Public Bill Committee

CHILDREN AND SOCIAL WORK BILL [LORDS]

First Sitting
Tuesday 13 December 2016
(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Clause 1 agreed to.
Clause 2 under consideration when the Committee adjourned till this day at Two o’clock.
No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 17 December 2016
The Committee consisted of the following Members:

**Chairs: MRS ANNE MAIN, † PHIL WILSON**

† Caulfield, Maria *(Lewes)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Debonnaire, Thangam *(Bristol West)* (Lab)
† Fellows, Marion *(Motherwell and Wishaw)* (SNP)
† Fernandes, Suella *(Fareham)* (Con)
Green, Kate *(Stretford and Urmston)* (Lab)
† Hoare, Simon *(North Dorset)* (Con)
† Kennedy, Seema *(South Ribble)* (Con)
† Lewell-Buck, Mrs Emma *(South Shields)* (Lab)
† McCabe, Steve *(Birmingham, Selly Oak)* (Lab)
† Merriman, Huw *(Bexhill and Battle)* (Con)
Milling, Amanda *(Cannock Chase)* (Con)
† Siddiq, Tulip *(Hampstead and Kilburn)* (Lab)
† Syms, Mr Robert *(Lord Commissioner of Her Majesty's Treasury)*
† Timpson, Edward *(Minister for Vulnerable Children and Families)*
† Tomlinson, Michael *(Mid Dorset and North Poole)* (Con)
† Whately, Helen *(Faversham and Mid Kent)* (Con)

Farrah Bhatti, Katy Stout *Committee Clerks*

† attended the Committee
Public Bill Committee

Tuesday 13 December 2016

(Morning)

[PHIL WILSON in the Chair]

Children and Social Work Bill [Lords]

9.25 am

The Chair: Before we begin line-by-line consideration, I have a few preliminary announcements. Please switch all electronic devices to silent. Tea and coffee are not allowed during sittings.

We will first consider the programme motion on the amendment paper. We will then consider a motion to enable the recording of written evidence for publication. In view of the time available, I hope that we can take those matters formally, without debate.

Ordered,
That—
(1) the Committee shall (in addition to its first meeting at 8.55 am on Tuesday 13 December) meet—
(a) at 2.00 pm on Tuesday 13 December;
(b) at 11.30 am and 2.00 pm on Thursday 15 December;
(c) at 9.25 am and 2.00 pm on Thursday 10 January;
(d) at 11.30 am and 2.00 pm on Thursday 12 January;
(e) at 9.25 am and 2.00 pm on Tuesday 17 January;
(2) the proceedings shall be taken in the following order:
Clauses 1 to 32; Schedule 1; Clause 33; Schedule 2; Clauses 34 to 50; Schedule 3; Clauses 51 and 57; new Clauses; new Schedules; Clauses 58 to 64; and remaining proceedings on the Bill; and
(3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 17 January.—

Edward Timpson.

The Chair: The deadline for amendments to be considered at Thursday’s sitting of the Committee was rise of the House yesterday. The next deadline will be 4.30 pm on Thursday 5 January, for the Committee’s first sitting after Christmas, on Tuesday 10 January. The Clerks will circulate an email about arrangements for tabling amendments during the recess.

Resolved,
That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—

Edward Timpson.

The Chair: Copies of written evidence that the Committee receives will be made available in the Committee Room.

We now begin line-by-line consideration of the Bill. As a general rule, my fellow Chair and I do not intend to call starred amendments. The required notice period in Public Bill Committees is three working days, so amendments should have been tabled by rise of the House yesterday for consideration on Thursday. The selection list for today’s sittings is available in the room and on the website. It shows how the selected amendments are tabled.

Please note that decisions on amendments do not take place in the order in which they are debated but in the order in which they appear on the amendment paper; in other words, debate occurs according to the selection and grouping list. Decisions are taken when we come to the clause affected by the amendment.

In line with the resolution of the Programming Sub-Committee, new clauses will be decided after we have finished with clause 57 and before we move on to clause 58 and subsequent clauses. I shall use my discretion to decide whether to allow a separate stand part debate on individual clauses and schedules following the debate on the relevant amendments. I hope that that explanation is helpful.

Clause 1

CORPORATE PARENTING PRINCIPLES

Mrs Emma Lewell-Buck (South Shields) (Lab): I beg to move amendment 18, in clause 1, page 1, line 8, leave out “to”. Amendments 18 to 25 impose a duty on a local authority in respect of how it carries out functions in relation to children and young people.

The Chair: With this it will be convenient to discuss the following:
Amendment 19, in clause 1, page 1, line 10, at beginning leave out “to”.
See amendment 18.
Amendment 20, in clause 1, page 1, line 12, at beginning leave out “to”.
See amendment 18.
Amendment 21, in clause 1, page 1, line 14, at beginning leave out “to”.
See amendment 18.
Amendment 22, in clause 1, page 1, line 16, at beginning leave out “to”.
See amendment 18.
Amendment 23, in clause 1, page 1, line 19, at beginning leave out “to”.
See amendment 18.
Amendment 24, in clause 1, page 2, line 1, at beginning insert “have regard”.
See amendment 18.
Amendment 25, in clause 1, page 2, line 3, at beginning leave out “to”.
See amendment 18.
Mrs Lewell-Buck: It is a pleasure to serve under your chairmanship, Mr Wilson. I welcome all Committee members to this sitting. As this is my first time on the Front Bench in a Bill Committee, I ask everyone to bear with me. I am happy to take any guidance from those in the room who are more experienced than I am.

First, I would like briefly to echo some comments made in the other place about the rushed pace and hurried nature of the Bill. Noble Lords expressed concern that the Bill had not been carefully thought out; they were right, of course, because thanks to their diligent work the Bill before us is markedly different from the one that was introduced. The legislation appears not to have been made in response to any particular burning issues or needs—nor, despite its being a Bill about children and social workers, does it appear to be built on extensive consultation with children or social workers.

Steve McCabe (Birmingham, Selly Oak) (Lab): My hon. Friend commented on how extensively the Bill has changed; my understanding is that we are on more or less the fourth version. If there was extensive consultation, did, I fear that would indicate that they had fallen so substantially before it got here?

Mrs Lewell-Buck: That is a question that the Minister might answer. I hope that the Bill will be changed again after our deliberations in Committee—so there may well be a sixth or seventh version.

Michael Tomlinson (Mid Dorset and North Poole) (Con): Does the hon. Lady acknowledge that part of the reason for a Bill Committee, whether in the Lords or the Commons, is scrutiny, and that if that results in change it shows the strength of the system, rather than weakness?

9.30 am

Mrs Lewell-Buck: It shows strength on the part of the Lords who made the amendments, but weakness in the Government who introduced a Bill in need of so many changes.

Since Second Reading last week, I have been inundated with expressions of concern that the Bill has progressed so rapidly to Committee without any sittings to take evidence from the sector or agencies that work closely with vulnerable children. Neither the Opposition nor the sector and the agencies working in the field feel particularly comfortable about the Bill’s passage through Parliament. My amendments would strengthen the wording, in expectation of the local authority’s having an active duty to make the provision in question, and remove the weaker, passive expression, “have regard to”.

Of course, when Labour was last in government, it introduced the first ever statutory framework for care leavers, the Children (Leaving Care) Act 2000, and followed that with the Children and Young Persons Act 2008. It is clear that the party is committed to children who are leaving care. We welcome any measures that make improvements for the thousands of care leavers, whose numbers are due to grow—bearing in mind that the March figures for looked-after children were the highest since 1985, at 70,440. It is more vital than ever to get support for care leavers right.
at the very first hurdle in terms of good practice. I do think, however, that it is important to give the principles the weight that they deserve by ensuring that they are as robust as possible.

Flexibility in practice is important, but strengthening the wording in no way prohibits local authorities from carrying out their functions as they see fit. If a new system is to become embedded in a nationally uniform way and not to become another postcode lottery, it is crucial that local authorities know from the outset that the corporate parenting principles are a priority and not an option. Too often, the services that children most in need of state help receive are reduced to a postcode lottery. That can be seen in the funding for children in need of help and protection: the local authority with the highest funding has available more than 15 times the funding per child than the most poorly funded authority.

We are concerned that the corporate parenting principles as drafted will amount to another postcode lottery. Simply requiring local authorities to “have regard to” the principles of corporate parenting, rather than there being a statutory duty, will add to the risk. When local authorities must only have regard to principles, the serious risk is that only those local authorities with the resources that others do not have will be able to deliver. To address this, the Government should guarantee a legal duty to abide by the corporate parenting principles to deal with the underlying challenges facing local government—challenges of the Government’s own making.

Corporate parenting is one of the most important roles that a local authority has. Local councillors take the responsibility extremely seriously. It is important that the role is not diluted and remains closely linked to democratic accountability. However, the principle of corporate parenting cannot simply end with local authorities. All agencies working closely with looked-after children and care leavers, although they are not corporate parents, should co-operate in support.

Children who rely on the corporate parenting principles will often have complex needs. Local authorities alone will not always be able to meet those needs. A full range of agencies, despite not being corporate parents themselves, will need to work in co-operation to support those young people’s complex needs. In particular, health and education have a vital role in ensuring the best possible outcomes for children in care. Once again, however, the Government have not gone far enough with the principles to ensure that young people in the care of the state will get the support that they need.

We welcome and support the principles of corporate parenting, but the Government seem to be simply hoping that new responsibilities for local authorities “to have regard” will be enough. In reality, unless the principles are a duty, they will for some children remain meaningless—empty words in an Act of Parliament, without any real impact on their lives. Those children need actions and not words, and “having regard to” something rarely translates into real action.

The Minister for Vulnerable Children and Families (Edward Timpson): It is a pleasure to serve under your chairmanship, Mr Wilson, both this side of Christmas and in the new year. In the run-up to Christmas, I am looking forward to a cracker of a Committee, full of joy and, I hope, understanding.

I know the hon. Member for South Shields will be wondering what present I have brought for her this year, but I will wait to hear what she wants first. I apologise in advance if what she asks for is either out of stock or outside my budget range. I will listen carefully to the case she makes and do my best to try and fulfil her wishes.

I am also grateful to the hon. Lady for this opportunity to re-emphasise the importance of clause 1, which in many ways is the beating heart of this Bill. The intention behind amendments 18 to 25 is to ensure that the corporate parenting principles cannot be ignored and are meaningful. I am equally determined to ensure that. That is why the clause states that a local authority “must...have regard to” the needs identified in the clause as the corporate parenting principles, rather than simply “may” have regard to them. A local authority must take account of the needs articulated in subsection (1)(a) to (g) whenever they carry out any local authority function in relation to looked-after children and care leavers.

Framing the duty in terms of “having regard to” is the right approach. Local authorities already have a range of statutory duties in relation to looked-after children and care leavers that derive from the Children Act 1989 and its associated regulation, which set out a long list of statutory duties that underpin our current child protection system and also create a strong and robust system within which the corporate parenting principles may be operated.

Steve McCabe: It is an honour to serve under your chairmanship, Mr Wilson. If the principles are the beating heart of the Bill, will the Minister take some time to explain the major distinction between the seven principles and the duties in the 1989 Act? On the one hand we have clear duties imposed on the local authority, and on the other we have a new piece of legislation setting out new principles that local authorities must only “have regard to”. The implication is that one is an obligation and the other is simply something that they should have regard to. What is the distinction between the duties and the principles that made it necessary for the Minister to bring these principles forward?

Edward Timpson: I am grateful for the hon. Gentleman’s question, because it is important that local authorities understand how this sits within their wider duties as the corporate parent for children in their care.

The principles do not sit in isolation. Clause 1 ensures that existing local authority duties and responsibilities for looked-after children and care leavers are carried out with these principles in mind. It requires local authorities to consider how they carry out all their functions in relation to looked-after children and care leavers. The principles sit above the local authority’s substantial current duties towards looked-after children and care leavers within existing legislation. Those duties remain unchanged; the corporate parenting principles are intended to inform how local authorities fulfil those duties and promote a culture in which all parts of the local authority contribute to their role as corporate parent.
The hon. Gentleman will know as well as I do from his period shadowing me and the time he has spent talking to local authorities and children in care that we are trying to ensure that the responsibility for children in a local authority’s care does not just sit at the door of social workers; it should be the responsibility of the whole council under the seven principles we have set out. The principles give lead members for children’s services and independent reviewing officers a lever to help to achieve just that, both at a strategic level and for individual young people. It is important that the Committee knows that statutory guidance—we have provided a draft—will underpin the principles to make them as clear as possible.

9.45 am

Local authorities also carry out a range of other provision functions, including housing, council tax and so on, which can have an impact on looked-after children and care leavers. Importantly, the principles do not duplicate or replace those duties; they are there to inform, in a proportionate and flexible way, how the existing duties should be carried out. In other words, when carrying out all existing local authority responsibilities, they must pay attention to the seven key needs in subsection (1)(a) to (g).

Simon Hoare: My hon. Friend mentioned local authorities on a number of occasions in relation to the clause. Subsection (3)(a) to (f) sets out what local authorities are, but are county borough councils, such as Cheltenham Borough Council, also included? It mentions district councils and London borough councils, but there is no reference to shire boroughs.

Edward Timpson: My understanding is that it is relevant to borough councils such as the one my hon. Friend represents, but is it not also relevant to district councils? Does he think that the clause is clear?

Steve McCabe: Further to the point made by the hon. Member for Faversham and Mid Kent, would not the receiving authority also be bound by the corporate principles, so that if a child were placed outside the borough, the receiving authority would be subject to all these principles in the way it looked after the young person in exactly the same way as if they were placed in the borough?

Edward Timpson: That is a helpful clarification. For any child who is placed in a local authority’s area, the corporate parenting principles will apply to that local authority. That duty to act on their behalf in their best interests does not end or not start because the child is moving around the system.

One thing we want to get away from are the artificial boundaries that have been put up by virtue of local government lines that do not always serve children well, although it may be more comfortable for those who are carrying out those function not to think about what happens beyond their borders. That is an issue that is becoming more prevalent, with children being moved around the system and living far from their home area and their circumstances. We know that makes them extremely vulnerable. The strong message that comes out of this Committee, having heard both sides, is that...
these principles should be seen as a national cause, not just a local one, so that every local authority and all its officers ensure that they fulfil its responsibilities as a corporate parent.

Steve McCabe: I want to ensure that I have understood this. That was a very helpful contribution from the Minister and I understand exactly what he is trying to achieve, but I am curious about what would happen in a situation where a child is placed out of borough and the child or their advocate argues that one of the authorities is acting in accordance with some of the corporate principles but the other one is not and is therefore obstructing the quality of their care. How would that situation be resolved, given that the object of the exercise is to ensure the best care and to make this a national set of principles?

Edward Timpson: In some respects, in what I hope are very limited cases, that situation already arises, where a child or young person has been moved out of their host local authority and they are not content with the arrangements that have been set up in the new local authority. [Interruption.] Will the hon. Gentleman bear with me? They may want to pursue that through the advocacy that they are entitled to. We are seeking to ensure that when that situation arises, though we hope it does not in the vast majority of cases, if at all, there is whole local authority ownership of that issue and that transcends local authority boundaries. That would ensure greater consistency of approach, not just from social workers but those who are responsible for housing and other functions of that local authority.

If the hon. Gentleman looks at some of the changes that we have already made to the residential care system for children, if a child moves out of area, that has to be signed off by the director of children’s services of the host local authority and there has to be a proper level of consultation and agreement between the local authorities as to what the arrangements will be. The aim is to ensure a good and consistent level of service provided by both the local authorities, irrespective of where the child happens to be between the two of them—in some cases it is more than two.

It is important to recognise that these seven principles and the areas they cover are designed to touch every aspect of that child’s time in care. By having to have regard to those principles, we will end up in a situation in which local authorities more widely are taking account of their responsibilities more seriously, irrespective of the type of placement that child or young person is in, their age, their background, or the sort of placement that is best suited to their needs. The whole point of having statutory guidance is to try to assist local authorities in coming up with practical ways, as well as engendering the culture change we want to see, to make sure that we get the improvements that we want to see be part of.

Tulip Siddiq (Hampstead and Kilburn) (Lab): It is a pleasure to serve under your chairmanship, Mr Wilson; this is my first Bill Committee, so please bear with me if I ask questions that seem obvious. I understand that someone could be moved out of their local host borough. If they move to another borough, who has the primary responsibility for the child and where is their assigned social worker: in the host borough or the new borough?

Edward Timpson: The original local authority where that child was taken into care continues to have overall responsibility for their care. That is why it is important that they co-ordinate very closely with the receiving local authority to ensure that the child is cared for as well as they possibly can. When that breaks down, it is often a consequence of the host local authority not having that real sense of responsibility and, in a sense, passing that responsibility on to the receiving local authority. That should never be the case.

In my previous life as a family law barrister, I was involved in cases where local authorities were unaware of where a child was living in the local authority to which they had been transferred. That is unacceptable, and it is exactly the sort of issue that Ofsted would be interested in when inspecting a local authority. What we are really trying to push for with these principles is to ensure that we get that continued level of interest, responsibility and determination, with local authorities still seeing those children as a high priority when fulfilling their role as corporate parent. That should never be diluted because the child happens to be moving around the system geographically.

Having grown up with foster siblings, I also know how important it is to demonstrate consistently that someone cares for and supports these children and young people; that someone worries about their safety, their relationships and their aspirations, and that they will help them realise their ambitions. Most children and young people are fortunate to have families who do that for them, but I want that for looked-after children and care leavers, too. As the local authority stands in place of these children’s parents, it is important that they should seek to act as any good parent would, as I said a few moments ago. If we take an examination of Ofsted reports that tell us where that is done well—Trafford, Hackney, Hertfordshire and Lincolnshire—we see that that is where corporate parenting is at its strongest. That is what this clause is designed to do, and what I believe it will achieve.

As was the case in the other place, this group of amendments seeks to ensure that corporate parenting principles are meaningful and practical. I believe that they are. Ofsted already has corporate parenting firmly on its radar. The inspection framework refers to corporate parents nine times, and I have no doubt that inspectors will have these principles clearly in their sights when they assess how well a local authority fulfils its corporate parent role. I have already had the pleasure of discussing this clause with Ofsted’s lead on social care, Eleanor Schooling, and I am confident that they will understand and want to test how local authorities are responding to these new principles.

As well as the wording of the clause, local authorities and Ofsted will have the statutory guidance that will be made available under this clause. As I have alluded to, that will include more detail on how the principles will work in practice, and the importance of embedding them within the culture of the organisation, driven by strong leadership from the top, as well as examples of how each principle could be applied on the ground. We plan to consult formally on draft guidance in the new year.
10 am

Looked-after children deserve the best possible start. Local authorities, as their corporate parents, have a responsibility to ensure that they adopt an approach to facilitate that happening. That is why clause 1 is a pivotal clause in the Bill. I hope that all I have said provides the reassurance the hon. Member for South Shields is seeking, and that she will withdraw her amendment.

Steve McCabe: I do not want to take up too much of the Committee’s time. Having listened to the Minister, I am in no doubt about his aspirations. I also had the benefit of shadowing his post in the previous Parliament, and I have no doubt that his actions are well intentioned. However, I wonder whether he will be able to achieve his ambitions with this set of proposals, which is why the amendment tabled by my hon. Friend the Member for South Shields is of such significance. The danger here is that we have a set of words but no guarantee that they will translate into action.

I would have liked the Minister to explain to the Committee why there are seven principles in the first place. There were three others suggested in the House of Lords, but they were rejected out of hand. The Minister has made no reference to those whatsoever, and we have been left almost short-changed in terms of the information we have. The danger of not making this a duty is that although the Minister might think that this is the heartbeat of his legislation, to other people it looks like window dressing. The statute books are littered with children’s legislation that has been nothing more than window dressing.

That is why we should take advantage of this opportunity to probe exactly what these principles will do. If they are that important, why is the Minister not prepared to insist that local authorities should act on them? It is hard to find fault with their general wording, but I wonder whether in fact they give local authorities a great many opportunities to dance around the issues.

I note that the Minister spoke of his desire not to straitjacket local authorities, which was his reason for saying that they must “have regard to” the principles, rather than imposing them as duties. He took as his example clause 1(1)(e), about having high aspirations. I want to probe that a little further to see what he really has in mind. Are those aspirations governed by the local authority’s view of what might be high aspirations?

Once a child comes into care, their health is likely to deteriorate, particularly their mental health, which has a 50% greater chance of resulting in some kind of episode. Their education is likely to deteriorate, which is why we have created the post of virtual school head. That is why there was so much emphasis in what the Minister did in the previous Parliament on trying to raise children’s educational aspirations. Whose aspirations are we talking about: the local authority’s, the child’s, their natural parents’ or their advocate’s? Who will determine what is a high enough standard for that child? The rest of us would determine for our own children, and we would want the absolute best for them. But when the Minister talks about aspirations, whose decision will be the determining factor?

The Minister talks about not wanting to straitjacket the local authority. He gave an interesting example about refuse collection not necessarily being an area where one would want to tie the local authority into aspiration. On the surface, I would agree with him. He went on to say that in the case of housing that might be different. What about the quality of housing that a young person is placed in? Does that not affect aspiration? What about the level of the repair service they receive, if the place is in a difficult, high-rise block with mould and water running down the walls? What about the local environment that the young person is placed in? If the local authority deems it all right to put them in a run-down block of flats in a difficult part of town, where the walls are littered with graffiti and there are needles, syringes and broken bottles everywhere, does that not affect a young person’s aspiration? Should that not be something the Minister is telling us about?

Actually, clause 1(1)(e) has a huge impact on how that young person is affected. If these principles mean anything at all, should we not be leaving the Committee absolutely certain that the Minister for Children and Families is saying that the principle of aspiration, as defined in clause 1(1)(e), means that no longer will any local authority be allowed to place a child in the appalling environmental conditions that can do nothing but diminish their aspiration and affect their overall wellbeing and health?

I want to check on one other thing. In the other place, Lord Nash referred to the Minister for Vulnerable Children and Families. Has the Minister had a change of role? Has something been slightly altered? If these principles apply specifically to vulnerable young people, I wonder what that distinction is. We all know that many kinds of young people come into care, driven by many different factors, but often those who have suffered the worst neglect and abuse are the most vulnerable. If he is saying that an additional level of consideration should be applied to them, it would be good to know that.

I understand the Minister’s point—this was raised by the hon. Member for Faversham and Mid Kent—about a young person received into care by one authority who then lives in another authority. He will know as well as I do the tragedy of that. It is probably best exemplified by events in Rotherham and Rochdale. When these children, often from the south of England, are transferred to authorities in the north of England, they are completely forgotten. That is why it was possible for some of the terrible things that happened there to take place and go unnoticed. The Minister said that both authorities would have responsibility. When I pursued him on the question of conflict between authorities, he assured us that the present system is designed to cater for that. I want to raise that question once more, in relation to the point his hon. Friend the Member for North Dorset made at the outset of the Committee about the different levels of cuts and finance available to local authorities.

If a child is received into care by one local authority and then sent to live in the care of a different local authority, and if there is a set of proposals for their welfare—their education, for example, or perhaps they need counselling because of trauma they have suffered, or particular needs that were identified through an assessment following their placement—and it is deemed that they should receive a particular kind of formal support, what would happen if the local authority that received them then refused on the basis that its budget situation had since changed substantially, to the extent
[Steve McCabe]

that it could no longer afford that service? Who would be responsible for ensuring that these principles were applied? Would it be the local authority where the child is now residing, which would undoubtedly argue that the bill had to be picked up by the local authority that had received the child into care?

I raise that point because, as the Minister said at the outset, these principles are the heartbeat of his legislation. The principles are worthless unless we know exactly how they will be applied and how they will directly affect the interests of a particular child. If the Minister cannot give us a graphic description of how that would work, these are empty principles; they are not principles that underpin a better future for children. Otherwise, this is empty legislation and these are empty words on paper that will litter the walls and shelves of social work offices up and down the country and contribute nothing to the welfare of the young people we are concerned about.

The Minister should therefore consider once again whether his principles are so essential to his legislation that they should be applied as a duty to the local authority, which should have no wriggle room from addressing them. That is the only way he will ensure that he gets the outcomes that I am sure he wants to achieve.

Tulip Siddiq: I note what the Minister said about a holistic approach to looking after these children. He mentioned front-line staff and the council working together as a whole, which I agree with. I was a councillor for many years in a council that is rated in the top three boroughs in the country, and I was also a cabinet member. We faced a £80 million shortfall overall and I had to make a 30% cut to the services that I was in charge of. Although I appreciate the sentiment behind these principles and I think they are very timely and needed, will the Minister comment on the fact that councils are stretched? Front-line staff are disappearing because they cannot afford to keep them on, and councils are struggling to provide even the basic services because of the lack of funding.

This is not a political point. Councils across the country are struggling with what I saw first-hand. I appreciate the sentiment that there should be an holistic approach to looking after these children—and I agree that that should happen, because they are the most vulnerable in society—can we carry that out at a time when councils are struggling with their funding because of the cuts to local government budgets from national Government?

Edward Timpson: This debate has been helpful in teasing out a little more understanding of the purpose of the principles. I accept that the principles in themselves are not going to transform the life of every child in care. However, as I have set out, we seek to provide a strong approach that will have a positive impact, that the principles are not set in isolation. All the underlying responsibilities of local authorities remain in place.

10.15 am

As we know, there are myriad clear statutory duties on local authorities. For example, section 22 of the Children Act 1989 sets out local authorities’ general duties in respect of looked-after children, such as safeguarding and promoting their welfare and educational achievement, and ascertaining and taking due consideration of their wishes and feelings. Section 10 of the Children Act 2004 places a duty on local authorities to make arrangements to co-operate with the relevant partners in their area to promote the wellbeing of children. Section 11 of the 2004 Act prescribes the bodies and people in England who must make arrangements to safeguard and promote the welfare of children. There are, of course, many more responsibilities, coupled with a raft of guidance and regulations that provide further detail as to exactly what local authorities must do to fulfil those responsibilities.

I do not want the hon. Gentleman to come away with the impression that the corporate parenting principles in themselves are what local authorities must ensure they have regard to. Those principles overlay what is a very clear structure of statutory responsibilities that have served well since they were introduced almost 30 years ago.

Steve McCabe: I am not sure whether I have misunderstood; perhaps the Minister can help me. He is quite right to identify all those duties, but am I not right in thinking that in later clauses that deal with innovation, he plans to allow local authorities to opt out of these very duties and responsibilities? He talks about safeguards being applied to children, but he will later tell us he plans to let local authorities give those responsibilities up.

Edward Timpson: I am afraid the hon. Gentleman is wrong. If he looks at the provisions we have introduced, he will see that the sections I referred to are explicitly removed from that ability in relation to the power to innovate. He will also want to familiarise himself with the guidance, which will set out in a more practical and meaningful way how we want local authorities to behave in relation to the principles. At present, many local authorities are fulfilling those duties in a way that is very much aligned with the principles. We do not want to overlay further legislation that puts additional duties on local authorities, when they are already able to do this within the framework that is in place. This is about a shift in approach, not creating new burdens on local authorities.

The hon. Gentleman talked about aspirations. All of us have the highest possible aspirations for any child growing up in the care system, and local authorities must have those high aspirations too. That is what the clause is all about. He gave an example of a young person being placed in housing in an area of deep deprivation, with syringes lying on the floor of alleyways and so on. That, in anyone’s reading, would be wholly
inappropriate. I do not think anyone would dispute that someone placing a child in that area clearly does not have high aspirations for them. There is still, as seen in too many Ofsted reports, an acceptance of an unfulfilled level of aspiration for children and young people in that local authority’s care.

We want to put front and centre of the Bill a very clear message, backed up by the statutory guidance, to every local authority: “Whether you are a social worker, a housing officer or working in the finance department, you should have high aspirations for this young person. You shouldn’t accept second best for them, because you are fulfilling the role of corporate parent, and that should drive you on to ensure you do your very best.”

Steve McCabe: As I said, I have great respect for the Minister. There is nothing personal in what I am saying, but he knows as well as I do that there are young people around the country being put in bed-and-breakfast accommodation by local authorities, alongside alcoholics and junkies—it is happening now. If his aspiration is to put an end to that, why does not he legislate for it, rather than giving us principles that local authorities will be able to opt out of, as it suits them?

Edward Timpson: I am sure that the hon. Gentleman knows that we have already tightened the rules on the use of bed and breakfast—local government welcomed that—to try to get the right placement for each young person, depending on their circumstances. I do not want him to give the impression that the principles are the only thing the Government have introduced to try to improve experiences and outcomes for children in the care system.

I want to challenge the hon. Gentleman on his point about the health and education of children in care deteriorating during their time in care. That is not what the evidence suggests. He will have seen the report from the Rees centre, whose research showed that care has an overall positive impact on children. Those in care do better than children in need, in terms of educational improvement. There is no evidence that their health deteriorates, although of course there are individual cases where that does happen. They are more likely to have health checks while they are in care than when they are not.

I reassure the hon. Gentleman that my job title, Minister for Vulnerable Children and Families, does not affect my other responsibilities; in fact, I have even more responsibilities than I did when the name of my portfolio did not include the word “vulnerable”. Part of my mission involves the clear and consistent approach that the Government have set out in the “Putting Children First” policy paper, which the hon. Gentleman will have read. That sets out our ambition to improve services in every way, for children in care and for care leavers. [Interruption.] I see that the hon. Gentleman has the paper in front of him—he has made my Christmas.

The paper sets out a clear and comprehensive strategy for the period from now to 2020, across the system, for the people working in children’s social care, the practice system that they work in, and the governance and accountability that will ensure we know what works and what does not. As a consequence, we will have the opportunity to see more children, with the principles in place, being looked after by those charged with the responsibility. That is the right approach.

The hon. Member for Hampstead and Kilburn raised the issue of how local authorities will be able to do what we envisage, at a time when local government funding is falling overall. The amount that local authorities have been spending on child protection has risen in recent years. That is partly because the number of children in care has gone up, but also because local authorities are taking the responsibility seriously. I welcome her support for the principles, but as for the impact of funding on the quality of children’s social care services, she will have seen that there is no correlation that can be determined between the amount that a local authority spends on services, and their quality and the outcomes for children. Some of the lowest-spending authorities have the highest outcomes for children in their care, and some of the highest-spending have some of the worst outcomes.

I suggest that the hon. Lady look at Hackney, not all that far from her constituency, to see how it turned around children’s services to the extent of being able to bear down on the overall cost. The services there work earlier and better with families, reducing the number of children who come into care, which means they can spend the money they have on improving services for the children who are in their care. I challenge the presumption that if we spend more money we get better services. That is clearly not the case. Of course we need to ensure that local authorities have sufficient funding to carry out their functions, but there is also room for them to ensure that they get the best possible value for the children in their care.

Mrs Lewell-Buck: The Minister has said that spend has increased and that is not related to quality in some local authorities. How does he explain that? Does he agree with the National Audit Office conclusion that that indicates that none of his Government’s reforms since 2010 have yielded the desired results?

Edward Timpson: The hon. Lady is right to reference the NAO report, because the NAO was the proponent of the suggestion that there was not a correlation between spend and quality of service. We need to understand better why some local authorities are able to deliver better services for less money. As she will appreciate, this is a complex area, and there is still work to do to get under the skin of why the looked-after population is still rising in some local authorities but falling in others. That is partly to do with greater awareness and earlier intervention in families. In the past, particularly in cases of neglect, children were left in the care of their parents for too long.

Mrs Lewell-Buck: Will the Minister give way?

Edward Timpson: I am trying to give the hon. Lady a full explanation. Different circumstances in different local authorities drive decisions about funding and the outcomes that that funding achieves. We have recently signed a formal agreement with Ofsted so that we can more effectively share our data with one another—the NAO report asked for that—and have much more contemporaneous read-outs of how local authorities are performing. That helps them make better decisions about how to spend money and understand better as a Department what baseline funding local authorities need to carry out an efficient and effective service.
Mrs Lewell-Buck: I thank the Minister for giving way again. He touched briefly on early intervention. Does he accept that one of the reasons why more children are coming into care is perhaps that his Government’s cuts have led to a lack of early intervention services, family support work and Sure Start centres? I know from practice that those things can keep families together and prevent children from going into care.

Edward Timpson: It will be no surprise to the hon. Lady that I do not accept that proposition. As I say, this arena is more complex than that. It is worth reminding the Committee that not every child who comes into contact with a children’s centre inevitably ends up in the care system. Only a small proportion do so and have some support off the back of that. We want to capture those children as early as possible—I agree with her about that—but we must also provide targeted support for children in need who are on the edge of care so that their families get the support they need to keep them together, as Hackney has done successfully, rather than those children slipping into and sometimes bouncing in and out of the care system, which is often the worst of all worlds for them.

I pray in aid the work that we have done through the innovation programme to try to improve local authorities’ response to this difficult and complex issue. I accept that there is more work to be done, but the programme that we set out in the “Putting children first” policy paper is a good and strong response to that challenge. On that basis, I ask the hon. Lady to withdraw her amendment.

Mrs Lewell-Buck: I have listened carefully to the Minister’s response. The key thing he said, which sticks in my mind, is that these principles should be those of all good parents. Any good parent would therefore see these principles as a duty, not something to “have regard to” or ignore at will. They would not do that, and neither should any of us. I will press the amendment.

Clause 2 ordered to stand part of the Bill.

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

Amendment 26, in clause 2, page 3, line 20, at end insert—

‘(6A) The Secretary of State must publish a national minimum standard for a “local offer for care leavers”.

(6B) When developing a national minimum standard for the purpose of subsection 6A the Secretary of State must consult relevant agencies responsible for the provision of services under subsection (2).’

This amendment would introduce a national minimum standard for a local offer for care leavers, which is to be developed in consultation with relevant parties.

The Chair: We now move to clauses 27, 28 and 29. It will be for the convenience of the House if I put the Question, as set out in the amendment, to the Committee.

Question accordingly negatived.

Clause 1 ordered to stand part of the Bill.

Clause 2

LOCAL OFFER FOR CARE LEAVERS

10.30 am

Mrs Lewell-Buck: I beg to move amendment 27, in clause 2, page 3, line 10, at end insert—

‘(6A) The Secretary of State must publish a national minimum standard for a “local offer for care leavers”.

