | Morris, Grahame M. (<i>Easington</i>) |
| Esterson, Bill | Munn, Meg |
| Kendall, Liz | Reed, Mr Jamie |
| Lewell-Buck, Mrs Emma | Shannon, Jim |
| Malhotra, Seema | |

NOES

| | |
|-------------------|--------------------|
| Burstow, rh Paul | Morris, Anne Marie |
| Griffiths, Andrew | Newton, Sarah |
| Jones, Andrew | Penrose, John |
| Lamb, Norman | Poulter, Dr Daniel |

Stephenson, Andrew
Wheeler, Heather

Wollaston, Dr Sarah

Question accordingly negatived.

Clause 1 ordered to stand part of the Bill.

Clause 2

PREVENTING NEEDS FOR CARE AND SUPPORT

Paul Burstow: I beg to move amendment 55, in clause 2, page 3, line 2, at end insert—

'(d) the importance of identifying suitable living accommodation to exercise that duty'.

As has been said by the hon. Member for Leicester West in the debate on clause 1, clause 2 is the holy grail of reform in the health and social care sector for decades and decades. Whether or not prevention is the right word, it is undoubtedly an essential part of what the clause tries to deliver. We are about maintaining people's ability to lead an ordinary and normal life and to contribute and participate in society, and about fulfilling the objectives set out in the well-being clause of the Bill.

We want to prevent and postpone anything that will lead to people withdrawing from participation in society. That is, for me, fundamentally the social purpose behind the prevention clause and why it is important that it is seen to be a mission not just of local authorities and social services, but of the whole system.

The amendment is short and—I hope others will agree—perfectly formed. It simply tries to say that when it comes to prevention, it is not sufficient simply to address issues of the responsibilities of the care and support services and of the health services; we also need to include the responsibility of housing. The contribution that housing can make to prevention was recognised by the Government in their care and support White Paper.

During the draft Bill scrutiny, the Committee considered a variety of evidence on the role that housing can play—in terms of information, advice, market shaping and prevention—and we made recommendations, some of which have been taken on board. Others were taken on board during the consideration of amendments tabled by Lord Best in the House of Lords. The Government are to be commended for listening and responding to the representations from both Houses and from organisations outside.

I welcome the fact that clause 3 will make it clear that housing is included in the definition of health-related activities; that is in the integration clause. It is important that that is there. Similarly, clause 6 will add registered social landlords as one of the organisations that need to be referred to as a potential partner for co-operation.

My amendment would include housing in clause 2—the prevention clause—as something that local authorities should have regard to. As I said, housing is a key component in primary and secondary prevention. Safe and settled housing is a key asset, and it helps people remain independent. We need housing-related support, such as practical help, personal and household services and adaptations to avoid preventable accidents. The statistics about falls and the cost to the NHS are just parts of the reason why we need to see more attention paid to the housing contribution in the prevention

agenda. Another reason is the long-term consequences of a fall for the individual—their loss of confidence, ability to participate and well-being.

The amendment seeks to put beyond doubt the Government's intentions on the important role of housing as a partner and player in delivering the care and support and well-being agenda.

Jim Shannon: Will the right hon. Gentleman give way?

Paul Burstow: Again, the hon. Gentleman is good at coming in just at the last words.

Jim Shannon: I want to check something with the right hon. Gentleman just to be sure that I have got it correct. The majority of those who require help, by and large, probably own their own home—a large section of the community, anyway. Would his amendment address the issue of people who own their home and enable them to stay in their own home and live independently?

3.15 pm

Paul Burstow: That is a very good question. We will come back to that when we debate amendments 35 and 36 in clause 3. However, the prevention clause as drafted is intended to be a universal duty. It does not simply apply to those who squeeze through on eligibility criteria; it is intended to be a duty that applies to all who live within a local authority area. In that sense, it is the Minister who should formally confirm my understanding, which is that it would include those living in their own accommodation. I shall put that to the test with amendment 35 a little later. I look forward to the Minister's response to the questions I have posed.

Meg Munn (Sheffield, Heeley) (Lab/Co-op): I wish to support the amendment. As other hon. Members have said, the clause is important and should be fundamental to the future of social care, and housing is one of the most important issues. As I said on Second Reading, the legislation should address care needs for the future, rather than looking at the patterns of care that we have had in the past. We should have an ever-decreasing proportion of elderly people needing full-time care in residential or nursing homes, and the only way to achieve that is to have our housing stock, whether it is in private or public ownership, properly geared up for it.

Part of the issue is about supported care accommodation and extra care needs—I have some great examples in my constituency—but it is also about the local authority looking at its overall needs. Does it have sufficient budgets for disabled facilities grants and for modernising existing stock? On approving accommodation to be built in the future, will it be built on the cheap, or are the standards good enough so that people will be able to have the adaptations that they might need in later life? The issue is fundamental and I agree with the right hon. Member for Sutton and Cheam that it needs to be in the Bill.

Mr Jamie Reed (Copeland) (Lab): It is a pleasure to serve under your chairmanship, Mr Rosindell. As the right hon. Member for Sutton and Cheam said, the issues are hugely important. What he proposes is entirely consistent with what the Opposition are trying to achieve. The amendment would improve the Bill. Many of the

issues that he raised on housing, and the integration of housing functions with social care and health care, will be discussed in clause 3. I hope he will test the will of the Committee with his amendment. Should he not do so, I will test the Committee's will on amendment 67.

Grahame M. Morris: I too wish to support the amendment tabled by the right hon. Member for Sutton and Cheam, but I want to make a couple of points. Housing is very important and ample evidence has been provided not only to the Joint Bill Committee, but to the Health Committee. We did various studies, which I recommend. Visits were made to Cumbria and Lancashire—we have extra-care homes in County Durham—and we visited Blackburn and Carlisle. The Health Committee's fourteenth report of Session 2010-12 was published on 8 February 2012. The reference is HC 1583-II.

The report demonstrated clearly to the Committee that housing is integral to the provision of social care. Often a person's home can be the best place in which to give them care and support. Remaining in their home may be a better option than being forced to move to a more costly institutional setting, by which I mean a residential care home.

The Select Committee looked at some extra-care homes while considering social care in Sweden and Denmark and thought of that as a revelation, but it seems to be the way forward; the outcomes are better and people are happier being supported in that environment—but the approach is also more cost-effective.

The issue is relevant to amendments 71, 72 and 75 to clause 4, on information, because it is important that people should have adequate information about the available housing options. I have been looking back at our debates on clause 177 of the Health and Social Care Bill and it is a tad ironic that the Opposition argued then for the need to put housing expertise on health and wellbeing boards. There was a bit of a disagreement, at least initially, before the Bill was paused, about the merits of that. I am glad that the right hon. Member for Sutton and Cheam has seen the error of his ways.

Bill Esterson: Listening to other Members has reminded me of my experience as a councillor in the 1990s, when the Conservative Government were pushing the agenda of single-tier unitary authorities. One of the arguments presented to us was about the benefits of bringing together housing and social services. I went on to become the chairman of social services for a short time and it was certainly easier to address those needs and issues in the same directorate. The case we are concerned with is well made for single-tier authorities, whatever the merits or demerits otherwise of the case for setting up unitary authorities.

My hon. Friend the Member for Easington made the point very well about the importance of trying to keep people in their home. The right hon. Member for Sutton and Cheam called it the holy grail, and he is right. Anything that can strengthen the involvement of health and social care will be welcome.

Jim Shannon: One of the considerations with people moving home at a certain stage of life is the dramatic effect on their health. I know of people who have moved who have found the effect traumatic. Does the hon. Gentleman share my concerns?

Bill Esterson: I completely agree. Again, going back to my parents' experience, when my mum was rushed to hospital last year she said, "I want to go home." That is what people want, and MPs have a duty to listen carefully and do our best to do what we are asked. I was about to end my remarks when the hon. Member for Strangford intervened, but it was an important point and I am glad he made it.

Norman Lamb: I agree with everything that has been said, including the arguments about getting integrated, joined-up care, to which housing is self-evidently central. I also agree about the importance of housing if we are to do better at preventing ill health and the deterioration of health. The House of Lords debate and the amendments that followed from it have been valuable in reinforcing that case.

The hon. Member for Sheffield, Heeley has spoken about the role of family carers and the importance of fresh thinking about how to get a stable, decent and civilized system, and of increasing families' ability to care for themselves and their loved ones. What she said was constructive and insightful and I completely agree with her.

Clause 2 requires local authorities to provide or arrange services that can prevent, delay or reduce both adults' and carers' needs for care and support. For the first time it creates a clear, legal duty on local authorities to ensure the provision of preventative services. It is across the board; it is not related to those individuals who have met the eligibility threshold; it is across the local community. The amendment specifies the importance of identifying suitable living accommodation in exercising the duty to prevent, reduce or delay the need for care and support. I should like to reassure my right hon. Friend that this aim is already covered in clause 2(2)(a) which requires local authorities to identify services, facilities and resources in performing this duty. Suitable and specialised accommodation would be one such service, facility or resource that could be used to prevent, delay or reduce needs for care and support.

Paul Burstow: The fact that the Minister has said that here is helpful. Could he give us some insight into his and his officials' thinking on the guidance that will be issued in due course around this? It would be helpful to make that clear in the guidance.

Norman Lamb: I am quite sure that the guidance can reinforce absolutely that principle. Clause 1 sets out a duty on local authorities to promote well-being when exercising their functions under part 1 of the Bill and that includes—

Sarah Newton (Truro and Falmouth) (Con): Will the Minister give way?

Norman Lamb: If I can just finish my sentence I will gladly give way. That includes their duties to prevent, reduce or delay the need for care and support.

Sarah Newton: I feared that I would not be as lucky as the hon. Member for Strangford and I might have missed my hon. Friend's last words. Forgive me for my impatience. As someone who supported that amendment,

I am grateful for the clarification that guidance will be given. As the Minister has set an exemplary pattern for the way that the guidance will be developed, can he confirm that stakeholders will be involved in the development of that guidance from across all the different types of housing that support people with disabilities and older people?

Norman Lamb: I am certain that we will maintain the approach that we have taken throughout the development of this Bill, which is to be completely collaborative and to regard this as an exercise in co-production, to use the jargon, because if we can involve stakeholders, those specialists in housing and care and support, we will end up with better legislation and better guidance. I am happy to reassure my hon. Friend on that.

Clause 1(2) sets out that suitability of living accommodation is one of the matters to which well-being relates. That is critically important. Therefore there is a clear link between the duty to prevent needs for care and support and the suitability of an individual's living accommodation. I hope that I have reassured my right hon. Friend that the Bill already makes clear the requirement for local authorities to identify suitable accommodation where that would prevent, reduce or delay the needs for care and support.

Paul Burstow: I just want to acknowledge the Minister's point and thank those Members who contributed to this short debate. We will come back to the issue several times in our Committee proceedings. I was particularly struck by the comments by the hon. Member for Strangford about the traumatic impact of a forced move on an individual. That is what we need to keep in our minds when we are thinking about how a prevention clause plays out in practice. If it works well we will give people the opportunity, through good information and advice around housing options, to avoid the need for the crisis to lead to the move and all the resulting trauma. That was a well made point.

I am grateful for the Minister's commitments on the guidance. It will be important that the way that guidance is constructed constantly refers back to that well-being duty. That is the pivot on which everything else will turn and be delivered. I was grateful for the way in which the Minister framed that. On that basis, given that the Minister has given me some comfort in this Committee, in the spirit of trying to maintain a consensual tone and noting that the shadow Minister possibly intends to press another amendment later which may allow the Committee to test it then, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

3.30 pm

Amendment proposed: 67, in clause 2, page 3, line 2, at end insert—

'(d) the importance of working with health bodies in carrying out the function in subsection (c).'.—(*Mr Jamie Reed.*)

The Committee divided: Ayes 8, Noes 11.

Division No. 3]

AYES

| | |
|-----------------------|---|
| Abrahams, Debbie | Malhotra, Seema |
| Esterson, Bill | Morris, Grahame M. (<i>Easington</i>) |
| Kendall, Liz | Munn, Meg |
| Lewell-Buck, Mrs Emma | Reed, Mr Jamie |

NOES

| | |
|--------------------|---------------------|
| Burstow, rh Paul | Penrose, John |
| Griffiths, Andrew | Poulter, Dr Daniel |
| Jones, Andrew | Stephenson, Andrew |
| Lamb, Norman | Wheeler, Heather |
| Morris, Anne Marie | Wollaston, Dr Sarah |
| Newton, Sarah | |

Question accordingly negated.

Clause 2 ordered to stand part of the Bill.

Clause 3

PROMOTING INTEGRATION OF CARE AND SUPPORT WITH
HEALTH SERVICES ETC.

Mr Reed: I beg to move amendment 68, in clause 3, page 3, line 32, after ‘support provision with’, insert ‘housing’.

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

Amendment 69, in clause 3, page 3, line 41, at end insert—

‘(1A) Housing providers must exercise their functions with a view to ensuring integration of services as set out in subsection (1).’

Amendment 78, in clause 5, page 5, line 40, at end insert—

‘(g) the importance of ensuring adults with needs for care and support have access to suitable living accommodation;’.

Amendment 83, in clause 6, page 7, line 40, at end insert—

‘(i) housing providers.’.

Amendment 35, in clause 6, page 6, line 38, after ‘housing’, insert

‘or other provider of housing for vulnerable or older people’.

Amendment 36, in clause 6, page 6, line 45, after ‘housing’, insert ‘and town planning’.

I call Miss Kendall.

Mr Reed: Thank you, Mr Rosindell, I appreciate that we look alike. [*Interruption.*] “I should be so lucky”, says the Minister of State. He is indeed correct. As we go through the proceedings, I have been struggling to develop a description of the Minister’s style and I think I have now found it. It is one of emollient loquacity. I very much enjoy the style and the manner with which he conducts himself throughout these proceedings. I shall speak to amendment 68 and the others in my name and that of my hon. Friend the Member for Leicester West, as well as about the amendments tabled by the right hon. Member for Sutton and Cheam.

Clause 3 places a duty upon local authorities to carry out their care and support responsibilities—including carer’s support and prevention services—with the aim of joining up services with those provided by the NHS and other health-related services such as housing. Under the Bill, this duty will apply where the local authority considers that integration of services would promote the well-being of adults with care and support needs—including carers—contribute to the prevention or delay of developing care needs or improve the quality of care in the local authority’s area.

Amendments 68, 69, 78 and 83 in my name and that of my hon. Friend seek to promote the integration of care and support into the area of housing. These amendments attempt to remove ambiguities, clarify responsibilities and make duties more explicit, with a view to achieving effective integration. Amendments 68 and 69 extend to housing providers the duty to promote integration. As the Bill stands, only local authorities are given the duty to promote integration between health and care services, but housing services are critical in relation to meeting the health and care needs of any individual or community. Amendment 68 extends the duties of local authorities to promote the integration of health, care and housing services. Amendment 69 gives similar duties to all housing providers, and both are complemented by amendment 83, which makes it obligatory for councils to co-operate with housing providers in shaping their social care policy.

Amendment 78 specifies that a local authority must promote the efficient and effective operation of a market in services for meeting care and support needs, and in particular must have regard to the importance of adults’ access to suitable living accommodation—by no means an easy task. We find it difficult ourselves to find suitable accommodation of our own, despite being well salaried and able-bodied. Imagine, then, the difficulty for adults whose care and support needs are profound. There is little sense in imposing legal accountability and responsibilities upon local authorities to achieve better integration of health and social care if housing is omitted from these responsibilities.

Amendment 83 is an extremely important amendment with regard to integration, and has most import for clause 6(7). Subsection 7 lists various organisations and bodies that local authorities have a duty to co-operate with as “relevant partners” when providing care and support—for example, Ministers, NHS bodies, and local police and probation services. Amendment 83 adds housing providers to this list, making it obligatory for councils to co-operate with housing providers in order to provide better, more integrated care.

I have worked as a housing officer, before the local authority in question, which was my own local authority, Copeland borough council, transferred its housing stock to a social housing association. During my employment as a housing officer, I was responsible for many functions, some official, some unofficial—mediating disputes between neighbours, enforcing tenancy agreements, managing rent arrears, organising repairs, and ensuring that vacant properties were safe and suitable to be let. My official responsibilities reflected the local authority’s statutory responsibilities. However, like many public servants or anyone who works in an outward-facing role that requires interaction with the public, I inevitably assumed a pastoral or advisory role for some tenants. This role was unofficial. I am sure it is a role that every Member of Parliament across the House recognises. Those responsibilities included contacting the police, giving debt advice, signposting people to the citizens advice bureau, and even giving what I would loosely term medical advice.

Norman Lamb: That is dangerous.

Mr Reed: That is why I use the term “loosely”. This advice would vary from urging parents of young children to let their children sleep at their grandparents’ house if their home was too cold and the children were ill,

[Mr Jamie Reed]

asthmatic or suffering from some other condition to urging, for instance, an elderly widow with a perfectly well-kept garden and an immaculate home, but who could not manage the stairs or had suffered a fall, to go and see her doctor. Where these people went to see their doctor, they would receive a hospital referral and perhaps an appointment for an operation. They would receive pain medication and a variety of medical interventions and treatments, but how much easier it would have been and how much better for the tenant, the local health service, the local authority and everyone else involved with these episodes of care if the housing provider had had regard to the health and well-being of those tenants. How much more beneficial, too, this would be to those people blighted—I use the term advisedly—by two-tier local government.

Bill Esterson: That was a timely mention of two-tier local government, after what I said earlier. We heard recent reports of a return of housing problems and an increasing incidence of rising damp, resulting in ill health. Does my hon. Friend think the amendments would help to deal with issues of poor health arising from deteriorating housing conditions and be a way of reducing those problems?

Mr Reed: I thank my hon. Friend for his intervention: that is precisely what we are trying to achieve with the amendments. As constituency Members of Parliament, from whichever party, we see the profound health problems that people are increasingly facing due to inadequate housing. It is no exaggeration to say that it is a time-bomb facing the country, in particular for those peripheral economies and communities in what might be described as areas of market failure. That needs to be acutely and rapidly addressed and the amendments seek to go some way towards doing that.

Amendment 83 extends the principle of integration to housing and is complemented by amendments 68 and 69, by which, again, we seek to introduce the principle of equal participation as a key component of integration. The amendments seek to extend the duty to promote integration of health, care and housing services to housing providers as well as to local authorities and health bodies.

It is worth paying attention to the contributions of noble Lords with regard to these issues. Lord Best, president of the Local Government Association and also a chair of a housing association told the other place in October last year that

“...everyone’s care needs are inseparably connected to the place where they live and where, for most older people, they spend all their time. The right accommodation can sustain our independence and well-being even if we face the illnesses or long-term conditions that afflict many of us in older age. The right accommodation can pre-empt and prevent the need for domiciliary and residential care and hugely reduce costs to the NHS and local authority social services.”

I am sure we have all seen examples of that with our own eyes in our constituency mailbags. During the same debate, my noble friend Lord Warner reminded us that at the inception of the NHS, health and housing were covered by the same ministry and that

“...we have missed many opportunities over a long period of time, to bring housing into the party as the population has aged. All it has done is increase the burden on adult social care and the

NHS. It would be a missed opportunity if we did not rectify some of that now.”—[*Official Report, House of Lords, 9 October 2013; Vol. 748, c. 101, 106.*]

The noble Lord was entirely right. The amendments seek to rectify those shortcomings in an explicit and, again, unambiguous way.