(6B) When developing a national minimum standard for the purpose of subsection 6A the Secretary of State must consult relevant agencies responsible for the provision of services under subsection (2).’

This amendment would introduce a national minimum standard for a local offer for care leavers, which is to be developed in consultation with relevant parties.
with special educational needs and disabilities, introduced the Department’s implementation of a local offer for children. This would be a good way to avoid such situations at the outset. Children should know what they are entitled to. This would give them absolute clarity and help them plan better for independence. At the time, we welcomed the principle of the local offer for learners with special educational needs and disabilities. As we recognised, it is important that those learners and their families receive the information necessary to achieve the best possible outcomes. However, two years later we have seen the local offer in practice, and it has not achieved all that it should have. Frankly, because of the lack of a national framework, we have ended up with a postcode lottery—an inconsistent and sadly often inadequate provision has therefore developed across the country. The fact that the Government have not looked at those issues and taken steps to ensure that the local offer for care leavers operates in a high-quality national framework simply suggests, perhaps, that they are willing to repeat the same old mistakes. I am in full agreement with the noble Lord Watson, who pushed for the amendment in another place. Having no common policy throughout the country is unacceptable. I argue again that the amendment is necessary. A minimum standard for the offer is needed, to serve as a framework, an undertaking, about the availability of services throughout the country.

The Minister will argue against the amendment, perhaps on the premise that the Government feel that they should not be deciding what is best for care leavers in their local area—that the local authorities and care leavers should decide themselves. That, however, is a straw-man argument. What we are asking for is simply a minimum standard so that whatever else is decided, there is a minimum level of protection for our most vulnerable children who are leaving care. A child’s transition from being in care to becoming a care leaver is a notoriously difficult process. Supporting care leavers by offering them the relevant information about services they can access is welcome. That, however, will not address the need for proactive support for all those issues and taken steps to ensure that the local offer for learners with special educational needs and disabilities is just that: an inconsistent approach and a patchwork model across the country.

Surely my hon. Friend’s argument for a national minimum standard is exactly that; it is about the very basics that we would want for every single child because we would want it for our own child.

The risk of the Government’s approach is that, although there may be examples of good practice, there are also examples of poor practice. A national minimum standard would guard against that and protect every child as we would wish our own child to be protected.

Mrs Lewell-Buck: Amendment 26 and new clauses 13 and 16, which I shall speak to, also stand in my name. Care leavers often say that they struggle with what they are or are not entitled to. This would give them absolute clarity and help them plan better for independence. In practice, I lost track of the number of times when I dealt with parents who were themselves former care leavers. I went through everything and told them what they had been entitled to and they did not have a clue. This would be a good way to avoid such situations at the outset. Children should know what they are entitled to. If there is a minimum standard, they will always know what to expect.

A minimum standard would ensure that services offered would not be withdrawn when budgets are further cut by central Government and would let the people we are discussing know that their local authority and other agencies in their area really do care about their future and are committed to it wholeheartedly. Leaving the local offer to each local authority would not achieve that. The Minister must agree that we cannot justify a single child leaving care failing to receive the information that they need.

Mrs Lewell-Buck: My hon. Friend is absolutely correct. We have seen that the implementation of the local offer for special educational needs and disabilities is just that: an inconsistent approach and a patchwork model across the country. A minimum level would be a benchmark that could never be lowered but could always be built on and improved. Surely that is the gold standard that we would want for all our care leavers. There is no evidence that introducing a set of minimum standards limits innovation and creativity; it is simply a failsafe level of care. It would give clarity to both the local authority and the care leaver on what they can and cannot expect. Care leavers often say that they struggle with what they are or are not entitled to. This would give them absolute clarity and help them plan better for independence. In practice, I lost track of the number of times when I dealt with parents who were themselves former care leavers. I went through everything and told them what they had been entitled to and they did not have a clue. This would be a good way to avoid such situations at the outset. Children should know what they are entitled to. If there is a minimum standard, they will always know what to expect.

A minimum standard would ensure that services offered would not be withdrawn when budgets are further cut by central Government and would let the people we are discussing know that their local authority and other agencies in their area really do care about their future and are committed to it wholeheartedly. Leaving the local offer to each local authority would not achieve that. The Minister must agree that we cannot justify a single child leaving care failing to receive the information that they need.
Will the Minister explain how he will ensure that the local offer will be accessible to all care leavers, whatever their circumstances when they leave care? How will he ensure that every single local authority will provide a local offer that meets the standard necessary to ensure the best possible outcomes for care leavers? Will he be taking any additional steps to ensure that there is not simply another postcode lottery that will leave a vast number of vulnerable young people unable to access the resources and support that they need? We cannot allow discrepancies in the level of care of the scale that I spoke about earlier to continue. There is no other practical way to achieve that in a timely manner.

I move on to amendment 26. As I have said, leaving care is a difficult process. Care leavers are faced with a set of difficulties that other children their age simply do not face. Is that in part why the Government introduced the local offer for care leavers that I referred to?

It is astonishing that the Bill is devoid of any mention of unaccompanied asylum-seeking children. There are more than 3,000 such children in the UK care system. According to analysis of Home Office data, nearly all unaccompanied asylum-seeking children under 16 are fostered at some point. I assume that the Committee and others would think that when those children leave care they are entitled to the same support and assistance with their transition to independence as their peers—but they are not, despite being the most vulnerable of care leavers, having fled conflicts and horrors that most us can hardly begin to imagine.

Tulip Siddiq: I thank my hon. Friend for her speech. I agree with her: when we talk about unaccompanied asylum seekers and children, we are talking about the most vulnerable in society. My local authorities, Camden and Brent, have taken in asylum seekers and are looking after children. Does she agree that putting a duty on local authorities across the country to do that would send a clear signal to the rest of the world that we are acting as a leading country and taking charge of a situation where we should be doing more?

Mrs Lewell-Buck: I welcome what is happening in my hon. Friend’s area. I agree completely with her comments. Once children who are unaccompanied asylum seekers reach 18, they are treated differently from other care leavers.

I recall working with many children who had escaped from conflict. Like children who have suffered abuse, their skin was grey and their eyes were emotionless. There was a look of permanent fear etched on their faces and they had an intense wariness of adults around them, which was reflected in their every movement and word. I have seen children slowly lose that look after being in placement for a while. The terror and sadness lifted from their overall demeanour, because that is what feeling safe and being fed, clothed, cared for and away from a traumatic and ever-changing volatile environment can do for a child.

Steve McCabe: My hon. Friend will be aware that the Home Office is conducting some inquiries into what happens to unaccompanied children who enter this country. The system has not been terribly well supervised over recent years. There is a lot of concern.

Topically, there is a lot of concern about what happens with unaccompanied children who enter this country to attend sports schools and sports colleges—whether those arrangements are properly supervised and whether they could lead to abuse. In view of that situation, is it reasonable to assume that we may see further activity to receive some of those children into care as those inquiries reach fruition? In those circumstances, would it not be wise of the Minister to prepare for that eventuality in the Bill?

Mrs Lewell-Buck: I shall come on to the absolute hash that the Home Office has made of the situation later in my comments.

After the children have been settled in placement for however long they have been in the UK, the rug is ripped out from underneath them as they reach 18 years old, when they must apply for extended leave to remain in the UK. The majority are turned down, so the place they understood to be their home is no longer their home. Worse still, the Home Office often does not get its act together and remove them, despite turning them down, so they disappear and are off the radar. The Government do not know how many care leavers are in that situation or where they have disappeared to, but it does not take long to guess that if someone is here illegally and is facing the fear of returning to their country of origin, they will go underground and be susceptible to exploitation, whether emotional, financial or sexual.

Stella Creasy: In our discussions of the Bill, we are going to come on to a number of conversations about how we treat child refugees, but the point my hon. Friend is making is simple: at the stroke of midnight on someone’s 18th birthday, they do not stop being a vulnerable young person. These are young people who we have accepted are vulnerable and should be cared for. The idea that we simply cut off all support at 18 simply does not accord with the principles behind much of the Bill. I hope that the Minister will listen to the case and think again about how we treat these young people. Someone’s turning 18 does not stop them from being a vulnerable young person.

Mrs Lewell-Buck: That is why a lot of support targeted at care leavers lasts until they are 25 years old. Someone does not stop being vulnerable simply because they have turned 18.

I was a member of the Immigration Bill Committee. I do not recall the experience with much fondness. In the consideration of that Bill, which is now an Act, those on the Labour Benches argued against what I am describing. We argued that the provisions in that Act that limit the support for care leavers subject to immigration control undermined children and leaving care legislation, and gave immigration control greater prominence over young people’s welfare.

10.45 am

Treating children in this way creates a two-tier system of support that discriminates against care leavers on the basis of their immigration status. Can the Minister really tell us today that he agrees with the Home Office that all children leaving care deserve to be supported,
except those who are leaving care as former unaccompanied asylum seekers? This Government already have a shameful record, as regards their handling of unaccompanied children. After Lord Dubs’s intervention in discussion of the Immigration Bill, he secured a U-turn and a commitment that Britain would give homes to some of the estimated 88,000 child refugees who were at the time believed to be travelling through Europe. We saw a rare glimpse of humanity from the Government but, sadly, they have hummed and hawed since then and, in the words of Lord Dubs, “done nothing discernible about it.”

The noble Lord withdrew amendments to this Bill after the Government promised to publish a strategy for the safeguarding of children by May 2017, but a few days later the Home Office introduced guidelines that seriously restrict which children would qualify under the Dubs amendment and again changed the goalposts for these children. I will not go into more detail about the Dubs amendment, because we will return to it when we discuss amendments tabled by my hon. Friend the Member for Walthamstow.

Amendment 26 would ensure that unaccompanied asylum-seeking children had to be included in the local offer when leaving care. Currently, a young unaccompanied asylum seeker leaving care will not be entitled to stay put, or qualify for benefits or students loans, and if they go on to higher education, they will be treated as an overseas student and charged fees that are generally three times higher than for others. The amendment would, first and foremost, ensure parity of services, which would reduce prejudice and discrimination in the design and delivery of the offer for care leavers and promote positive outcomes for every care-leaving child. It would show the House at its best, and I hope that the Minister and his colleagues agree.

New clause 13 seeks to ensure that access to education for care leavers improves, and to overcome some of the barriers faced by young people leaving care in accessing apprenticeship opportunities and further and higher education in comparison. For many years, the figures for looked-after children in these areas have remained stubbornly lower than for non-care leavers. We all know that this is a problem; we now need to look at what action can be taken.

In March 2016, of 26,340 former care leavers aged 19, 20 or 21, 40% were not in work, education or training, compared with 14% of all 19 to 21-year-olds. Children who have been in care are just as capable—some are more capable—of achieving as those who have not been in care, but their academic success and the number of them in employment remains stubbornly lower. A recent report by the University of Oxford said that children in care are falling way behind their peers, even in their early years. Only 13.2% of children in care obtain five good GCSEs, compared with just under 60% of all other children. Only 6% of care leavers, compared with 30% of all other young children, go to university.

Steve McCabe: I am listening with interest to the figures that my hon. Friend is quoting. Was she as surprised as I was to hear the Minister tell us that we should not be that concerned about the educational attainment of young people in care, because they are doing quite well?

Mrs Lewell-Buck: I am astonished that I had not picked up on what the Minister said. I hope that he will clarify.

Edward Timpson: Dear oh dear, Mr Wilson; we were all getting on so well. I am afraid that what the hon. Member for Birmingham, Selly Oak, has said is not a fair representation of the point that I made. I ask the hon. Member for South Shields to take in good faith the point that I made, which is that children who are in care do better educationally, in terms of improvement, than children who are on the edge of care with child protection plans. It is wrong to suggest that being in care holds back the child’s education. If we compare children in care with the most closely aligned group—those on the edge of care—they do better. That was the point that I made, and I hope that is the point that the hon. Lady will take away.

Mrs Lewell-Buck: I thank the Minister for that clarification. I am sure that Hansard will show us exactly what he said.

Tulip Siddiq: Does the shadow Minister think that the situation that the Minister described in his comparison is one that we should strive for, or should we have different standards?

Mrs Lewell-Buck: I think we should all have the highest possible standards for all our children, whether they are care leavers or not. That is something we should always strive towards.

Michael Tomlinson: I am grateful to the hon. Lady for highlighting the unemployment statistics. I am chairman of the all-party group for youth employment. Each month we look at the statistics; we will have a new set of figures tomorrow. She is right to say that the figures are too high. In fact, they are too high across the board at just under 14%. Does she recognise that, under the clause, the local plan that points towards education and employment will help in that regard?

Mrs Lewell-Buck: I think that only time will tell.

Michael Tomlinson: That is a yes, then.

Mrs Lewell-Buck: No, it is not; it is a “time will tell.” I will not spend much longer on this new clause; it is quite straightforward. It asks that the Secretary of State carries out an annual review on access to apprenticeships and further and higher education, and takes into account some of the barriers that care leavers face around fees, grants and accommodation. We know that such problems have existed for care leavers for a very long time, so it is about time we got on, looked at that, and made policies around it.

New clause 16 seeks to improve care leavers’ transition to independence by proposing various changes to welfare and benefits that would offer much needed financial support at a critical juncture. Without financial support, it is likely that a lot of the Government’s intentions towards care leavers will not amount to any real tangible changes for children leaving care. The national offer for
care leavers that I am proposing will ensure that the maximum sanction for care leavers under the age of 25 will be four weeks, in line with the current sanction regime for 16 and 17-year-olds. It will allow working care leavers under the age of 25 to claim working tax credit. It will extend the higher rate of the local housing allowance single room rate to care leavers up to the age of 25, delaying the transition to the lower shared accommodation rate that applies at 22 years. It will also amend the council tax regulations to exempt care leavers from that tax until the age of 25.

The Government’s document, “Keep On Caring”, which was published in July, states:

“Most care leavers who spoke to us talked about the problems they had making ends meet. Paying rent, Council Tax, household bills and transport costs meant that many care leavers had difficulty managing their finances and they had often experienced debt and arrears.”

Research by the Joseph Rowntree Foundation has shown that more than half of young people leaving care have difficulty managing their budgets and avoiding debt. Yet almost half of local authorities in England fail to offer adequate financial support and advice for care leavers. If local authorities are not able to help when a young care leaver needs help, where on earth are they supposed to go? Unlike many of us in this room, they have never had the option of turning to their parents, wider family, or family friends. Often, if the local authority does not help them, nobody does.

The way that the Government have applied sanctions has had a devastating effect on not only the sick and disabled, but care leavers. Between October 2013 and September 2015, 4,000 sanctions were imposed on care leavers. They are more likely to receive sanctions, and less likely to know where to go or how to appeal a decision made against them.

Stella Creasy: It is worth reflecting on that statistic in the context of my hon. Friend’s amendment. We are talking about care leavers being three times as likely to be sanctioned. If we go back to the principles she was talking about of corporate parenting and wanting the same—the best—for every child in care as we want for our own children, that suggests that those children are not getting the help that they need, and that they are also not getting financial education. There is clearly a particular issue about care leavers and the benefit system that we must address. The Bill is the ideal opportunity to do that and her amendment would fit into that metric. I hope that Government Members will think about that. Care leavers are three times more likely to be sanctioned, so clearly something is not working. We need to act.

Mrs Lewell-Buck: My hon. Friend is right. When I have spoken to care leavers who have been sanctioned, often they have not known that they have been sanctioned. What they will say is, “My money has been stopped.” They do not know where to go and they do not know what to do for help. They will sometimes bury their head in the sand, not realising that they could appeal the decision. It is therefore vital that we get it right for them.

For those who were able to get help, 60% of sanctions were overturned, which means that a high proportion of care leavers are having sanctions misapplied. I note Lord Nash’s wish in the other place for sanctions to be reduced, but I was alarmed when he showed concern that a reduction is sanctions towards care leavers might “unintentionally lower our aspirations” for them. When a care leaver has sanctions imposed through no fault of their own—often those sanctions are misapplied—I assure the Minister that their aspirations will not be anything if they cannot afford to heat their home or feed themselves, or if they end up without a roof over their head.

We also wish to make an amendment to extend working tax credit to care leavers under the age of 25. It is right that care leavers should be encouraged to engage in high-quality employment and training opportunities. However, they must be given better support to get into work and to be able to afford to work. Under the current system, only those with children or those who are disabled under the age of 25 can claim working tax credit. An assumption is built into the system that those under 25 on low incomes will be living at home with their family, where they will have access to the extra financial support that they need.

As we are all acutely aware, for care leavers, that is not the situation. It appears that the system penalises—some would even say it discriminates against—care leavers under the age of 25. Currently, care leavers in their first year of an apprenticeship could be earning as little as £3.40 an hour. I am interested to know why the Minister thinks that a young care leaver can manage to pay rent, council tax contributions and utility bills—let alone clothe and feed themselves—on such a meagre income.

For non-care leavers, restricting higher levels of support until 25 has some rationale, as under-25s often have a support network to help them. However, care leavers do not have that support network. It is not right that, when they fall into financial hardship, they suffer a shortfall in support compared with equivalent older workers, especially considering their ineligibility to receive the national living wage until they are 25.

It is estimated that the extension of working tax credit to care leavers under the age of 25 would cost a total of £27.8 million a year. Does the Minister recognise the huge strain of being liable for the full cost of running a household at a young age and the pressure that imposes on the finances of young care leavers? The payment of working tax credit to care leavers under 25 would be a significant step in closing that gap in provision.

11 am

The Opposition wish to make an amendment that would extend the higher rate of local housing allowance single-room rate to care leavers up to the age of 25, which would delay their transition to the lower shared accommodation rate at 22. The Minister will be aware that affordable, single-person accommodation is one of the categories in shortest supply in many constituencies. However, that is the pool from which we often try to find accommodation for care leavers, which is why we end up with situations such as those referred to earlier by my hon. Friend the Member for Birmingham, Selly Oak.

Currently, until the age of 22, care leavers receive the single bedroom rate, which provides them with sufficient support to rent a single-bedroom property, rather than
for care leavers; the package should be in this Bill. We should not have piecemeal legislation. I am proposing a comprehensive package of support for care leavers, and this Bill is exactly the right measure for that. We should not have piecemeal legislation in their local housing allowance after their 22nd birthday.

I acknowledge that the fact that the Departments for Education and for Work and Pensions have said that they will explore opportunities to extend the qualifying age for the shared accommodation rate of local housing allowance up to the age of 25. However, care leavers need a much stronger commitment. For how long do they have to cope and go on living with the threat of financial insecurity and the fear of losing their home?

As I have often stated, and will continue to do so, care leavers require much better financial support than non-care leavers. When most young people leave home for the very first time they are able to rely on others for support and advice. However, looked-after children have rarely experienced the best of childhoods, and it can be extremely difficult when leaving care to deal with the multiple challenges of living alone, let alone managing financially.

Sad, we are seeing a growing number of rough sleepers across the country who have previously been in the care system. We should not allow that to continue. As part of the national offer for helping care leavers to avoid financial difficulty, the Opposition are seeking to amend council tax regulations to exempt care leavers from council tax until the age of 25. Council tax poses a particular issue for young care leavers, as recent benefit changes mean that, in most areas of the country, even those on very low incomes are liable for some council tax contribution—and local authorities are deploying a rapid escalation of enforcement methods to reclaim arrears.

I am pleased that several local authorities, such as Birmingham City Council, City of Wolverhampton Council and others have introduced a council tax exemption for care leavers. I hope that other local authorities will follow their lead, but it is no good the Government asking local authorities to consider or explore the possibility of exempting care leavers from council tax when those authorities face further cuts from central Government.

Michael Tomlinson: I have the privilege of serving on the Homelessness Reduction Bill Committee, which meets for the fourth time tomorrow. That measure is a private Member’s Bill, as the hon. Lady will know, but it has Government backing. Care leavers are a prescribed group within that Bill, and will be specifically looked after in relation to homelessness advice. The Bill states: “The service must be designed to meet the needs of persons in the authority’s district including...care leavers.” Surely the hon. Lady welcomes that, and the fact that the Government are supporting that Bill?

Mrs Lewell-Buck: I thank the hon. Gentleman for his support for my amendment. I hope that I will vote with us. I am proposing a comprehensive package of support for care leavers, and this Bill is exactly the right measure for that. We should not have piecemeal legislation for care leavers; the package should be in this Bill.

Steve McCabe: I, too, welcome the comments of the hon. Member for Mid Dorset and North Poole. Has my hon. Friend seen the comments of the Birmingham Social Housing Partnership, which warned that very good ambitions of the Homelessness Reduction Bill are likely to be undermined by the wiping out of the supporting people revenue grant, which will mean that we will apply new duties to local authorities and give them fewer resources to manage this issue?

Mrs Lewell-Buck: It is a classic tale of this Government: give with one hand, take with the other, and we still end up in a worse situation.

Simon Hoare: We all have to accept that local government budgets are under pressure, which presents challenges. Does the hon. Lady accept that she is striking at the heart of the Localism Act 2011 and, in particular, the general power of competence? If local authorities such as Birmingham and Wolverhampton decide to set those sorts of priorities, they can do so. That is what localism and local decision making is all about. We do not need the great dead hand of the state and central diktat to allow local authorities to do it.

Mrs Lewell-Buck: Spoken like a true Conservative.

Simon Hoare: The hon. Lady pays me the greatest compliment.

Mrs Lewell-Buck: It is not a compliment where I come from.

Tulip Siddiq: I thank the hon. Member for North Dorset for his contribution and his support for the shadow Minister’s amendment. I spoke in the debates on the Homelessness Reduction Bill introduced by the hon. Member for Harrow East (Bob Blackman). I commend many of the suggestions in that Bill. Is the shadow Minister aware of the Barnardo’s report, which outlines that young people leaving the care system are particularly vulnerable to homelessness because they cannot find appropriate accommodation when they leave?

Mrs Lewell-Buck: I am aware of that report, which makes heart-breaking reading. There are lots of reports out there about care leavers. Following up on the intervention by the hon. Member for North Dorset, I agree that some local authorities have done good things in this area, but there should not be a piecemeal approach; support should be offered to all care leavers across the board. Why should one care leaver in one authority have a different service from another one? Care leavers do not care about localism; they want their local authority to give them the same thing as their friends and other care leavers next door.

Stella Creasy: Dare I suggest that, if we are going to have a discussion about the core principles of our political movements, one of the core principles for me as a proud socialist is value for money? One of the concerns behind the amendment is exactly that. The hon. Member for North Dorset talks about localism, the cuts to local authorities budgets and the need to be
parsimonious—some of us might use a different term—but we must recognise that if 60% of sanctions on care leavers are overturned on appeal, the system is not cost-effective. If we are looking at how we might make savings, treating those young people as we wish our own children to be treated, which is a common theme this morning and perhaps for the entire Bill, is not only the right thing to do morally but the most cost effective and therefore—dare I say it?—socialist thing to do.

Mrs Lewell-Buck: I thank my hon. Friend for her excellent intervention. She touches on an important point: elsewhere, if we want to save money, we have to invest. In investing in care leavers prevents them from entering the justice system and from being homeless, which costs more in the long term.

I suspect that the Minister will reiterate what Government peers said in the other place: it is not for the Government to set in statute what local authorities should be doing, and I expect he will get a cheer from the hon. Member for North Dorset—[HON. MEMBERS: “Hear, hear.”] We are not asking the Government to tell our local authorities what they should be doing; we are just asking for a minimum standard for care leavers. These amendments seek that new minimum. Care leavers surely deserve safe, secure, affordable accommodation, but under the current proposals I do not see how they can be expected to make their way in life and deal with the issues of having lived in care with the extra burden of financial difficulty. Does the Minister agree that council tax enforcement undertaken by local authorities completely undermines the principles in this Bill? Does he therefore agree that care leavers should be exempt from council tax until the age of 25?

The Minister is well versed regarding the many challenges that young care leavers face, particularly those of a financial nature. I am sure, deep down, he wants to make sure that the state plays a greater part in supporting care leavers, but the current plans just do not hit it. Last year, almost 11,000 left the care of their local authority and began the difficult process into adulthood. The Government have a duty to those 11,000 vulnerable young people to say that they are not forgotten and that they do not just become another poverty or homelessness statistic on our streets.

Marion Fellows (Motherwell and Wishaw) (SNP): It is a pleasure to serve under your chairmanship, Mr Wilson. I want to speak to new clause 16, which seeks to make provision for care leavers to help them avoid financial difficulty. We are grateful to the shadow Minister for bringing it forward. Although it would apply to Scotland only in part, I wish to put on the record the views of the Scottish National party.

The Children’s Society points out that young people leaving care struggle with their finances and are at an increased risk of falling into financial difficulty. Our First Minister in Scotland has already acknowledged that we have a duty to protect and help our young people most in need and that those who have experienced the care system will be the driving force of the recently announced independent review of how Scotland treats its looked-after children. Our First Minister has committed to listen to 1,000 people with experience of the care system over the next two years. I hope that some of these concerns will be raised during that review. In making that commitment, our First Minister said:

“If we are to live up to our ambition to be a truly inclusive country, we have a particular duty to those most in need. We have to get it right for every child.”

I think that should apply across the UK.

The part of new clause 16 that would apply to Scotland includes the limit to sanctions, the extension of the working tax credit benefit and the exemption from the shared accommodation rate of housing benefit. Given the barriers to employment for care leavers, providing adequate support and safeguards in the system via these changes would seem to be appropriate. As the Centre for Social Justice outlined in its report, “Survival of the Fittest”:

“Current labour market conditions, such as unreliable hours due to zero hour contracts and low pay for entry level jobs, mean that most 18-25 year olds rely financially, at least to some extent, on either their parents or the benefit system for support. As care leavers are unlikely to have substantial family support, they are much more likely to rely on the benefit system”.

As the shadow Minister outlined, the new clause will apply a limit to sanctions under universal credit, including a higher level, medium level and lower level of sanction. The Children’s Society found that 4,000 benefit sanctions were applied to care leavers between October 2013 and September 2015. As we found out with the National Audit Office report only a few weeks ago, sanctions are not rare and they are not working.

Protecting young care leavers from sanctions is a welcome move, particularly as they would lead to further hardship for those possibly already facing financial difficulty of the kind outlined by the shadow Minister. Although the new clause would not remove sanctioning from care leavers under 25, it would place them in the same regime as 16 and 17-year-olds, meaning that the maximum sanction period under these proposals would be four weeks. The second part of the new clause seeks to extend working tax credit eligibility to all care leavers in full-time work of more than 30 hours per week.

The risk of falling into debt due to the cost of living, which many of these people are unable to cover in full, is a bad and sad reflection on our society. The current system of working tax credit assumes that many of those under 25 and on low incomes live at home and are supported by a family. However, that does not apply to care leavers, so additional support should be given to help these young people face independent lives. Surely the whole purpose of the care system is to enable our most vulnerable young people to go out there and stand on their own two feet equitably with those children who are brought up in caring and loving homes.

11.15 am

The remaining part of the new clause, which would have an impact on Scotland, seeks to exempt people from the shared accommodation rate until they are 25. That would mean that care leavers would not have their housing benefit cut by approximately £31 a week, which is a huge sum for those young people. The Children’s Society advocates for this measure on the grounds that care leavers could be at an increased risk of falling into debt arrears or having to leave a home for a riskier
environment, which means they could disappear completely off our system, as the shadow Minister has already said. That is not right.

Given the provisions that relate to Scotland and the intentions of the shadow Minister, I will support the new clause today, if only to hear the Government’s response to a probing amendment designed to see whether they are willing to move to assist care leavers. One of the many appalling intentions of the ‘Tories’ welfare reform agenda has been the dismantling of the safety net for young adults, excluding them from the principle of universality that should apply to a welfare system. To do so for some of our most vulnerable young adults, who may have no family to support them, was callous and uncalled for. These amendments will go some way towards redressing that balance.

Although I look ahead to the role of the review in Scotland, given that 85% of welfare spending is still reserved, it is important that the UK Government also look at the role they play in the provision of financial support.

Stella Creasy: I support the core principles of the amendments that Labour Members have tabled this morning, and I recognise that some Government Members do share those principles; the difference is in how we achieve those outcomes. Let me be clear about the aspirations that I think we all share. They are, as I have already said: to treat all children in care as we would treat our own children, to do so in a fair and equitable manner, and to do so in a way that is possible to implement. The difference is in recognising how we get implementation right.

As the shadow Minister has said, it is the difference between having a minimum standard—a base below which we will allow nobody to fall—and recognising that there may be variation at a local level. The treatment of particular groups of care leavers, particularly young asylum seekers, is important, as is the recognition that there is a particular challenge when it comes to care leavers and financial management. It is right that we should seek to address those three core principles in a Bill such as this.

The amendments proposing a basic minimum standard are not intended to be restrictive; they are intended to help our young people know their rights. When dealing with care leavers in our casework, I think that we all recognise young people struggling to understand what will happen to them next. A national minimum standard is about being able to answer that question with certainty, even if there is a statement further down the line that is not that support.

The shadow Minister talked about special educational needs. I think that all of us have dealt with cases of parents trying to argue for their children to have the rights that they should have. Even if there is a statement to that effect, it provides a basic standard for what that child should get. It does not mean that there is not then further work to be done about how things are enacted, but it does mean that the parents can be confident about what the child will receive. We are talking about the same principle here. It is about recognising that these young people need to know what will happen next. Having a national minimum standard would mean that we in this place could be confident that these policies will be implemented on the ground to a level that all of us would want as a starting point for those children.

On the second principle, particularly with regard to children who are asylum seekers, the discussion is a complicated and sensitive one to have in the UK right now. Other amendments, especially those that I have tabled—I am pleased that my hon. Friend the shadow Minister also has two—deal with how we would treat young children, the guidance and the principles to do with basic rights in the UN convention on the rights of the child. Those amendments continue in the same spirit, recognising that when we stand up as a country to support those young people, that support must be consistent with how we treat every young person.

That is the right thing to do morally, and legally internationally. I worry for the Minister—I am interested to hear his take on this—because if he has not included young asylum seekers in the principle, what are the legal ramifications, given that we treat them similarly under the age of 18? What might such a child have seen? Today we are having an emergency debate on Syria, where children will have seen horrors in their lifetime that many of us cannot even begin to contemplate.

How do such children end up here? One of the questions all of us have is about safe and legal routes. When children do end up here, however, and we take responsibility for them, in our hearts are we suggesting that at the age of 18 we stop caring about what happens to their outcomes? If we do not stop caring, we have to recognise that at the age of 18 they again need our help, just as we recognise that children born in the UK who come from troubled backgrounds might need our help past the age of 18. If children are to be excluded from the very provisions that we would like to see apply to other children we recognise as vulnerable, I ask Government Members to think about why they feel it is okay to discriminate on the basis of nationality—in essence, that is what excluding young refugees from the amendment will do.

The third issue is debt. Young people in care are disproportionately more likely to be in debt. Again, all of us recognise the myriad reasons for that, but the outcome is the same: a group of young people in our society for whom we have taken corporate responsibility have a particular problem, and one of the consequent problems manifests itself in how they deal with our benefits system. The amendments are designed to address that. All of us can see at first hand in our constituencies and when we deal with such children that they might
not have backgrounds that give them the best understanding of budgeting. The hon. Member for a Scottish constituency, the name of which has completely slipped my mind—

**Marion Fellows:** Motherwell and Wishaw.

**Stella Creasy:** It was on the tip of my tongue. The hon. Lady put it very well when she argued that our benefits system, especially when dealing with young people, is designed on the principle that even if they do not live at home, they probably have a home relationship on which they are able to draw; that they can draw not only on financial support, but on support to be able to budget and to manage at that point in life when we start to get our own rent and bills. That group of young people do not have such support as a background, so we have to make specific arrangements for them. That is what the amendment would do.

As I said to the hon. Member for North Dorset, in places we do not do that, which costs us more as a result, so again I ask the Minister to do something, even if not in this legislation. I completely take the point of the other hon. Gentleman for—I am doing terribly this morning at remembering constituency names—

**Michael Tomlinson:** Mid Dorset and North Poole.

**Stella Creasy:** How could I forget Mid Dorset! What a wonderful community. The hon. Gentleman will have seen even in Mid Dorset, as I see in Walthamstow, young people struggling to make sense of what rights and entitlements they have as they take that first step. They struggle even when they have their mum and dad with them to help, yet we are talking about young people who do not have that support. He is right to point to the Homelessness Reduction Bill as having such provision, but his case is to marry that with what we do in this Bill—that is exactly what the amendment would do. It simply states that we have to continue thinking about that group of young people needing a particular level of support because we can see their problems. The two are not contradictory; in fact, they are complementary.

I ask the hon. Member for Mid Dorset and North Poole to think about that. Perhaps in the lunch break he will make the case to the Minister that we should be looking at the financial support we give to our young people. The evidence tells us that our benefits system is not working for them, which is costing us money, and it is not joining up with other pieces of legislation. As a result, very vulnerable young people are being left at risk.

There are ways in which we can save money in the system and get a better outcome. The amendments are trying to get us there. I think that Government Members share the same objective. The question is this: if they will not accept the amendments on those three core principles, what would the standards be beyond which we will never let a young person fall? If we accept that a younger person is vulnerable, how do we ensure that we do not discriminate against them on the basis of nationality? How are we addressing the clear and obvious problems that our young people in care have with financial management, which manifests in how they deal with the benefits system, and comes from not having the safety net of mum and dad?