Let me be absolutely clear. Duties upon local authorities and housing providers such as those proposed by the amendments will help to facilitate the provision of better housing to meet the long-term care needs of individuals and communities. Surely that is a key consideration for legislators as we consider the policy requirements of an ageing society.

Better housing, better suited to care needs would lead to enormous benefits for patients, carers, taxpayers, local authorities and Governments of every colour. Better housing would enable quicker discharges from hospitals, freeing up huge amounts of hospital capacity. Right now, delayed discharges are costing the NHS £20 million every month. Instead of spending that money on delayed discharges, and accruing other associated costs with the pressure that then places right across the NHS, the money could be better spent on 1.5 million more hours of home care for vulnerable older people.

Consider what that means in the near future. I am grateful to Age UK for providing me with the following information. In terms of housing demand, we know that between 2008 and 2033 about 60% of projected household growth will be made up of households with someone aged 65 or older. Right now, 93% of older people live in mainstream housing, not in specialist retirement housing or residential care.

Poor and inaccessible home design often means that older people are forced to carry out home adaptations or are pushed into specialised housing or expensive residential care against their preference. We have heard from right hon. and hon. Members about the trauma associated with such enforced moves.

Age UK believes that the health and wellbeing boards need housing firmly embedded in their remit to ensure that the role of housing and housing support services for older people are not overlooked. The amendments seek to ensure that the role of housing and housing support services for older people, and all people with care needs, is not overlooked.

3.45 pm

Paul Burstow: I wish to speak briefly to amendments 35 and 36 in my name. I would like to pick up on a point about Lord Best’s contributions to the housing debates on the Bill in the Lords. I also draw the Committee’s attention to the work done in the past year by the Hanover housing association, which he chairs. It has commissioned publications on practically everything imaginable, addressing itself and its perspective to the challenges of housing in an ageing society. It speaks to many of the issues about why housing must be more closely aligned to the care agenda—indeed, I would rather say the well-being agenda—than it has been, not least in relation to amendment 35.

The amendment picks up on the earlier question from the hon. Member for Strangford. The vast majority of the current generation of older people live in owner-occupied accommodation: 76% own their own homes. As a consequence of that, they do not, or cannot, move into social housing. As currently drafted, I do not think—I look forward to the Minister either confirming

that my understanding is right or reassuring me that it is not—that the Bill fully reflects the need to engage with private providers of accommodation for vulnerable and older people. That is essential, given the Bill’s well-being focus and universal offer on information, advice, prevention and integration. Such groups must be part of the picture. My amendments to clause 6 widen the scope of the list of bodies to make it clear that private providers of housing are included.

Amendment 36 is about how we ensure that the market-shaping duty works well and that it is seen as a whole-council responsibility. If it is seen simply through the lens of an adult social services department, I do not think we will get the best results from the point of view of citizens wanting new, innovative approaches to the delivery of service. We will not get the economic development benefits of working-age disabled people being able to participate in the work force, nor will we get the benefits from an ageing society that is expected to work longer and the support that that will entail. The opportunities on offer are significant, but they will be better realised if seen as a whole-council responsibility.

My amendments specifically seek to say that, in part, we need to go beyond housing officers and care officers engaging with each other and co-operating. We also need an obligation to engage town planners. They should be part of the mix as well, not least to ensure that they are focused on the way in which the demographics are moving and aware of the opportunities that that presents. That is the purpose of my two amendments, and I very much look forward to the Minister’s response.

Norman Lamb: Again, I agree with all of the points made by the shadow Minister and, indeed, by my right hon. Friend the Member for Sutton and Cheam. I rather enjoyed the shadow Minister’s description of a former life. I got the impression of a benevolent public servant. I am not sure that I would have wanted to take medical advice from him, but, in all other respects, I would have appreciated being a tenant under his watchful eye.

We agree that housing plays a vital role in supporting independence, well-being and prevention. Indeed, that is why we were able to move such a long way in the other place to strengthen the prominence of housing throughout part 1 of the Bill. I am sure that that is acknowledged and appreciated by the Opposition. Specific references to that now feature in the first three clauses, as well as in clauses 6, 8 and 23.

In the other place, we made two amendments to strengthen the role of housing. The Government amendment to clause 6 expressly included private registered providers of social housing in the list of persons with whom it may be appropriate for the local authority to co-operate. Lord Best—who was mentioned by both speakers—said that that was

“a very significant step in absolutely the right direction.”

I am sure that that is acknowledged by all hon. Members.

Lord Best also welcomed the Government amendment to the integration duty in clause 3, which he said ensures that

“in terms of the integration of services, housing will be classified as “health related” and will therefore be taken on board by clinical commissioning groups and the NHS Commissioning Board, NHS England. Both these changes are really positive”.— [*Official Report, House of Lords, 9 October 2013; Vol. 748, c. 101-102.*]

I understand the intentions of my right hon. Friend and the hon. Members for Leicester West and for Copeland in tabling their amendments, which seek to bring further attention to the vital role of housing in care and support. Amendments 68 and 69 seek to address housing and integration. Specifically, amendment 68 would include housing in the integration duty. As I have said, to make the point crystal clear, we have already strengthened clause 3. Subsection (5) states that the provision of housing is a “health-related” service. The amendment is therefore unnecessary.

Amendment 69 would place a duty on all housing providers to ensure integration, thereby effectively extending the Bill’s reach to the regulation of the private housing sector, such as builders and private landlords. Extending the duty in that way would be an additional and unnecessary burden on the private sector and, in a sense, it would be impossible for the private sector to achieve because it simply does not have control over integrating health and care, but I understand why that point has been made. The measure would also be unworkable because, in so far as housing providers are private landlords, they do not have any public or statutory functions to provide care and support or health provision. Accordingly, it is not in their power to ensure the integration of such services. Rather, the duty to promote integration needs to be imposed on the local authorities and NHS bodies, working together with housing providers and other health-related providers, as is currently proposed in the Bill.

My right hon. Friend asked whether local authorities are obliged to co-operate with private sector providers. Local authorities must co-operate with such persons as it considers appropriate. Clearly, given that the Bill absolutely recognises the central importance of housing in care and support, in integrating care and support and in preventing ill health, it seems to me to be appropriate for a local authority to do so. I hope that goes some way towards reassuring him.

Amendment 78 would include “adults...have access to suitable living accommodation” in the list of matters to which local authorities must have regard in fulfilling their market-shaping duty. The market-shaping duty in clause 5 requires local authorities to promote diversity and quality in the provision of care and support services. Accommodation provided as part of that care and support already falls within the scope of the market-shaping duty.

Amendment 35, tabled by my right hon. Friend, and amendment 83, tabled by Opposition Members, would specify housing providers as a relevant partner of local authorities. Clause 6 includes the requirement for a local authority to ensure co-operation in delivering services relevant to care and support and to work co-operatively to ensure that services are joined-up. That includes private registered providers of social housing. Public law is limited on the extent to which it may place duties on private bodies. Extending the list to other housing providers would include private housing providers, such as private landlords, where they are providing housing to individuals, under entirely private contractual arrangements, which would extend the duty beyond those with whom the local authority holds a contractual duty.

Finally, on amendment 36, I recognise that town planning, and planning more generally, are an issue in relation to the provision of specialised housing. The

[Norman Lamb]

place to address such planning issues, however, is through the work of other Government Departments. I will be having more discussions with colleagues across Government about that issue. I hope that I have reassured my right hon. Friend and hon. Members about the prominent position that housing has in the Bill and the fact that the Government recognise that it has a central role in preventing ill-health and ensuring that services are integrated, with regard to well-being, prevention, integration and co-operation between health, housing, care and support.

Mr Reed: I appreciate the Minister's response. I do not seek to divide the Committee on the amendments in my name or that of my hon. Friend. However, should the right hon. Member for Sutton and Cheam wish to test the will of the Committee on amendments 35 and 36, he will receive our support. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Clause 4

PROVIDING INFORMATION AND ADVICE

Liz Kendall: I beg to move amendment 71, in clause 4, page 4, line 19, leave out 'and maintain' and insert 'maintain and facilitate access to'.

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

Amendment 56, in clause 4, page 4, line 32, at end insert—

'() suitable living accommodation, and the choice of providers, available in the authority's area.'

Amendment 72, in clause 4, page 4, line 32, at end insert—

'() available housing options, and the choice of providers, available in the authority's area.'

Amendment 75, in clause 4, page 4, line 32, at end insert—

'() how to access advice on housing options'.

Amendment 73, in clause 4, page 4, line 46, at end insert—

'(c) ensure that such advice is provided by appropriately trained individuals and to an appropriate standard.'

Amendment 74, in clause 4, page 5, line 2, at end insert

'and anyone else who might benefit from receiving it'.

Amendment 76, in clause 4, page 5, line 3, at end insert—

'(4A) The advice and information made available to adults with care and support needs must include tailored information for individuals with specific medical conditions and complex individual needs.'

New clause 7—*Public awareness campaigns*—

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

Liz Kendall: I shall go through the first couple of amendments quickly before I get to the issue that I want to focus on. Amendments 71 and 74 seek to clarify the degree to which local authorities will be required to be proactive in giving people information and advice and whether they will be required to provide information and advice not only to people who are about to use, currently use or are at risk of using a care service, but to people more broadly. Many hon. Members will know that there is a hell of a lot of information and advice out there about all sorts of things, but people often do not know where it is. Unless they have the time, energy and willpower to seek it out, it is often difficult to find.

Grahame M. Morris: The point about whether local authorities will have to proactively make the information available, or whether they will only have to compile a database, is really important. What does my hon. Friend think about the estimated 5 million people—many of whom are older people—who do not have internet access? If the database is available only on the internet, many of those people will be disfranchised in terms of housing information.

Liz Kendall: My hon. Friend is right, although there is an increasing number of silver surfers, including my parents, not that they are silver-haired yet; sorry, mum and dad. Nevertheless, there are many older users on the internet.

It is difficult to get all the information and advice together. Amendment 71 seeks to probe whether local councils will be required to get the information out there and reach out to people, rather than simply putting it on their websites and on leaflets, and whether the information will be made available to the public more widely. We are probing those things because the clause, which is about information and advice, is about not only the care and support services that are available, but the independent financial advice about the new system for funding social care that will be introduced. We need to ensure that as people get older they think about and plan for the future. As we live for longer, even if the retirement age increases, we need to think about our finances. I hope the Minister will clarify whether the information and advice—particularly information about the new funding mechanism—will be available more widely.

4 pm

Amendments 72 and 75 essentially repeat some of the issues we heard in the debate on housing. Information and advice should be provided on the choice of available housing options. We have all experienced this problem, either in our own families or through our constituents. Nobody wants to leave their own home, and they probably never will, especially if they think that the only option available to them is a poor-quality residential home, or even a good-quality one. However, there are some excellent, innovative extra-care housing developments available, which provide a little extra help and support while allowing residents to feel as though they are living an independent life. Information on such developments must be made available. Amendments 72 and 75 would give councils a duty to provide information and advice on different housing options and ensure that a variety of housing options are available.

I want to focus on amendments 76 and 73 and new clause 7. Amendment 76 is designed to ensure that information and advice is tailored to individuals based on any medical conditions or any complex needs that they have. Many people will find generic information and advice about social care services helpful, but for others it will not fit the bill. The Leicester and Leicestershire Alzheimer's Society contacted me last year, or maybe the year before, when funding for its advice line for families with dementia was cut. That cut, which came, I believe, from the county rather than the city, meant that the organisation could not afford to provide the advice line for everyone so the whole thing was transferred to a generic, in-house council advice line. Individuals who called the new advice line with specific questions about dementia did not receive the answers that they needed. That is hardly surprising, because it is much easier for someone who has experienced dementia in their family to provide such support.

As MPs, we know that some people have complex mental, physical and social care conditions. I am genuinely concerned that we will go down the route of providing tick-box, generic advice that will be of no use to anybody. In the other place, Earl Howe said that it was up to local authorities to determine the scope and manner of information and advice that they provide, and that he expected them to work with other sectors. He said that it was unnecessary for the Bill to require local authorities to provide tailored information because guidance would be provided. I seek an assurance from the Minister that the guidance will tell local authorities that they do not have all the necessary information or skills, and encourage them to work with local branches of the Alzheimer's Society, the Royal National Institute of Blind People and others to provide detailed information and advice.

Amendment 73 and new clause 7 are related. Local authorities will be under a duty to ensure that people have access to independent financial information and advice, and amendment 73 would ensure that that information and advice was of high quality and provided by appropriately trained individuals. I cannot overstate the importance of that. The Government's new system of funding social care—the cap on care costs, the deferred payment schemes and loans, and the raising of the means-tested threshold—is extremely complicated, and as the Minister knows, it is difficult to get one's head around it. I am sure people have asked him, as they have asked me, how it will affect them. Even though I have done my best to study the Bill in detail, however, I would not want to advise people on the system because it is incredibly complicated. The Bill states that independent financial advice should be available to people, but who will provide that advice? *[Interruption.]* I am sorry. I have been uncharacteristically put off my stride.

The Chair: Order. If there are any difficulties in turning off a mobile device, would the hon. Member leave the room in order to deal with the problem?

Liz Kendall: That happened to me once during wedding vows—*[Laughter.]* Not my own; I am not married—sorry, too much information.

Local authorities will be required to ensure that people have access to independent financial advice and information, but who will provide that advice? The new system is incredibly complex, and the complexity of the

system has not been helped, to put it mildly, by some Ministers' repeated claims about the new system, which do not stand up to scrutiny. I know that the Health Secretary is not here to defend himself, but he has been a repeat offender in that regard. He has regularly claimed that no one will have to pay more than £72,000 for their care when they will, and that people will not have to sell their homes to pay for their care when they will, and implied that raising the means-test threshold will mean that anyone with income or assets below £118,000 will not have to pay for their care when they will.

The Minister is often more careful in his choice of words, but this is a very important issue. People need to have the facts and the information if they are to plan for the future. The issue is not just the basic elements of the system. The different ways in which the elements of the package interplay with one another are very complicated.

Lord Lipsey, who many hon. Members know is one of the country's leading experts on social care funding, raised an issue in the other place about the interplay between raising the means test and attendance allowance. He said that people may apply for help under the increased means-test threshold and find that they are worse off, because although they get a little help through the means test, they lose their attendance allowance. Lord Lipsey told me afterwards that he was not even aware of that issue until he looked at the situation in detail. If a long-standing expert such as Lord Lipsey has only just discovered some of the complexities, how will other people manage? This may be wrong; I am just repeating what Lord Lipsey said in the House of Lords. The system is very complicated and, as the Bill stands, anyone could provide advice about care finances, with no requirements to ensure that the advice is high quality or provided by people who are properly trained. The Minister could write to me on the point about attendance allowance if he would find that easier.

I am genuinely concerned that we could end up with, even if not mis-selling, some kind of misinformation scandal because of people giving financial advice that simply is not borne out by the facts. This amendment is not calling, which some have suggested, for the independent financial advisers giving advice about this matter to be regulated. I think that there is a debate to be had about that. The amendment is the very least that the Government should accept. Local authorities should have some safety system to guarantee that the people giving independent financial advice—this is not advice about care services—are appropriately trained and have proper skills.

New clause 7 takes that one stage further, because it calls on the Secretary of State and local authorities to ensure, through public awareness campaigns, that there is a high level of awareness and understanding of the new system of funding social care, including the so-called cap on care costs, that is being brought in by the Bill.

Lord Warner, who was a member of the Dilnot commission on reforming long-term care funding, rightly pressed the case in the other place for public awareness campaigns, saying he was “incredibly depressed” by people's lack of understanding of the existing care system, let alone the new one proposed in the Bill. I do not blame people for not understanding the system; I blame us for not being clearer about what it means.

It is the case that 60% of the population think that social care is provided by the NHS. For people to get their heads around this new, complicated system will be

[Liz Kendall]

very difficult. That is why the Dilnot commission itself strongly argued that the Government should have an awareness campaign to inform people about the proposals. Indeed, in the other place Earl Howe accepted that public awareness is “lamentably low” but said that legislation was not necessary because joint programmes with local government were under way. Where? My local council is struggling to get its own head around this system. I have never seen a public awareness campaign about what is happening. I think councils are struggling to get to grips with what this will mean. That is why we have tabled the new clause. I think we get to vote on it later. The issue about independent financial advice is the one I am really worried about, so I will certainly press that to a vote.

Paul Burstow: I rise briefly to speak to amendment 56, which stands in my name, and perhaps to touch on some of the other issues raised by the hon. Lady. The amendment goes back to the debate we have just had about housing and the important place it needs to have in relation to information and advice. I hope that the Minister can give us some further reassurance about how that will be built into the implementation. The hon. Lady referred to the work between the Department and local government. I understand there is a joint unit working between the two, another example of the co-productive nature of not just the conception of the Bill but its execution. That marks it out as a pretty unique endeavour. But there are still some unanswered questions raised by amendment 73 and new clause 9.

Amendment 73 opens up the question about regulated financial advice. In the debate on Third Reading in the other place Earl Howe made some helpful comments. He confirmed that local authorities should take this duty as a proactive one. However, he said that when it comes to the relevance of the availability of regulated independent financial advice, it should be a facilitative role for local authorities. We need to be clear in clause 4(3)(a), which is all about identifying those people who might benefit from financial advice, whether being facilitative is sufficient and whether it means more than just providing a list of anyone who might give financial advice.

When we considered this in the Joint Committee we were clear that independent advice was needed. The Lords were right to identify the question of regulated financial advice, not least because one in four self-funders fall back on public resources at some point during their care needs and 40% of self-funders, according to the Personal Social Services Research Unit, would benefit from an existing product that is available in the market today. The Dilnot reforms were effectively about taking away tail-end risk and longevity risk. We therefore need to see this market grow in terms of private products that enable people to meet their care cost needs in various ways, such as equity release.

Liz Kendall: Is the right hon. Gentleman aware of any new products that have emerged so far on the basis of the Dilnot proposals?

Paul Burstow: That goes to a point that the hon. Lady was making just now. It would be foolhardy to have an awareness campaign at this point and there is the question

of the legality of a Government having an awareness campaign before they had got a Bill through the House. Until the Bill is in place and until all the elements are there and clear, it would be highly surprising to see a sudden surge of new products in the market. Having said that, it is interesting that Swiss Re, which is the reinsurer here, has come back into the market. It is actively engaged in discussing with those who are involved in the design of products. There is activity going on. I have certainly been heartened by some of my conversations with people who want to see certainty around this market development.

That brings me to my final point, which is the point that Lord Warner made. I would describe it as the nasty little secret about social care, which is that it is not free. Most people do not know that. They still do not know it today. When this welcome set of changes is enacted and implemented from April 2016, many will turn up to their local authority and still be horrified to find themselves being asked to pay substantial amounts of money. However, they will be asked to pay substantially less and bear substantially less risk as a result of this legislation.