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o’clock.
Public Bill Committee

CHILDREN AND SOCIAL WORK BILL [LORDS]

Second Sitting
Tuesday 13 December 2016
(Afternoon)

CONTENTS

Clause 2 agreed to.
Clauses 3 to 7 agreed to, some with amendments.
Adjourned till Thursday 15 December at half-past Eleven o’clock.
Written evidence reported to the House.
No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 17 December 2016

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The Committee consisted of the following Members:

*Chairs: Mrs Anne Main, † Phil Wilson*

† Caulfield, Maria *(Lewes) (Con)*  
† Creasy, Stella *(Walthamstow) (Lab/Co-op)*  
† Debbonaire, Thangam *(Bristol West) (Lab)*  
† Fellows, Marion *(Motherwell and Wishaw) (SNP)*  
† Fernandes, Suella *(Fareham) (Con)*  
† Green, Kate *(Stretford and Urmston) (Lab)*  
† Hoare, Simon *(North Dorset) (Con)*  
† Kennedy, Seema *(South Ribble) (Con)*  
† Lewell-Buck, Mrs Emma *(South Shields) (Lab)*  
† McCabe, Steve *(Birmingham, Selly Oak) (Lab)*  
† Merriman, Huw *(Bexhill and Battle) (Con)*  
† Milling, Amanda *(Cannock Chase) (Con)*  
† Siddiq, Tulip *(Hampstead and Kilburn) (Lab)*  
† Syms, Mr Robert *(Lord Commissioner of Her Majesty's Treasury)*  
† Timpson, Edward *(Minister for Vulnerable Children and Families)*  
† Tomlinson, Michael *(Mid Dorset and North Poole) (Con)*  
† Whately, Helen *(Faversham and Mid Kent) (Con)*  

Farrah Bhatti, Katy Stout *Committee Clerks*

† attended the Committee
Public Bill Committee

Tuesday 13 December 2016

(Afternoon)

[PHIL WILSON in the Chair]

Children and Social Work Bill [Lords]

Clause 2

LOCAL OFFER FOR CARE LEAVERS

Amendment proposed (this day): 27, in clause 2, page 3, line 10, at end insert—

“(6A) The Secretary of State must publish a national minimum standard for a ‘local offer for care leavers’.

(6B) When developing a national minimum standard for the purpose of subsection 6A the Secretary of State must consult relevant agencies responsible for the provision of services under subsection (2).” —[Mrs Lewell-Buck.]”

This amendment introduces an additional definition for ‘care leavers’.

New clause 13—Review of access to education for care leavers

“(1) The Secretary of State must carry out an annual review on access for care leavers to—

(a) apprenticeships,
(b) further education, and
(c) higher education.

(2) The first review must take place by the end of the period of one year beginning with the day on which this Act is passed.

(3) A report produced following a review under sub-section (1) must include, in particular, an assessment of the impact of—

(a) fee waivers,
(b) grants, and
(c) reduced costs of accommodation.

The report must be made publicly available.”

New clause 16—National offer for care leavers

“(1) The Universal Credit Regulations 2013 are amended as follows—

(a) in regulation 102(2)—

(i) in paragraph (a) after “18 or over” insert “and paragraph (b) does not apply”;
(ii) in paragraph (b) after “16 or 17” insert “or is a care leaver within the meaning given by section 2 of the Children and Social Work Act 2016 and is under the age of 25”;
(c) in regulation 104(2) after “18 or over” insert “and section (3) does not apply”;
(d) in regulation 104(3) after “16 or 17” insert “or is a care leaver within the meaning given by section 2 of the Children and Social Work Act 2016 and is under the age of 25”;

(2) The Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 are amended as follows—

(a) in regulation 4(1), Second Condition, after paragraph (b) insert—

“(c) is aged at least 18 and is a care leaver within the meaning given by section 2 of the Children and Social Work Act 2016, and is under the age of 25, and undertakes not less than 30 hours work per week.”

(3) The Housing Benefit Regulations 2009 are amended as follows—

(a) in regulation 2, in the definition of “young individual”, in each of paragraphs (b), (c), (d), (e) and (f), for “22 years” substitute “25 years”.

(4) The Local Government Finance Act 1992 is amended as follows—

(a) in section 6(4) (persons liable to pay council tax), after “etc)” insert “or 10A (care leavers)”;
(b) in Schedule 1 (persons disregarded for purposes of discount), after paragraph 10 insert—

“Care leavers

10A (1) A person shall be disregarded for the purposes of discount on a particular day if on that day the person is—

(a) a care leaver within the meaning given by section 2 of the Children and Social Work Act 2016; and
(b) under the age of 25.”

(5) The Council Tax (Exempt Dwellings) Order 1992 is amended as follows—

(a) in Article 3, Class N, after paragraph 1(b) insert—

“(c) occupied only by one or more care leavers within the meaning given by section 2 of the Children and Social Work Act 2016 who are under the age of 25.”

(6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Stella Creasy (Walthamstow) (Lab/Co-op): I will be brief; I am sure that over lunch Government Members have had a chance to contemplate the argument that I made. I am conscious that Opposition Members who have joined us might want to be reminded of them. There are three points that I want the Government to take back on if they are not going to accept our amendments. First, the idea of a basic minimum standard for care leavers. If we are not to have a minimum standard, how does the Minister intend to ensure that all care leavers are given a level of service that we can be proud of?

Secondly, on the Minister’s approach to dealing with young asylum seekers who are not part of this legislation at the moment, the amendment seeks to bring them into the scope to make sure that they are given equal protection. As I said earlier, turning 18 does not stop someone being vulnerable overnight. Finally, how do we deal with the specific issue of financial management problems
that many care leavers face, particularly the problems that are well documented in the benefits system? If the Minister does not intend to accept our amendments to support care leavers through the benefits system and to make sure that we recognise those problems and the cost to us of not recognising those problems, what plan does he have to address those issues? At this point, I shall let others take the debate forward.

Tulip Siddiq (Hampstead and Kilburn) (Lab): I thank my hon. Friend the Member for Walthamstow for her passionate speech. Even though she was interrupted mid-flow, she has summed up very well. It will not come as a surprise to the Committee that I wholeheartedly endorse her speech and the amendment on the national minimum standard for care leavers. I want to point out that we cannot just rely on local authorities to make specific decisions, because there are different standards across the country for different local authorities, as I saw as a councillor before entering Parliament.

Various policy concerns can be addressed by introducing a national minimum standard, but I want to focus specifically on people’s mental health, especially that of vulnerable people leaving the care system. One early study of care leavers in England that I found interesting found evidence of a range of mental health problems for care leavers. One in five care leavers reported long-term mental health problems. Everyone here will be aware of the stigma surrounding mental health. One in five is probably not a true reflection of how many mental health problems there really were among care leavers, because some of them would not want to report problems for fear of being stigmatised.

The mental health problems that the care leavers spoke about included eating disorders, bipolar issues, depression and serious phobias that haunted them later in life. In addition, there were shocking statistics: a quarter of care leavers reported heavy drinking on a regular basis and two thirds admitted that they used drugs regularly. It is no surprise that many of the care leavers who spoke about their experiences said that their mental health problems originated in the life that they led before they, in a sense, entered adulthood. They said that a lot of their mental health problems came from the poor housing that they had experienced and the lack of finance and intimate relationships in their life.

The NSPCC rightly pointed out in its 2014 report that leaving care is an extended process rather than a single event, which I wholeheartedly agree with and which speaks to our amendment. Care leavers face the significant challenge of psychologically moving forward towards adulthood, often trying to make sense of their past life experiences. With the withdrawal of care services, support services and care placements, they have to test out the reliability of their network of friends and family. The shadow Minister has made the point over and over again that we should not have a postcode lottery when it comes to care and the future of care leavers. Nor should we have a lottery of personal circumstances, where those who are lucky have a network of family and friends to rely on, but those who are not often fall into either depression or a life they would not have wanted to lead.

The Opposition acknowledge that multiple changes to someone’s living circumstances will affect them, but change cuts across every aspect of the lives of care leavers; we need to be aware of that, because we are dealing with the most vulnerable people in society. Those changes relate to their finances, access to housing and search for jobs, and care leavers confront those challenges while experiencing a withdrawal of care placements and social support services as they turn 18.

I point to a few stats from the Children’s Society that I thought were particularly striking: 63% of care leavers entered the care system because of abuse or neglect, which is a figure that should put us all to shame; 50% of children in care had emotional and behavioural health that was considered normal, while 13% were borderline and 37% gave cause for concern. I am sure that everyone agrees that those statistics are worrying. They should trouble us all, and they should compel us to act in the interests of the nation.

National minimum standards will allow for a fairer system overall, for which the cost will be wholly outweighed by the benefit of ensuring that the most vulnerable people across the country are treated equally. I trust that Members across the House and from different parties will agree with that after hearing some of the shocking statistics that I have outlined.

Steve McCabe (Birmingham, Selly Oak) (Lab): I will briefly comment on the part of clause 2 that relates to the local offer, before turning to the amendments and new clauses. I will try not to detain you for too long, Mr Wilson.

I am not really clear on the local offer. The Minister has a great deal of experience of the local offer; he pioneered the approach in the Children and Families Act 2014. I am not entirely sure how different what he proposes in the Bill is from the offer in that Act. I took the trouble during the lunch break to look at the rather helpful report from the Children’s Services Development Group entitled “The Local Offer, Children and Parental Rights”. It has a nice foreword by the right hon. Member for Chesham and Amersham (Mrs Gillan), who is the chair of the all-party parliamentary group on autism. You will be delighted to know that I will not read the report to you, Mr Wilson, but there are some things in it that are worth noting.

The offer, as it exists in the Children and Families Act, was intended to help local authorities to identify gaps in provision and to make sure that they were addressed, and the report assesses how successful that has been. It found that there are significant variations in the offers made across the country, with some quite good examples in east midlands, Yorkshire and the Humber, and some very poor examples in the west midlands and the south-west. It also found that less than 4% of local authorities have a named person whom anyone trying to understand the local offer can contact, while less than half of all local authorities listed independent specialist schools on their website, despite that being a requirement that the Minister set out in the Act. There is also a significant variation in the information that is provided on those websites. The Children’s Services Development Group says that a best practice guide for local authorities and a mandated template for the local offer would be helpful.

I draw the Committee’s attention to that because the Opposition suggest that it would be helpful to the local offer in the Bill if there were minimum standards by
which we could judge the progress of the Minister’s proposals. I asked him to look again at the experience of the local offer in the Children and Families Act and to check whether there is a risk that local authorities will simply seek to replicate that kind of approach in this piece of legislation. I am not saying that that approach is useless, but I am sure the Minister will share my disappointment that it has not been as successful as anticipated in its operation so far.

I turn to the question that my hon. Friend the Member for Hampstead and Kilburn has just been tackling about the needs of children leaving care. The Minister and I obviously got into the wrong place before lunch when I thought that he was telling me that I should not be too concerned about the educational and mental health outcomes for children leaving care. If that is not what the Minister was saying, I am more than happy to accept that.

However, I took the trouble to go back and have a quick look over lunch at some of the things that we know. I looked at the report by Saunders and Broad which examined long-term mental health conditions—the very things that my hon. Friend has just been talking about—with a greater propensity among children in care and leaving care, who suffer from depression, eating disorders and phobias.

I looked at the mental health and wellbeing report produced by the Select Committee on Education in the fourth Session of Parliament. The first line of that report says:

“The mental health of looked-after children is significantly poorer than that of their peers, with almost half of children and young people in care meeting the criteria for a psychiatric disorder”.

That report, as the Minister knows, went on to recommend that child and adolescent mental health services should be made available for all looked-after young people up to the age of 25, in recognition of the distinct issues which this vulnerable group of young people experience as they attempt to leave the care system.

I also looked at the situation on employment. As I understand it, these are the Government’s figures: three-quarters of care leavers are inclined to leave schooling without any formal qualifications. Of the Government’s study of 26,340 former care leavers aged 19, 20 and 21, 40%—nearly 10,500 young people—were not in employment, education or training, compared with 14% of all 19 to 21-year-olds. The percentage of care leavers who could be described as NEETs has risen by 1% in the past two years.

2.15 pm

To be fair to the Minister, I think he was talking about the improvements that he can show. It is fair to say that his own figures show that there has been a 1% rise in the number of care leavers who are able to access higher education, compared with the figures for 2014 and 2016. This is hardly a picture showing that things are okay and that we should feel relaxed about the progress that has been made. It tells me that things are far from okay; they are quite dire for some young people who enter the care system. They enter the care system expecting us, as their corporate parents, to do a better job for them. That is why we have taken them into care in the first place. They enter the care system with us saying that, as a result of making that order, we are going to make their life better. If at the end of that process their educational opportunities have not improved significantly, their mental health situation certainly has not improved and may in fact have deteriorated, it seems to me that we are failing these young people.

We are looking for a bit more beef and detail from the Minister. This is about an order that will actually make a difference for young people; from my point of view, it is certainly not about trying to score points. As I said earlier, I think we share the same broad ambition, but we have before us the replication of an approach that we saw in another piece of legislation for which he has a great deal of responsibility and that no one—I assume that includes the Minister—would describe as having been an outstanding success to date. Unless there is some attempt to learn from that experience in what we are doing now, all that is going to happen is that we are going to go round the same old loop. As I said this morning, the shelves of social work offices and establishments are littered with pieces of legislation that have the same impact. We are looking for something that will move things forward a significant step, so will the Minister give serious consideration to the amendments?
of leave to remain or an outstanding human rights application or appeal. That means that they qualify, like any other care leaver, for the support under the Children Act 2004 care leaver provisions, to assist their transition into adulthood. In addition, they will benefit in the same way as other care leavers from the improvements to the framework contained in the Bill, including the local offer for care leavers.

It is only those leaving care whom the courts have determined do not need humanitarian protection, who have exhausted all appeal routes and rights and subsequently have no lawful basis to remain in the UK, with the court having said there is no barrier to their removal, who will need, in those circumstances, to be supported to return to their home country, where they can embark on building their lives and futures, with assistance from the Home Office in the form of financial and practical support. The Government believe that that is the right approach for that specific and clearly defined group, whose long-term future is not in this country but who need support and assistance before they leave.

Stella Creasy: 

Edward Timpson: I am explaining the current situation. As the law stands, the local authority will continue to provide the same care-leaving service for those children and young people until all their appeal rights have been exhausted. There will be a period following a decision during which every effort will be made to repatriate them to their country of origin. Of course, that will not happen immediately after the courts have made a final decision.

The local authority can, of course, continue to provide ongoing and further support in such circumstances, which may include the continuation of a foster placement or continuing support from a personal adviser, where it considers that appropriate. The Department for Education and the Home Office will continue to work with local authorities and relevant non-governmental organisations on the development of the regulations and guidance required to implement the new arrangements for support set out in the Immigration Act 2016. Those regulations will be made under provisions that will be subject, in full course, to debate and approval in both Houses of Parliament under the affirmative procedure, which I suspect will be the forum for Opposition Members to continue pressing on the issue. I have set out the Government’s position and the rationale behind it.
New clause 13 would require the Secretary of State to undertake an annual review of care leavers’ access to education. I reassure the Committee that we already publish such information, and I will set out the measures we have already taken to better support care leavers into education, employment and training. As the hon. Member for South Shields said, the high proportion of care leavers who are not in education, employment or training is a long-standing problem.

Of course, there are many reasons for the NEET rate being higher for care leavers than for young people in the general population, not least the impact of pre-care experiences. That is why, earlier this year, we published “Keep on Caring,” our new cross-Government care leaver strategy. One of the five outcomes we set out in the strategy is to improve care leavers’ “access to education, training and employment”.

A number of new measures were announced in the strategy that are designed to turn that ambition into reality, including: a commitment to provide funding for a new approach to helping care leavers into education, employment and training by using social investments to fund “payment by results” contracts that reward providers only when care leavers achieve positive outcomes; and a pilot work placement programme to provide care leavers with opportunities to work in central Government Departments.

Care leavers have already been recruited to work in the Department for Education, the Department of Health and the Department for Work and Pensions. Indeed, a new member of my private office is a care leaver, and she has been a fantastic acquisition for the team. Through our new care leaver covenant, we are also encouraging organisations from across society to offer work opportunities to care leavers and to work specifically with FE and HE providers to set out a clear offer of support for care leavers studying in further and higher education.

Financial support is also already provided to care leavers in education. Where care leavers are in higher education, there is a duty on local authorities to provide a £2,000 bursary to help with the cost of studies and a requirement to provide accommodation during university holidays. Care leavers in further education can also receive financial support through the 16-to-19 bursary, for which care leavers are a priority group. The bursary provides up to £1,200 a year to support the cost of their studies. Through DWP’s second chance learning initiative, care leavers are able to claim benefits while studying full time up until the age of 21.

The Government also publish data on the activity of care leavers aged 17 to 21, which previously were not available. The data identify the proportion of care leavers at each age point who are in higher education, other non-advanced education, employment or training, and those who are NEET, which provides the information necessary to track progress over time and will be a key way of ensuring that we can tell whether our changes are having the desired impact.

Steve McCabe: The Minister is describing the various things that the Department is doing to try to improve the situation. Does he recognise that a problem that young people themselves regularly identify is the number of school changes they experience as a direct result of being received into care? The Barnardo’s study says that care leavers are saying that they have experienced five changes of school, which makes life difficult for them. Does he have any plans to encourage or persuade local authorities to seek to restrict those movements between schools, which is clearly impairing these young people’s education?

2.30 pm

Edward Timpson: The hon. Gentleman makes an important point. About 11% of children in care still have three placements—that is placements, rather than schools—or more per year. We already have priority school admissions for children in care, so there is no excuse for their not getting the right school.

I want to ensure that as part of the fostering stocktake we are now undertaking, which is a fundamental review of how fostering is working, we also look at stability—an issue raised by Opposition Members—and, specifically, its impact on children’s ability to form close and strong attachments, to build a social network around themselves and to have a strong and stable education, so that they can achieve what they are capable of in that environment. Part of that will be being clearer about what local authorities can do better, so that they can enhance the prospects of creating the stability that we know is a core ingredient of successful time in care.

I encourage the hon. Gentleman to look at the direction of the fostering stocktake and at how we can better ingrain stability in decision making, particularly at the very start of when a child enters care. Often, that first decision on the school or placement has a consequential full-out for the child or young person if turns out not to be the right one.

Amendment 27 would require the Secretary of State to develop and publish a national minimum standard for the local offer for care leavers. Although I fully appreciate the intention behind the amendment, I should point out that there is already a set of statutory duties in the Children Act 1989 that defines a minimum level of support for care leavers. Under those provisions, local authorities must provide a personal adviser for care leavers until the age of 21, and the Bill extends that support to the age of 25.

Local authorities must develop a pathway plan for their care leavers and provide assistance, both in general and specifically, to support them with education, training and employment. Care leavers are also entitled to request support from an advocate. The local offer is designed to include care leavers’ legal entitlements and additional discretionary services and support that the local authority may offer, with the legal entitlements being the minimum offer that must be provided. Beyond that—the hon. Member for South Shields will have anticipated my saying this—producing a prescribed local offer runs the risk of stifling creativity and creating a race to the bottom.

The issue gets to the nub of where we part company on the right approach. A prescribed local offer would not take account of local needs or circumstances—we want the opposite to happen, with local authorities actively providing the best possible offer and tailoring that to their local situation. We have already seen, in the likes of North Somerset and Trafford, that one outstanding care leaving service is a key beacon of good practice.
To that end, local authorities will be required to consult care leavers, as well as other persons or bodies who represent care leavers, before publishing their local offer. That will ensure the offer is informed by the views of those who will use the services set out, as well as those providing the services and supporting implementation.

The risk with minimum standards is that everyone does the minimum and no more. To ensure local authorities are encouraged and helped to go beyond the minimum standards required by the law, officials at the Department have developed a prototype local offer that sets out the kinds of things local authorities can consider when designing their local offer, rather than specifying exactly what it should include. A copy of that prototype was sent to Committee members, and the intention is to publish it.

That in part answers the questions from the hon. Member for Birmingham, Selly Oak about practice guidance or a template from which local authorities can start to craft their own local offer. I am happy to share the prototype with him if he does not have a copy. It gives a clear direction of the areas local authorities need to cover, as a baseline for the development of their own local offer, but it does not prevent them from ensuring they provide one that meets the specific needs of their own population.

Some hon. Members asked how the SEND local offer may be different. I should say at the start that I disagree with the characterisation of the impact of the local offer for special educational needs and disabilities. That came out of a very substantial process involving young people and parents to identify what they were looking for from the new system. That was during the heady days of the coalition, when Sarah Teather was in this position, so it has a lot of history behind it. I do not know whether that reassures the Committee but, be that as it may, over the last two years of implementation we have seen the SEND local offer starting to embed and develop. We now have inspections of the new SEND system by Ofsted and the CQC. One example is a 2016 report on Enfield, in which Ofsted and CQC found:

“The local offer is informative and very helpful to parents and young people. It includes a wide range of information to help them identify where to get support and how to access available services. Over the last six months, increasing numbers of people have used the local offer to gather information.”

Representatives from parent-carer forums and SEND organisations “are actively engaged in further improvements such as improving the local offer and making it more accessible to users.”

Brian Lamb, author of the 2010 Lamb inquiry, looking at parent-carer forums as the formal conduit for parents’ engagement, reported that around two-thirds of those surveyed were fully engaged in general strategic planning or in developing the local offer and that that was leading to significant changes in local authority practice in some areas. I accept that the measure has yet to achieve the desired effect right across the country, but the roots have been planted and we are getting evidence from those inspections of the difference that it is making in the engagement between families and services.

Finally, I turn to new clause 16. It seeks to introduce a national offer for care leavers that would include reducing the length of benefit sanctions under universal credit; making care leavers eligible for working tax credit; extending the exemption from the shared accommodation rate of housing benefit up to the age of 25; and exempting care leavers under the age of 25 from paying council tax.

I am familiar with the issues raised under the national offer and have had a number of meetings with the Earl of Listowel, who raised this issue in the other place. I have also had detailed conversations with the Minister for Employment, and I understand the concerns that have been raised around benefit sanctions.

Just last week, jobcentre staff were reminded about the challenges that care leavers can face. An article was featured on the DWP intranet, available to all staff, explaining the specific circumstances that care leavers can face and reminding work coaches—the interface between care leavers and the benefits system—to take account of any relevant circumstances and flexibilities when deciding whether a sanction was appropriate. What happens at that moment between the work coach and the care leaver could make the difference between that young person progressing towards employment and a retrograde step: it being more difficult for them to gain employment because of how a sanction has been applied.

The article also tells staff about the ambitions we have for care leavers as set out in “Keep On Caring”, the refreshed cross-government care leaver strategy, and clearly lists all the DWP support available to care leavers. I thank the Minister for Employment for taking this action. We will continue to work together to reassure the hon. Member for Stretford and Urmston that we want to see what more we can do, so that the experience of the care leaver in that situation is much better.

At the heart of that is identification. If those who first see a care leaver coming into a jobcentre are blissfully unaware that they have come from the care system, inevitably, they will potentially miss taking a very different approach from the one they end up taking. Although we have a flagging system in the jobcentre computer network, it is based on self-identification. We want to do more work to see how we can ensure that, before a care leaver comes into contact with the benefits system, that is already flagged, so that we can get more consistency in the approach taken by jobcentres. Of course, we want to work towards no care leaver having to move straight into the benefits system. That is why the work to improve their opportunities for education and training and the expansion of the role of the personal adviser are all going to be important. However, these flexibilities can only be considered if Jobcentre Plus staff are made aware of a care leaver’s status in the first place. We will work hard to make sure that the situation improves on the ground.

On eligibility for working tax credit, I remind the Committee that we are currently rolling out universal credit—in case anyone had forgotten. That will replace the current system of means-tested working age benefits, including tax credits; it will replace tax credits for all new claims by October 2018. It is designed to simplify the benefit system and to provide in-work support and incentives to work for all claimants aged 18 or over. However, it is important to note that the requirement for workers to be aged 25 or over will not apply with universal credit. Care leavers aged 18 and over in low-paid work, who are currently unable to claim working tax credit, will be able to claim universal credit, subject to the normal rules on taking account of earnings. I have a
case study, which I am happy to share outside the Committee, of a 19-year-old care leaver, which demonstrates the impact that will have. Those people will receive uplifts in the new system that they do not get in the system we have at present.

On the exemption from the shared accommodation rate, I have real sympathy with the hon. Lady’s arguments. I reassure her that this is something that we are looking at. As she said, we are exploring the evidence regarding the need for this change and have asked the Children’s Society to provide examples of how the current rules impact on care leavers, in the hope we can make some progress.

Kate Green: I want to return to what the Minister said about the different treatment, under universal credit, of care leavers under 25, compared with working tax credit. Can he say how many care leavers are currently in receipt of working tax credit? Presumably, as they come to adult age and as new claimants, they are predominantly being moved straight on to universal credit at the end of the benefits system. A small number may remain in the situation where they would be eligible only for working tax credit. Can the Minister say how quickly they can be migrated to universal credit?

Edward Timpson: I do not have those figures to hand. One of the issues I raised earlier is around identification and knowing who is accessing benefits and is also a care leaver. We need to improve that information, hence the additional data we are now collecting as a Department. That will give us a more granular understanding of who these young people are and how they have come into contact with the benefits system. I will write to the hon. Lady with more details about that, so she has as much information as we can give.

It is important we start to understand where this leads, what the destination inevitably is and what we could have done in the intervening period to make the direction in which a young person goes different. I am happy to give the hon. Lady further information about that.

Steve McCabe: This is a minor point on the same sort of area. As I understand universal credit, where that applies to the youth obligation, that obligation will be available to young people only in areas where universal credit is fully operational. In those circumstances, what will be the provision for youngsters leaving care? We could end up in a situation where youngsters leaving care in some parts of the country will be entitled to a different set of opportunities from those in areas where universal credit is fully operational. Has the Minister had an opportunity to look at that, or will he look at that and come back to us? It has not been presented quite like that, from my understanding.

Edward Timpson: I understand the hon. Gentleman’s point. Any roll-out as wide and as significant as universal credit is going to have various knock-on effects, depending on what other initiatives fall off the back of those changes. I will take that away and talk to my colleagues in the Department for Work and Pensions to see whether that has been factored in as part of the roll-out through to 2018.

I want to reiterate that care leavers cannot currently claim working tax credit. Anyone over 18 on universal credit will be able to claim in-work benefits. We want to ensure that care leavers are aware of that and that they get the necessary support that falls off the back of that change.

I turn to the issue of paying council tax. We believe, as a long-standing position, that local council tax support is and should be a matter for local authorities, hence the Government giving councils wide powers to design council tax support schemes that protect the most vulnerable. We know that authorities such as Birmingham and Wolverhampton have already taken the decision to exempt care leavers from council tax and I applaud them for doing so.

2.45 pm

I want to highlight to councils the support already provided by other authorities around the country to exempt or discount council tax payments for care leavers, because that is a demonstration of what can be done with a bit of creative thinking and understanding of the economic benefits as well as the social and emotional benefits for that young person. I have, therefore, agreed with the Department for Communities and Local Government to write to each local authority, highlighting the local offer for care leavers that will be introduced through this clause, and the flexibility to use the council tax system to provide financial support to care leavers.

I hope that I have covered all the points raised by hon. Members and that the hon. Member for South Shields is reassured by what I have said about the extensive support already available to care leavers and the work that is under way to provide more. On that basis, I urge her to withdraw her amendment.

Mrs Emma Lewell-Buck (South Shields) (Lab): I will be brief in my closing comments. With regard to new clause 13, it appears that the Government are taking some steps in the correct direction with their “Keep On Caring” document. It looks like endeavours are in place to get some action on these long-standing issues, so I am happy not to press new clause 13. However, I would like to put the rest of my amendments to a vote.

With regard to amendment 27 and new clause 16, the fact remains that every care leaver deserves the same provision across the board. They deserve to know what that provision is and financial support is key to that. I acknowledge that the Minister has worked with the Department for Work and Pensions, but I have a strange feeling that the DWP perhaps does not share his sentiments or drive for these issues.

On amendment 26, on unaccompanied asylum-seeking children, I do not feel that the Minister has addressed or acknowledged that those children are being treated differently from other children. Therefore, I would like to press those three to a vote.

Question put. That the amendment be made.

The Committee divided: Ayes 7, Nos 10.

Division No. 2]

AYES

Creasy, Stella
Debbonaire, Thangam
Fellows, Marion
Green, Kate
Lewell-Buck, Mrs Emma
McCabe, Steve
Siddiq, Tulip
Merriman, Huw
Kennedy, Seema
Fernandes, Suella
Caulfield, Maria

Mental health assessment for care leavers. When a care leaver requests support from their local authority and the local authority conducts an assessment of their needs, it must include an assessment of mental health and emotional well-being that is carried out by a qualified mental health professional. The corporate parenting principles set out in clause 1 make it clear that local authorities should promote the mental health and wellbeing of care leavers. Currently, there is huge amount of unmet need in the area due to squeezed budgets, high thresholds and the lack of relevant specialism in adult mental health services.

Tulip Siddiq: Is my hon. Friend aware that there are now 5,000 fewer mental health nurses than there were in 2010, and 1,500 fewer mental health beds? The amendment is more important than ever to ensure that mental health does not slip even further down the agenda.

Mrs Lewell-Buck: I was not aware of those statistics. I knew the situation was dire, but I did not realise how bad it had actually become.

Young people leaving care are much more likely to have mental health problems than other young people: they are five times more likely to attempt suicide; many have suffered abuse or neglect before coming into care; and they may have moved around several placements, making it hard to form stable relationships with carers, professionals or even friends.

The Government have committed to piloting mental health assessments for children in care, but there was no mention of young people over 18 who have left care. We all know that turning 18 does not mean that people stop being vulnerable and stop needing support. In fact, mental health problems often manifest at the challenging time of transition into adulthood. At 18, young people can no longer access child and adolescent mental health services; they have to rely on adult services—but only if they are lucky enough not to slip through the net in transition. The reality is that if young people with mental health needs are not getting help, it is unlikely that they will be able to make the most of other opportunities such as education, training or employment, because mental health problems can have a debilitating effect on all other areas of their life.

On Second Reading in the House of Lords, Lord Nash acknowledged that:

“All the evidence shows that care leavers are among the most vulnerable young people in our society. Many are still struggling to overcome the impact of the trauma they faced in childhood and, in most cases, they are expected to make the transition into adulthood without the unconditional love and support of a family or close circle of friends. As a consequence, they are far more likely to end up NEET, more likely to experience homelessness or mental health issues, and more likely to end up in the criminal justice system. However, with good, stable care and a more personalised and supported transition into adulthood, those stark facts need not be the culmination of their time in and leaving care.” — [Official Report, House of Lords, 14 June 2016; Vol. 773, c. 112]
their wellbeing. We would not allow that for a physical problem so we should not allow it for a mental health one. We must put in place measures to prevent care leavers from falling off the cliff edge of care. Assessments would provide a basis for care leavers to address their future needs, albeit under a different system.

Given the vulnerability of the young people in question and the likelihood that they will face challenges relating to mental health or emotional wellbeing coupled with the difficulty of accessing those services, it would be good if the Minister took the opportunity to extend the duty in clause 3 to include mental health. Amendment 29 would extend the duty on local authorities to include access to a mental health assessment for care leavers; and it would ensure that if amendment 28 is agreed, the assessment will be carried out by a qualified mental health professional.

The Conservative-led Select Committee on Education rightly recommended that a dedicated mental health assessment by a qualified mental health professional be completed for all looked-after children, so healthcare professionals and local authorities have a solid and consistent foundation on which to plan the best care for a child. The recommendation was based on an extensive body of evidence from experts that clearly showed why more action and less talk are needed.

The Government’s response to the Select Committee report on mental health acknowledged the vulnerability of looked-after children and the need for timely and effective mental health diagnosis and treatment. The Chair of the Committee said of the Government’s response:

“We are pleased that the Government have set up an expert working group for looked-after children’s mental health and wellbeing; however, having conducted a lengthy and detailed inquiry on the issue, we are disappointed that so many of our recommendations have simply been referred to that group.” —[Official Report, 20 October 2016, Vol. 615, c. 496WH.]

I was similarly dismayed to observe that the Government’s response to the report deflected many answers to the new expert working group on the mental health of looked-after and care-leaving children. Although I make no criticism of the experts appointed to the group, both chairs of the expert panel had already submitted evidence to the Committee, so further consultation seems a somewhat unnecessary duplication. The consultation will serve only to cause further delays, meaning that more children will suffer unnecessarily.

Services are inconsistent across the country, and initial mental health assessments are highly variable. Many local authorities are not meeting their statutory requirements to ensure that all children are properly assessed even when they enter care, so it is important that we get the basics right. We can do so only with professional assessment as children enter and leave care.

It is astonishing that currently children entering care are asked to fill in strengths and difficulties questionnaires, from which it is decided by people who are most likely not medically trained whether the child qualifies for mental health intervention. Administration of the forms from local authority to local authority is patchy, with great variations in timeliness of completing the form. It is not uncommon for the questionnaire not to be completed at all. Only a trained mental health practitioner should be able to assess a patient’s needs; such needs cannot be determined simply from ticked boxes on a form.

It is not enough just to say that help is out there. There are difficulties with the availability of mental health provision for all children, including difficulties accessing and navigating the system. Accessing mental health care, asking for help and overcoming stigma are hard enough for any young person, even those with strong, supportive families; we must acknowledge that. A mental health assessment is one step in ensuring that children get the care and support they need for healing to take place and for them to be integrated into society and feel part of it. That is why they must be assessed on leaving care as well. The whole point is to ensure that care leavers are robust enough to leave care as independent adults who can go out and find work, start families and participate in society fully, like everyone else.

Amendments 30 and 31 strengthen support for care leavers who are also parents. Despite their extreme vulnerability, the particular needs and circumstances of young parents who are looked-after children or care leavers and whose own children are subject to child protection inquiries are not sufficiently identified, recognised or addressed in care planning regulations and guidance. These amendments seek to establish a duty on local authorities to ensure that advice, assistance and support are offered to all looked-after children and care leavers who are young parents. It will help ensure that important information is not overlooked when plans for such young people are made by expressly identifying critical sources of information which should be drawn upon in formulating plans to keep the young parent’s child safely in their care.

3 pm

Kate Green: Some people leaving care do become young parents very quickly, but that is not always a recipe for problems for themselves or for their children—indeed, those young parents can be very enthusiastic and committed parents, determined to do the best for their child. However, many lack family support. Does my hon. Friend agree that they need help to be good parents, but also encouragement and family assistance of the kind that other parents perhaps draw from their own family members?

Mrs Lewell-Buck: Many children who have left care go on to be fantastic parents, but those who need an extra bit of support should be recognised in the legislation. This amendment seeks to achieve that.