4.15 pm

If there is to be an awareness campaign—and we recommended this in the Joint Committee, as did the Dilnot commission—it is absolutely essential that the campaign enables people to make a fair comparison between what the Government are implementing and what went before it. In that comes understanding of the benefits and risks. This allows a judgment to be made about how to proceed as an individual and how the Government are then properly judged as well. I hope that is why the Government, regardless of these amendments, will do the right thing when it comes to awareness campaigns once this Bill becomes—

Sarah Newton: Will my hon. Friend give way?

Paul Burstow: My hon. Friend caught me on my last word.

Sarah Newton: Does my hon. Friend agree that we should look towards the trusted voices that already exist and the networks of really excellent organisations like the CAB and Age UK, which have both well-regarded national web-based and strong face-to-face advice services? Local authorities will be in an ideal position to forge even greater partnerships than exist already, to make sure of really good promotion once it has been agreed and ensure that advice and services that are available are promoted in partnership with them.

Paul Burstow: My hon. Friend is right. They are key partners in delivering an effective information and advice operation at a local level. However, clause 4(3)(a) requires us to go further and ensure that there are suitable arrangements for local authorities to signpost in a proactive way financial advice provided by independent advisers who have been independently and properly vetted in the processes that come with that. I hope that the Minister can give us some sense of how that will work in practice.

Heather Wheeler (South Derbyshire) (Con): Declaring my position as an officer of the all-party group for insurance and financial services, the right hon. Gentleman

just finished noting the fact that independent financial advisers should be used at all times. I concur with that, but could we make it absolutely clear that they ought to be regulated by the Financial Conduct Authority and people should be signposted only to those regulated by the Financial Conduct Authority and not to anybody else?

Paul Burstow: I agree with that, for the reasons that the hon. Lady gave. It is why, when it comes to identifying those who will benefit from financial advice, this is made absolutely clear, so there is no misinformation at that crucial point. However, there are many other advice agencies that could provide a better insight into the way in which the care system works such as the CAB and Age UK. It is about how those two things are blended effectively, so that people get the right, regulated financial advice, but also get an insight into how the system and their options might play out. With that, I look forward to the Minister's response.

Norman Lamb: Again, I find myself in agreement with much of what has been said. I agree with the shadow Minister that it is very important that we are all clear about what these reforms do and do not do. I will come to raising public awareness, but, as my right hon. Friend and the shadow Minister made clear, the degree of ignorance out there—that at the moment if you have more than £23,250 you are literally on your own and you pay everything—is very high, so clarity and straightforwardness are incredibly important.

I have a gentle jibe for the other side, because there have been occasions during the debate on all this where there have been misleading challenges, for instance on interest on deferred payment arrangements. There was an assertion that this was hidden away in some way. We have been completely open about it and never sought to hide away the fact that there will be an interest charge and that local authorities will not be out of pocket as a result of the universal offer. However, I share the shadow Minister's point about the importance of us all being straightforward and clear about this. In a way, I hope that in due course, there will be a settled political consensus to support the reforms, so far as the cap is concerned; I know that the hon. Lady calls it the so-called cap, and we can disagree about that. The reforms will achieve much greater force if there is ultimately a settled political consensus. I do not know where her party is at on the issue at the moment. I think there is something of a debate going on in her party—*[Interruption.]* She smiles gently in response to that. The sooner we can get to a point where people out there, including the financial services industry, know that this is there for the long term, the better. It would give the reforms the best possible chance of succeeding.

Liz Kendall: My point was that the interest charged on the loan does not count towards the cap. I never said that the Government had not said that there would be interest on the loans, but that it does not count towards the cap. If someone takes out a loan on their care costs, and they are told that their costs are going to be capped, but the interest on the loan does not count towards the cap, it does not feel like a cap. That is one of many reasons.

Norman Lamb: Let me proceed with my contribution. The availability of information and advice is essential for people to make good and well-informed choices about the care and support they want to receive. Clause 4 will set out the high-level requirements for an information and advice service that the local authority must provide

There is little that we disagree with in the amendments, and we are wholeheartedly in tune with the intentions behind them, but we believe that they are unnecessary, so I will address each in turn.

Amendments 71 and 74 draw attention to the need for the local authority to facilitate access to its information and advice service to all those who might benefit from it. We have been clear that such services must be accessible to the authority's local population, and specifically to those who may have a need for information and advice relating to care and support.

That intention is already clearly stated in clause 4(4) as currently drafted:

“Information and advice provided under this section must be accessible to, and proportionate to the needs of, those for whom it is being provided.”

That includes any person who may benefit from the information and advice provided by a local authority. As such, the service must be accessible and available to all people in the local authority's area, regardless of whether they have eligible care needs. How that will work in practice is best and most appropriately covered within statutory guidance and by allowing individual local authorities to be able to respond to the differing needs of their local populations.

Regarding amendments 56, 72 and 75, the Bill will make it clear that the provision of accommodation to meet care and support needs—except for the provision of general housing, as excluded by clause 23—should be considered an integral part of care and support. We do not consider it appropriate to provide a comprehensive list of what the information and advice duty is intended to cover, not only because the list would change over time, but because anything left off the list may look less important.

We intend the detail to be covered in more depth in guidance. *[Interruption.]* I am conscious of all sorts of things appearing and disappearing next to me. It is disarming. We will make it clear that information and advice should cover and draw together the wider housing options that might be available through general or specialist housing, such as extra care housing and support living, as well as adapted housing and home adaptations.

On amendment 73, how could we not agree with the principle that the information and advice service provided for under clause 4 should be of a good standard and that where appropriate it should be delivered through suitably trained individuals? We absolutely agree, but we do not agree that the amendment is required to make that happen. First, clause 4(4) already states that the information and advice provided by local authorities needs to be proportionate and accessible to the needs of the recipient. In some cases, the needs of the recipient may be such that that can be achieved only if the person delivering the information and advice is appropriately trained.

Secondly, general public law principles mean that local authorities must look to meet their duties to an appropriate standard. Statutory guidance is the preferred

[Norman Lamb]

and right approach to beginning to address the complexity and variety of circumstances and the mechanisms through which information and advice to individuals can and will be provided. Work has begun on that and we have, through the “Think Local, Act Personal” partnership, already published “Principles for the provision of information and advice”, a short practical framework that sets out the main issues that councils need to consider when developing a comprehensive and coherent local care and support information and advice strategy. We will develop on that through statutory guidance and further supporting documents.

Amendment 76 draws attention to the need for local authorities to provide focused information and advice for individuals with specific medical conditions and complex individual needs.

Paul Burstow: I have a quick request. Could the Minister, following discussion after today’s Committee with his officials and those working with others on the guidance, return to the Committee with a letter to say what the Government’s approach will be to regulated financial advice? It would be helpful to have a letter, so that we are clear about it.

Norman Lamb: I will certainly consider the point. I seek to be helpful.

Such advice and information can be provided effectively only by the local authority working together with health organisations. The duty to promote integration of care and support with health services is covered in clause 3, which sets out that local authorities must exercise their functions with a view to integrating their care and support provisions with health provision and health-related provision. That is applicable to information and advice services under clause 4.

With local authorities and the NHS, the voluntary sector plays a key role in supporting access to good, reliable information on specific medical conditions. Many such organisations already work with local authorities and the NHS in that area. There are too many examples for me to detail today, but I commend the joint approaches taken with the Stroke Association, the National Autism Society and the Alzheimer’s Society—all excellent examples. We will reference and detail such examples to support statutory guidance, which will cover circumstances and opportunities to provide tailored information and advice for people with specific medical conditions and complex individual needs. That guidance is being developed at the moment with the direct involvement of the field, citizens and wider interests.

Finally, on new clause 7, we agree that it is critical that people are made aware of the reforms and what they mean to them. We accepted the Dilnot commission’s recommendation to undertake an exercise in raising awareness. We have confirmed that commitment on a number of occasions and I repeat it today. Clause 4 requires local authorities to provide information and advice that is accessible to their whole population, and that includes information on paying for care and the cap. We accept that local awareness raising alone might not be sufficient and that the Department also has an important role to play at the national level. For an awareness raising campaign to be successful, it needs to be delivered in partnership, with national and local

government working together alongside the wider care sector, and indeed the financial services sector has an incredibly important role to play. I agree with the comments my right hon. Friend made: although we have not yet seen the emergence of specific policies from the financial services industry, I have been encouraged by the degree of engagement it has had and its interest, and by the potential the legislation has to lead to the development of new products in the market, like those Andrew Dilnot argued for in his report.

4.30 pm

We have already, without legislation, embarked on a joint programme with local government to implement the reforms. Awareness raising will be part of that. The Department will co-ordinate the message to ensure that a simple, coherent campaign can be delivered nationally and locally. We are engaging with the voluntary sector, care providers and the financial services industry, to make sure that we can play our part in communicating these reforms. We also need to improve the data on public understanding of care and support, so we have also taken steps to develop and include new survey questions for the annual health survey for England. The new questions will be used to monitor and track public awareness over time. Together, these steps will inform the ongoing implementation and policy development process that will take place in the years to come. The work on awareness raising is underway and is continually evolving, so adding a specific duty to the Bill is not necessary. I do not think that a Labour Government have ever legislated for a public awareness campaign. That is something that obviously should happen with a major reform, but legislating for it would be inappropriate.

There is unanimity on the principles underlying the amendments. I hope that I have assured Committee members that there are already adequate provisions in the Bill and that these are supported, critically, by the statutory guidance that will emerge, allowing them to be put into effect. Therefore I respectfully ask the hon. Lady to withdraw her amendment.

Liz Kendall: I am happy to beg to ask leave to withdraw amendment 71 and will not press amendments 72, 75, 74 and 76 to a vote, because the Minister has said publicly that there will be both local and national awareness-raising campaigns, which is excellent news. However, we have not heard enough about amendment 73 and I should like to vote on that, because following the little interchange between the hon. Members for South Derbyshire, for Member for Truro and Falmouth and the right hon. Member for Sutton and Cheam, I do not think that the Bill is clear in that regard.

Yes, we want Age UK and others to provide information and advice on services, helping us support those things, but we only want financial advice to be given by properly regulated independent financial advisers, otherwise it will be a big disaster. The Bill is not clear about that.

I hope that the Minister is considering writing to all Committee members, not just the right hon. Member for Sutton and Cheam, because the Bill is a bit of a mess in this regard and is not clear about financial advice. I am concerned about that. I want to vote on amendment 73, which would at least mean the Bill contained something to the effect that advice should be provided by appropriately trained individuals, trained to an appropriate standard.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Paul Burstow: I beg to move amendment 30, in clause 4, page 4, line 32, at end insert—

‘() how to complain about a decision made under this Part.’.

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

Amendment 31, in clause 4, page 5, line 11, at end insert—

‘(7) Regulations must make provision for an effective and independent system for revolving disputes between individuals and local authorities regarding decisions taken under this Part. Regulations shall also set out the conditions that apply to each party to a dispute and when decisions made are binding.’.

New clause 8—*Appealing decisions taken by the local authority*—

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

- (a) whether an adult or carer’s needs meet eligibility criteria under section 13;
- (b) whether to charge for meeting needs under section 14;
- (c) the result of a financial assessment under section 17;
- (d) the content of a care and support plan or support plan under section 25;
- (e) the amount of a personal budget made under section 26 or independent personal budget made under section 28;
- (f) the payment of an “additional cost” under section 30.

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

(3) Wherever a decision has been made of a type referred to in subsection (1), the local authority must make the adult or carer aware of their right of to appeal the decision and how to request details of the appeals procedure. Details of the procedure must be made available on request.’.

Paul Burstow: I want to go through this argument as quickly as I can, because it is important, given the previous debate about access to advice and information. The amendment is about how people can seek redress and challenge decisions that have been made under the legislation. It is also about ensuring that, when things go wrong, there is a clear route by which a remedy can be achieved. At the moment, the system does not really allow that to happen as well as it might. We have local complaints arrangements and, ultimately, routes through to the ombudsman and judicial review.

The Law Commission, on embarking on its review of social care law in 2008, argued that it should consider the efficacy of the legal structures in place for complaining about and seeking redress for failures in decision making and service provision local authorities, including whether a tribunal should be established. The Government at the time took the view that there was no desire to include that in the scope of the review and it was ruled out of scope, and the Law Commission did not include it. Despite exclusion from consultations, numerous people responding to consultations over the subsequent years said that they felt the issue of redress was not dealt with adequately and needed to be dealt with better in a reformed adult social care system.

The issue was raised again during the evidence sessions of the Joint Committee scrutinising the Bill. One organisation that told us of its concerns was the Local Government Association, which was concerned that the Bill

“does not provide for any means of redress other than through judicial review.”

For me, the Bill’s well-being and advocacy principles are all about shifting the balance of power away from public bodies and providers to individuals and their carers. That seems to me to be one of the shifts that is crucial to delivering the legislation. However, when it comes to complaining about decisions made under part 1, all the power still sits with the local authority. The relationship is unbalanced on those issues. That is why the Joint Committee said:

“We believe that the significant extension of local authority responsibility for assessment, and the introduction of the well-being principle into decision making, warrant an urgent review of arrangements for providing redress and complaints resolution. The Government should reconsider establishing a care and support tribunal to provide independent merit reviews of decisions made by local authorities.”

In response, the Government made a welcome set of comments. They said:

“We agree that the role of local authorities is changing significantly and that it is important to ensure that the arrangements for providing redress and resolving complaints are effective in this context.”

They went on to say that the right hon. Member for Cynon Valley (Ann Clwyd) and Professor Tricia Hart would be consulted on a number of issues, and that the Government would consider appeal mechanisms and so on. That was all good news. My amendment attempts to address that direction of travel.

Anne Marie Morris (Newton Abbot) (Con): I am pleased to hear the proposed amendment, and I thoroughly support it. Does my right hon. Friend agree that perhaps there is another issue that the tribunal does not entirely address? There is no body with any oversight over a local authority in the exercise of such decisions in the same way that the CQC has oversight over the NHS. Although I applaud his suggestion about a tribunal, that will deal only with individual problems, whereas we might get better decision making from local authorities if there were another body that reviewed and considered how they made those decisions.

Paul Burstow: My hon. Friend makes an important point that I hope we will have the chance to debate when we get to clause 61, which involves whether the CQC should have in its purview any role in reviewing the commissioning decisions of local authorities. I hope that we will have a good debate, and that she will catch the Chairman’s eye, but this debate is about decisions made about an individual by a local authority under this part of the Bill.

Having suggested in our recommendation in the Joint Committee that it could be done by establishing a tribunal, I accept fully that there are concerns about the cost and cumbersomeness of such processes, and the time involved. Therefore, I am not suggesting that in my amendment. The amendment creates a mechanism by which the Government, through consultation and co-production, could make regulations to introduce an appropriate mechanism for dispute resolution and redress.

[Paul Burstow]

This is an area in which regulation-making powers are more suitable, in order to allow flexibility and adaptability over time.

The framing of my amendment may not be perfect—I am sure that parliamentary counsel could come up with a better formulation—but I think that that is how the spirit of the Government’s response to the joint Committee could be honoured and the balance of power struck differently, so that when someone feels that they are being wronged by their local authority and not getting what they are entitled to in order to promote their individual well-being, they have a route to get their day in court and resolve the issue without actually having to go to court and incur all the costs involved. With that, I look forward to listening to the Minister’s response.

Liz Kendall: My comments echo those of the right hon. Member for Sutton and Cheam. New clause 8 would allow adults or carers to appeal decisions made by the local authority on a series of matters, including whether their needs have met the eligibility criteria, whether they should be charged for meeting their needs, the result of the financial assessment by the council, the content of their care or support plan and the amount of personal budget they have been given, which is an increasingly important issue. I am a big champion of personal budgets and I am worried that they are going to get a bad name, as the budget does not end up being enough to cover the needs identified.

New clause 8 goes through the things that people will inevitably and rightly want to question. The issue has not been dealt with in the Bill and we have not seen regulations or enough of a move on it so far. It is important because the system is very complicated. We should not forget that increasing numbers of people will come into the system because the so-called cap on care costs will apply to those who meet eligibility criteria. There are all sorts of issues here. Normally self-funders do not get any advice or support, but they will under the new system, so there will be more people coming through.

In the other place, the Minister Earl Howe accepted that

“...it is likely that some changes are needed”.—[*Official Report, House of Lords, 14 October 2013; Vol. 748, c. 327.*]

He said that there would be a consultation and that he would update the other place in December. I am not sure whether that happened. It would be good if the Minister could update the Committee and at least give a commitment that there will be a route to appeal, not just on assessment and care decisions but on financial decisions, precisely to avoid what we all see, which is constituents coming to us because the whole thing has got too far down the road and it will end up in court. People are distressed and everybody is miserable, so we need a proper appeals process. I look forward to hearing what the Minister has to say.

Norman Lamb: I agree that it is important to ensure that the arrangements for resolving complaints and providing redress are effective, particularly given the changes that are being brought about by the Bill. We have consulted on the issue in “Caring for our future: consultation on reforming what and how people pay for their care and support”.

There is a range of approaches to resolving complaints and providing redress. We believe it is best to have a flexible system that works at a local level and in a manner that is proportionate to the type of complaint. I appreciate that we are dealing with a range of types of complaint. We have been reviewing the existing complaints arrangements as they relate to care and support and are assessing whether they currently provide an effective means of challenging local authority decisions, or whether amendments need to be made to them.

We recognise that more people will be brought into contact with the local authority, as the shadow Minister said, by the reforms to the care and support system. We also recognise the need for change and we will announce the next steps in due course. If necessary, we already have the power to make regulations under the Health and Social Care (Community Health and Standards) Act 2003. Regulations already exist. They are the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, which I will refer to as the 2009 regulations.

Those regulations already require local authorities to have in place systems for dealing with complaints. The powers within the Act are wide-ranging, and we can achieve our intended outcomes by using the powers in the Act to make amendments to the existing complaints regulations.

4.45 pm

Amendment 30 seeks to ensure that people have information and advice about the local complaints system. Clause 4(2) provides a high-level explanation of what the information and advice service should cover. Subsection (a) clearly sets out that the information and advice service that the local authority must establish and then maintain must cover information and advice on how the system provided for under part 1 of the Bill operates in the local authority’s area.

The term “system” has been used as a high-level explanation of what the information and advice service must include, without providing an exhaustive list in the Bill. There is, in addition, already an obligation on local authorities, imposed by the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, to have a system for dealing with complaints about how it discharges its social service functions. Those regulations oblige the local authority to ensure that information about how to use a complaints system is made available to the public. The regulations will continue to apply to the functions under part 1 of the Care Bill, as those will be social services functions.

Statutory guidance, currently being developed and drafted with the wide involvement of the field for consultation later this year, will provide a more detailed explanation of what should be included in the information and advice service. It will be important that people are informed of how to complain about any decision under the Bill, and the statutory guidance will emphasise that complaints are part of the system and that every local authority must have and must publicise a system for dealing with complaints. The guidance will provide greater detail on complaints against decisions made in specific circumstances and at points in the process of assessments and meeting of care and support needs.

I certainly agree with the sentiment behind the amendments. I am sure nobody would disagree with the need for a system that resolves disputes between individuals

and the local authorities in an effective manner. Having that system in place is necessary to ensure that every local authority recognises the importance of doing it properly in the first place. We want to avoid having complaints; we want the system to work as effectively as possible.