While the Government have suggested that existing statutory guidance makes some reference to young people who are young parents, we need to recognise and respond more robustly to the additional vulnerabilities of this group of care leavers in a way which is not presently provided for in primary or secondary legislation. Evidence from the Centre for Social Justice in 2015 based on data provided by 93 local authorities revealed that 22% of female care leavers became teenage mothers. That is three times the national average. The same report identified that one in 10 care leavers aged 16 to 21 have had their own children taken into care. Care leavers are particularly vulnerable to early pregnancy, early parenthood and losing their child to the care system.

A recent research project carried out by Professor Broadhurst based on national records from the Children and Family Court Advisory and Support Service between 2007 and 2014 examined cases relating to 43,541 birth mothers involved in care proceedings. The study estimated...
that around a quarter of these mothers who had a child subject to care proceedings will have sequential care proceedings about another of their children. The study found that young women aged 16 to 19 years were most at risk of experiencing repeat proceedings, with almost one in every three women in this age group estimated to reappear. Provisional results from the study’s further in-depth analysis of court files indicate that more than six out of 10 others who had children sequentially removed were teenagers when they had their first child. Of these mothers, 40% were in care or had been looked after in the care system for some of their own childhood.

Like most parents who are subject to the child protection system, young parents often feel lost, angry and scared. However, many of these young parents, particularly care leavers, also have multiple challenges. Some of them are alienated by prior negative experiences of state services in their childhood, making it difficult for them to engage with professionals. At times, this lack of parental co-operation can be a trigger for the issuing of care proceedings. Young parents often feel judged by their youth and background rather than by their parenting abilities. That is particularly the case for care leavers, who often feel that being in care in itself counts as a negative against them. Previous childhood experiences including suffering abuse, mental health problems and exclusion from school may adversely impact on their health and development and their physical, emotional and mental health needs. I shall read a small extract from that guidance, which states that pathway plans must address the “young person’s health and development building on the information included in the young person’s health plan established within their care plan when they were looked after” and that personal advisers, who, under the clause, will cover all care leavers up to the age of 25, “should work closely with doctors and nurses involved in health assessments and would benefit from training in how to promote both physical and mental health.”

I reiterate that the Government have established the expert group on the mental health of looked-after children and care leavers, and we have asked them to recommend the most appropriate way to deliver the care. The group have already met twice, and I have met them, and they are free to make recommendations during the period of their work. Their remit is substantial and wider than that which they had in relation to the Education Committee, albeit that that also had worth.

On the initial assessment when a child comes into care, it is not just a strengths and difficulties questionnaire, as regulations already require the responsible authority to ensure that all looked-after children have an initial health assessment by a registered medical practitioner, who should cover their emotional and mental health as well as their physical health needs. The reason we wanted the expert group to consider the matter is that there will be circumstances where it is not appropriate for a child coming into care to have a mental health assessment at that specific moment, either because they have suffered trauma at the moment of coming into care, or because they are a newborn baby, or because other elements in their circumstances might require it to be done in a more individually appropriate way. That will ensure that the right decisions are made about how to get to the bottom of what may be underlying issues due to pre-care experiences. We do not want to set a single process that restricts those who are charged with responsibilities to ensure that they take the appropriate action for that child.

Edward Timpson: I thank the hon. Lady for tabling amendments 28 to 31, which would provide that when a local authority assesses care leavers’ needs, they must take account of that young person’s requirements in relation to their physical and mental health, their emotional wellbeing and their needs as a young parent if that applies. Amendment 29 would require that any mental health assessment should be conducted by a qualified professional. I recognise that these issues are important, and that they could impact significantly on the lives of care leavers, whose health and wellbeing outcomes tend to be worse than for young people who have never been in care. The likelihood of care leavers becoming teenage parents is also much greater than for their peers, for the reasons set out by the hon. Lady in her speech.

There are, however, many other wider issues, such as health and development, education, training and employment, and financial and accommodation needs, which are also vital to care leavers’ transition to independent life and adulthood. All these issues— it would not be practical to list them all—are arguably of equal importance and will be different for every child, so I do not agree with giving some more weight than others. It is also unnecessary because these and other issues are already comprehensively covered in volume 3 of “The Children Act 1989 guidance and regulations”. The statutory guidance is clear that local authorities must produce for each care leaver a comprehensive pathway plan, which must be based on an up-to-date and thorough needs assessment taking into account how to support their health and development and their physical, emotional and mental health needs.

Steve McCabe: I understand the Minister’s point about a relatively young child or a baby not necessarily having a mental health assessment, but who would make the decision whether it was appropriate for a child to have a mental health assessment? Would it be a qualified mental health practitioner who would have the ability to make that judgment, or would it be a member of the local authority, or a member of the residential home, or the social worker? There is clearly a temptation for people to say, “Well, it is not appropriate at the moment.” Given what we now know about the longer-term effect on the mental health of many of these children, who is the most appropriate person to make that judgment, and at what stage?

Edward Timpson: As I set out a few moments ago, the regulations make it clear that the health assessment is carried out by a registered medical practitioner.
Steve McCabe: That’s not what I asked.

Edward Timpson: The hon. Gentleman asked who makes the decision, and the regulations are clear about who carries out the assessment. He knows as well as I do that local authorities have a responsibility to triage cases according to the law and the regulations that apply. If he is suggesting that it should or should not be a certain person, I would be interested to hear his views.

Steve McCabe: That is not quite what I asked. It is all very well to say that, at the moment, a child coming into care has a regular health assessment, but the Minister then told us why it would not be appropriate at certain stages or certain ages for children to have a mental health assessment. He is making that judgment at the moment. I am asking who is entitled to make a judgment about a child’s mental health, given what we now know about the long-term consequences for many of these children.

Edward Timpson: I have already explained to the hon. Gentleman that the process is clearly set out in law. I am not making that judgment; I am reflecting on the evidence provided by others about the experience of children who are brought into the care system. The whole point of the expert group is to try to ensure that the care pathway that is created for each child coming into care will ensure that they get the right support based on the right diagnosis at the right time. We want to avoid ending up with a process at the inception of a child’s time in care that does not enable that pathway to be created in a way that meets their individual needs.

The hon. Member for South Shields spoke about the most vulnerable mothers who have had multiple children taken into care. As we know, that group includes a disproportionate number of care leavers. I draw the Committee’s attention to the Pause programme, which seeks to break the intergenerational cycle of care, which the hon. Member for Stretford and Urmston mentioned. Pause has been operating in Hackney for some time and has now been extended to six other local authority areas, with funding from my Department’s innovation programme.

Last month, the Secretary of State announced funding to roll out the Pause programme in a further nine areas, bringing Government funding support to more than £6.4 million in the next four years. The programme works intensively with young women to prevent repeat pregnancies and the subsequent removal of their children into care. The initial findings are extremely encouraging and, by extending the programme, we want to reach out to more parts of the country so that more mothers who find themselves in that situation get the support they need so that they can make good life choices and have a future that is not just about turning up at court once every few years to fight for custody of their own child.

Mrs Lewell-Buck: Notwithstanding the good work being done through the Pause programme, does the Minister accept that the work is rather piecemeal? It is not happening in every local authority. As I said earlier, we should be offering such services to everyone across the board, not just to some people who live in certain local authority areas. What happens when this innovation money runs out? Do we just go back to where we were?

Edward Timpson: I will answer that question in two parts. First, interested parties always ask for evidence when we try something new. Before we roll out a programme nationally, we want to be able to demonstrate that it will be effective in tackling the issue that it was set up to try to resolve.

Secondly, of course we want to ensure that we get uniformity right throughout the country, but the only way we can establish whether the care leaving services work well is by having a strong legal framework backed up by strong accountability. When services work well—we now have four or five councils with an outstanding care leaving service—we need to get better at spreading that good practice. The new What Works centre is going to be a good way of achieving that. We must ensure that we find out where local authorities are falling short. That may be in the transitional work they are doing on the care pathway that is put in place to plan for the young person’s future, including the need to secure their emotional and mental health needs.

I do not disagree with the hon. Member for South Shields about the concerns she has expressed, which is why we are trying to tackle the problem through the innovation programme and the extension of the role of the personal adviser, who has an important part to play in providing mentoring support and engaging young people in the services they need, pushing their elbows out on their behalf so that by the time they reach 25 they are in a much stronger emotional, mental, physical and financial state than would otherwise have been the case. I do not think the approach the hon. Lady is suggesting would help in the way that she would hope. For the reasons I have set out, the Government are taking this approach because we want to try to tackle the problem that we both acknowledge remains long-standing. We are determined to do more than ever to put it right.

Mrs Lewell-Buck: The other part of my previous question was what happens in the areas we are discussing when the innovation money runs out? I am assuming that each programme is time-limited.

Edward Timpson: Every innovation programme, of which we have more than 50 throughout the country and in every region, is provided with funding for the duration of the programme only if it can show how it will be sustainable in the long term. That is done through an independent panel that makes decisions about which programmes should be supported and which should not. The panel will feed directly into the What Works centre so that other parts of the country can learn from projects that have already demonstrated a discernible impact in the area that they hoped to help through their initial proposal.

Take the example of North Yorkshire, where the No Wrong Door project to support care leavers has been hugely successful in improving support for care leavers. That model is now being shared and replicated—albeit crafted to meet individual need—based on the fact that it is showing benefits not only in North Yorkshire but in other parts of the country. The model is one of creating the evidence base, having the ability to spread best practice, and then ensuring that the sustainability proposed...
in the original programme is there. On that basis, I urge the hon. Lady to withdraw the amendment.

Mrs Lewell-Buck: If I withdrew the amendments, would the Minister consider updating some of the guidance on mental health assessments? In the pathway plans I have seen in the past they are not given the prominence they should have.

Tulip Siddiq: I echo the shadow Minister’s comments on pathways. In the past three years, the number of female teenagers who have been admitted to hospital with eating disorders has more than doubled. That is particularly relevant for female care leavers who suffer eating disorders such as bulimia, anorexia and binge eating. A lot of these disorders were not reflected in the past and were not at the forefront of the minds of the people assessing not only care leavers but teenagers in general, especially female teenagers. The Mental Health Foundation clearly labels eating disorders as mental health problems. Will the shadow Minister comment on the fact that when we make legislation and take into account society’s problems, we need to be aware that things are changing? Things that did not previously have the prominence they have now must be acknowledged by authorities, especially with the rise of social media—

The Chair: Order. That was only supposed to have been an intervention.

Tulip Siddiq: I have made my point. I apologise.

Mrs Lewell-Buck: I will withdraw the amendment, but perhaps will return to the matter at a later date. However, I wish to press to a vote the amendments on the fact that when we make legislation and take into account society’s problems, we need to be aware that things are changing? Things that did not previously have the prominence they have now must be acknowledged by authorities, especially with the rise of social media—

Amendment, by leave, withdrawn.

Amendment proposed: 30, in clause 3, page 4, line 11, after “child” insert “, including their needs as a young parent where applicable.”—(Mrs Lewell-Buck.)

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 10.

AYES

Creasy, Stella
Debbonaire, Thangam
Green, Kate

Lewell-Buck, Mrs Emma
McCabe, Steve
Siddiq, Tulip

NOES

Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Kennedy, Seema
Merriman, Huw

Milling, Amanda
Simms, Mr Robert
Tomlinson, Edward
Whately, Helen

The Chair: Amendment 31 is consequential upon amendment 30, which has just been defeated. It follows that it will not be called for a separate Division.

Clause 3 ordered to stand part of the Bill.

Clause 4

DUTY OF LOCAL AUTHORITY IN RELATION TO PREVIOUSLY LOOKED AFTER CHILDREN

Edward Timpson: I beg to move amendment 1, in clause 4, page 5, line 35, leave out from beginning to end of line 4 on page 6 and insert—

‘(6) In this section—

“relevant child” means—

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

(b) a child who appears to the local authority—

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

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

Amendment 32, in clause 4, page 6, line 4, at end insert—

“(d) returning home to the care of a parent.”

This amendment, together with amendments 33 and 34, would ensure children returning home after a period in care are afforded the same promotion of their educational attainment as those children who have ceased to be in care as a result of adoption, special guardianship orders or child arrangements orders.

Government amendments 2 and 3.

Amendment 33, in clause 5, page 6, line 36, at end insert—

“(c) was looked after by a local authority but has ceased to be so looked after as a result of returning home to the care of a parent.”

See explanatory statement for amendment 32.

Government amendments 4 to 6.

Amendment 34, in clause 6, page 7, line 46, at end insert—

“(d) returning home to the care of a parent.”

See explanatory statement for amendment 32.

Government amendments 7 and 8.

Edward Timpson: Government amendments 1 to 8 would extend the remit of clauses 4 to 6 to include children adopted from the equivalent of state care in countries outside England and Wales. Clause 4 requires local authorities, through the virtual school head, to make advice and information available to parents and designated teachers in maintained schools and academies, for the purpose of promoting the educational achievement of children who ceased to be looked after by the local authority as a result of a permanence order. Clauses 5 and 6 place a duty on maintained schools and academies to appoint a designated teacher to promote the educational achievement of pupils. These amendments will extend these entitlements to children from other countries who are now in education in England and who were adopted from a form of care equivalent to being looked after by a local authority in England and Wales.
While it remains the Government’s top priority to continue to focus on support for children who are looked after by our care system, we understand that children adopted from similar circumstances in other countries are likely to face many of the same issues. In addition, they are living in a new country with a different culture and so, they, too, are vulnerable. The Government acknowledged this earlier this year, when we opened up the Adoption Support Fund to these children and their families, giving them access to much-needed therapeutic services. So far there have been 40 applications to the fund from this group. The amendments acknowledge that, like children adopted in this country, children adopted overseas will often be coping with the emotional impact of trauma suffered in their early lives and that that can act as a barrier to their progress at school.

We know that there is an attainment gap for previously looked-after children in this country. It is, therefore, reasonable to deduce that that might also be the case for children adopted from elsewhere. There is, of course, much variation between the care systems in other countries so it is important that we ensure as much parity as possible with the eligibility criteria for children in this country who are eligible for the entitlements in clauses 4 to 6. I believe the amendments achieve just that.

A child who is cared for by a public authority, a religious organisation or charitable type of organisation before being adopted will now be able to access this support in school. The Government will set out in statutory guidance more detail on eligibility and the process for confirming such eligibility, so I hope hon. Members will support the amendments.

I am grateful to the hon. Member for South Shields for amendments 32 to 34, which would extend the duty of the virtual school head and designated teacher to promote the educational achievement of children who cease to be looked after because they returned home to the care of their birth parent or parents. I agree that children taken into care who later return to their birth parent or parents may also be vulnerable and need extra support in education. Many come from disadvantaged backgrounds and it is important that they and their adoption, and previously looked-after children get the care that they need.

Where a child ceases to be looked after because they return home, a child will be a child in need and a plan must be drawn up to identify the support and services that will be needed by the child and family to ensure that the return home is successful. That should take into account the child’s needs, the parenting capacity of those with parental responsibility and the wider context of family and environmental factors reflecting the child’s changed status. That would include how the parents can support the child to attend and do well at school and the virtual school head would be involved in those transitional arrangements.

Like other children who are disadvantaged, these children’s needs should be met by mainstream education services. Many will be eligible for additional educational entitlement such as free early education from the age of two and the pupil premium, which provides extra help and support through additional funding for early years settings and schools. Most importantly, these children will continue to have their birth parent or parents who, with the encouragement of schools, should play a full part in their child’s education.

Children who are looked after who cannot return to their birth parents face very different challenges. They are among the most vulnerable in our society because of the neglect and abuse suffered in their early years but also because they have to build new relationships and attachments with new carers. Leaving care through, for example, adoption means children have to start again to begin a new life with new parents or carers. We owe it to the child and the child’s new parents or carers to continue to provide support, whether in education by retaining access to the virtual school head or in other areas to give them the best chance of building a new life that is happy and fulfilling.

We must take care not to dilute the virtual school head’s role as the corporate parent for looked-after children in education to the extent that they are spread so thinly that they have little impact. Virtual school heads want to build their capacity to ensure that they can do justice to their role and ensure that every child under their wing gets the support they need through the pupil premium plus and the work of the virtual school head. I hope, on that basis, that the hon. Lady will not press her amendments.

Mrs Lewell-Buck: I welcome the Government amendments—something I hope to do again during the passage of the Bill. We welcome the fact that, when the Government see that the Bill is incomplete or that there are obvious or indefensible omissions, they take necessary steps to rectify them, and we will always support them in that. I hope that we will be able to support the Government at other points during the passage of the Bill.

Extending the provisions of clauses 4 and 5 to apply to children who were previously in state care outside England and Wales is a welcome move. I am sure that the Minister agrees with me that all children, whatever their background, who either need or are leaving care deserve the best opportunities available. Ensuring that those who were previously in care in other countries will receive some of the support outlined in the Bill is a good first step towards ensuring that all looked-after and previously looked-after children get the care that they need. I am sure that the Minister has seen that colleagues and I tabled a number of amendments to the Bill based on those principles, including amendments that would ensure that services provided were in keeping with the UN convention on the rights of the child, and that unaccompanied refugee children were given the support that they need.

3.30 pm
If the Minister is serious about the principles that his welcome amendments to clauses 4 and 5 lay out, and wants to support all vulnerable children and give them the opportunities that they need, we will perhaps see him and his colleagues agreeing with us a lot more in Committee.

Let me turn to my amendments. Amendments 32 to 34 would amend clauses 4 to 6 to ensure that children returning home who have ceased to be looked after receive the same educational advice and information as those who cease to be looked after as a result of adoption, special guardianship orders or child arrangement orders. A lack of educational achievement is one of the biggest obstacles for children who have experienced the care
system. Children who are or have been in care are one of the poorest-performing group in terms of educational outcomes. Research undertaken by the national pupil database found that children in need—a category that includes the children who have returned home—tend to require even more encouragement and support when it comes to educational attainment. Those children were found to be more likely to have special educational needs and poor attendance, and to have more exclusions and progressively poorer relative attainment as they went through school, than children actually in care.

In 2011, 39% of children leaving care in England returned home. There are more than 10,000 children in that situation. Children in need are also more likely to be permanently excluded than those in care. It is absolutely vital that children who have been previously in care and return home are properly supported to succeed at school. Children who may have moved into the care system and back out of it will have experienced changes of placement, and may have also changed schools.

Although we recognise the importance of making provisions to promote the educational attainment of those children who have ceased to be in care as a result of a special guardianship, child arrangements or adoption, the Bill does not go far enough in meeting the needs of those children who have been in care and have returned home. It cannot be right that those children who have been adopted or have found permanence through special guardianship are afforded different rights from those children who have returned home. I will therefore press amendments 32, 33 and 34 to a vote.

Amendment 1 agreed to.

Amendment proposed: 32, in clause 4, page 6, line 4, at end insert—

“(d) returning home to the care of a parent.”.—(Mrs Lewell-Buck.)

This amendment, together with amendments 33 and 34, would ensure children returning home after a period in care are afforded the same promotion of their educational attainment as those children who have ceased to be in care as a result of adoption, special guardianship orders or child arrangements orders.

Question put. That the amendment be made.

The Committee divided: Ayes 6, Noes 10.

Division No. 5]

AYES
Creasy, Stella
Debbonaire, Thangam
Green, Kate

NOES
Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Kennedy, Seema
Merriman, Huw

Question accordingly negatived.

Amendment made: 2, in clause 4, page 6, line 13, at end insert—

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

(a) a public authority,

(b) a religious organisation, or

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

See the explanatory statement for amendment 1.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5

MAINTAINED SCHOOLS; STAFF MEMBER FOR PREVIOUSLY LOOKED AFTER PUPILS

Amendment made: 3, in clause 5, page 6, leave out lines 24 to 36 and insert—

“(2) A registered pupil is within this subsection if the pupil—

(a) was looked after by a local authority but ceased to be looked after by them as a result of—

(i) a child arrangements order (within the meaning given by section 8(1) of the 1989 Act) which includes arrangements relating to with whom the child is to live, or when the child is to live with any person,

(ii) a special guardianship order (within the meaning given by section 14A(1) of the 1989 Act), or

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

(b) appears to the governing body—

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

(ii) to have ceased to be in that state care as a result of being adopted.”.—(Edward Timpson.)

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

Amendment proposed: 33, in clause 5, page 6, line 36, at end insert—

“(d) returning home to the care of a parent.”.—(Mrs Lewell-Buck.)

See explanatory statement for amendment 32.

Question put. That the amendment be made.

The Committee divided: Ayes 6, Noes 10.

Division No. 6]

AYES
Creasy, Stella
Debbonaire, Thangam
Green, Kate
Lewell-Buck, Mrs Emma
McCabe, Steve
Siddiq, Tulip

NOES
Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Kennedy, Seema
Merriman, Huw
Milling, Amanda
Sym, Mr Robert
Timpson, Edward
Tomlinson, Michael
Whately, Helen

Question accordingly negatived.

Amendments made: 4, in clause 5, page 6, line 43, leave out from “is” to end of line 45 and insert

“looked after by a local authority” if the person is looked after by a local authority for the purposes of the 1989 Act or Part 6 of the 2014 Act.”

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

Amendment 5, in clause 5, page 6, line 45, at end insert—

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

(Edward Timpson.)
Clause 6

ACADEMIES; STAFF MEMBER FOR LOOKED AFTER AND PREVIOUSLY LOOKED AFTER PUPILS

Amendment made: 6, in clause 6, page 7, line 46, at end insert

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

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

Amendment proposed: 34, in clause 6, page 7, line 46, at end insert—

“(c) was looked after by a local authority but has ceased to be so looked after as a result of returning home to the care of a parent.”.—(Mrs Lewell-Buck.)

See explanatory statement for amendment 32.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 10.

Division No. 7]

AYES
Creasy, Stella
Debonaire, Thangam
Green, Kate
Lewell-Buck, Mrs Emma
McCabe, Steve
Siddiq, Tulip

NOES
Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Kennedy, Seema
Merriman, Huw
Milling, Amanda
Syms, Mr Robert
Timpson, Edward
Tomlinson, Michael
Whately, Helen

Question accordingly negatived.

Amendments made: 7, in clause 6, page 8, line 11, leave out from “is” to end of line 13 and insert

“‘looked after by a local authority’ if the person is looked after by a local authority for the purposes of the Children Act 1989 or Part 6 of the Social Services and Well-being (Wales) Act 2014 (anaw 4).”

See the explanatory statement for amendment 4.

Amendment 8, in clause 6, page 8, line 13, at end insert—

“(5A) For the purposes of this section a person is in “state care” if he or she is in the care of, or accommodated by—
   (a) a public authority,
   (b) a religious organisation, or
   (c) any other organisation the sole or main purpose of which is to benefit society.”.—(Edward Timpson.)

See the explanatory statement for amendment 6.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.

—(Mr Syms.)

3.40 pm

Adjourned till Thursday 15 December at half-past Eleven o’clock.
Written evidence reported to the House

CSWB 01 A parent of a child in care with Asperger Syndrome/ASC

CSWB 03 Royal College of Speech and Language Therapists

CSWB 04 The Children’s Society
CSWB 05 Professional Standards Authority for Health and Social Care
CSWB 06 Royal College of Paediatrics and Child Health
CSWB 07 Terrence Higgins Trust
CSWB 08 Legal Action for Women
CONTENTS

Clauses 8 to 10 agreed to.
Clause 11 agreed to.
Motion to transfer clause 11 agreed to.
Clauses 12 to 15 agreed to.
Clause 16 under consideration when the Committee adjourned till this day at Two o’clock.
No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 19 December 2016
The Committee consisted of the following Members:

*Chairs: † MRS ANNE MAIN, PHIL WILSON*

† Caulfield, Maria (Lewes) (Con)
† Creasy, Stella (Walthamstow) (Lab/Co-op)
† Debbonaire, Thangam (Bristol West) (Lab)
† Fellows, Marion (Motherwell and Wishaw) (SNP)

Fernandes, Suella (Fareham) (Con)
† Green, Kate (Stretford and Urmston) (Lab)
† Hoare, Simon (North Dorset) (Con)
† Kennedy, Seema (South Ribble) (Con)
† Lewell-Buck, Mrs Emma (South Shields) (Lab)
† McCabe, Steve (Birmingham, Selly Oak) (Lab)
† Merriman, Huw (Bexhill and Battle) (Con)
† Milling, Amanda (Cannock Chase) (Con)
† Siddiq, Tulip (Hampstead and Kilburn) (Lab)
† Syms, Mr Robert (Lord Commissioner of Her Majesty’s Treasury)
† Timpson, Edward (Minister for Vulnerable Children and Families)
† Tomlinson, Michael (Mid Dorset and North Poole) (Con)
† Whately, Helen (Faversham and Mid Kent) (Con)

Farrah Bhatti, Katy Stout Committee Clerks

† attended the Committee
Public Bill Committee

Thursday 15 December 2016
(Morning)

[Mrs Anne Main in the Chair]

Children and Social Work Bill [Lords]

Clause 8

Care orders: permanence provisions

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

11.30 am

The Minister for Vulnerable Children and Families (Edward Timpson): It is a pleasure to serve under your chairmanship, Mrs Main. We are all sad that Mr Wilson is not with us today, but we all agree that you are a fantastic and exemplary replacement.

Clause 8 will expand the factors that courts must consider when deciding whether to make a care order in respect of a child, and it will ensure that consideration is given to the impact on a child of any harm they have suffered or may be likely to suffer; the child's current and future needs, including any needs arising from that impact; and the way in which the long-term plan for the upbringing of the child will meet those needs. Those are all key considerations when courts are deciding whether to place a child in authority care and are considering all the permanence options available.

The family is, of course, the most important building block in a child's life—every child deserves a loving, stable family—but it is important that we find children who cannot live with their birth parents permanent new homes without unnecessary delay. It is common knowledge that children who enter care are particularly vulnerable, often having experienced abuse, neglect and disruption—experiences that can have a significant detrimental effect. That means such children have additional needs now and later in life, something I know all too well from my own family.

Research confirms that these children need quality care and stability, in particular, in order to secure their future chances in life. However, there is concern that, at present, those factors are not always at the forefront of decision makers' minds and, consequently, some children may be missing out on placements that would be right for them.

The Department's review of special guardianship orders in December 2015 found that potentially risky placements were being accepted. For example, in some cases special guardianship orders were being awarded with a supervision order because of reservations about the guardian's ability to care for the child in the long term. That was never the intention when the Children Act 1989 was introduced, so clause 8 seeks to ensure that courts also consider the individual needs of the child now and in the long term, particularly in light of any abuse or neglect that they have suffered, and assess how well the proposed placement will meet those needs.

By ensuring that information about children's current and long-term needs is made available when key decisions are taken, we aim to ensure that the best placement option is pursued in every case—in other words, the placement that is most likely to meet a child's needs throughout their childhood. Those working with children in this area support the clause. Andy Elvin, the chief executive of the Adolescent and Children’s Trust—TACT—the UK’s largest fostering and adoption charity, has said:

“All of this is eminently sensible. In practical terms it will raise the evidential bar for all care planning.

The biggest impact, rightly, will be on special guardianship order assessments. The logic of this is that these will have to move to be on a par with fostering assessments. The court is being asked to make a decision that will last not only the child’s minority, but impact the rest of their life.”

Dr Carol Homden, the chief executive of Coram, has said:

“Recent research shows that many people underestimate the significance of harm that all too many children experience before coming into care. Therefore, we particularly welcome that this Bill calls courts and local authorities to focus on the impact of any harm a child has previously suffered and their life-long future needs when making decisions about their care.”

These are clearly important measures that have the strong support of those outside the House.

Mrs Emma Lewell-Buck (South Shields) (Lab): It is a pleasure to serve under your chairmanship, Mrs Main. The Opposition do not have a problem with the clause. In fact, when I first entered the House three years ago I questioned the Minister on SGOs, so I am pleased that he has now listened. In practice, I would routinely do this in care plans any way, and I think a lot of social workers do. We welcome the clause.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clause 9

Adoption: duty to have regard to relationship with adopters

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

Mrs Lewell-Buck: We believe that clause 9 should be deleted from the Bill, because under its provisions prospective adopters could be prioritised over relatives or other carers. That completely contradicts the Children Act 1989. It could lead to children being prematurely placed with prospective adopters even before the conclusion of court proceedings, in order to build a relationship with prospective adopters that is then used to undermine the child’s prospect of going back to his or her birth family, extended family members or friends, who love the child and have been trying to do their best to keep them in their care.

A premature placement with prospective adopters could prejudice the outcome of legal proceedings, causing unnecessary pain and distress to all concerned. It diminishes a child’s right to a family life, risks the early separation
of siblings, and inflicts trauma and grief on children and their primary carer, who more often than not is their mother, as well as on other loving family members, especially grandparents.

The clause is a prime example of the Government’s obsession with adoption to the detriment of all other forms of care. The time and money that the Department has spent on adoption is staggering, with more than 20 policy changes since 2010. Back in 2012, the former Education Secretary, the right hon. Member for Surrey Heath (Michael Gove), said:

“I firmly believe more children should be taken into care more quickly...I want social workers to be more assertive with dysfunctional parents, courts to be less indulgent of poor parents, and the care system to expand to deal with the consequences.”

And Lord Nash said in the other place, in the proceedings on this Bill, that “the Government are strongly pro-adoption.”—[Official Report, House of Lords, 14 June 2016; Vol. 773, c. 1114.]

What the Government should be doing is strongly advocating whatever care is right for each and every individual child, and not what they believe is right.

Michael Tomlinson (Mid Dorset and North Poole) (Con): Does the hon. Lady acknowledge that the evidence shows that long-term stability is obviously important, and that part of that includes the option of adopting? It is not just adoption that is being promoted; that is but one string to the bow for the Government’s weaponry, if you like, although “weaponry” is the wrong word. Can she not see that adoption is just one part of the Government’s approach—albeit an important part—and that evidence also supports this approach?

Mrs Lewell-Buck: I thank the hon. Gentleman for that intervention. However, the clause singles out adoption for special attention; the issue needs to be looked at in the wider context of overall Government policy relating to children in care and plans for permanence.

Steve McCabe (Birmingham, Selly Oak) (Lab): The Government probably have the right intention in trying to put the emphasis on the permanence of arrangements for children, but the point my hon. Friend is making is that by significantly reducing early preventive spending on early intervention in children’s services and the way this leads to greater costs elsewhere is well analysed.

Anyone who has read the book about Philomena Lee’s experience or seen the recent film of it will know how adoption can be misused, and there is a history to adoption in this country that is not always positive. When we consider the issue of adoption, we should always think about the best interests of the child and not risking lapsing back into bad old habits and bad old days, when adoption was misused and abused in this country.

Mrs Lewell-Buck: My hon. Friend is right—adoption should not be the only option for a child. It is lazy to think that. That approach does not take into account all the other options that are there and that are in the best interests of the child.

Simon Hoare (North Dorset) (Con): To the best of my memory, “Philomena” is a film set in the 1950s in the Republic of Ireland, so it has nothing to do with the Government of the United Kingdom. If the hon. Lady is really suggesting that her opposition to the clause should be based on the adoption policies of the Republic in the 1950s, parents interested in adoption may look rather askance at that.

Mrs Lewell-Buck: I think I thank the hon. Gentleman for that intervention. However, I will not dwell on the point, because I think he has missed the context of what we are trying to describe here.

Kate Green (Stretford and Urmston) (Lab): Does my hon. Friend agree that our concerns are based not on the history of adoption in the 1950s but on the discriminatory application of adoption proceedings, which often means that children from poorer families and certain ethnic groups and cultures are more likely to go through the adoption process more speedily? If the clause is not removed, it will make that even more likely.

Mrs Lewell-Buck: If the Department had spent this much energy on social worker recruitment and retention and invested in family support and early-years help, we might not be where we are now, with the highest number of children in care since 1985.

The Professional Association for Children’s Guardians, Family Court Advisers and Independent Social Workers commented on the Department for Education’s adoption policy paper this year. It said:

“We note the Policy Paper does not address how to prevent children entering the care and adoption systems in the first place...We are concerned that despite the intention to ‘strengthen families’, no more is said on this point and that there is no discussion of support for disadvantaged families despite the worrying increase in the numbers of children subject to care proceedings.”

Edward Timpson: Will the hon. Lady accept that the adoption paper is about adoption, and that there is another Government paper—we have referred to it previously in Committee—called “Putting children first”, which deals with all children who are going through the care system? It is not unusual for a Government to put forward different policy papers that cover different policy areas.

Mrs Lewell-Buck: I completely agree, but if the Minister lets me continue with my point, he will see where I am going with this.

The professional association continues:

“The scale of reduced spending on early intervention in children’s services and the way this leads to greater costs elsewhere is well analysed”.

in a number of reports.

“The key point...is that by significantly reducing early preventive work, more public money has to be spent on costly proceedings, foster care, mental health provision, adoption agencies and so forth, which potentially could be avoided by better focused spending at an earlier stage...We strongly warn against an ‘evangelical approach’ to adoption, whereby it is perceived as a good in itself. This perception is contrary to the majority view of European and western thought and jurisprudence, and it fails to appreciate it represents a serious and draconian step and a measure to be considered only ‘when nothing else will do’...We strongly advise against performance indicators that positively promote an increase in adoptions as these inevitably lead to a distortion of professional activity in favour of adoption at the expense of other choices”.


Steve McCabe: The Minister pointed out that there has in the past been a misuse of special guardianship orders—they were used in a way that was never intended, and the Government acted to address that. Does my hon. Friend feel that it would further the Government’s intentions for the clause if the Minister assured us that he planned to give clear guidance to local authorities stating that the evidence presented to the court on the relationship with the prospective adoptive parents and all other options must be absolutely balanced? In that way, we would not be in danger of thinking that one measure was being inadvertently promoted above another.

The Chair: Order. Before I call the hon. Lady to respond to that remark, may I draw her attention to the fact that this is a very narrowly worded clause about the duty to have regard to the relationship with adopters during the adoption process? I encourage her not to range too freely about why adoption is not necessarily a good thing.

Mrs Lewell-Buck: Thank you for that advice, Mrs Main. I thank my hon. Friend for his intervention. If the Minister can allay my hon. Friend’s concerns in his comments, we may not have to press the amendment to a vote.

The professional association states that “further tinkering with” the Children Act 1989 “could be unwise and the thin end of the wedge of social engineering.”