Nor do I think anyone would disagree that a degree of independence is an important element of any system to resolve disputes. With that said, it would be premature to accept amendments in relation to an appeals system at this juncture, given that we already have powers for many of the policy options under consideration. I hope to make an announcement about that soon, and I hope hon. Members will feel able to withdraw their amendments in the meantime.

Paul Burstow: We are obviously now waiting with bated breath for that announcement. I hope that it will be as soon as possible. It is helpful to rehearse the pre-existing powers and how they might be used to comply with the 2009 legislation. One of the benefits of the Bill is that it is a consolidation—a simplification—of legislation, and therefore to have within it the mechanism to get redress would be an aid to understanding how the system works. Given that the legislation—believe it or not—is meant to be written in plain English, which it largely is, it would be a shame not to have the opportunity to provide such a mechanism as well.

The amendments were intended to probe the Government's intent, which I think is good, and the Government are attempting to address the concerns raised. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 73, in clause 4, page 4, line 46, at end insert—

‘(c) ensure that such advice is provided by appropriately trained individuals and to an appropriate standard.’—
(*Liz Kendall.*)

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 10.

Division No. 4]

AYES

| | |
|-----------------------|---|
| Abrahams, Debbie | Malhotra, Seema |
| Esterson, Bill | Morris, Grahame M. (<i>Easington</i>) |
| Kendall, Liz | Munn, Meg |
| Lewell-Buck, Mrs Emma | Reed, Mr Jamie |

NOES

| | |
|--------------------|---------------------|
| Burstow, rh Paul | Penrose, John |
| Jones, Andrew | Poulter, Dr Daniel |
| Lamb, Norman | Stephenson, Andrew |
| Morris, Anne Marie | Wheeler, Heather |
| Newton, Sarah | Wollaston, Dr Sarah |

Question accordingly negated.

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

Meg Munn: The clause is enormously important, because time and time again people who are struggling with care responsibilities tell me that they do not know what help there is, what advice there is and what they

should be doing. Often, people get to the point where the level of care and the need is so great that they can hardly lift their head up to go and get that advice and information. So, a service that provides a wide range of advice, that is very visible and that enables people to get little bits of help early on is vital.

I do not disagree in any way with my Front Benchers' concerns about financial issues, but those issues will affect people who are far into the system and looking at full-time care of some nature. The much wider range of issues affects people who are providing care for their relatives, and they probably do not even think about it as care. They will not see themselves as a carer and they will not have any idea that services are out there that might help them. Sometimes, that help might just be flagging up a service to help with gardening or cleaning—the small bits of support that take pressure off a family in the early stages of need. I hope that this clause will do as much for those people as it will for those who need much more significant care.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

PROMOTING DIVERSITY AND QUALITY IN PROVISION OF SERVICES

Paul Burstow: I beg to move amendment 32, in clause 5, page 5, line 18, after ‘of’, insert ‘appropriate’.

The Chair: With this, it will be convenient to discuss the following: amendment 33, in clause 5, page 5, line 37, at end insert

‘, in particular by collecting information from users as well as providers to inform assessment of the quantity, quality and appropriateness of services and support provided.’.

Amendment 79, in clause 5, page 5, line 40, at end insert—

- ‘(g) the importance of ensuring the diversity of the market, to ensure that adults with needs for care and support have a choice of types of providers of services, such as the choice between—
- (i) private sector providers of services;
 - (ii) third sector providers of services;
 - (iii) public sector providers of services; and
 - (iv) mutual or co-operative providers of services.’.

Amendment 81, in clause 5, page 5, line 42, after ‘sufficient’, insert ‘and appropriate’.

Paul Burstow: Amendments 32 and 33 are about ensuring that services meet the well-being principle and the outcomes that people want to achieve for themselves, and that services are right for them. I have been approached by a number of organisations with examples that speak to this point about the appropriateness of a service. For example, deafblind people, particularly those who are born deafblind, have specialist needs. They need day services, residential or supported living and support from communicators, guides or interveners. Sadly, however, all too often deafblind people are offered services that are not designed with them in mind; instead, they are offered services designed for people who may have one sensory impediment but not two or more. As a result,

[Paul Burstow]

deafblind people do not have services commissioned for them, and they are invited to use other, inappropriate services.

Another example is that of people diagnosed with multiple sclerosis, in particular those who receive the diagnosis in their late 20s and those with the secondary, progressive form of the disease. In such cases, there can be pressure on the individual to accept an inappropriate care setting, perhaps a residential care home. The majority of residential care homes in this country cater for older people and, to one degree or another, are designed and tailored to meet their needs.

Another example brought to my attention is that of an outgoing and fun-loving 55-year-old lady with Angelman syndrome, which is a rare genetic condition that affects the nervous system and causes severe physical and intellectual disabilities. In this lady's case, no appropriate accommodation was apparently available at the time of assessment, so she was placed in residential care for older people. She is 55 years old. She is not an older person. Worst still, she was strapped into her wheelchair all day. One can only just begin to scratch the surface of understanding just what that would mean for her—bring trapped in a home and in an environment that was really not appropriate. I am pleased to say that eventually her case was reviewed, and that led to the right accommodation being made available.

Amendment 33 would place a duty on local authorities to collect data that would support them in their market-shaping duties. It would create a duty to understand and shape the diversity of providers and range and choice of types of services to meet a diverse range of individual needs and wishes. As part of that, the White Paper raised the issue of contracting by the minute and 15-minute visits. The Minister will be aware of the work that Leonard Cheshire Disability has been doing to highlight its concerns, and of the concerns of a large number of organisations and charities that work for disabled people and with older people, about this poor practice. The Minister has been clear about the desire to eradicate it. The collection of data is not the be-all and end-all of addressing the issue, but it helps to understand how the local care market is operating. In that sense, it is an aid to better delivery of the purpose of the legislation. We are talking about bad commissioning practice, which goes back to the earlier point that we will return to later.

There are also other ways in which 15-minute contracting can be removed. I briefly cite the example of Wiltshire council. By visiting and talking to its officials, I discovered that it has moved from a traditional approach to contracting such services to one that is focused on outcomes. That focus has allowed the council to concentrate on restoring function and independence and promoting well-being. It employs no one on zero-hour contracts, which is possible even in a resource-constrained world. Local authorities can do that by doing things differently and having a political will.

Dr Sarah Wollaston (Totnes) (Con): Does my right hon. Friend agree that the distance from one appointment to another is also an issue, particularly in rural areas, where it puts many health care assistants below the minimum wage? As a result, it is almost impossible to find a health care assistant in some rural areas.

Paul Burstow: Absolutely. That was one of the motivating factors behind the redesign of services in Wiltshire, and I recommend that other local authorities look at what Wiltshire council has done. Services are still being implemented and delivered, but by consolidating the number of contractors, focusing on outcomes and empowering the front-line workers to plan with the individual the care and support pathway back to independence, the council is making the job much more rewarding. Removing zero-hour contracts ensures that workers who have to travel miles between appointments are not penalised.

5 pm

Anne Marie Morris: The right hon. Gentleman is being generous with his time. What he says about trying to improve the genuine choice and diversity that is available is much to be commended, and I support the amendments that he has tabled. Does he agree that we have perhaps come to a time when we should review splitting commissioning and provision, as we do in the NHS? In social care, a local authority can be both a commissioner and a provider. Ensuring true choice and diversity will therefore be difficult because, inevitably, local authorities will have an inherent conflict of interest. Is this the time to make that consideration?

Paul Burstow: The hon. Lady raises an important issue, and it may be beyond the narrow confines of the two amendments. Most local authorities now commission, and 80% of care in this country is provided by the private sector, and another proportion is provided by the independent sector. Local authorities provide very little care directly; most of what they provide is assessment services and perhaps some initial re-ablement services.

Fundamentally, the amendments are about basic human dignity and finding mechanisms by which the objective in the White Paper, the concern of the draft Bill scrutiny Committee and the concern of the Minister are translated into tangible action that addresses the 15-minute contracting issue. I look forward to the Minister's response.

Liz Kendall: I will follow on from the right hon. Gentleman's points on the diversity of providers in social care.

Amendment 79 would require local authorities to ensure a diversity of providers from the public, private and third sectors and from mutual and co-operative organisations. Some of the best home care providers that I have come across are mutually, co-operatively owned or employee-owned and led organisations such as Sunderland Home Care Associates, which by genuinely involving staff in determining what the organisation is doing and how resources are used, and by ploughing money back into training, has reduced high turnover rates. The staff are very committed and are paid above the minimum wage.

There are some important developments that we should see, not just in home care visits. As hon. Members may know, organisations such as Shared Lives Plus essentially help families to take older and disabled people into their homes and lives as members of the family. At Shared Lives Plus, I have met shared life carers in Leicester. I met a fantastic couple who have had many people to stay with them, sometimes during the day and sometimes permanently. Those people are older people with learning disabilities who were considered

to be challenging in institutional settings but, of course, were not when they got personalised care and support and were able to say things such as what they want for lunch or what they want to do with their day and were able to develop a personal relationship.

Many organisations working in the care sector—we have been contacted by Leonard Cheshire Disability—are concerned that the Bill needs to take steps to ensure the diversity of service providers. It is interesting that the CQC's review of the quality of care services is increasingly finding better outcomes from smaller providers, but many councils are increasingly buying care and services support from larger providers that might be able to offer a cheaper rate but are not paying staff the minimum wage, let alone a living wage, because they are not paying them for travel time. Those providers are not getting the quality of outcomes; they are doing the 15-minute home visits. There is a real concern, as Leonard Cheshire Disability has said, that if proper attention is not paid to that issue in the commissioning process, many smaller providers of high-quality services that really work for disabled people may be forced out of the market.

Bill Esterson: That quote is particularly important because the amendments are designed to ensure that the most vulnerable in our society, who most need help, receive the best quality of care. They have a right to that and they deserve it, but at the moment, the opposite often happens. We must do something about the work force and the organisations that employ people in the care sector. My hon. Friend gave great examples of how to do that. That should happen right across the sector, which is why the amendments are so important.

Liz Kendall: I absolutely agree with my hon. Friend. The hon. Member for Newton Abbot—who is chatting to the Whip—and the hon. Member for Totnes raised the commissioning process, and the right hon. Member for Sutton and Cheam spoke about local councils commissioning for outcomes. We all want to see that happen. The reason why we have tabled the amendment, however, is that the Care Quality Commission used to carry out quality checks on how councils commissioned care to see whether they were doing so effectively but the Bill removes that element of the CQC's role, which is a real problem. We are all in favour of devolution and giving local government more responsibilities, but we must be able to check the quality of a council's commissioning process.

Norman Lamb: The Care Quality Commission will still be able to do themed inspections on specific issues of concern. It is important that those powers are exercised in order to hold the commissioning of local government to account.

Liz Kendall: The Minister will know that themed inspections tend to focus on groups of particular users.

Norman Lamb: Not necessarily.

Liz Kendall: That is how it has worked in the past. The Government have made NHS England responsible for ensuring that CCGs commission effectively and to good-quality outcomes, but no such body will check that councils are doing the same. Hon. Members who

have worked for councils, or who have perhaps been cabinet leads for councils, will know that it is possible to change how services are commissioned. There must be some ability to check that that is happening.

Amendment 79 is designed to ensure that the Bill contains a clear requirement for councils to commission from a diversity of providers, so that innovative smaller organisations, which cannot compete with big private companies that may undercut them, are not crowded out. I am not saying by any stretch of the imagination that all private companies do so, but smaller providers are concerned that they will be crowded out. In the context of the CQC's specific role in monitoring councils' quality of commissioning, the amendment is vital.

Amendment 81 echoes many of the points that the right hon. Member for Sutton and Cheam has made. Giving someone a sufficient service is not the same as giving them an appropriate one. People may think that that is hair splitting, but appropriate is a much better word, and we bother about words.

Mrs Emma Lewell-Buck (South Shields) (Lab): It is a pleasure to serve under your chairmanship, Mr Rosindell. I want to speak briefly to amendments 79 and 81. It is essential to the personalisation agenda that was introduced under the previous Labour Government that people can make informed decisions about their care and support, and that they can choose from a diversity of providers. It is understandable, because of austerity measures and rising demand for adult social care services, that local authorities often feel pressurised to default to the cheapest service provider, but this can be of huge detriment to the service user. It leads to an effective monopoly for the cheapest provider as alternatives leave the market. This is obviously made worse if there is a collapse of provision, such as that experienced in the case of Southern Cross. Not only does this impact on service user choice, but it means that those with more complex and specialist needs may no longer be able to access appropriate services. They may have to move out of their locality and go elsewhere at greater cost.

For this reason I support my party's amendments. There needs to be a requirement on the face of the Bill making it incumbent on local authorities to ensure not just market diversity, but equality of services. I hope that in the spirit of common purpose shown so far throughout the Committee, the Government will support these amendments also.

Norman Lamb: It is getting rather boring, but again I agree with virtually everything that has been said by the contributors to this debate. My right hon. Friend the Member for Sutton and Cheam drew attention to what is happening in Wiltshire—a very interesting change from commissioning on a time basis, which has the inevitable consequence of a race to the bottom, with the cheapest offer winning the contract, which may well end up cutting corners. The hon. Member for Totnes made the point that such commissioning often ends up with care workers receiving pay that is far too low and not being paid the minimum wage because they are not paid as they travel between visits.

A recent HMRC inspection of the care market found quite widespread failure to comply with the national minimum wage. I regard that as totally unacceptable and it has to be confronted. When we see what is being

[Norman Lamb]

done in Wiltshire, with the focus on outcomes, quality and results for people, and individuals being paid a salary rather than an hourly rate, we see how it should be done in the future. The Department is working closely with the Association of Directors of Adult Social Services and with the Local Government Association to ensure that we get best practice commissioning across the country.

In tabling amendments 32, 81, 79 and 33, my right hon. Friend the Member for Sutton and Cheam and the hon. Members for Leicester West and for Copeland bring to the attention of the Committee the important role that local authorities have to play in promoting diversity and quality in the market of care and support services for people in their local area. To support choice and control for individuals and to improve quality of care, it is critical to have a range of types of care and support available locally and that the market they service is able to grow and adapt over time to meet people's needs.

The Bill marks the first time that local authorities' responsibilities to promote the market in local care and support services have been captured in law. That is an incredibly important advance. This recognises the importance of ensuring a variety of high quality services to meet the needs and preferences of all local people, not just those whose care is arranged by the local authority.

Clause 5 sets out the local authority's core duty to promote the effective and efficient operation of the market as a whole, with a particular focus on diversity, quality and sustainability. The duty is about ensuring that the market meets the needs of local people with a choice of quality services, not just promoting a market for its own sake.

Bill Esterson: Does the Minister agree that one of the roles of local authorities in ensuring service quality is to set the benchmark by its own services, as long as those services are set at a very high level? That is a way of raising standards in all sectors.

Norman Lamb: Services, wherever they are, if they happen to be provided by the local authority, should be set at a high standard and quality. The point that my right hon. Friend the Member for Sutton and Cheam makes is that in the vast majority of areas 80% of care—I think that was the figure—is now provided by providers other than local authorities, so it is becoming a minority pursuit. My hon. Friend the Member for Newton Abbott raised the question of separating commissioning from provision. In many respects I think that is a good thing, because the commissioner can then, without fear or favour, hold those providers to account to ensure a high standard of provision.

5.15 pm

The duty is about ensuring that the market meets the needs of local people with a choice of quality services; it is not about promoting a market for its own sake. The focus on quality should be understood in a broad sense. High quality services will be fit for purpose and appropriate to an individual's needs. When facilitating their local markets, local authorities must consider the demand for services in their area and therefore what people actually need.

With amendments 32 and 81, my right hon. Friend the Member for Sutton and Cheam and the hon. Members for Leicester West and for Copeland raise the important issue of making sure that, in shaping local markets, local authorities focus on ensuring that people have a choice between available services that are appropriate to their needs. I would like to take this opportunity to reassure them that it is implicit in the clause as it stands that appropriateness is an important component of quality. In fulfilling their duty, it is vital that local authorities ensure that people have access to a wide and diverse range of service providers when considering how their needs may be appropriately met, as emphasised by the hon. Members for Leicester West and for Copeland in amendment 79.

The shadow Minister made the point that mutuals and social enterprises—excellent organisations such as Sunderland Home Care Associates, which she mentioned—with a social mission and purpose, but independent and often more fleet of foot than local authorities have been in the past, can often demonstrate excellent standards of care. She also drew attention to brilliant organisations such as Shared Lives Plus—we often find that people who have been in institutional care, leading a pretty miserable life, I suspect, end up growing as individuals when they become part of a family. That is an inspiring concept.

However, we do not think that it is appropriate to specify in the Bill the types of organisation that make up a diverse range of providers as they will vary, depending on the specific conditions and communities in a local authority area. We could also exclude new future types of organisation that might evolve, potentially in response to moves to integrate health and social care and, critically, in response to the personalisation of services. I would like to take this opportunity to reassure my right hon. Friend the Member for Sutton and Cheam and the hon. Members for Leicester West and for Copeland that through supporting programmes and guidance we will emphasise the importance of diversity in types of provider organisation within the contexts of individual local authorities.

With amendment 33, my right hon. Friend the Member for Sutton and Cheam has emphasised the need for local authorities, in fulfilling their duty to shape local markets, to consider engaging with the adults using services, their carers, and providers. The Bill requires local authorities to consider and understand how providers can meet current and future demand for services in their area, and the importance of fostering innovation and improvement. Consequently, I would like to reassure my right hon. Friend that we do not believe it would be possible to gain that full understanding without engaging providers, adults who are using care and support services, and carers. Again, I am happy to make that clear in guidance.

I hope that I have succeeded in reassuring the Committee that the Bill as it stands already places sufficient requirements on local authorities to work with people and providers in their areas to develop sustainable and high quality markets in care and support services. I therefore ask my right hon. Friend and the hon. Members for Leicester West and for Copeland to withdraw their amendment.

Paul Burstow: Briefly, I am grateful to the Minister for his response to this helpful debate. It is useful to know that he will clarify a number of these issues by way of guidance. However, I ask him to reflect a little further on appropriateness.

If that is not in the Bill because it is implicit, I accept that, but it is also not in the explanatory notes. Therefore, when it comes to the construction and understanding of this part of the Bill, what the Minister said today was helpful, but that will not be enough if that is not repeated in the other documentation that will be used by the practitioners who will implement this measure.

I therefore request that the Minister gives that some further thought to ensure that we do not lose sight of that point. There are some really quite tragic cases where people are not getting appropriate services; in fact, what they get is far from that. However, with those

remarks, and in the spirit in which the Minister constructively engaged with the debate, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned.—
(John Penrose.)

5.21 pm

Adjourned till Tuesday 14 January at five minutes to Nine o'clock.

Written evidence reported to the House

CB 01 Age UK

CB 02 Macmillan Cancer Support

CB 03 Imogen Parry

CB 04 United for All Ages

CB 05 Inclusion London

CB 06 Marie Curie and Help the Hospices

CB 07 Tim Kendall

CB 08 Hampshire Law Society

CB 09 The College of Social Work

CB 10 David Hawker