More children are adopted in the UK than in any other European country, and 90% of adoptions are without parental consent. One of the major arguments put forward for speeding up adoptions is that it would reduce the number of children in care, but the opposite has been the case. Dr Bilson, emeritus professor of social work at the University of Central Lancashire, has found that adoption policies, rather than reducing the number of children in care, have led to a 65% increase in the number of children being separated from their parents.

Dr Bilson’s research shows that over the past five years, the local authorities with the highest adoption rates also have the largest increases in the number of children in care. In those local authorities with the lowest rates of adoption, the number of children in care had fallen. In other words, prioritising adoption results in more children, not fewer, being taken into care.

The majority of such plans are about neglect or emotional abuse, both of which could be better dealt with through family support and responses to poverty and deprivation, which lead to children being over 10 times more likely to be in care or on a child protection plan. Dr Bilson’s research shows that over the past five years, the local authorities with the highest adoption rates also have the largest increases in the number of children in care. In those local authorities with the lowest rates of adoption, the number of children in care had fallen. In other words, prioritising adoption results in more children, not fewer, being taken into care.

Women Against Rape has highlighted that children are increasingly being removed from mothers who are victims of violence. Rather than providing them with the protection, resources and support they need to enable them to rebuild their lives safely, they are accused of failing to protect their children and often end up losing them as a result. Domestic violence is now a more common reason for the state removing children than mental illness or drug and alcohol misuse. Professor June Thoburn said:

“In many other EU countries, it is much easier for families to access support if they need help. Great emphasis is placed on helping families to care for children safely at home and maintaining family links if in care. But in “austerity” England, family support services are closing, thresholds are high, and social work is being defined as a narrow child protection service.”

In January, the Council of Europe highlighted the impact of austerity cuts on social services. In particular, it criticised England for its child protection focus and the removal of children who have been subject to domestic abuse, particularly in the context of policies promoting non-consensual adoption.

The Chair: Order. The hon. Lady is ranging widely off clause 9, which is titled “Adoption: duty to have regard to relationship with adopters”. I ask her to bring her comments back to that. I have allowed quite a lot of latitude.

Mrs Lewell-Buck: Thank you, Mrs Main. I will of course sum up very quickly.

The damage caused by the adoption targets is not being considered in the Bill, but it must be. Evidence reported just this week by The Guardian shows that local authorities are using targets, sometimes combined with financial incentives. It is worth remembering that adoption is far cheaper for councils than foster placements. Because once a child is adopted, they are off the council’s books for good. Adoption is also cheaper than providing services that might ensure that vulnerable parents can care for their children, but what of the money being saved? What about the lives of those destroyed by the separation?

The Bill is concerned in part with improving the situation of care leavers, which is important, but we make a mistake if we focus on their needs without considering why so many children are being taken into care and what we can do to reduce that. It cannot be right that we are talking about resources for corporate parents while saying nothing about resources for children and families who have been impoverished by austerity policies. The Government need to take a serious look at the patterns and trends in child protection, adoption and fostering, but instead they have continued on this damaging path of pro-adoption, and they are using a small clause in the Bill to strengthen that further. I hope the Minister will explain in his response why, despite evidence to the contrary, they are continuing on that path.

Edward Timpson: I am grateful to the hon. Lady for her contribution to the consideration of the clause. Mindful of the narrow nature of the clause, I say from the outset that the Government have always been clear that the right permanence option—whether that is adoption, special guardianship, kinship care, residential
care or even long-term fostering—will always depend on a child’s individual needs and circumstances. As the law clearly states, the child’s welfare is the paramount consideration, and that is as it should be. That is why I have to say to her that it is a little depressing to see the same arguments and rhetoric on the Government’s plans for children in care, saying that we only have eyes for adoption. That is simply not borne out by the facts.

Mrs Lewell-Buck: Will the Minister give way?

Edward Timpson: Perhaps the hon. Lady will let me explain. This Government introduced the first ever legal definition of long-term fostering: none existed previously. We brought in quality standards on residential care a number of years ago, and 79% of children’s care homes are now rated good or outstanding. The hon. Lady has already alluded to the work that we do with care leavers to make sure that during the period when they leave care they have much better support.

What we are trying to do with adoption, however, is tackle two issues, which Tony Blair tried to tackle in the late 1990s and early 2000s—not in the way he did it, which was by setting national targets, but by ensuring that when adoption is right for children they can be adopted and by making sure that when that happens it is without unnecessary delay. I do not think that anyone would argue it is acceptable for children to have to wait an average of 26 months from the time of entering care to move to an adoptive placement.

Those are the issues we have been tackling. What we are doing is not based on an ideological fantasy. We know from the research of Professor Julie Selwyn that adoption has a huge number of benefits for the children it is right for. It has the lowest breakdown rate of any permanent placement—about 3%, with special guardianship orders at about 6%. I have seen from my family the huge benefits that adoption can bring, but I have also seen from my family the huge benefits that long-term fostering can bring. I know from personal experience that each child will need to follow a different path.

What we are doing is not a mission to try to ensure that every child who comes into the care system ends up being adopted; we are trying to stay clearly focused on making sure that, where it is right for a child, that is exactly what happens. In the past couple of years, on the back of the Re B-S judgment, there has been a fall in the number of adoptions, not a rise. That is because we have to face up to the fact that there are still people who believe that adoption is not the right course of action for children. I am saying that we should not stand in the way in cases where it is right for them.

Mrs Lewell-Buck: Would the Minister share something with the Committee, to support his argument? His Department has made 20-plus changes to adoption since 2010; how many changes has he made to other areas of care, and what is the comparative cost? If adoption is not seen as the gold standard, surely other areas of care will have the same number of policy changes and the same spending.

Edward Timpson: I am afraid I disagree with the hon. Lady’s premise. It is not the number of things that are done, but whether the things that are done have a discernible impact of the kind that we want, and achieve the outcomes that we want to be able to celebrate. I do not accept that the amount of activity created is directly comparable to commitment or achievement of objectives.

I want to make it clear that local authorities’ decisions on the most appropriate permanency option are based on the child’s needs. That is what the law says. That is what the Bill does in making sure that those needs are given full and thorough attention when courts consider not just adoption but all permanent options. Clause 9 will ensure that courts and adoption agencies consider the relationship between a child and their prospective adopters when deciding about the adoption of a child in cases where the child is already placed with the prospective adopters.

That is an important point. It is not a matter of children who have no relationship with the prospective adopters, and have not met them or had time to get to know them. It is about those who are already placed, where there is already a relationship. The relationship between a prospective adopter and a child placed with them will clearly be a fundamentally important and relevant consideration when a court considers whether an adoption should be granted, because, ultimately, it is a court’s decision, based on the best interest of the child, and with their welfare as the paramount consideration.

In the past two years there have been a small number of cases in which decisions have been taken to remove children from settled adoptive placements in favour of alternative arrangements with relatives who have come forward at a late stage. That may have potentially serious implications for the child, given the disruption to the attachments the child is likely to have already formed with their carers. That needs to be taken into account when making that final decision.

Where the making of an adoption order is being considered, in most cases the child will already have been living with their prospective adopters for between six to 12 months. During that time, the prospective adopters and the child will have established a relationship, and the child may have built a significant attachment to their carers. I have met adopters who have told me just that. The Government believe it is important that that attachment should be considered in the balance when final decisions are made about a child’s adoption.

That is not to say that prospective adopters are prioritised over birth parents or other family members in those considerations. The existing legislation already makes it clear that the court is also required to consider the relationship that the child has with their relatives, including their mother and father, and the relationship they have with any other person the court considers relevant, such as close friends or wider family. That express and mandatory requirement is not changing, so there is no hierarchy here—just a fair, balanced consideration of each of the significant relationships a child has, based on their own needs.

I also point out that the court is required to consider the wishes and feelings of family members when making an adoption decision. In addition, the court must consider the value to the child of the continuing relationship with their relatives. That is already clearly set out in the Adoption and Children Act 2002, which was introduced by the last Labour Government, so relationships with the birth family and the child’s relatives are therefore central to the court’s considerations.
Steve McCabe: The Minister was talking earlier about the drop in the number of adoptions. One of the factors for that may have been that local authority departments misinterpreted the court rulings as advice to slow down the number of adoptions. They are easily influenced by such things. Is it the Minister’s intention to offer some guidance to local authorities in the terms he has just stated, so that it is absolutely clear to them what their responsibilities are and what the intentions of clause 9 are, and how that has to be weighed against all of the other considerations he has just referred to?

Edward Timpson: I am happy to look again at what the guidance might say and what might be appropriate to reflect the change in the law in this small area. The primary legislation that is relevant to these cases is clear. I am on the record, not only in this Committee but on previous occasions, making it clear that it has to be a decision based on that child’s needs, taking into account all of the usual factors set out in the welfare checklist and so on. I am happy to look at that. On that basis, I hope hon. Members feel reassured, and that the clause can stand part of the Bill.

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

The Committee divided: Ayes 8, Noes 5.

Division No. 8]

AYES

Caulfield, Maria
Hoare, Simon
Kennedy, Seema
Milling, Amanda

NOES

Debbonaire, Thangam
Green, Kate
Lewell-Buck, Mrs Emma

Question accordingly agreed to.
Clause 10 ordered to stand part of the Bill.

Clause 11

Power to secure proper performance

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

The Chair: With this it will be convenient to discuss the Government motion to transfer clause 11.

12 noon

Edward Timpson: Clause 11 seeks to retain the Government’s ability to intervene and drive improvement in combined authorities, in the same way that we do now in individual local authorities where children’s social care services are failing vulnerable young people. The motion to transfer this clause is a housekeeping clause stand part of the Bill. We propose that chapter 2 of part I of the Bill be divided into three shorter chapters with this provision appearing in the third. I move that the clause stand part of the Bill.

Question put and agreed to.
Clause 11 accordingly ordered to stand part of the Bill.

Ordered,
That clause 11 be transferred to the end of line 12 on page 22.—(Edward Timpson.)

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

Clause 12

Child safeguarding practice review panel

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

Mrs Lewell-Buck: I hope to get some clarity from the Minister regarding the industry’s and the Opposition’s concerns about the clause and the introduction of the child safeguarding practice review panel. I will give a more specific analysis when we debate amendments to clause 13, but I will put them into the context of clause 12.

The British Association of Social Workers is worried about the independence of the child safeguarding practice review panel and the possibility that the Secretary of State could use the panel to hammer on local authorities that she would like to take over. There is widespread alarm in the sector that the warnings in the National Audit Office report, which we discussed in Tuesday’s sitting, are being ignored by the Department. Within recent weeks we have seen yet another Labour-led council being told to transfer its statutory duties to an independent trust. I hope that when the Minister responds he will point me toward evidence that trusts do better and can achieve what local authorities could not have done without support.

The clauses also allow for the creation of a national child safeguarding review panel that can choose to identify and review complex or nationally important child safeguarding cases and make recommendations. I completely understand the rationale for overhauling the local serious case review process, as there have been widespread inconsistencies in the quality of such reports. However, while local learning can be patchy and distorted by local political and inter-agency dynamics, local-led investigations also keep local agencies engaged and involved and enable local knowledge to inform the process and the recommendations. I hope the Minister will be able to explain how the local aspect will not be lost.

There are a few examples of independent expert boards set up by recent Secretaries of State and the Department for Education. In 2014, they created the innovation fund to promote new practice within children’s social care, with a board to oversee operations and to set strategic direction. It appointed three people with financial services and investment banking experience, plus the chief social worker for children, who we know sees herself no longer as the independent voice of the profession, but as a senior civil servant, yet she is the only person on the board with practical experience in children’s social care.

When the Government sought to promote and publish more serious case reviews in the same year, we saw yet another expert panel. The four members of the panel...
were a journalist, a barrister, an air traffic accident investigator and a former career civil servant who had been the chief executive of the Big Lottery Fund. No one on the panel had any front-line experience in child protection or its direct management. It appears that there is a worrying recurring tendency. I hope the Government will reflect, rethink and build relationships with those who know most about helping children. At the moment, it appears that the DFE sees little value in using the professional experience and expertise of those who work to assist and protect families. Can the Minister shed light on how many former or still registered social workers are in his Department? When the Government appoint experts to oversee and direct children’s services, they have consistently considered commercial and financial expertise more relevant than direct experience. That is why there is some wariness about the intention to set up expert panels to advise DFE.

It is also intended that the Department for Education will have control over who can be a social worker, whether they can continue to work, how they are educated and trained and who will provide this education. The current preference is for that to be provided outside universities by Frontline, a fast-track programme that is promised on moving practitioners as quickly as possible from practice into management and threatens the continuation of traditional university courses.

The other big part of the Bill, which was removed in the other place, will create a system of inconsistencies. Rather than innovative, that system might less generously be described as an increasingly threadbare safety net. Control of social work and social workers should be in the hands not of politicians but of the profession itself.

**Edward Timpson:** Clause 12 requires the Secretary of State to establish a child safeguarding practice review panel. The clause will add new section 16A to the Children Act 2004. The Government first announced their intention to centralise the serious case review process in December 2015. The background to their decision to legislate to introduce such a panel was set out in their response to Alan Wood’s review of the role and functions of local safeguarding children boards. I remind the Committee that Alan Wood is a former director of children’s services at Hackney. His review demonstrates that the Department is more than willing to ask people from the profession to advise and assist it in its decision making. The panel is being established in response to his recommendation that the Government should

“establish an independent body at national level to oversee a new national learning framework for inquiries into child deaths and cases where children have experienced serious harm.”

He suggested that the body that supported a centralised review process should be

“one that is independent of government and the key agencies, and operates in a transparent and objective fashion to ensure learning is the key element of all inquiries.”

The Government agree entirely with that recommendation.

I should add that we intend to establish the panel as an expert committee. I expect its chair’s appointment to be subject at least to a full, open Cabinet Office public appointments process. I envisage that panel members will come from various backgrounds, including social care, and have the relevant expertise and experience to fulfil the role. I expect the number of panel members to be sufficient to enable the panel’s effective operation, and the chair to be able to draw on the expertise that he or she considers necessary for effective decisions and recommendations to be made about cases.

The Secretary of State will be responsible for removing panel members if he or she is satisfied that they are no longer able to fulfil their duties, for example due to a long-term or serious health condition, or if they have behaved in a way that is incompatible with their role, such as by releasing confidential information that is provided to the panel or making use of such information for their own purposes. Those are usual conditions, and while such action is extremely unlikely to occur, it is right to make provision for the removal of panel members should the need arise.

The clause will also allow the Secretary of State to provide whatever assistance is required to enable the panel to carry out its functions, including staff and office facilities. The Secretary of State may pay remuneration or expenses to the chair and members of the panel, and make further arrangements to support the panel’s functioning, including, for example, the production of an annual report.

The establishment of a strong national panel is an essential component of the Government’s plans to develop better understanding of the factors leading up to serious cases, for the reasons that the hon. Member for South Shields set out, to inform policy and practice nationally, and to support local agencies in improving the quality of the services that they provide to vulnerable children and families. The new panel will be independent of the Government.

The hon. Lady quite rightly raised the need to ensure that local learning is not lost. To some extent, there are clear benefits in ensuring that we have a flexible approach, and I assure her that we will increase local flexibility at the same time as creating a national panel. Centralising review decisions will enable the new panel to identify national trends and issues that may benefit from a single national review. At the same time, the bulk of reviews will be local and will address cases that raise issues of local importance and relate to local safeguarding partnerships; that will increase local flexibility. We anticipate that the number of national reviews will be relatively small and the majority of reviews will take place locally. Most importantly, we must not just look at what happens when things go wrong but understand why and spread that understanding much better. I will go into more detail as we discuss clause 13 on how we will go about achieving that.

On that basis, I ask that the clause stand part of the Bill.

**Question put and agreed to.**

Clause 12 accordingly ordered to stand part of the Bill.

**Clause 13**

**Functions of the Panel**

**Mrs Lewell-Buck:** I beg to move amendment 36, in clause 13, page 11, line 9, leave out

“unless they consider it inappropriate to do so”.

This amendment would ensure that the Practice Review Panel publishes a report on the outcome of any review.
Mrs Lewell-Buck: Amendment 36 would ensure that the new child safeguarding practice review panel publishes a report on the outcomes of a review. The current wording of the Bill allows the panel to pick and choose the cases it deems necessary to review, but does not compel it to publish a report if it does not think it is appropriate.

It is not appropriate for a national board to weigh in on highly sensitive local cases and then refuse to publish its findings. If the new panel goes ahead, preferably with guaranteed independence from the Secretary of State, it must do so as transparently as possible. Child death and serious cases of abuse have to be treated very carefully, especially by a new national panel which will naturally be met with some suspicion by front-line practitioners in particular, who might expect the panel to act as yet another mechanism for publically blaming and shaming them when things go wrong. That is not a baseless fear; social workers have had to learn the hard way, with previous instances of central Government interference in local cases. I am certainly not opposed to rigorous national oversight of serious cases—the more we can review and learn lessons, the better it will be for vulnerable children—but if lessons and improvements are very much the purpose of the exercise, the panel must have a duty to publish its report in every case it takes on.

The Government’s reason for creating this new panel is that it will pick up on cases that have wider implications than just those for the local authority, while ensuring that local authorities do not repeat mistakes that might have led to a child death or serious abuse. I want to know how the Minister can ensure that the national or local interest can be served if the reports are kept under lock, in secret.

Subsection (5) of the clause compels the panel to publish any suggested improvements arising from its report, even if it does not think that the publication of the report is appropriate, but that does nothing to solve the problem because improvements suggested out of any context are unaccountable. Who will guarantee that the suggested improvements arise from evidence presented to the panel? Amendments to mitigate the involvement of the Secretary of State in the business of the panel offer some reassurance, but the fact remains that if the mistakes are not published, suggested improvements cannot be properly owned by the managers or front-line practitioners that need to implement them in the local authority in question and nationally.

Under the Bill as it stands, the panel could publish a list of improvements to front-line practice that would leave practitioners open to public blame without recourse to a public document that explains their role. If front-line practice is at fault, that too needs to be made clear. I look forward to the Minister’s comments.

Edward Timpson: I am grateful to the hon. Member for South Shields for the amendments and the important issues that she has raised. As I said a few minutes ago, the Wood review into the role and functions of local safeguarding children boards published earlier this year highlighted a number of long-term issues with the current system of serious case reviews, including reviews being of poor quality, taking too long to complete and failing to identify required improvements to front-line practice.

In response, the Bill establishes a new system of national and local child safeguarding practice reviews to help resolve those issues. National reviews will be undertaken by the child safeguarding practice review panel into cases identified as raising issues that are complex or of national importance that it considers it appropriate to review. Commissioning of local reviews will remain with local areas and will be carried out into cases where local safeguarding partners consider that there are issues of importance in relation to the local area and that a review should be carried out.

Amendments 36 and 37 relate to subsections (4) and (5), which set out the requirement on the child safeguarding practice review panel to publish reports unless it considers it inappropriate to do so. If, on rare occasions, it does consider publication inappropriate—for example, where publication might lead to risk or distress for children or adults involved in the case—the panel is required to consider what information it is able to publish about improvements to be made following the review. As in the current serious case review system, reports commissioned by the panel will need to be written from the outset with the presumption that they will be published, and reports should be written in such a way that publication will not be likely to harm the welfare of any children or other individuals involved in the case.

12.15 pm

There is a small hint of irony here. I remember in my early days as a Member of Parliament being asked at the last minute to go on “Newsnight” to press the then Labour Government on why they still held the line of insisting on not fully publishing serious case reviews and asking only that executive summaries be published, as that was deemed to be sufficient. I am pleased that the hon. Lady has moved her party to a more enlightened position. We recognise, as I think she does, that there will be very exceptional circumstances where the publication of the full report may not be in the best interests of the child concerned or siblings and other family members. In those cases, it is important that, against the presumption in every case that it should publish the full report, the panel is able to exercise its professional judgment and discretion not to do so. The panel should also consider information that it is able to publish about implications for future practice.

Steve McCabe rose—

Edward Timpson: I knew that the hon. Gentleman would not be able to resist.

Steve McCabe: I just want to ask the Minister about a very simple point. I agree with what he is saying and I remember the occasion to which he referred. Given that part of the purpose of the measure is to improve learning and understanding, in cases where it is deemed inappropriate to publish the full report for the reasons he gave, will academic bodies have access to that information, or will they be excluded from access as well?
Edward Timpson: Will the hon. Gentleman confirm what he means by “information”?

Steve McCabe: When the full report will not be published for the reasons the Minister mentioned, will it be available to academic institutions? Will they be able to make full use of the full report or will they be denied access?

Edward Timpson: The report that will be published will be the redacted report, which will then be publicly available. We want to ensure that as much learning as possible can be extrapolated from that report. That is why we are setting up the What Works centre, which will be a repository for all serious case reviews. Practitioners and academics will be able to use the findings from those reviews to inform their own understanding and practice.

Mrs Lewell-Buck: I will not detain the Committee much longer on this point. I completely understand the Minister’s response that it is not always appropriate to publish such reports, but he did not comment on the fact that social workers are very anxious and scared that this might be used as another stick to beat them with. I hope that he will make some comments in the public domain or make some reference to that later in the Committee.

Edward Timpson: I am happy to repeat what I have said before: this is not a blame game. One problem that has arisen is that in the past, a serious case review, which is about learning from things that have gone wrong and having an open and honest discussion about how things can improve—an acceptance of failure—has turned into a finger-pointing exercise. That is not always in every case helpful in really getting to the bottom of what has gone wrong. We are absolutely not trying to turn the clock back to that type of approach. The aim is to have a very clear way to ensure that we learn and change the way in which we deliver practice for children, so that they are protected as much as possible.

Mrs Lewell-Buck: I thank the Minister. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mrs Lewell-Buck: I beg to move amendment 41, in clause 14, page 11, line 30, at end insert—

“(c) the child dies or is seriously harmed by a perpetrator of domestic abuse in circumstances related to child contact.”

This amendment would ensure that local authorities in England have a duty to notify the Child Safeguarding Practice Review Panel when a child dies or is seriously harmed by a perpetrator of domestic abuse in circumstances related to child contact.

Mrs Lewell-Buck: Amendments 41 and 42 would strengthen the role of the child safeguarding practice review panel in cases where domestic violence has been a feature. They would ensure that contact was safe for the child, and that in the terrible circumstances where a child dies or is seriously injured by a perpetrator in circumstances related to that contact, the local authority must notify the panel.

Women’s Aid’s recent “Nineteen Child Homicides” report, launched as part of the “Child First: Safe Child Contact Saves Lives” campaign, revealed the scale of the challenge for child protection in families where one parent is abusive. Child contact arrangements should always be made in the best interests of the child and to protect the safety and wellbeing of the child and the parent with care. However, there are significant concerns that the current system managing child contact decisions is not consistently upholding that principle, resulting in significant child protection concerns within families where there is a perpetrator of domestic abuse. The Bill is a critical opportunity to improve child safeguarding practice and help to prevent avoidable child deaths and harm as a result of unsafe child contact with dangerous perpetrators of domestic abuse.

Existing research provides strong evidence that in making arrangements for child contact where there is a history of domestic violence, the current workings of the family justice system support a pro-contact approach, which can undermine the best interests of the child and the safety and wellbeing of the parent with care. That frequently exposes children and women to further violence, causes them significant harm and prevents recovery. The impact of witnessing previous or continuing domestic abuse is in itself a form of child abuse, but the significance of that is often minimised by the family court system. In my experience, that is most likely because those making the decisions in court have never had to witness at first hand the harm that has been done, as social workers have to day in, day out.

On average, only 1% of applications for contact are refused, even though domestic abuse is identified as an issue in up to 70% of family proceedings cases—those are only the cases where domestic violence is disclosed. In three quarters of cases where courts have ordered contact with an abusive parent, the child suffered further abuse. There is nothing worse than having to visit a child who is crying, visibly shaking and terrified and letting them know that the court has ordered they have to see the very person who caused them that harm. Some children have even been ordered to have contact with a parent who has committed offences against them, and in some tragic cases children have been killed as a result of contact or residence arrangements. There are clearly significant safeguarding concerns resulting from the management of current child contact arrangements, which should be considered in efforts to improve child safeguarding practice.
In January this year, Women’s Aid’s “Child First: Safe Child Contact Saves Lives” campaign to stop avoidable deaths as a result of unsafe child contact with dangerous perpetrators launched alongside it the “Nineteen Child Homicides” report. The report highlighted 19 cases of children who were killed by perpetrators of domestic abuse in circumstances related to unsafe child contact. Those homicides took place in England and Wales and were outlined in serious case review reports. All the perpetrators were men and fathers to the children they killed. Later on, I will table new clauses to improve statutory support for victims of parental homicide. I hope the Committee will consider those.

The Under-Secretary of State for Justice, the hon. Member for Bracknell (Dr Lee), who is responsible for family justice, said:

“The Women’s Aid report makes for harrowing reading. No child should ever die or live in such dreadful circumstances, and it is incumbent on all of us to consider whether more can be done to prevent such tragedies. The report underlines the need to prioritise the child’s best interest in child contact cases involving domestic abuse, and to make sure that known risks are properly considered.” — [Official Report, 15 September 2016; Vol. 614, c. 1116.]

The amendments would do exactly what the Minister’s colleague asked for.

Stella Creasy (Walthamstow) (Lab-Co-op): What my hon. Friend talks about is incredibly important. One of the most upsetting cases I ever had to deal with as a Member of Parliament was one where social workers were writing letters in support of a woman’s perpetrator staying in the country because they felt it was in the children’s best interests to remain in contact with their father. As a result, she was put at direct risk, even though he had directly attacked the children, as well as her. We have to get this right and recognise the danger that perpetrators can present to the entire family. We must see it as being in the best interests of the children to keep the mother alive. The amendments would do exactly that and prevent such a scenario.

Mrs Lewell-Buck: I thank my hon. Friend. I am not aware of that research but would like to discuss the matter further with her. It is critical to the Bill that the aim of improving local safeguarding is based on lessons learned from these tragic cases.

We need to understand that domestic abuse is harmful to children, even when they have not been directly physically harmed. There needs to be a culture change within the family court system to ensure that children’s experiences of domestic abuse and its impact on them are fully considered and that practice direction 12J, which instructs courts to ensure that where domestic abuse has occurred any child arrangements orders protect the safety and wellbeing of the child and the parent with care, and are always completely in the best interests of the child.

Another concern is the professional understanding of power and control—of the dynamics of domestic abuse. Coercive control was a dominant feature in many of those cases, yet the report found a lack of professional understanding in statutory agencies and family courts about how power and control can manifest in an abusive relationship. The report recommends that the Children and Family Court Advisory and Support Service and child protection agencies and the judiciary should have more specialist training in that area.

There also needs to be an understanding that the point at which a survivor leaves an abusive partner is highly dangerous, yet time and again parental separation is seen by agencies as an end of the abuse and a reduction in the risk, when in fact that is the very time that the risk has intensified. As always in these cases, poor information sharing was identified as a major factor.

We need to support non-abusive parents and challenge abusive parents. In many of the serious case reviews, it was unclear whether the mother had been offered or referred to any specialist support, even when the abuse was known to police and social services. Statutory agencies often put the onus on the non-abusive parent to protect their children and end the relationship, rather than hold the perpetrator accountable. Communication
between family and criminal courts must improve, and there must be the safeguard that no unsupervised contact is granted to a parent who is awaiting trial or involved in ongoing criminal proceedings for domestic abuse-related offences.

I know full well that the Minister understands the importance of the amendments. If he does not support them, I hope he will explain what his Department will do to protect children fully from harmful contact, and how we can guarantee that the child safeguarding practice review panel will know about the serious harm done to children by domestic violence.

12.30 pm

Kate Green: It is a great pleasure to serve on the Committee with you in the Chair, Mrs Main. I want to reinforce what my hon. Friend said and ask a couple of questions.

I hope there has been a shift from the attitudes I have detected in the past few years. The Minister was right to emphasise that the best interests of children are the fundamental guiding principle that underpins the legislation, but in recent years I think the balance has moved to some degree towards a presumption in favour of contact. Indeed, at times that has been almost explicit in some of the language I have heard from some political and other figures. It would be really helpful if the Minister made clear again that the presumption for contact, if it exists, is very much secondary to what is in the best interests of the children.

Contact often is in the best interests of a child, but, as my hon. Friend pointed out, it is difficult to make that assumption when domestic abuse and violence have been present. Domestic abuse and violence cut across all social backgrounds, all economic backgrounds and all cultures and classes; the system needs to be aware of that. It should not be making assumptions that more articulate and authoritative men should in some way have their assertions taken at face value. I sometimes feel we see such examples in our own casework when particularly articulate cases have been made. Again, this is a good opportunity for the Minister to say how he envisions the panel will be able to spread good practice and awareness of such issues in responding to my hon. Friend.

My hon. Friend made a point about training professionals and mentioned in particular those in the family justice and family support system. In fact, a wide range of professionals who come into contact with children need to be alert to the signs of domestic abuse and violence. It would be interesting to hear from the Minister about how the safeguarding panel could help to spread that knowledge and awareness as widely as possible across a whole range of professional disciplines.

As my hon. Friend said, we do see forms of domestic abuse and violence well beyond the physical, such as coercive control and the undermining and humiliating of women in the family, through which a mother's self-confidence and self-esteem can be whittled away. That needs to be recognised when making decisions about the best interests of the care of children and their relationship with both parents. If the Minister feels unable to accept the amendments, I hope he will say how he intends to shift the balance back to where I think we agree it must be, with the best interests of the child paramount in contact decisions. A presumption of contact is not the place to start, least of all when domestic abuse or violence is present or feared.

Edward Timpson: I am grateful to the hon. Member for South Shields for her amendments, which raise important, difficult and sensitive issues. She rightly made some insightful, wide-ranging points. I suspect that my response will not necessarily do justice to them all, but I will do my best.

One thing that the hon. Lady and I have in common is that we both have experience of dealing with these types of cases in the family courts and the children's social care system. We have seen at first hand the extreme pressure on those who take part in those proceedings—particularly those who have been victims of domestic abuse, whether as children or adults.

I have been involved in many contact cases, injunctions, non-molestation orders, occupation orders and finding of fact hearings that have centred around the issue of domestic abuse. One thing that has always struck me is that, in some parts of society, there is the presumption that domestic violence happens only in certain homes, but it can happen anywhere and in any home. That is why, when we did a big national campaign to help people understand what the signs of abuse look like, which we hope to repeat in the new year, we made it clear that domestic violence is not the preserve of some communities; it happens in every community, class and walk of life.

We need to grasp more widely the culture change that the hon. Lady spoke about in relation to the family courts. We can have the best system, regulations and laws in place, but if beneath them there is a reluctance to engage with the reality of domestic violence—both its prevalence and the devastating impact it has on the victims—we are never going to be able to tackle it and prevent it from being a feature of so many people's lives in the future. I fully echo many of the points that the hon. Lady made.

We need to work together collectively, both at a local level and nationally. Like many members of the Committee, I have been involved with my local Women's Aid and other support groups, as well as with men who are victims of domestic violence, to understand the reasons behind it and what we can do, at every point where those people come into contact with the community around them, to support them. As the Minister for Vulnerable Children and Families, I want to ensure that we most protect children. They must never have to suffer the consequences of being involved in such violence or seeing it around them.

Maria Caulfield (Lewes) (Con): The Minister is making some excellent points. Does not the argument of the hon. Member for Stretford and Urmston justify clause 12 and having a national panel? A wide range of professionals, not just those involved in individual cases, need to learn the lessons. The only way to do that is to have a national panel and to feed out the evidence so such cases and domestic violence are taken much more seriously.

Edward Timpson: My hon. Friend makes a good point. She re-emphasises the purpose behind having a more systematic and comprehensive way of pulling
together that knowledge and understanding for cases involving an issue of national importance and relevance, such as domestic violence. That would give all practitioners, whether they work in social work, the health service, schools or the charitable sector, access to well-researched and practical advice about how they can respond better should they find a child or a family in those circumstances. I do not underestimate the scale of the challenge that we face in ensuring that we are doing all we can across society and across Government to meet the real need that is out there.

These important issues were debated in the House on 15 September in response to the publication of the Women’s Aid report entitled “Nineteen Child Homicides”, to which the hon. Member for South Shields referred. As the Under-Secretary of State for Justice, my hon. Friend the Member for Bracknell, made clear, it is incumbent on all of us to consider whether more can be done to prevent such tragedies.

As the hon. Lady said, the Women’s Aid report graphically underlines the need to prioritise the child’s best interest in child contact cases involving domestic abuse and to ensure that the risks are properly considered. I am happy to remind the Committee of what I said earlier, which I hope reassures the hon. Member for South Shields referred to practice direction 12J, which covers child arrangements and domestic violence and harm. It is judicial guidance to the family court on how to deal with allegations of domestic violence or abuse, and is issued by the president of the family division, with the agreement of Ministers and in accordance with process provided for by the Constitutional Reform Act 2005.

The explicit reference in a statute to such a practice direction, which the amendment would introduce, assumes a specific content for the direction. However, practice directions being made in the way I have outlined are open to amendment, revocation or replacement by further directions, so the hon. Lady’s amendment would aim at what is likely to be a moving target. It is worth noting, in this regard, that the president of the family division has already asked a senior High Court judge to review the operation of practice direction 12J in the light of some of the concerns raised by Women’s Aid. I am happy to share any further information I can glean from the Ministry of Justice and my colleagues in that Department with the hon. Lady.

Finally, I turn to amendment 42. It seeks to add to the circumstances set out in subsection 1 of clause 14, under which a local authority must make a notification to the child safeguarding practice review panel. As in my response to the previous amendment, I recognise the concerns about domestic violence and the risks that can be posed to both children and adults by potentially unsafe contact arrangements. The hon. Lady is right to highlight the risks to a particularly vulnerable group of children. Great consideration was given to defining the circumstances under which a local authority must notify the panel in order to come up with the criteria as currently set out in the Bill.

Inevitably, any such definitions cannot be exhaustive, include all circumstances or cover all settings in which children might suffer injury or harm. However, the intention has always been that all cases in which a local authority knows or suspects abuse or neglect, including cases in which factors such as those outlined by the hon. Lady are a feature, must be notified to the panel under the circumstances set out in subsection 1 of clause 14, under which a local authority must make a notification to the child safeguarding practice review panel. As in my response to the previous amendment, I recognise the concerns about domestic violence and the risks that can be posed to both children and adults by potentially unsafe contact arrangements. The hon. Lady is right to highlight the risks to a particularly vulnerable group of children. Great consideration was given to defining the circumstances under which a local authority must notify the panel in order to come up with the criteria as currently set out in the Bill.

With that explanation, and following the helpful debate that explored some of the wider issues around the subject—I am sure we will all want to return to that at a later date, if not in the Committee, then in the House—I hope that the hon. Lady will withdraw her amendment.

Mrs Lewell-Buck: I thank the Minister for his response. Like me, because of personal experience he totally understands the complexity of contact between children and parents through the courts. I appreciate that this matter may need discussion with his colleague at the Ministry of Justice. I hope he will commit to that and report back to us.

The reality is that the wrong decisions are being made, and those decisions are costing lives—the lives of children and women. In this place, we should and can always do more. I hope he will give us an update in the
near future on what the Government are doing in this area. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

12.45 pm

_Mrs Lewell-Buck:_ I beg to move amendment 35, in clause 13, page 11, line 31, leave out subsection (8).

_This amendment would remove the role of the Secretary of State with regards to giving guidance on serious child safeguarding cases to be reviewed, therefore ensuring the local authority’s independence for this process._

We believe it is inappropriate for the Secretary of State to provide any guidance as to which serious cases are to be reviewed by the panel. Policy makers cannot be policy enforcers. There has to be a separation of the two to guard against policy being used to target specific local authorities. The panel will need to tread carefully in order to be seen as a constructive ally and critical friend of children’s services, and therefore political neutrality is vital.

It will be impossible for the panel to make a credible claim of political neutrality if the Secretary of State is able to choose which serious cases are subject to review. For the same reasons, the Secretary of State cannot be seen to interfere in reviews that are under way either by deciding whether a review is making adequate progress or by rubber-stamping reports as being of adequate quality. If the Department wanted to consider an annual audit of all reviews to ascertain quality and function, that would be another matter, but on a case-by-case basis this involvement of the Secretary of State cannot reasonably be deemed acceptable, and I hope the Minister agrees that it could well hinder the efficient working of the panel.

_Edward Timpson:_ Once again, I am grateful to the hon. Lady for her amendment, which seeks to remove clause 13(8), which enables the Secretary of State to give guidance to the panel on the circumstances in which it may be appropriate for a national child safeguarding practice review to be undertaken by the panel. I assure hon. Members that any such guidance will not undermine the panel’s independence. The Secretary of State will not be able to direct the panel to carry out a review, and the panel will have sole responsibility for deciding which cases it should review, determining whom it appoints to carry out the review and the publication of the final report.

Subsection (8) also states the Secretary of State’s ability to set out in guidance matters to be taken into account when considering whether a review is being progressed to a satisfactory timescale and is of satisfactory quality. Earlier, the hon. Lady quite rightly raised, as did I, the two issues of the variable quality of serious case reviews and the length of time many were taking before being published. There are sometimes legitimate reasons for cases not being published in a shorter timescale—for example, because there are ongoing criminal proceedings. However, there are still some unacceptable delays in publication.

We want to ensure the two aspects of the current system that have not been functioning well are kept closely under review, so that we have a better functioning system. As I set out earlier, we are committed to addressing the apparent weaknesses in the current system of serious case reviews, including the poor quality of final reports and the length of time it takes to complete and publish reports. This guidance will help the panel to avoid the deficiencies in the current arrangements, but it will not undermine the panel’s decision-making processes.

_Stella Creasy:_ The Minister is talking about the length of time cases can take. Will he say a little more about how he thinks the clause will change that?

_Edward Timpson:_ I am grateful to the hon. Lady for probing that point. The current panel does not have any direct power to force a publication to be completed within a period. So we are left in a situation where there is an attempt to nudge and cajole but ultimately no ability to sanction a specific end date for a report to be published.

There are circumstances in which not months but years go by before we get the learning out of a case. In some local areas, and now at national level, we may need to know much more quickly if we are to make sure that other children will not fall through the net as a consequence of similar basic practice failures that result from not publishing a report that shows where things went wrong.

The new process will permit a closer, robust way of preventing unnecessary delay in publication; clearly, we want the quality of reports to be maintained, but we want them to be produced in a timely way, so that lessons can be learned as soon as possible. I hope that that explanation reassures the Committee about the Government’s intentions.

_Stella Creasy:_ Forgive me, but it would be helpful if the Minister would clarify what he means by “closer” and “robust”. He has made a powerful case and I think that we would all agree that the length of time taken can be a problem. I am not clear from what he said how he thinks it will be resolved—what the close and robust process will be. How will it be different?

_Edward Timpson:_ First, it will be set out in the guidance that accompanies the Bill, so for the first time there will be a clear mechanism with a trigger for a report to be published by a certain date. That does not currently apply and at the moment there can be a drift, without any way to try to bring the process to an end.

The detail will be in the guidance. I am happy to provide the hon. Lady with a draft as we continue to develop it, but the underlying principle remains the same—to get a way of avoiding unnecessary delay in the publication of reports, so we can get the learning out there into the working environment as soon as possible. On that basis I ask the hon. Member for South Shields to withdraw the amendment.

_Mrs Lewell-Buck:_ I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

_Clause 13 ordered to stand part of the Bill._

_Clause 14 and 15 ordered to stand part of the Bill._

_The Chair:_ Does the Committee wish to continue?
Clause 16

LOCAL ARRANGEMENTS FOR SAFEGUARDING AND PROMOTING WELFARE OF CHILDREN

Stella Creasy: I beg to move amendment 16, in clause 16, page 13, line 11, at end insert “, including unaccompanied refugee children once placed in the area, and unaccompanied refugee children who have been identified for resettlement in the area.”

The Chair: With this it will be convenient to discuss amendment 17, in clause 22, page 17, line 5, at end insert—

“(3) Guidance given by the Secretary of State in connection with functions conferred by section 16E in relation to unaccompanied refugee children must be developed in accordance with the 1989 Convention on the Rights of the Child.”

Stella Creasy: It is a pleasure to serve under your chairmanship, Mrs Main. I am delighted that the Government Whip has decided that we should press ahead with clause 16 so early on, because the issue and the amendments deserve a thorough hearing. In the short time before, I suspect, the Minister will want to get his lunch, I want to pose what seems to me a central question.

We must all wonder why two young men—two 14-year-old boys—have this week attempted to kill themselves. They attempted it because of a promise made by this country that is yet to be fulfilled. That is a promise to young, unaccompanied asylum seekers, the child refugees whom we have all seen on our television screens in the past year. Those children are the victims of conflicts not of their own making, but now they are in limbo as a direct consequence of decisions made by the Government.

The amendments are about putting right the anomalies and making sure that we can be proud that when Britain stands up and says we will look after children, we will do it for every child, and treat every child equally. The 14-year-old boys who tried to kill themselves this week are from Afghanistan. They are both young men who have spent months in refugee camps in Europe. They both got on buses to go to child protection centres around Europe on the basis of a promise that we made in this House: we would put in place a process to treat those children fairly, and to treat their application for assistance from the UK fairly. Now, a month on, however, they find themselves with little hope—so little hope that death seemed a better option. The amendments are about how we deal with that.

Forgive me, but I do not know how many Government Members have been involved in child refugee issues, so I will set out how we got to the stage of two young men feeling so much despair that death seemed a better option than the limbo we left them in. I will explain why therefore the amendments have been tabled.

Over the past year, 90,000 child refugees have been estimated to be in Europe. The Dubs amendment, which most Members are familiar with, was about taking only 3,000 of those children here in Britain. To be clear, we are not talking about Britain taking every single child refugee in Europe; we are talking only about doing our fair share, and doing it fairly.

Government Members might be aware of the Dublin children—children who have family here in the UK and therefore simply want to be reunited with someone who can look after them. After fleeing unimaginable horror in their home countries via various smuggling routes, they have ended up in places such as Calais. However, we are talking about the children who have no one. The Dubs children are those who have no one left, whether they are orphaned, or their families are in places to which they cannot return. They have no connection to anywhere else in Europe, and they have no one but us to ask for assistance. That figure of 3,000 was about those children with no one to help them.

Before we go to lunch, let me put it on the record that we have made progress in dealing with the issues over the past year, and the Government should be commended for that. About 750 children have now come to the United Kingdom through the transfer mechanism and following the concerns expressed in all parts of the House. The vast majority of those children, however, are Dublin children, children who legally under international conventions have the right to come here anyway.

The amendments that we will be debating this afternoon are about the Dubs children. Those two young boys who this week tried to kill themselves are Dubs children, children who should have a realistic expectation that we will act in their best interest to protect them. This afternoon’s debate is about how we do the best interest test because—I have to tell Conservative MPs this—the Government are moving the goalposts.

On 8 November the Government published guidance that fundamentally undermined the earlier guidance and the commitment made on 1 November by the Minister who is present in the Committee to do what we all think is the right thing: to treat refugee children just as we would any other child—to safeguard them. That safeguarding process must extend to those in Europe whom we have identified as potential Dubs children.

The guidance published on 8 November fundamentally undermines that, because it sets out a restrictive test for the children. What is the test? It is a two-step process. First, the children must be of a particular nationality, either Sudanese or Syrian. Secondly, there is a test of age—they must be under 12, as though when they hit 13 they are suddenly no longer vulnerable. A third test is that they are at risk of sexual exploitation, although how to assess that is not clarified.

Many of the children who have now been left in limbo in France are clearly at risk of exploitation and sexual exploitation through their very vulnerability—because they are on their own and have nowhere else to go. Indeed, a third of those children have now absconded from the centres, because they feel no hope. They are back in makeshift camps in France, waiting to try to get to Britain.

Before the Calais camp was demolished, 40% of the children there were from Eritrea. Most of the children were not from Syria. That is because children are running from conflicts throughout the world. The amendment, therefore, and the issue that we have to deal with in the Bill, are not about Syria; they are about all children in the world who are victims of conflicts. What happens next to them?
The Chair: Order. The hon. Lady needs to stay on the subject of those children who have been identified for resettlement, rather than expanding to include all children around the world, which is outside the scope of the Bill.

Stella Creasy: Thank you, Mrs Main. I am sorry, but there appears to be a question of interpretation, because I was coming on to the amendment, which you can see is about children identified for resettlement and, as we know, those children have come from around the world to end up in Europe. The particular issue is about refugee children in Europe—I simply meant that they have come in and are not European children, but children from Eritrea, Ethiopia, Sudan, Afghanistan or elsewhere around the world who have ended up in Europe. I apologise if that was not clear, but I hope that clarifies why I was talking about children from around the world.

There has been a mistake in some of our debates over the past year that we are talking solely about what is happening in Syria—we are not. The crucial thing about how we treat children is that it is not their nationality that matters, but their vulnerability as children.

I suspect we are about to go to lunch. I do not know for sure, but I am looking at the Government Whip, who looks hungry and seems to be contemplating the issues.

Ordered, That the debate be now adjourned.—(Mr Syms.)

1 pm

Adjourned till this day at Two o’clock.
Public Bill Committee

CHILDREN AND SOCIAL WORK BILL [LORDS]

Fourth Sitting

Thursday 15 December 2016

(Afternoon)

CONTENTS

Clause 16 agreed to.
Clauses 17 to 31 agreed to.
Clause 32 agreed to.
Motion to transfer clause 32 agreed to.
Schedule 1 agreed to.
Clause 33 agreed to.
Schedule 2 agreed to.
Clauses 34 to 50 agreed to.
Schedule 3 agreed to.
Clauses 51 to 57 agreed to.
Adjourned till Tuesday 10 January 2017 at twenty-five minutes past Nine o'clock.
Written evidence reported to the House.
No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 19 December 2016
The Committee consisted of the following Members:

**Chairs:** † MRS ANNE MAIN, PHIL WILSON

† Caulfield, Maria (Lewes) (Con)
† Creasy, Stella (Walthamstow) (Lab/Co-op)
† Debbonaire, Thangam (Bristol West) (Lab)
† Fellows, Marion (Motherwell and Wishaw) (SNP)
Fernandes, Suella (Fareham) (Con)
† Green, Kate (Stretford and Urmston) (Lab)
† Hoare, Simon (North Dorset) (Con)
† Kennedy, Seema (South Ribble) (Con)
† Lewell-Buck, Mrs Emma (South Shields) (Lab)
† McCabe, Steve (Birmingham, Selly Oak) (Lab)
† Merriman, Huw (Bexhill and Battle) (Con)
† Milling, Amanda (Cannock Chase) (Con)
† Siddiq, Tulip (Hampstead and Kilburn) (Lab)
† Syms, Mr Robert (Lord Commissioner of Her Majesty's Treasury)
† Timpson, Edward (Minister for Vulnerable Children and Families)
† Tomlinson, Michael (Mid Dorset and North Poole) (Con)
† Whately, Helen (Faversham and Mid Kent) (Con)

Farrah Bhatti, Committee Clerk

† attended the Committee
Public Bill Committee

Thursday 15 December 2016

(Afternoon)

[Mrs Anne Main in the Chair]

Children and Social Work Bill [Lords]

Clause 16

LOCAL ARRANGEMENTS FOR SAFEGUARDING AND PROMOTING WELFARE OF CHILDREN

Amendment moved (this day): 16, in clause 16, page 13, line 11, at end insert—

“... including unaccompanied refugee children once placed in the area, and unaccompanied refugee children who have been identified for resettlement in the area.”—(Stella Creasy)

2 pm

The Chair: I remind the Committee that with this we are discussing amendment 17, in clause 22, page 17, line 5, at end insert—

“(3) Guidance given by the Secretary of State in connection with functions conferred by section 16E in relation to unaccompanied refugee children must be developed in accordance with the 1989 Convention on the Rights of the Child.”.

Stella Creasy (Walthamstow) (Lab/Co-op): I hope that everybody had an excellent lunch and was able to think about the question that I posed before lunch, which is at the heart of the amendments. How did we get to a place where two young men felt there was so little hope in the world that they would rather kill themselves than go on? The two young men are refugees from Afghanistan, who had been escaping the Taliban. Both of them had been victims of gangs, had ended up in Calais and had willingly got on buses to go to child protection centres around France, having been told through a leaflet that they were one step closer to getting to Britain.

The amendments speak to that question and reflect the Government’s statement of 1 November, which committed to safeguarding refugee children in Europe—not just those who end up on our shores. Many of us may have dealt with children who have arrived in Britain, perhaps through illegal routes. Today, we are talking about how the safeguarding legislation that the Government will bring in by 1 May will reflect that commitment to safe routes and address legally working with those young people.

Michael Tomlinson (Mid Dorset and North Poole) (Con): Will the hon. Lady give way?

Stella Creasy: I will happily give way, because I was reading over lunch of the support and commitment of the hon. Gentleman when it comes to helping refugees. I am sure he is going to speak in support of the amendment.

Michael Tomlinson: The hon. Lady is wrong: I am not going to support the amendment. She mentioned the ministerial statement of 1 November. Before we adjourned for lunch, she was right to give credit to the Government for the steps that they have already taken. She was right to do that because the Government have taken great steps. Does she not take comfort from that ministerial statement? Does that not cover the points she is seeking to address?

Stella Creasy: I am glad that the hon. Gentleman is here this afternoon because I will explain exactly why I am concerned that the actions of the Home Office directly undermine that statement. Those of us who were involved in drafting the second Dubs amendment to ask the Government to extend safeguarding—as I think the hon. Gentleman is agreeing is the right thing to do for these young people—were very disappointed to see, not seven days later, guidance coming out from the Home Office that we consider directly undermines that commitment. I hope I can explain to the hon. Gentleman why. I hope I can also persuade him that, if—as he has said publicly—the situation in Syria challenges him, those concerns about young people should not be defined by nationality; they should be defined by need.

We are talking about the most vulnerable young people in our world. They have come, whether legally or illegally, to Europe in need of assistance. This is about people in our world. They have come, whether legally or illegally, to Europe in need of assistance. This is about a widespread supply of organised crime—gangs, people smuggling and human trafficking.

Stella Creasy: Particularly the hon. Gentleman. I understand and agree with his statement that he was deeply challenged by the situation in Syria.

Michael Tomlinson: And others.

Stella Creasy: Perhaps the hon. Gentleman had left early to get ahead in the lunch queue so he did not hear me saying before lunch that I absolutely commend what has happened so far. The amendments simply reinforce that. I have not yet heard a good argument from the hon. Gentleman—I am hoping to hear one from him—on why he would not want to ensure that we treat all young refugees equally and fairly, which is what the amendment would do. Let me explain why.

I understand that the hon. Gentleman is concerned about the situation in Syria. Let me give him some testimony from a young man from Sudan, who said, when asked why he left Sudan:

“There is war in Sudan. Lots of my family have been killed over the years. My mother was killed when I was a baby. I have been running away from the Sudanese government since I was 7 years old...In Sudan, the government pay people to kill and rape innocent people so that it does not look like they are doing it.”
That young man ended up in the Calais refugee camp. There were an estimated 2,000 unaccompanied children in that camp by the end—the kind of children who the Dubs amendment, which had support across the House, was designed to cover. As I said earlier, this is not about Britain taking every single one of those children but about how we do our fair share and ensure that we treat all children equally when we commit to safeguarding them, as the Minister did in his statement on 1 November.

That young man ended up in Calais. He then went to a child refugee centre, on the basis that he was told he would be treated fairly and given the opportunity to come to Britain. He said:

“When I heard Calais will be destroyed, we were told so many different things from the UK and the French government. We were told that all the minors will go to England. But now we are scared we will be refused by the UK. I find this so strange as we are only 1000 minors. This is nothing for a country like England...if the UK government does not hear or understand well we are telling them now: we left our country because we are dying and now once again we are dying as we hope to make it to the UK.”

His story is not unique. There are stories of Oromo children from Ethiopia and children from Afghanistan being threatened with persecution. Yes, the situation in Syria is deeply troubling, but children are caught up in conflicts in many areas around the world. Those children are running, and many of them—90,000, as we heard earlier—have ended up in Europe. The question is: what do we do to help? How do we ensure that we treat those children fairly?

Amendments 16 and 17 are important, because last Friday the Government ended the fast-track transfer scheme for the children who were in the Calais “jungle”. Although that camp has been destroyed and the children evicted, the issue of what happens to them next has not gone away. Although 750 children have come to the UK, I am sorry to report to the hon. Member for Mid Dorset and North Poole that the majority of them are Dublin children—children who would have had the right to come here anyway.

The thing stopping us from helping those children, who have no one else in the world, is the guidance that says how we decide what is in their best interests. The problem that we have—

**The Chair:** Order. The hon. Lady is going somewhat beyond the scope of the Bill. Children who have not been identified are not within the scope of the Bill.

**Stella Creasy:** It would really help me if the Chair clarified where she thinks I have talked about children who have not been identified. I have just said specifically that we are talking about children who have been identified under section 67 of the Immigration Act 2016—children in the centres in France who are being assessed precisely for that purpose, which the guidance covers and the amendment deals with.

**The Chair:** The guidance that has been developed is not within the scope of the Bill.

**Stella Creasy:** The guidance that has been developed certainly speaks to section 67 of the Immigration Act 2016 for the children in Calais. Those are exactly the children identified in the safeguarding statement on 1 November and in the amendment, which deals with children who have been identified for resettlement. Those are exactly the children we are talking about. I hope that clarifies for the Chair why I have been talking about that particular group and that guidance.

**The Chair:** As long as the hon. Lady focuses on the safeguarding of children within the area, that is fine.

**Stella Creasy:** To clarify, I am talking about amendments that deal specifically with children who are identified for resettlement. Those children are not necessarily in the UK, but they are within the scope of the Bill. Obviously, the Lords amendment was identified as being within the scope of the Bill. That was specifically about section 67 of the Immigration Act 2016. I just want to be reassured that—

**The Chair:** May I ask the hon. Lady to pause for a moment? The Lords have different rules governing the scope of Bills. The Bill is in this House, so as long as she is talking about those children who are identified for resettlement within the area—

**Stella Creasy:** Yes. I appreciate that we cannot have pieces of paper, but it might be useful for the Chair to look at the eligibility criteria, which explicitly say:

“General criteria for eligibility under section 67 of the Immigration Act 2016 for children in Calais”.

I am sure that the Minister would like to confirm that his 1 November statement was explicitly about children who had been identified for resettlement, and that includes these children. That is exactly why I am concerned about those criteria; I believe they actually undermine the commitment to safeguarding that the Minister made on 1 November and is the subject of the Bill. I do not know whether the Minister would like to clarify that so the Chair is satisfied. We are talking about children who have been identified in France. I will happily give way to him, because the Chair seems concerned about this matter—[Interruption.] I will take that as assent.

**The Chair:** Order. This is a slightly combative approach. The hon. Lady has done this a lot. May I gently remind her that the Minister did not wish to take her up on that invitation? It is not for her to interpret the Minister’s response.

**Stella Creasy:** Thank you. I apologise if you think I am being combative, Mrs Main. I am a little confused as to why there is a concern, given that we are talking explicitly about legislation and guidance that refers directly to that legislation. I want to ensure that everyone is clear. Obviously, if the amendments had been ruled out of order, we would not be debating them. I am concerned that there is confusion about what children we are referring to. This guidance is specifically about those young children.

**The Chair:** The amendments are totally within order; we would not be debating them if they were not. Some of the hon. Lady’s comments, however, seem to be straying without the scope of the Bill. I am taking guidance on this matter. It is important that we get the
Stella Creasy: Thank you. That is very helpful. I wonder whether it is also helpful for me to clarify that in the Minister’s statement on 1 November, he makes explicit reference to evaluating procedures for transferring children who would be eligible for safeguarding. He also talks explicitly about children identified for resettlement, which is reflected in the amendment. I hoped the Minister would clarify that, but perhaps that helps. People may wish to google the statement made on 1 November. I am concerned because the eligibility criteria appear to undermine the will and intent set out in that statement. I am also concerned about the reason why the second Dubs amendment, which we might have been debating today, was withdrawn from this legislation.

The statement was set out for France. We are concerned that a further statement may be put out for Greece and Italy, where there are also children. I can report to the Committee that there have been no Dubs transfers, as yet, of children from Greece and Italy, although hundreds of children have been identified as potentially eligible for that. The two-step process for France sets out a series of tests around nationality, age and high risk of sexual exploitation. It then sets a secondary test about the best interests of the children. The amendments would flip that test around, to recognise that we should always act in the best interests of all children for whom we take responsibility. There is a challenge, given the Government’s clear statement that they would take responsibility. There is a challenge, given the Government’s clear statement that they would take responsibility for these children.

We may well have safeguarding duties for the third of children whom the Refugee Youth Service were tracking from these centres in France who have now gone missing. As yet, we have not taken on those duties. For example, one of the groups of children excluded by the current criteria are Eritrean children. Some 87% of appeals for refugee status by Eritrean people are successful, so it is well recognised that there is a high level of persecution within Eritrea. However, as the guidance stands, those children would not be considered for transfer to the UK under the Dubs amendment. These are children who have nobody else in the world, who are fleeing persecution and whom we have said we would identify and consider for resettlement, but we are judging them on the basis of their nationality, not their need.

The concern for all of us is that there are many of these children in Greece and Italy. The Government have not yet published guidance for Greece and Italy, but if we are to be consistent in how we treat children, it is important we are consistent in putting their best interests first. That is the intention behind the amendments, and it is surely not controversial across the House.

The Government said they would have regard to the UN convention in future legislation. Indeed, the European Court of Human Rights has said that the Government should place in this Bill a duty on all public authorities to have regard to the convention on the rights of the child. The amendments simply seek to ensure we act in accordance with best practice in how we treat all children.

I hope that when Government Members look at the amendments in that context—we are saying, “Actually, we shouldn’t discriminate among the children we have agreed we have a safeguarding responsibility for. We should treat them all in terms of their best interest”—they will see that they are needed because the guidance that has been issued could undermine that. That could leave this country open to legal challenge, and it could mean that we are creating a second-class group of looked-after children—i.e. refugee children—because we are treating them differently within our system.

2.15 pm

I hope that the Minister will rethink his opposition to the amendments—I admit I am pre-empting his opinion; I am basing that on the comments of the hon. Member for North Dorset. I hope the Minister will understand why we have raised that concern. It is important that we are consistent in how we do safeguarding as a country. When we identify children who are at risk and need to be safeguarded, we should treat them in the same way as we treat all children.

If Government Members vote against the amendments, they are essentially saying that they do not think that the UN convention on the rights of the child should be part of our safeguarding process. The way the amendments are worded ensures that that framework underpins how we treat all safeguarding in this country, whether it is done in this country or on behalf of this country for children who will come here. I hope that Government Members reflect on that and do not vote against making the UN convention on the rights of the child the framework by which to judge what is in the best interests of children, rather than their nationality or age. That is how we ended up with two children in France right now thinking that life is not worth living. We as a country made a promise to treat them fairly and equally. The UN convention on the rights of the child is the best framework for ensuring that we act in accordance with our obligations.

That is the spirit of the Kindertransport. When we look at the contribution that Lord Dubs—a Kindertransport child—has made to our country and the work he has done not just on this issue but throughout the House, we can really see what is at stake here. There has always been widespread support across the country for taking refugees. Whether in St Albans, Poole, Crewe or my own community in Walthamstow, there have always been people who have stood up and said, “Britain is better when we recognise what is at stake here.” A great inventor of the next energy source or the cure for cancer could right now be a child fleeing persecution. We as a country are better when we treat those children as we treat our own—[Interruption.] I am sad to hear the hon. Member for Lewes suggest from a sedentary position that that is outrageous.

Maria Caulfield (Lewes) (Con): I absolutely disagree with the hon. Lady. A huge amount of cross-party work has been done to ensure that child refugees—not just
from Calais, but from places across the world, including Syria—can come to the UK. I have been working with my local refugee group, the Lewes Group in Support of Refugees and Asylum Seekers, to welcome refugees, to ensure that the process happens quickly and to support our local authority. It is absolutely outrageous to make such statements.

**The Chair:** Before the hon. Member for Walthamstow resumes her remarks—it sounds like she may be coming to a close—let me say that we are not having a general debate about refugees. I ask that she goes back to talking about her amendment and any other questions she would like the Minister to answer.

**Stella Creasy:** I am genuinely sorry that the hon. Lady thinks it is outrageous to suggest that we need to get this right and see the potential of those children—

[Interruption.] I genuinely have not accused her. I am asking whether she wants the UN convention on the rights of the child to be the framework by which safeguarding is undertaken in this country for all children, including those who are at the moment in France, Greece or Italy and have been identified as possible candidates for the Dubs amendment. She is right that there was cross-party agreement. I am surprised that there is not cross-party agreement on this, frankly. The statement on 8 November seemed to go against that.

I am sorry that it seems to be controversial to want the UN convention on the rights of the child to be the framework by which we treat safeguarding. The Minister said on Second Reading that he would go away and look at the guidance to see whether it stood against his statement on safeguarding. I hope he will explain why the Home Office issued guidance that appears to undermine the amendment on 8 November seemed to go against that. There was cross-party agreement. I am surprised that there is not cross-party agreement on this, frankly. The statement on 8 November seemed to go against that.

Edward Timpson: I make a plea to Conservative Members: if we are honest about what we want to achieve in the House and we want to protect the most vulnerable, we must make sure we provide support for them. Of course we want to provide support for all children, but those to whom the amendment relates are at the bottom of the ranks.

I ask the Government and Conservative Members to show their support. The point is not a party political one; it is about what we uphold in the House, in an era when the children in question are demonised in the press, when we talk about checking their teeth to find out how old they really are, and there is open hostility to them. It is our duty to support an amendment that will give them some comfort and show that someone in the world is looking out for them.

**Mrs Emma Lewell-Buck (South Shields) (Lab):** It is a pleasure to support the amendment. Amendments 16 and 17 will ensure that safeguarding partners safeguard and promote the welfare of unaccompanied refugee children, and that any guidance given by the Secretary of State must be developed in accordance with the United Nations convention on the rights of the child. They will help to protect the rights of some of the most vulnerable and unprotected children.

Every child, whatever their circumstances and background, deserves the support that they need to get a good start in life, and to succeed in their education and in life. I am sure that the Minister agrees, in view of the corporate parenting principles in the Bill. However, we have too often failed in that obligation to unaccompanied refugee children, as my hon. Friend the Member for Walthamstow outlined.

Unaccompanied refugee children are perhaps the most vulnerable young people in society. They have fled humanitarian disasters, wars, and horrors that none of us could begin to imagine. If they arrive in this country we have a moral duty to ensure that they receive the support they need; otherwise there is a risk that they will fall through the cracks and face a danger of being exploited. They have fled from terrible things and we must do all that we can to ensure that they get a better life here. That is not less than any of us would want for a child of our own. By ensuring that safeguarding partners have regard to unaccompanied refugee children, amendment 16 will go some way to ensuring that we rise to our moral duty. I am honoured to support my hon. Friend the Member for Walthamstow.

I hope that the Minister and his colleagues will lend their support to amendment 17. After all, I cannot imagine that they would object to any of the rights set out in the convention on the rights of the child. If they will not support the amendment, perhaps they will explain which of those rights they believe should not be extended to every child in the country.

I gently remind the Minister that the UN Committee on the Rights of the Child published its findings on the Government’s compliance this year, and they are failing in many areas. Accepting the amendments would go some way towards repairing that terrible record.

Edward Timpson: I am grateful to hon. Members for the amendments, which I recognise seek to ensure the best interests of this very vulnerable group of children, and I assure the Committee that I appreciate the good will and passion that sits behind them.
I turn first to amendment 16. Under section 16E of the Children Act 2004, which will be inserted by clause 16, safeguarding partners will be required to make arrangements for themselves and any relevant agencies that they consider appropriate to work together for the purpose of safeguarding and promoting the welfare of all children in the local area. I assure hon. Members that, when making those arrangements, safeguarding partners will be required to take account of the needs of unaccompanied refugee children. That will be the case even in areas where the numbers of such children are small.

In addition, we have also announced our plans to publish a safeguarding strategy for that particular group of children by 1 May 2017, as called for by Lord Dubs in the other place. The Government strategy will seek to ensure the utmost protection for unaccompanied, asylum-seeking and refugee children in this country, as well as those who are being transferred here from Europe, whether they are reunited with family members or become looked after by a local authority.

As part of the strategy, we will set out plans to increase foster care capacity for those looked after children, and will consider what further action can be taken to prevent them from going missing. We will also review what information is communicated to those children about their rights and entitlements; revise statutory guidance for local authorities on how to support and care for them; and regularly review the level of funding provided to local authorities for the care and support of unaccompanied asylum-seeking children. As this point was raised earlier in the debate, let me say that local authorities were asked to submit their costs of caring for that group. Current funding is higher than 50% of local authorities’ costs, and we will keep that under review to ensure that their needs are being met. Those commitments are already being progressed in consultation with others, including local authorities and non-governmental organisations.

The safeguarding responsibility for those children who have been identified for transfer but are yet to arrive lies with the member state where the children currently reside, not the local authority in which they will ultimately reside. We have supported the French in their efforts to move all children from the Calais camp to safe alternative accommodation across France. While they remain in France, their welfare and safety is a matter for the French authorities.

Since the Home Secretary’s statement to Parliament in October, when the French operation to clear the Calais camp started, teams of specialist staff have been working in France, in close liaison with the French authorities, to ensure that children eligible to come to the UK continue to be transferred as quickly as possible. We continue to work in partnership with the French authorities to transfer children to the UK with close family here—who qualify under the Dublin regulation—and those children who meet the criteria of section 67 of the Immigration Act 2016. To date, around 200 children have been brought to this country under such arrangements. I can tell the hon. Member for Walthamstow that more eligible children will be transferred from Europe, in line with the terms of the Immigration Act, and we will continue to meet our obligations under Dublin II. We will announce the number of children to be transferred to the UK under the terms of the Immigration Act in due course.

I think it is worth making it explicit to the Committee that the guidance of 8 November applies only to the Calais operation, which is now complete, but that the Dubs process has not ended. More eligible children will be transferred, and I know the Home Office will make a further announcement on how that process will take place. I will undertake to make sure that all of the points raised by the hon. Member for Walthamstow in this debate and on Second Reading are made clear to the Home Office and the Ministers there, so that they are fully aware of those issues as they develop the next iteration of that process. The hon. Lady has undertaken stoic work in trying to make sure that all of those points are understood.

On amendment 17, the Government are committed to children’s rights, and we are determined to safeguard and promote the welfare of all children—including unaccompanied refugee children. We are equally committed to giving due consideration to the United Nations convention on the rights of the child when making new policies and legislation, and when developing guidance for local agencies. In fact, another written ministerial statement that I laid before Parliament—I have had a habit of creating them in recent weeks—set out our commitment to do so right across Government, making sure that every Department is playing its part. I know that the permanent secretary in my Department is speaking with his counterparts in every other Department to ensure that that is followed through within the civil service.

One of the commitments in our safeguarding strategy will be to publish a revised version of the statutory guidance for local authorities on the care of unaccompanied and trafficked children. The guidance we have is good, but it needs updating to reflect the new circumstances that we find ourselves in as well as the diverse nature of the group of children that we are talking about to ensure that local authorities are aware of the duties they must undertake to support and promote the best interests of these children.

2.30 pm

The focus of the amendment is confined to unaccompanied refugee children, but in fact in this country we make no distinction between their rights and the rights of all children. Our statutory guidance, “Working together to safeguard children,” was developed in the light of the UNCRC articles and applies to all children whatever their status. It also applies to all those who work with children, not just the safeguarding partners and relevant agencies referred to in proposed new section 16F. We will revise “Working together” next year to reflect the changes brought about by the Bill.

Simon Hoare (North Dorset) (Con): Does my hon. Friend not think that, notwithstanding what the hon. Member for Walthamstow said, it is better for the rules, regulations and requirements to be effectively “colour blind” rather than to segregate and segment our children on where they have come from and their circumstances? That, rather than segmentation and being siloed, is much more likely to lead to a comprehensive and cohesive approach.
Edward Timpson: I am grateful to my hon. Friend for his support for the approach we have taken. There is some commonality that goes back to the heart of many of the debates today that the debate had during the passage of the Bill. Irrespective of which side of the House we are on, there is a clear desire to see a system—whether a safeguarding system or a health system—based on need. If we can get that right and not try to differentiate on children or children’s rights but work to strengthen those rights further and reflect them through the UNCR, we should do that to underpin those principles in the work we carry out.

I am happy to reiterate the commitment that Lord Nash made in the other place: we will ensure that the review of “Working together” looks again at the underpinning principles and how they can be further strengthened to reflect children’s rights as reflected in the UNCR. We believe that the forthcoming safeguarding strategy for unaccompanied and refugee children and the robust safeguarding arrangements proposed in the Bill for all children are the best approach to safeguarding and promoting the welfare of these vulnerable children.

These are difficult issues, and everyone is working hard to try to do the best that they can for these children, who are extremely exposed and vulnerable. There are often heartbreaking situations that we wish we could do all we were able to do to prevent, but we think we have a good, strong system in place, and we will keep that under close review. The hon. Lady has heard from me today that the Home Office is considering how we move on to the next stage, post-Calais, to ensure that we capture the children who have a genuine refugee status recognised through the international convention, concentrating our efforts on helping them to seek refuge in the UK.

Stella Creasy: I agree with the Minister; I think there is common ground. However, the case he is making is for the guidance that the Home Office has issued to date not to be compatible with the principles he is setting out. Does he think it is right to put nationality or age ahead of need, as that guidance does? If he does not, we need to understand what he will do to protect children in Europe who we have identified for resettlement from such discrimination in future.

Edward Timpson: I would say two things. On a factual point, the guidance that has been the subject of discussion is, as I said, in relation to Calais only. Therefore, as regards where we go on the further decisions to be made for children who have come to the UK under refugee status, it is no longer valid. There is however still a point at which the current guidance is relevant, which is in how it is constructed. We can only base decisions on which children to bring over if they meet the definition of a refugee set out by the 1951 refugee convention. We cannot bring over children who do not have that status because they will not qualify for local authority support or accommodation. They must have a realistic prospect of meeting that definition.

Our criteria are intended to ensure that we focus on the most vulnerable, by virtue of age or because they are assessed as at high risk of sexual exploitation, and the youngest of the children most likely to qualify for refugee status. We are considering those nationalities with an initial asylum grant rate of 75% or higher in the year ending June 2016. We have said we will focus on those nationalities most likely to qualify for refugee status in the UK.

If they do not have refugee status, they will not be able to come to the UK and receive the support that we all want to give them. That criterion is not in conflict with the best-interest criterion. The criterion is designed to identify refugee children and bring them here where it is in their best interest.

It is not in their best interest to come to the UK if there is no local authority place or if they are returned at 18 as they do not meet the criteria to be a refugee. We have to set some criteria that reflect that situation, which is actually defined by international law, and we believe we have that balance right.

Stella Creasy: The guidance is explicit about a first preliminary stage that excludes on the basis of nationality, ahead of the best-interest assessment. That is not what the Minister is saying, but the guidance is explicit. That is why Eritrean children, for whom 87% of appeals for refugee status are successful, are explicitly cut out by this guidance. Does the Minister believe that that accords with the conventions that he wants to apply to safeguarding? It is a two-step process and the first step excludes children who would qualify under the second step.

Edward Timpson: I did fear at the beginning of this debate that, although we would have some agreement, there would ultimately be disagreement because the Government’s position is clearly set out in the guidance and the safeguarding strategy. Focusing on those most likely to qualify for refugee status is not just the UK’s approach. It reflects the approach taken across Europe, for example, under the EU’s relocation programme to transfer asylum seekers from Greece and Italy to other European countries. It is right to give priority to those likely to qualify for refugee status, as well as the most vulnerable, regardless of their nationality.

The hon. Lady mentioned Eritrea. Without straying too far from the clause and the amendment, we look across the world and see all sorts of war-torn areas and countries going through instability and devastation and we need to ensure that we do what we can to respond. However, we have to look at those countries with a greater likelihood of eligibility for refugee status. The truth is that Sudanese and Syrian refugees are more likely to be eligible than those from other countries. We must have a system in place to provide identification to ensure that we have refugee status clearly defined. We will have a greater prospect of ensuring that they meet the criteria and, therefore, that we will be able to help them in this country.

As I said, we have moved on from the Calais operation. We still have our commitments under the Dubs amendment and we will continue to work hard to identify those children who are the most vulnerable and who also qualify under the internationally recognised definition of a refugee. I know that it is hard; these are not easy decisions. We must do all we can to bring about the best possible outcome for those children but we must also be realistic about how we define that in a way that makes it practically possible for us to help them and ensure they do not fall foul of the law and end up not getting the support that they need. On that basis, I hope hon. Members are sufficiently reassured to withdraw the amendment.
Stella Creasy: I thank the Minister for his comments but he is on, if he is honest, what he might call a sticky wicket. He might have moved on from Calais but those kids have not. There are 1,000 children in centres around France who got on buses from Calais on the promise that they would be treated fairly by the British authorities, and that when they were assessed by the Home Office to be identified for resettlement in the UK they would be treated fairly. The Minister has just had to justify a system that is not fair, that sees not the child’s needs but their nationality, that discriminates against a group with a high prospect of refugee status—Eritrean children—and that leads to 14-year-old Afghan boys thinking their only hope is to kill themselves or to get here illegally, on the back of a lorry. We are back to square one with this guidance.

I sense in what the Minister said that we might see different guidance for Italy and Greece. I very much hope so, but words mean nothing if they are not backed up by actions. I will press the amendment to a vote, because I want to see Government Members voting against putting the UN convention on the rights of the child at the heart of our safeguarding process; I want to see that commitment.

Maria Caulfield (Lewes) (Con) indicated assent:

Edward Timpson: The hon. Member for Lewes shakes her head. Perhaps she needs to explain to people why she does not think young Eritrean people are worthy of that kind of protection. The problem with what the Minister says is that there are 1,000 children facing a very uncertain future in France right now, and we have a responsibility. We made that commitment to them.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 8.

Division No. 9]

AYES
Creasy, Stella
Debonaire, Thangam
Green, Kate

Lewell-Buck, Mrs Emma
McCabe, Steve
Siddiq, Tulip

NOES
Caulfield, Maria
Hoare, Simon
Kennedy, Seema
Merriam, Huw

Milling, Amanda
Symms, Mr Robert
Timpson, Edward
Tomlinson, Michael

Question accordingly negatived.

Steve McCabe (Birmingham, Selly Oak) (Lab): On a point of order, Mrs Main. I want to raise very briefly one additional point about clause 16 that is not related to child refugees.

The Chair: We are about to consider it. The hon. Gentleman may make his remarks in the clause stand part debate.

Mr Robert Symms (Poole) (Con): We want to hear them.

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

Steve McCabe: It is always great when someone clarifies the situation. I am grateful, Mrs Main.

I notice that clause 16 specifies the partners for the local safeguarding arrangements as being the local authority, the police and the clinical commissioning group. Will the Minister briefly say why the clause limits it to those partners? Did he consider a role for education? If so, why did he decide not to pursue that? I realise that the partners are entitled to bring in other people they regard as appropriate, but I wonder what the reasoning is for limiting the specified partners to the local authority, the police and the clinical commissioning group.

Edward Timpson: I am happy to clarify that. The hon. Gentleman is right to say that the list is not limited to those three core members, as the legislation allows for other agencies to be involved in those arrangements.

As I said earlier, we asked Alan Wood to do an independent review of local safeguarding arrangements, and his recommendation was that three core agencies—the police, the local authority and the clinical commissioning group, on behalf of the health service—needed to be at the centre of that body and that decision-making process, as they envelope a large proportion of the contact children have with safeguarding services.

The hon. Gentleman is right to say that the education arena has clear reasons to be involved in those arrangements. I would be surprised if it was not, bearing in mind the role it has through “Keeping children safe in education” guidance and needing to have a safeguarding officer within schools. The education arena needs to be involved and subsumed into wider safeguarding discussions, to ensure the overall strategy is effective. However, the main reason for giving those three core agencies statutory responsibility for safeguarding in their local area is that we accepted the recommendation and rationale from Alan Wood.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Clause 17

LOCAL CHILD SAFEGUARDING PRACTICE REVIEWS

2.45 pm

Mrs Lewell-Buck: I beg to move amendment 40, in clause 17, page 14, line 12, leave out subsection (6).

This amendment would remove the role of the Secretary of State in determining certain arrangements for the working practices of safeguarding partners, ensuring that they remain locally accountable.

The spirit of the amendment is much the same as that of previous amendments concerning the child safeguarding practice review panel. It relates to unacceptable levels of involvement by the Secretary of State, this time in local child safeguarding reviews. Improvements in local safeguarding reviews are much needed.

There is huge variability in the quality and usefulness of serious case reviews, and there are questions about the suitability of board members and their closeness to those who might have a role in a serious case being scrutinised. However, the fact remains that a top-down approach whereby the Secretary of State advises each local authority—familiarity with which he or she cannot possibly be expected to have—about the criteria being taken into account, the choice of reviewers and, in particular, the content of the review cannot be either wise or a productive use of the DFE’s time or the local board’s time.
If serious case reviews are to have the desired effect of improving practice and procedure in response to tragedies, it is crucial that the review be locally accountable and owned. The purpose should be for those involved to reflect on possible mistakes and propose ways in which they can improve. Will the Minister explain why the Government feel there is a need for the Secretary of State to have such heavy involvement in these issues?

Edward Timpson: Once again, I am grateful to the hon. Lady for the amendment. Clause 17 sets out the requirement on safeguarding partners for a local authority area to identify and, where appropriate, carry out local child safeguarding practice reviews. Subsection (6) of proposed section 16F of the Children Act 2004, inserted by clause 17, sets out a list of provisions on which the Secretary of State may make regulations in order to assist local safeguarding partners to identify appropriate cases and carry out reviews where they consider appropriate, as set out in subsection (1).

It is important that the Secretary of State has the power to make regulations to help safeguarding partners in the process of local reviews. Subsection (6)(a) will enable the setting of criteria to be taken into account by the safeguarding partners in determining which cases raise issues of importance in relation to the area. That will not remove or reduce the local accountability of the safeguarding partners to make decisions. It will promote a more even and balanced consideration of the issues across the country, so that we get consistency.

The safeguarding partners will be responsible for appointing the reviewer for each review they commission. They will also be responsible for removing the reviewer if need be. Subsection (6)(b) will enable the regulations to provide for reviewers to be appointed from a list provided by the Secretary of State.

Mrs Lewell-Buck: Can the Secretary of State then override the local decisions?

Edward Timpson: No.

If such a list was provided, safeguarding partners would still be accountable for decisions taken on whom to appoint, taking into account the experience of the reviewer concerned and their independence from the local area, among other factors. The aim of a list will be to improve the overall quality of reviews, given that many have acknowledged that as being deficient in the current serious case review system, as have Members on both sides of the Committee today.

Subsection (6)(c) allows for regulations to specify when a report should be provided to the Secretary of State or the child safeguarding practice review panel and published. In receiving copies of all local reviews, the panel would be in an ideal position to review both the quality and timeliness of reports and the learning that emerges from them. Regulations would enable timescales to be set for that process.

Subsection (6)(d) refers to the procedure for a review, which may include the establishment of terms of reference. Finally, subsection (6)(e) allows regulations to make provision about the form and content of the reports. It should be noted that such provisions would not be unduly prescriptive as they would be entirely about promoting the overall quality of reviews.

I want to reassure hon. Members that, in making regulations, we will consult on their content widely before bringing them before Parliament, which will give the hon. Lady an opportunity to scrutinise them in more detail. Indeed, we have already begun to talk to a range of interested parties about some of these important issues. I hope that, with those clarifications, the hon. Lady feels able to withdraw her amendment.

Mrs Lewell-Buck: I do feel able, thank you, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 17 ordered to stand part of the Bill.

Clauses 18 to 21 ordered to stand part of the Bill.

Clause 22

GUIDANCE BY SECRETARY OF STATE

Amendment proposed: 17, in clause 22, page 17, line 5, at end insert—

“(3) Guidance given by the Secretary of State in connection with functions conferred by section 16E in relation to unaccompanied refugee children must be developed in accordance with the 1989 Convention on the Rights of the Child.”—(Stella Creasy.)

Question put. That the amendment be made.

The Committee divided: Ayes 6, Noes 8.

Division No. 10]

AYES

Creasy, Stella
Debonaire, Thangam
Green, Kate

Lewell-Buck, Mrs Emma
McCabe, Steve
Siddiq, Tulip

NOES

Caulfield, Maria
Hoare, Simon
Kennedy, Seema
Merriman, Huw

Milling, Amanda
Symes, Mr Robert
Timpson, Edward
Tomlinson, Michael

Question accordingly negatived.

Clause 22 ordered to stand part of the Bill.

Clauses 23 to 30 ordered to stand part of the Bill.

Clause 31

PRE-EMPLOYMENT PROTECTION OF WHISTLE-BLOWERS

Mrs Lewell-Buck: I beg to move amendment 39, in clause 31, page 20, leave out line 4.

This amendment would retain reference to the Health Service in the Employment Rights Act 1996.

This brief amendment would retain reference to the health service in the Employment Rights Act 1996. Social workers and others in the sector have been pleased to see that whistleblowing arrangements have been included in the Bill, but we query why child protection and other children’s social workers employed by the health service have been omitted from the whistleblowing provisions, given how many there are. Why are children’s social workers employed in hospitals and other areas omitted? It would be a shame, especially in the wake of what we
know of institutional abuse in certain hospitals, if such employees were not accorded the same whistleblower protections as their peers employed privately or by local authorities.

Marion Fellows (Motherwell and Wishaw) (SNP): I apologise for my earlier error, Mrs Main.

The Scottish Government acknowledge and respect the need for whistleblowing and believe that procedures should be in place across the public and private sectors to support staff in raising any concerns in order to ensure that people can work in a safe and secure environment. Without whistleblowers, serious concerns may take longer to be noticed and rectified. Any proposals that strengthen whistleblowing procedures and help protect employees and service users across the public sector are welcome.

Robust whistleblowing procedures are in place across Scotland, including in our NHS, but the Scottish Government and the SNP support further reforms to protect and embed an honest and open reporting culture in which all staff have the confidence to speak up without fear and in the knowledge that any genuine concern will be treated seriously and investigated properly. All children and young people have the right to be cared for and protected from harm. The amendment will help with that and we support it.

Edward Timpson: As we have heard, the clause provides the Secretary of State with the power to make regulations to prohibit relevant employers who carry out children's social care functions from discriminating against those applying for roles in the children's social care sector on the basis that it appears to the employer that the applicant has made a protected disclosure. This includes when the employer refuses the application or in some other way treats the applicant less favourably than it treats others for the same application. I am pleased that we were able to work so productively with Lord Wills in the other place over the summer to produce these important protections.

For the benefit of the hon. Member for South Shields, let me clarify that social workers employed in the NHS are already covered by the 2006 provisions and will be captured in the relevant regulations, with the consultation due in the new year. That is another consultation that I and my right hon. Friend the Secretary of State have initiated to ensure that those working with the most vulnerable must be able to report their concerns. They deserve effective protection when they make a protected disclosure. Workers with such concerns can already make a disclosure to their employer or the prescribed bodies for child protection and wellbeing social workers. We agreed with Lord Wills's proposals that, in addition, we should protect those seeking employment with specified bodies in roles relating to local authorities’ children's social care functions. We are delighted to have worked with him to produce a suitable amendment.

Mrs Lewell-Buck: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 31 ordered to stand part of the Bill.

Clause 32

Chapter 2: consequential amendments

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

The Chair: With this it will be convenient to discuss Government motion to transfer clause 32 to the end of line 39 on page 19.

Edward Timpson: I will be brief. The clause introduces a second set of consequential changes to legislation contained in schedule 1 to the Bill and relating to the provisions in chapter 2. The motion to transfer is another administrative exercise to tidy up this chapter into three smaller chapters.

Question put and agreed to.

Clause 32 accordingly ordered to stand part of the Bill.

Ordered,

That clause 32 be transferred to the end of line 39 on page 19.—(Edward Timpson.)

The consequential amendments introduced by clause 32 are in Part 2 of Schedule 1. They replace or remove references to Local Safeguarding Children Boards (abolished by clause 30). Transferring clause 32 would enable it to appear in the new Chapter relating to the safeguarding of children (see the explanatory statement for the motion to transfer clause 31).

Schedule 1 agreed to.

Clause 33

Social Work England

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

Mrs Lewell-Buck: Regulation clauses in part 2 of the Bill deal with the establishment of a new regulator for both children's and adults' social work across all specialisms. It will be called Social Work England. The Department for Education and the Department of Health, without any prior consultation or dialogue with the social work profession, propose to end regulation by the Health and Social Care Professionals Council and to replace it with an inevitably much more costly bespoke regulatory system.

In recent years there has been a lot of flux in relation to social work regulation. There was the General Social Care Council, the college and then the Health and Care Professionals Council, and now we will have Social Work England. I hope that the Minister will confirm that this ever-changing landscape is going to cease and that we will not be debating another regulator in another year or so, because all that this change does is create constant disruption in the profession.

3 pm

I profess to being relieved to be speaking to this clause without having to battle against the Government on their initial proposal that the new regulator be established as an executive agency of the Department for Education. The fact that that was proposed at all is disgraceful. State-run regulation is something that none of us ever wants to see. Indeed, a survey by Unison in
August found that around 90% of social workers thought the profession should be regulated by an independent body and not by Government. I congratulate the noble Lord Watson and Lord Warner for their tireless work on this section of the Bill in the other place. They were successful in getting a number of concessions on the regulator to make it independent from Government.

Although I am pleased that I do not have to stand here and talk about a state-run regulator, it is worth reflecting for a moment on what the Government were planning to do, because it indicates their true feelings towards the profession. This would have had a hugely negative impact on the extent to which social workers feel ownership of improvement initiatives, and it would have stifled the development of the profession—[Interruption.] I will shorten my comments.

The Chair: What might have been done is somewhat off what is being done.

Mrs Lewell-Buck: I appreciate that.

Even with the amendments to the clause, the original proposition was outrageous. It has left a bad taste in the mouths of many in the sector, and distrust and scepticism behind the whole idea of the new regulator. What assurances can the Minister give that will ensure that social work regulation has the appropriate autonomy and distance from prevailing Government policy, and that it focuses on public protection, which is the proper priority of regulation? Will he tell us why social work is always treated differently from other health and social care professions?

Regulation of all professions should focus on assuring fitness to practise and public protection. All other professions are regulated to ensure consistent and safe practice. That arrangement provides continuity through the changes that inevitably come from successive policy developments under different Governments. Given that there is little cross-party consensus on children's social care policy at the moment, and that subsequent Governments could take a different path, this is particularly worrying.

Although the amended proposals for a non-departmental public body regulatory body suggest more independence than was first proposed, a NDPB can mean a wide range of governance and independence options. We are challenging the detail of current proposals that intend for the Government to directly appoint the leadership of the organisation. We expect that the key roles of chair and chief executive officer, as well as the board, will be appointed without political control of process and decision making. Current Government proposals mean that the Secretary of State for Education controls those appointments.

It would be better for regulatory standards to be set out through a profession-led process. The British Association of Social Workers and its partners should drive that; BASW has always supported and campaigned for regulation to ensure high standards and to protect the public. If independence from Government control is not instituted in these new arrangements, that will detract from the profession developing its own standards and setting capabilities and a culture of responsibility for excellence at every single level.

We are also concerned that the proposals risk fostering resistance to regulation and might lead to social workers choosing to deregister if a new regulator focuses on delivering current Government policy and sets requirements for registration that inappropriately narrow down the options for how social workers can demonstrate their fitness to practise. That risk is exacerbated by the probability of significantly increased fees for social workers from an expensive and bespoke regulator. There has recently been a decline in the number of social workers being trained. There is a further risk of decline with proposed changes to training bursaries disincentivising good candidates from the profession. Problems in retention persist. The profession and our public services cannot withstand the further risk of a drain of talent and capacity from the registered workforce. I hope that the Minister understands that and will sum it up in his comments.

Edward Timpson: Clause 33 underpins our ambition to improve the practice of social work and raise the status of the profession. It establishes a new body corporate, Social Work England, which will be a new, bespoke regulator for this vital and unique profession.

First, I will set out the case and motivation for reform. In many ways, the easiest thing would be to do nothing and not prioritise social work as a key plank of the Government’s efforts to transform children’s social care. I think we all agree that high-quality social work can transform lives and that social workers play a critical role in our society. They deliver a range of vital services, from safeguarding the most vulnerable to supporting those with complex needs to live life to the full. Every day, social workers deal with complex and fraught situations that require a great depth of skill, knowledge, understanding and empathy. When social workers are not able to fulfil their role competently the consequences can be catastrophic, which is why the Government have developed a significant reform programme to improve the quality of social work and of the systems that support social workers. That includes investing £750 million since 2010 in supporting both traditional and fast-track routes into the profession and investing £100 million to date in the children’s social care innovation programme, so that local authorities and others can evidence how to reform services and practice to be more effective.

More is needed. To underpin the reforms, social work needs a regulatory system that meets the needs of this unique profession. Such a regulatory system will help to improve public safety and promote the status and standing of social work. The need for an improved system of regulation for the social work profession in England has been highlighted in recent independent reviews.

The hon. Lady asked why the social work profession should have a different regulator from the health profession. The approach of the current regulator, the Health and Care Professions Council, is designed to maintain minimum standards of public safety and initial education across a range of professions, rather than to drive up standards in any one profession. Driving up standards is vital for a profession in which the safety of our most vulnerable people is intrinsically linked to the highest standards of practice. I would argue also that social work is a distinct and highly skilled profession and that its practitioners manage complex risks and work with vulnerable children...
and adults on a daily basis. A new specialist regulator for social work reflects that reality and will be able to focus on the unique nature of social work practice and on the education and training needed to support it in a way that is, unfortunately, not currently possible.

Clause 33 provides for the establishment of a new regulator for the social work profession in England. It makes it clear that our intention is to set up a regulator that is a separate legal entity at arm’s length from Government. It is important to maintain appropriate distance between the new regulator and Government, and I make it clear that it has never been our intention to give Government the power to make decisions about the fitness to practise of individual social workers.

The clause also introduces schedule 2, which sets out the new body’s governance and accountability arrangements. We may want to discuss that in more detail later, but our ambition in establishing a new bespoke, independent regulator for social work is to continue improving the practice of social work and raising the status of the profession.

Steve McCabe: I thought it might be better to intervene now rather than take up time later. On the financing of the regulator, the Minister will be familiar with the experience of the College of Social Work, for which the start-up cost included about £5 million of Government money. The college only ever reached half its anticipated registration figure, and it eventually had to close because it did not have sufficient funds to continue.

I have three specific questions. First, is the Minister confident that the regulator will be financially self-sustaining without the cost being prohibitive enough to cause a problem with registration? Secondly, will individuals have to register as individuals, or will it be possible for an employer or local authority to register them? That happened under the College of Social Work, but of course that was part of its undoing. Finally, the regulator appears to be taking on some of the functions that were previously associated with the College of Social Work and the former Central Council for Education and Training in Social Work, including education and training. Is he confident that the combination of setting the standards, approving the qualifying training and regulating the practice of individuals is compatible with having a single organisation? I recognise that he has made a lot of changes since the original proposals, so I am not criticising what he is trying to do. I am trying to be clear about how the regulator will work, given past experiences of efforts in this direction that have not exactly been that successful.

The Chair: That was a substantial intervention.

Edward Timpson: I am always happy to talk with the hon. Gentleman at any time about the details of policies and their implementation, and this is no exception. Despite the short time I have had to prepare an answer, I will do my best to give him the details that he seeks.

The Government will significantly support the establishment of Social Work England as a regulator in terms of the set-up costs. We anticipate that about £10 million will be provided by the Government from the Department of Health. The Government will also contribute up to £16 million over the rest of this Parliament to support the running costs of Social Work England. We anticipate that it will become a self-sustaining model. For the reasons that the hon. Gentleman set out, we want to ensure that, during that period, that is exactly what we work towards.

The administration and workings of the new regulator will be overseen by the Professional Standards Authority, which will be keeping a close eye on its ability to be sustainable. At the moment, we are looking at individual registration, but I will look carefully at what the hon. Gentleman said about whether there are other mechanisms. The important thing is that we are confident that every person who is meeting the necessary standards is doing so as an individual, as opposed to as part of a team. It is that person’s professional capacity that we are most interested in.

The regulator is not an improvement body; it is purely a regulator. One point I will pick up on for the hon. Member for South Shields is that we want to work with the various professional bodies that support social workers so that we have a single body that can help social workers with their improvement journey through their career, so that they feel supported in the process.

We have established an advisory group that includes the Association of Directors of Children’s Services, the Association of Directors of Adult Social Services, the British Association of Social Workers, Unison, the Local Government Association and the PSA, which will act as our critical friend and provide effective challenge to help us to develop the detail and the practical delivery of the new regulator. The first meeting took place on 9 December. The intention is that the group will meet every six weeks to discuss the challenges that the changes will have for the wider social workforce, and to help support the development and detail of Social Work England. There are requirements in the Bill for Social Work England to consult on its standards, so there is another opportunity to look at those more closely. On that basis, I hope that the clause stands part of the Bill.

Question put and agreed to.

Clause 33 accordingly ordered to stand part of the Bill.

Schedule 2 agreed to.

Clauses 34 to 43 ordered to stand part of the Bill.

Clause 44

FEES

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

Mrs Lewell-Buck: There are concerns that the new regulator, Social Work England, has been developed without any prior consultation or dialogue with the profession. There is a worry that it is likely to have cost implications for social workers in the form of high registration fees. I hope that the Minister can today confirm that that will not be the case, and that the Government can protect already practising social workers and require that fees for the new regulator’s initial five years of existence be set no higher than the projected fees over that time for the existing regulator.
Social workers are already grossly underpaid for the work they do. The job is done seven days a week. It involves great personal and financial sacrifices and affects their mental and physical health. They should not have to bear the burden of paying for a new regulator that they never asked for.

3.15 pm

Edward Timpson: Clause 44 enables the Secretary of State, through regulations, to confer power on the regulator to charge fees in relation to registration or continued registration in the register provided for in clause 36; assessing whether a person meets a professional standard relating to proficiency, under clause 38(4); and the approval or continued approval of education and training courses in accordance with a scheme provided for in clause 39. Social workers currently pay £180 every two years to be registered with the Health and Care Professions Council. Those fees enable the HCPC to carry out its functions effectively. Clause 44 will enable Social Work England to have a power similar to the one that already exists.

Our vision is to create a confident and highly capable social work profession with the right knowledge and skills. I am sure that hon. Members would agree that that is worth pursuing, but to support that vision we need to invest in the profession by putting in place a new, bespoke regulator that focuses on practice excellence from initial education through to post-qualification specialism.

The clause is clear that before the regulator can determine the level of the fee, it must consult those persons whom it considers appropriate and must gain approval from the Secretary of State. That is a very significant part of the clause. Although it is right and proper that the regulator has appropriate freedoms and flexibilities, we want to ensure that any potential increase in fees is proportionate. I assure hon. Members that there is no intention that this will involve any element of profit making. The powers in respect of fees simply allow flexibility in the use of funding, thereby allowing cross-subsidisation. They would allow, for example, newly qualified social workers to pay a reduced fee for the first two years of registration as they do now.

The clause also enables the Secretary of State to confer power on the regulator to charge for the approval or continued approval of education and training courses. Again, that happens in other professions, but not currently in social work.

Steve McCabe: I just want this to be clear. Is it the Minister’s intention that anyone working for any organisation in England whose job could reasonably be described as that of a social worker will have to be registered with the regulator to continue to do that job?

Edward Timpson: This is in relation to a children and families social worker. There are other roles that people can have within children’s social care, but if someone wants to qualify and be accredited as a social worker in that respect, the regulator is there for them. Of course it also incorporates adult social work and the regulation of that profession, but for any social worker there is a generic part to the degree, which the hon. Gentleman will be aware of. We want to ensure that there is consistency of approach to how we ensure that we know who meets the necessary standard, and that is reflected in the detail set out in subsequent clauses and the regulations that will follow.

Under the current regime, the cost is met from the registration fees paid by individual social workers. Again, it is right to make provision to enable the regulator at least to consider that option, but the clause is clear that it would need to consult before determining the level of any fee in order to understand any potential impact. The clause will also enable the new regulator to charge for assessing whether a person meets a professional standard relating to proficiency. Under clause 38(4), the Secretary of State may by regulations make provision about arrangements for such assessments.

The Government are keen to promote the development of post-qualification specialist practice, and we firmly believe that Social Work England can play a positive role in that, albeit as a regulator. In the first instance, it will take on functions relating to best interest assessors and approved mental health professionals. Over time, it may have a role in supporting efforts to develop post-qualifying specialisms for accredited child and family practitioners. The power under clause 38 for regulations to make provision about arrangements for the regulator to assess proficiency and the power dealt with in clause 44 for regulations to make provision for the regulator to charge a fee in respect of such assessments are included to support this future possibility. I am sure that hon. Members will agree that it is sensible in not tying the regulator’s hands to the extent of potentially affecting sustainability in the long term.

Before exercise of the powers, including determination of the level of any such fee, regulations must be made through the affirmative procedure and the regulator must consult any persons whom they consider appropriate. That ensures that the appropriate safeguards are in place and addresses the issues raised by the hon. Lady. I hope that on that basis, the Committee will support the clause.

Question put and agreed to.

Clause 44 accordingly ordered to stand part of the Bill. Clauses 45 to 50 ordered to stand part of the Bill. Schedule 3 agreed to.

Clauses 51 to 57 ordered to stand part of the Bill. Ordered, That further consideration be now adjourned.

—(Mr Syms.)

3.22 pm

Adjourned till Tuesday 10 January 2017 at twenty-five minutes past Nine o’clock.
Written evidence reported to the House

CSWB 09 Women’s Aid
CSWB 10 Women Against Rape (WAR)

CSWB 11 Equality and Human Rights Commission
CSWB 12 Anonymous
CSWB 13 Independent Children’s Homes Association
CSWB 14 Mary J Flores AKA Mary Moss
CONTENTS

New clauses under consideration when the Committee adjourned till this day at Two o’clock.
No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 14 January 2017
The Committee consisted of the following Members:

Chairs: † MRS ANNE MAIN, PHIL WILSON

† Caulfield, Maria (Lewes) (Con)
† Creasy, Stella (Walthamstow) (Lab/Co-op)
† Debbonaire, Thangam (Bristol West) (Lab)
Fellows, Marion (Motherwell and Wishaw) (SNP)
† Fernandes, Suella (Fareham) (Con)
† Green, Kate (Stretford and Urmston) (Lab)
† Hoare, Simon (North Dorset) (Con)
† Kennedy, Seema (South Ribble) (Con)
† Lewell-Buck, Mrs Emma (South Shields) (Lab)
† McCabe, Steve (Birmingham, Selly Oak) (Lab)
† Merriman, Huw (Bexhill and Battle) (Con)
† Milling, Amanda (Cannock Chase) (Con)

† attended the Committee

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† Merriman, Huw (Bexhill and Battle) (Con)
† Milling, Amanda (Cannock Chase) (Con)

† attended the Committee
Public Bill Committee

Tuesday 10 January 2017

(Morning)

[Mrs Anne Main in the Chair]

Children and Social Work Bill [Lords]

9.25 am

The Chair: I remind Members that we have dealt with clauses 1 to 57 and schedules 1 to 3. We now move on to new clauses, new schedules and, in due course, clauses 58 to 64.

New Clause 1

Placing children in secure accommodation elsewhere in Great Britain

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

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

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

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

Brought up, and read the First time.

The Minister for Vulnerable Children and Families (Edward Timpson): I beg to move, That the clause be read a Second time.

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

Government amendments 9 to 15.

New clause 27—Placing children in secure accommodation elsewhere in Great Britain—

“(1) Schedule (Placing children in secure accommodation elsewhere in Great Britain) ends at the end of the period of two years beginning with the day on which this Act is passed.”

This new clause would revoke provisions in the Bill that enable local authorities in England and Wales to place children in secure accommodation in Scotland, and vice versa, two years after the Act comes into force.

Government new schedule 1—Placing children in secure accommodation elsewhere in Great Britain.

Edward Timpson: Happy new year to you, Mrs Main, and the rest of the Committee. It is wonderful to be back and to see everyone looking bright-eyed and bushy-tailed and ready for what we hope will be a constructive last few days in Committee.

The Government amendments in this group, introduced via new clause 1 and new schedule 1, are necessary to fill a legislative gap relating to looked-after children being placed in secure children’s homes in Scotland by English and Welsh local authorities. The new clause and new schedule make various amendments, some of them technical, to various pieces of primary and secondary legislation, with the aim of making clear the ability of local authorities in England and Wales to place looked-after children in secure accommodation in Scotland.

Reciprocal provisions already exist that allow Scottish local authorities to place children in England or Wales under compulsory supervision orders, so this is not a new or even emerging position. Placements in Scottish secure homes have happened commonly over time, with the option to place children in Scotland increasing the diversity of specialist secure provision available to local authorities in England and Wales, which is in the best interests of our most vulnerable children.

Government amendments 9 to 15 will make the relevant changes to the Bill’s extent provisions to reflect new clause 1 and new schedule 1 and provide for them to come into effect when the Bill is passed.

It is right to say that extensive discussions have taken place with officials in the Scottish and Welsh Governments, and Ministers from both those Administrations have indicated their support for the Government amendments as drafted. Scotland is currently progressing its own legislative consent motion to that effect.

The hon. Member for South Shields will want to speak to her new clause, and I will no doubt want to respond to the points that she makes, but I urge the Committee to see the Government amendments for what they are: a technical solution to a gap in the law to allow the continuation of a well-established practice.

Mrs Emma Lewell-Buck (South Shields) (Lab): It is a pleasure to be back in Committee, Mrs Main. I, too, wish everyone a happy new year.

I rise to speak to new clause 27, which is in my name. It was with a mix of anger and sadness that I tabled the new clause, which would give Ministers two years to sort out a situation that has arisen on their watch: the intolerable lack of secure places for our country’s most vulnerable children. Those are children who are looked after by the state and who the courts have found to be at risk of significant harm and injury or a risk to others by their being looked after by local authorities. They are our responsibility.

I will briefly share with the Committee a small example from the Department for Education’s own research of a child who was placed in secure accommodation:

“Marie was referred as a very young child because of sexual abuse and severe neglect. She was removed and placed for adoption from the Department for Education’s own research of a child who was placed in secure accommodation:

“Marie was referred as a very young child because of sexual abuse and severe neglect. She was removed and placed for adoption:

Mrs Emma Lewell-Buck: It is with a mix of anger and sadness that I tabled the new clause, which would give Ministers two years to sort out a situation that has arisen on their watch: the intolerable lack of secure places for our country’s most vulnerable children. These are children who are looked after by the state and who the courts have found to be at risk of significant harm and injury or a risk to others by their being looked after by local authorities. They are our responsibility.

I will briefly share with the Committee a small example from the Department for Education’s own research of a child who was placed in secure accommodation:

“Marie was referred as a very young child because of sexual abuse and severe neglect. She was removed and placed for adoption aged four with two younger siblings but went on to experience three adoption breakdowns. This was partly due to the children’s sexualised behaviour but also events that couldn’t have been predicted—including the death of two adoptive parents. She returned to the care system for the last time aged nine with a severe attachment disorder.”

We owe it to children like her to ensure that when they are in crisis, the best possible support is available to meet their needs.

Two years is enough time for the Government to fix this problem if there is sufficient political will. New clause 27 is a pragmatic response to a situation that should never have been allowed to happen. I have decided reluctantly that seeking to block the Minister’s
amendments would not be in the immediate interests of children who are desperately in need of secure care. Children have been sent from England to Scotland because of a lack of provision close to their families, local services and communities. The legal cases that I understand led to the Minister tabling his amendments concern children from Blackpool, Cumbria and Stockport being detained in Scotland. Those are looked-after children who are attempting suicide and self-harm, and who are in acute states of distress. Courts have made orders for them to be detained because they are not safe in ordinary children’s homes or in foster care.

We should not routinely send those children to another country, where they will have to adapt to a different education system and risk disruption to their mental healthcare. We are talking about placing children hundreds of miles away from their families, social workers, independent reviewing officers, independent advocates, visitors and lawyers. Will the Minister explain how we can be sure that their detention will be effectively monitored—particularly as he has not extended the duty on local authorities to establish secure accommodation reviews with independent input?

The legal situation of children looked after by English councils but detained in Scotland must be remedied as a matter of urgency—I totally accept that—but I do not believe it is a good policy decision. Let us be clear: the new clause, which will allow for the lawful detention in Scotland of looked-after children from our country, has not been put in place for decades. I hope that Members will support my amendment because of a lack of provision close to their families; it would be in their best interests, or that sending those children hundreds of miles from home would make them feel safer and more secure.

The changes are the result of the courts being put in the invidious position of deciding that a looked-after child fits the criteria for a secure accommodation order, but being then informed by the local authority applying for such an order that there is no secure place for that child in England. Orders have been made by the High Court that have bypassed the Children Act 1989, because that legislation does not allow for looked-after children to be detained on welfare grounds in Scotland. The Act does not allow any looked-after child to be placed outside England and Wales without the consent of the child or his or her parent—although that can be overruled in certain circumstances. That provision has been law since, I believe, 1980. Without any consultation with young people or professionals who work with them, the Minister’s new clause strikes out the need for the child’s consent and for parental consent. We are talking about vulnerable teenagers whose lives have spiralled out of control. How can we expect to help them to regain and build up their self-esteem and show they are valued if we send them to another country without asking for their permission?

The research I mentioned earlier found that local authorities viewed detaining a child on welfare grounds as necessary for a small number of children, but all of those authorities agree that that is often a draconian step—and that it is more draconian to send a child to a different country to be locked up. It is a well-established social work principle that looked-after children fare better when they are close to their families, friends, schools and the health professionals supporting them. That principle is well-enshrined in the Children Act 1989.

Since 2011, the number of children placed in secure accommodation for welfare reasons has increased. In March 2011, 62 children in England and Wales were placed in secure accommodation on welfare grounds, while in March 2016, 105 looked-after children in England and Wales were detained in secure accommodation on welfare grounds.

The Government have clearly not been paying attention. This situation needs a national strategy and national leadership—especially when we take into account that The Scotsman reported just last year that children from Scotland may have to be placed south of the border owing to a lack of spaces there. I took a quick look at the availability of secure places in Scotland, and the latest information, as of 6 and 8 January, is that only one of the five secure homes in Scotland has any vacancies; the rest are entirely full. St Mary’s Kenmore centre, on the outskirts of Glasgow, has only three places available, yet serves the whole of Scotland. What assurances can the Minister give that Scotland’s secure centres have room for children from England and Wales? What research has his Department done to establish the capacity of Scotland’s secure care provision? If there has been any research, will he please share it with the Committee?

I fear that if we leave the Minister’s amendments as they are, and do not exert any pressure on the Government to sort out this mess, children may suffer greatly. I am not aware of any consultation, policy document or impact assessment published by the Department about these legislative changes. The amendments are not minor formalities; they fundamentally alter the legal protection given to our most vulnerable looked-after children. The Minister’s exemption clauses could lead to the removal of even more safeguards from that cohort of children; we are talking about legal protections that have been in place for decades. I hope that Members will support my pragmatic new clause.

Kate Green (Stretford and Urmston) (Lab): It is a pleasure to return to the Committee, Mrs Main. I wish all Committee members a happy new year. I strongly support what my hon. Friend says. I am dismayed that our response to an absence of suitable secure accommodation close to children’s families and homes is leading us to reach for the solution of sending them, effectively, to another country—certainly to another jurisdiction in relation to law and, as my hon. Friend pointed out, education. I particularly want to press the Minister on that point.

The education system in Scotland is different from that of England and Wales, and it is not clear to me what, if any, thinking the Government have done about the impact on young people’s education of moving them to a different country with a different school system. Many young people in secure accommodation will be teenagers approaching the age of 16 when they should be taking examinations, planning their futures, and receiving careers advice and support. It would be helpful to the Committee to understand what thinking the Minister has done and what planning there has been to address those children’s educational needs.
[Kate Green]

Is the arrangement really seen as some kind of stopgap in which the children would be moved back as quickly as possible to secure accommodation closer to home; or does the Minister believe its purpose is for a child posted to secure accommodation in Scotland to spend the entire period there? I can understand the wish, having found suitable accommodation for a child, not to disrupt it; but equally it seems to me that if we are dealing with a shortage of suitable spaces in England it would be helpful to know whether the Minister intends children placed for a period in Scotland to be brought back home as quickly as possible.

Steve McCabe (Birmingham, Selly Oak) (Lab): It is a pleasure to see you in the Chair, Mrs Main; I also wish you a happy new year.

I want to put three or four quick points to the Minister in relation to the measure. Could he give us an idea of how many children he thinks will be transferred north of the border; or, indeed, the other way? It would be interesting to have some context, and to know the scale of the problem and perhaps when he first became aware that there was a problem in need of such a resolution. I am particularly interested in how many children from England are likely to move to Scotland, and would like an indication of which local authorities are under the most severe pressure, so that they must look north of the border.

Whether or not the Minister accepts new clause 27, does he accept that if there is not some kind of time limit on the proposal the danger is that we will be legislating to export a problem? That seems a strange way to deal with children who are often very damaged and difficult. I am not sure that in the long run it is in the best interest of the care system in this country that we should end up simply exporting the problem.

Finally, I have on previous occasions heard the Minister say he does not support the idea that children should be moved far from home; I think that particularly in relation to Rotherham he had some strong opinions on that, which I agree with. While I accept that awareness of an impending problem or crisis may have brought him to introduce legislation, I wonder how he would reconcile the notion of sending children north of the border with his strongly held view that it is not in children’s best interests to move them too far from their home base for care provision.

Edward Timpson: I begin by thanking hon. Members for their contributions to this debate and for raising important issues about not only this new clause but, more widely, the secure children’s homes available to our most vulnerable children and young people in England, Wales and Scotland.

I will address some of the specific points raised. The latest information I have is that there are currently 17 children who have moved from England to secure children’s homes in Scotland. We first became aware of the issue that the new clause tries to fix on the back of a judgment of the family division of the High Court on 12 September last year that children could not be placed by English or Welsh authorities in secure accommodation in Scotland under section 25 of the Children Act 1989. This is a long-established practice, hence the legislative issue we are seeking to resolve was a surprise to everybody.

No child has been placed by an English or Welsh local authority in secure accommodation in Scotland without the authority of the courts in England and Wales. That is an important point. Every case where a child is moved to a different part of the United Kingdom on the basis of a request to place them in a secure children’s home outside their original area will be subject to court approval. The court has to decide on the usual basis under the Children Act of it being in the child’s best interest.

I will write to the hon. Member for Birmingham, Selly Oak about which local authorities currently have children placed north of the border. The hon. Member for South Shields alluded to some of those, but I will endeavour to provide the hon. Gentleman with the best possible information.

Kate Green: In writing, will the Minister also tell us how long those children have spent in children’s homes north of the border? As there are only 17 children, I hope he will be able to give us that information for each child.

Edward Timpson: I will endeavour to provide as much detail as possible.

This is not about exporting a problem. It is a two-way street, because of course, children from Scotland and Wales are placed in England, and vice versa. This is about trying to improve the diversity of choice for very specialist placements, which starts to address the other point that the hon. Member for Birmingham, Selly Oak rightly raised about the presumption that children, where possible, should be placed as close to home as they can. I agree with that.

As the hon. Gentleman knows, we have done a lot of work on residential care, looking at how we can improve the commissioning of places and the decision making, so that it is higher up the process when making a choice about the most appropriate placement for children, where residential care is the right type of placement. However, I think we all agree that for very specialist placements—particularly knowing the numbers in secure children’s homes—it would be impossible to have that type of specialist provision on the doorstep of every local authority, so we need to look in the round at what is available in the wider area, to try to meet those specific needs.

I accept the point made by the hon. Member for South Shields that there is more work to do on ensuring we have a functioning secure children’s home system that meets the demands placed on it. We have not been sitting idle, waiting for a problem to bubble to the surface. We have been working hard to establish, for the first time, a co-ordinated approach, to understand where the pressures on the system are, the availability of particular types of provision and how we can better match children and young people with the right placement for them as quickly as possible. That is why we set up the National Secure Welfare Commissioning Unit in May last year.

I wrote to the Local Government Association and the Association of Directors of Children’s Services with a strong commitment to work with them to find the long-term system change we need, so that we can address some of the issues that the hon. Member for South
Shields raised. I am not saying that we have the perfect system—we are not at that point by any stretch of the imagination—but we are working hard to ensure that we have a better way of providing the right sort of care for the children who need it, whether on welfare grounds or on other grounds that form part of the background of some children who need secure placements.

9.45 am

Steve McCabe: The Minister is telling me that he is proposing a reciprocal arrangement and that there will be a transfer of children from Scotland to secure accommodation in England as well. If he has the numbers will he give them to us now? If not, perhaps he will write to us. I am curious to know how many children from Scotland are in secure accommodation in England. I am also curious to know how a country with such a small population compared with England can have an excess of secure accommodation. Can he say more to us about the particulars, without identifying individuals, although I realise that 17 is a small number? Is there something special about the accommodation available in Scotland which differs from accommodation in England, making it necessary to have that transfer? I am curious to understand what that is. If it is not simply a question of numbers, I am curious to know the particular circumstances that necessitate that sort of shift.

Edward Timpson: I may come back to the hon. Gentleman with further information, but I can tell him that in Scotland there are 89 welfare places in secure children’s homes. They are available to children both in Scotland and in England and Wales, as has been the case for a considerable time. On the range of provision in Scotland, every decision made for each individual child is based on what is in their best interests. Clearly, therefore, some specialist provision in Scotland is deemed suitable as the best for a child in England with their particular needs.

I cannot give the hon. Gentleman chapter and verse on exactly what each secure children’s home offers, but I undertake to provide further detail, so that he is reassured that the decisions made by the courts are such that those very vulnerable children and young people are getting the best possible care and support. Furthermore, all those children and young people who have been placed in Scotland will still have placement visits from their social worker and regular reviews of the quality of that placement, even when they have been placed in Scotland or Wales.

Part of the care plan for a child or young person is about how their educational needs will be met. It will have to be set out and approved by the court before the placement is allowed to go ahead. However, I will look carefully at what the hon. Member for Stretford and Urmston said, because I wholeheartedly agree with her that, wherever a young person is placed, it is important that they need to have opportunity—to advance themselves as an individual and in what they are capable of achieving academically and in getting into the workplace—and some stability in their life. That placement must meet all those requirements. I will look carefully at what she says and perhaps have further conversation with her about how we ensure that children and young people in those circumstances are not missing out on the benefits of the education that is vital to their life chances.

Although I understand the points that have been made—I hope I have shown that I appreciate what hon. Members have said—I go back to where I started: the amendments do not seek to change existing policy or the practical circumstances in the system of secure children’s homes. They provide a technical fix to clarify the legal position of a long-standing and mutually beneficial arrangement that works for and should continue to work for our children.

We need to look carefully at how to continue to co-ordinate across England, Scotland and Wales and at how to improve provision in England. That is what the co-ordination unit is trying to do and why we are working hard with the LGA and the ADCS to see how we can make sure that the provision meets the future needs of this small but important and group of vulnerable children and young people who deserve the best possible support. I hope that on that basis the Committee will support the Government’s amendments and that the hon. Member for South Shields will be sufficiently reassured not to press her new clause.

Mrs Lewell-Buck: I am concerned that without acceptance of the new clause the practice the Minister is proposing may become the norm. I have not heard anything from him today about whether the Government are working to increase capacity throughout England, Scotland and Wales. What will happen when Scotland runs out of capacity, if it is being used as the overspill, for want of a better word, for children from England and Wales? I highlighted in my opening comments the fact that Scotland is running out of capacity. What will then happen to these children? The Minister has not given any assurances on where we are going with this. He has agreed that my new clause needs to be looked at and to have conversations with me, but ultimately, if my new clause is agreed, it will hold the Minister to account and will make sure that within two years he has found a solution. I would like to push my new clause to a vote at the appropriate time.

Question put and agreed to.

New clause 1 accordingly read a Second time, and added to the Bill.

New Clause 2

POWER TO TEST DIFFERENT WAYS OF WORKING

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

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

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

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

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

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

(f) promoting stability in the home lives, relationships, education or work of children or young people, or
Edward Timpson: I will speak to new clause 2 and the other new clauses in this group which deal with the power to pilot different ways of working. The purpose of the new clauses is to enable a local authority to test the extent to which changes to the complex legislative framework surrounding children's social care might achieve better outcomes for children.

I will begin by briefly outlining the purpose of the clauses before I turn to the improvements that have been made since they were debated in the other place. The Government believe that the legislative framework is the bedrock of children's social care services. However, that does not mean that it is perfect. In 2011, the Munro review showed us that over-regulation can be a barrier to good social work practice and can prevent social workers from putting the needs and wishes of children first.

Too frequently, legislation sets out not just what local authorities need to do, but exactly how they must do it. However, when it comes to changing the law, especially where those changes are about prescribing less process and leaving more to professional judgment, we often fail to act. That is because we do not have evidence of how a change would work in practice. Without evidence, it is simply unclear what applying a change to all local authorities would mean.

The power would enable an individual local authority to test new ways of supporting children and young people. That would be done in a carefully controlled way, for a limited period of time with the sole purpose of achieving better outcomes for children. The evidence from each pilot will allow us to assess the need for changes to legislation across the country.

Local government supports this power. Local authorities want to do their best for the children in their care and to be trusted to try new approaches to do just that. However, we also heard concerns expressed in the other place and by those organisations that we consulted about the risk to children. Clearly, that is not something that would ever be on my agenda. The Government have listened and I will outline the changes we are making which I believe address the concerns that have been raised.

Government new clause 2 introduces the power to test different ways of working. It outlines the purpose of pilots that could be granted and the scope of the power. A pilot can be granted only if the application has demonstrated clearly how it will benefit children or young people in at least one of the following ways: promote their physical health and wellbeing; encourage them to express their views, wishes and feelings and take them into account; help them gain access to or make the best use of services provided by the local authority or its partners; promote high aspirations; promote stability in their home lives, relationships and educational work; or prepare them for adulthood and independent living.

The new clause makes it clear that the local authority must use the power with a view to achieving those aims. Efficiency and cost considerations are not a sufficient basis for a pilot. It makes it absolutely clear that pilots can be conducted only for the purposes of promoting children's best interests and for no other reason.

Another important aspect of the new clause is that it sets out areas of legislation that the power cannot be used to revisit. That should remove any lingering concerns...
that some hon. Members expressed on Second Reading that pilots may be undertaken for the wrong reasons. In particular, it makes it clear that the power cannot be used to allow local authorities to contract out functions to profit-making organisations. While I confess to being puzzled by some of the debate that characterised the power wholly inaccurately as a means to privatisation, subsection (3) puts the issue beyond doubt.

Steve McCabe: Will the Minister clarify something? Unless I have misunderstood something, the new clause does not refer to pilots at all. What we are legislating for is the power for the Minister to make regulations to change the way in which local authorities deliver some services or meet some requirements. I do notice, however, that subsection (5) says that local authorities must apply to use the power. When they apply, will they have to propose a clear pilot that expresses what the innovation is, what the changes are and what they are designed to achieve, or will they simply have to say, “I'd like to change this regulation as it applies to us at the present time”?

Edward Timpson: To address the two points the hon. Gentleman made, we are introducing pilots because we are testing, in very controlled circumstances, a different way of carrying out the functions of a local authority: what they have to do and how they propose to do it in a different way. We will then be in a position to consider that in the controlled way that I will set out regarding both the process and the safeguards that follow, so that we have the evidence that, as I said at the start, we need to have—I think every hon. Member would agree—before we consider making any change more profound than simply piloting something that a local authority wanted to test as a way of establishing a new way of working.

I will come on to explain what that process is, because it is tightly controlled and heavily safeguarded which, in many respects, is unprecedented when compared with, for instance, the pilots under the previous Labour Government in relation to social work practices. I commend the Labour Government on setting those up, because they tried to find new ways of working within social work and they have led to some different ways of delivering those types of services—in Stafford, for example. That was done in a similar way by setting up pilots, testing ideas, seeing whether they would be successful and were something with which others might want to proceed.

I want to make it clear that I do not believe that changes to the duties would ever have been the subject of a successful application for the use of the power. Under the process and safeguards put in place, the case simply could not have been made that modifying one of the duties could result in better outcomes for children. However, by excluding them from the power, that point is put beyond doubt. The power to innovate is about testing changes to how local authorities deliver services, not questioning their fundamental responsibilities to children and young people.

10 am

Government new clause 5 sets out the consultation requirements on local authorities before they apply for a pilot. Thorough consultation is an integral part of any application to use the power. We have heard from some quarters about the need to strengthen this provision so we have extended the consultation requirement for all local authorities to include not only safeguarding partners but any other person who is relevant to the application, particularly children and young people affected by the pilot. We will then be able to set out further details of our expectations on local authority consultation, but we can say now that it is likely to include, in addition to affected children and young people, staff working with them as well as voluntary sector partners. The summary of the consultation will be provided to the expert panel, which I will discuss in a moment, and will be published as part of its advice.

Kate Green: Does the Minister agree that it is important for local authorities to consult the child’s school on the impact of new ways of working on education?

Edward Timpson: The hon. Lady makes a strong point. We are talking about others who are relevant to that child and need to be consulted, and I concur with her that it will be important for the school to be involved in the consultation to make sure that there is a full and rounded view of what the impact may be on children in that area.

When the local authority has completed its consultation, it will make an application to the Secretary of State, and Government new clause 6 provides that if she decides to take the application forward, she should consult the expert advisory panel, which will provide significant independent scrutiny of any application. The panel will consist of two standing members, the Children’s Commissioner and Her Majesty’s Chief Inspector. The Secretary of State will also appoint other individuals who hold expertise relevant to the subject matter of an application, including representation from local government, social work practice, the voluntary sector and experts in the evaluation of pilots. The panel will be able to comment in full on an application.

In answer to the question from the hon. Member for Birmingham, Selly Oak, the panel, which is independent and has relevant expertise, will be able to comment fully on any application by a local authority under this provision. It will be asked particularly to provide advice on three key areas: first, the impact of a pilot on children; secondly, the capability of the authority to achieve the purpose of the application; and, thirdly, the adequacy of the monitoring arrangements. The panel’s advice will be published to ensure the process is transparent. When the Secretary of State has considered the panel’s advice, she will decide whether to continue with the process and, if so, she must gain Parliament’s approval. Government new clause 4 sets out the parliamentary scrutiny that each application to use the power must undergo before it is granted.

We have already sought to strengthen scrutiny in the other place to increase the types of application that would go through the affirmative resolution procedure. Changes to both primary and secondary legislation that originally passed through the affirmative procedure will follow that affirmative procedure. Only secondary legislation passed through the negative procedure and applications by the Secretary of State to end a pilot by revoking regulations will be subject to the negative procedure.

In addition, the Secretary of State must lay before Parliament a report containing an explanation of how the purpose is expected to be achieved and an assessment of the impact on children. That, alongside the panel’s
advice, will provide a critical means for Members to scrutinise the pilot before agreeing that it can proceed or be rejected. I contend that this very comprehensive process will ensure that full and proper safeguards are in place.

Government new clause 3 makes it clear that all pilots should be time limited to a maximum of three years, after which they will automatically come to an end. There is provision for the pilot period to be extended only once for an additional three years. Such an extension could be used when a pilot is successful but the Government need further time to make provision to roll it out across the country. Before a pilot can be extended, the Secretary of State must lay a report before Parliament that clearly identifies the extent to which the pilot has achieved its specified purpose up to that point.

To ensure that the monitoring and evaluation of pilots is transparent and learning is shared, Government new clause 8 requires the Secretary of State to provide an annual report for each year a pilot has been in place. This report will provide a central source of information on the progress of pilots and bring together resulting learning. Government new clause 7 sets out a provision for the Government to issue statutory guidance to local authorities that will include how the power should be used, or not used, in particular circumstances; how it should be monitored and evaluated; and the qualities local authorities will be expected to demonstrate in applying for the power. The guidance will ensure that there are clear standards and expectations of local authorities in applying for the power. We will consult publicly on the statutory guidance so that all interested parties have a say in how the power works.

I appreciate that this is a new approach, so it is understandable that some colleagues have raised questions and have sought additional safeguards. We have listened to such concerns very carefully and the new clauses before the Committee are substantially different from those that were discussed in the other place. The scope of what could now be allowed is much tighter and the safeguards, consultation and transparency are even more robust. That has allowed some leading members of the children’s services voluntary sector to lend their weight to our ambition and comment positively on the new clauses.

For example, the Children’s Society, one of the country’s leading children’s charities, feels that changes we have made enable it to support the new clauses. It says:

“The Children’s Society welcome the Government’s commitment to innovation in children’s social care and are supportive of their intention to allow local authorities to test new ways of working in a time-limited, safe, transparent and well-evaluated way. We are of the view that the Government have listened to the concerns raised by the sector and have taken significant steps to ensure that the intention behind the power is clear, and that robust safeguards have been put in place.”

Similarly, Barnardo’s supports the power and the changes that we have made. It says:

“During the passage of this Bill, the Government has taken on board a number of our concerns, and we believe that the current proposed system for testing innovation will be safer and more transparent than what the Government originally sought to introduce. We particularly welcome the provisions which ensure that local authorities will not be permitted to question the fundamentals of what they do to support children whilst allowing scope for piloting new ways of working. Stronger safeguards have also been put in place to improve consultation and accountability.”

Those are strong endorsements of the approach the Government have taken from those who have a strong interest in ensuring that children get a better deal from the community and the services that they require.

Before I ask hon. Members to support the new clauses, I want to end by saying that I would not do this or as the Government, as they have, to support these new clauses in the entirety, if I did not have a strong view that their sole purpose—and the motivation behind them—is to improve outcomes for vulnerable children.

If I thought there was a better way to deal with the current system, where too many children are still being failed, I would welcome it. We are working to ensure that where children’s services are inadequate we tackle that. Since 2010, we have turned around 34 local authority children’s services that were deemed to be failing children in their areas.

What I am not prepared to do is just accept the status quo, when I have local authorities telling me that they could do a better job for children if they were given the opportunity to do so. The new clauses seek to provide them with that opportunity whilst ensuring that their responsibilities for those children remain as strong as ever. I do not intend to do anything for children other than try to make their lives better, and I hope hon. Members will agree.

**Mrs Lewell-Buck:** I apologise at the outset that my comments are rather long but they are entirely relevant to the Government’s new clauses. As I listened to the Minister, I hoped he would offer some clarity on a number of key issues that have rightly plagued these Government plans to allow councils to opt out of primary and secondary protective legislation for vulnerable children and young people. I want that sentence to sink in with the Committee for a moment.

The Minister is asking us to approve a power that threatens vast swathes of hard-fought legislation that was carefully crafted in the proper way, rooted in robust evidence and consultation with the sector, children and families, often in the wake of tragedies and failures that should not have occurred, and that had cross-party commitment to better protect and provide for children and young people.

Of course, not all children’s social care legislation has evolved because things have gone desperately wrong. Many statutory requirements in the care system, in leaving care and in support for families have emerged through creative practice and innovation, but I fear that after the Bill, innovation will be forever associated with the removal of legal protection. That does a terrible disservice to all the excellent projects, pilots and world-leading practice that have developed in children’s social care across the decades.

The Minister is asking us to hand the Secretary of State unprecedented power to dispense with primary and secondary legislation without any prior Green or White Paper consultation, any public evidence sessions, as there should have been for such a radical change, or any evidence that any of the endangered legislation works against children’s welfare. Once an exemption or
modification to the law has been authorised, the trials could last up to six years—that is a long time for a child reliant on the state for his or her care and protection.

Our most vulnerable children are being used as guinea pigs. That is no exaggeration. Look at the transcript of the Lords debate that led to the first incarnation of these awful clauses being kicked out. These so-called innovation clauses were described several times by noble Lords, even those on the Government side, as an experiment. Do we really want to give consent to such high-risk experiments when local authorities are facing extreme funding pressures and increased demand? Nagorfo warned in its evidence to the Committee:

“Anything which helps spread the budget further is going to be greeted”

with great enthusiasm in County Hall. It also warned that the Bill risks introducing perverse incentives into a system already buckling under great strain.

To say that I am deeply disappointed that the Government have chosen to reinsert the measures in new clauses despite their blistering defeat in the Lords is a total understatement. The fact that the Lords succeeded in deleting a whole set of clauses—a rarity in either House—should have been a red-flag warning that the proposals are dangerous. Yet here they are again, with further amendments, none of which allay the serious and substantial concerns raised in the Lords and elsewhere. The Committee has received extensive evidence from concerned organisations and individuals about the grave risk to children and young people. We have been warned that the new clauses give the Government a blank cheque to remove legal protection. We are being asked to agree a job lot of measures where virtually every requirement made for all vulnerable children and young people could be axed for some at a future date.

The Minister claims that he has listened to the views expressed by peers and other stakeholders and that he has made substantial changes to the clauses, but he has not, and the risks to children and young people have not gone away.

**Edward Timpson:** The hon. Lady says that we have not made any substantial changes, so what has she to say about the quotes that I gave from the Children’s Society and the Barnardo’s, which say that we have done precisely that? The Children’s Society said that “the government have listened to the concerns raised by the sector and have taken significant steps to ensure that the intention behind the power is clear, and that robust safeguards have been put in place.”

**Mrs Lewell-Buck:** The Minister, like me, will be well aware that while the charities may have expressed support in their submissions to the Committee, they have also expressed concern. The fact is that there are only three organisations, so far as I am aware, that support the new clauses.

**Edward Timpson:** I am happy for the hon. Lady to make her case. The purpose of having this Committee and the debate is for the House to make a decision, but I am afraid that what she says is simply not the case. Among those who support the new clauses are Anthony Douglas from the Children and Family Court Advisory and Support Service, Mark Costello from Foster Care Associates, the Children’s Society, Barnardo’s, SOLACE, which is the Society of Local Authority Chief Executives and Senior Managers, and Chris Wright, chief executive of Catch22. Debbie Glassbrook from the National Independent Reviewing Officers Managers Partnership, a whole host of local authorities and associated bodies—including Achieving for Children, Leeds City Council and others—and the ADCS and the LGA also support the new clauses.

The hon. Lady has to be careful that she does not characterise the debate as all being on one side of the equation. There are those who have listened carefully to the arguments, including Barnado’s and the Children’s Society, and who have always supported innovation. They are clear that they are happy that the changes we have made reassure them enough to support the measures.

**Mrs Lewell-Buck:** I thank the Minister for that intervention. He mentioned approximately 10 or so organisations that he feels are in support.

**Edward Timpson:** Non-exhaustive.

**Mrs Lewell-Buck:** However, there are nigh-on 50, if not more that are against this. I will discuss this later in my comments.

10.15 am

The Secretary of State will be able to cancel duties in Acts of Parliament and subordinate legislation in a particular area simply because a local authority wants to test different ways of working. This would be to an amended version of the corporate parenting principles. The Committee will recall that the Government are refusing to bind local authorities to these principles; they only have to have regard to them. In short, the statutory purpose of legal exemptions and modifications is simply to test different ways of working to a set of non-binding principles: not better outcomes, not even the same outcomes, just a different way of working.

**Simon Hoare** (North Dorset) (Con): I invite the hon. Lady, either now or later in her remarks, to set out what she has, in principle, against professional local authority officers and elected local councillors seeking to serve their communities to tailor services to meet local need and demand, compared with the man in Whitehall with the bowler hat and the umbrella, who seems, in her mindset, to know best. What has she got against the localism agenda in respect to tailored local solutions?

**Mrs Lewell-Buck:** I will come on to that later in my comments. To clarify, I have nothing against local authorities knowing what is right for them and making decisions. [Interruption.] However, this is a slightly different case and if the hon. Gentleman keeps calm and listens, I will get to my point.

Another change concerns statutory requirements selected by the Government for special treatment. There are six sections of the Children Act 1989 and the Children Act 2004 and one part of one schedule to the Children Act 1989 that cannot be touched by this new power. I am sure I am not alone in wondering how the Minister came to select this list of core legal duties. Can he explain how he decided that the many remaining duties
in the Children Act 1989 and the Children Act 2004 and their associated statutory instruments could, in principle, be disapplied? How did he decide that none of the children’s social service functions in any of the following Acts of Parliament are worth saving: the Children and Young Persons Act 1933, the Chronically Sick and Disabled Persons Act 1970, the Mental Health Act 1983, the Housing Act 1996, the Adoption (Intercountry Aspects) Act 1999, the Adoption and Children Act 2002, the Mental Capacity Act 2005, the Children and Young Persons Act 2008, the Legal Aid, Sentencing and Punishment of Offenders Act 2012, and the Care Act 2014?

Are we really being shown a glimpse of a brave new world where all that will be left of children’s social care legislation could be these six saved sections of two Acts of Parliament? I point the Committee to some of the frightening scenarios sent to us by Dr Ray Jones. We cannot say that we have not been warned how dangerous these new clauses are.

Children’s rights charity Article 39 has listed a number of statutory requirements that could be removed. These include—although this is not exhaustive—a local authority’s duty to provide accommodation to children it is looking after, assess the support needs of disabled children as they approach adulthood, allow children in its care to have reasonable contact with their parents and visit children it looks after. Is the Minister really convinced that none of these duties are fundamental to promoting and safeguarding the welfare of vulnerable children and young people? Why is there such resistance to undertaking a public consultation prior to the introduction of these clauses? Does the Minister not want to ensure that he and his Government have got this 100% right?

Let us also remember that part of this Bill will also be under threat of exemption once—and if—it receives Royal Assent. In fact, every single future children’s social services function that this House introduces will have a fragile and uncertain existence if we allow these new clauses to go ahead.

The Minister has written to the concerned parties, claiming these new clauses are about empowering the frontline. The frontline does not want these powers. The vast and varied range of organisations that have submitted evidence to the Committee want us to reject these new clauses. In fact, 47 organisations have come together specifically with the goal of opposing these new clauses.

The Government set out their stall on this radical new power in their strategy “Putting children first”, which was published in July last year, two months after new power in their strategy “Putting children first”, specifically with the goal of opposing these new clauses. In fact, 47 organisations have come together specifically with the goal of opposing these new clauses.

Edward Timpson: I am grateful to hon. Lady for giving way again—she is being generous. I want to probe her point about legal rules and people working in children’s services not wanting to be more expansive in using their professional judgement around these rules. Does she think that the opportunity that some local authorities have taken of pulling together their initial and core assessments to have a single continuum of assessment, and not having to comply with the strict timescales set out in regulation, is a good idea? We must bear in mind that the evidence suggests not only that the quality of those assessments has improved as a consequence, but that the timescales have improved as well, because not working to a 40-day or any other time limit has resulted in more timely assessment.

Mrs Lewell-Buck: The Minister will correct me if I am wrong, but I think that was in secondary legislation, not primary legislation. These new clauses are about changing primary legislation. He has said that 34 local authorities have been turned around, and that was without changes to primary legislation. What prohibits social workers from doing their job—they see this time and again—is not primary legislation but guidance that varies from authority to authority, such as local authorities prescribing that children under two have to be visited every other day. We do not need primary legislation to change such things.

Edward Timpson: Once again, I am grateful to the hon. Lady for giving way. Those were indeed regulations that I was referring to, but I was trying to tease out from her whether she disagrees as a matter of principle with what the chief social worker was trying to say—that religiously following rules does not always lead to the best service being provided to children, and that local authorities that are more innovative and find different ways to provide services can be successful on the back of such changes. I wanted to find out whether she objected to that approach, or whether there was some other reason why she feels that something that happens under secondary legislation would not be appropriate for primary legislation.

Mrs Lewell-Buck: I have a problem with the chief social worker wanting to opt out of legal rules that have been in place and protected children in this country for decades and that are in primary legislation. That is our argument today.
Children England says that the exemption clauses would represent an unprecedented constitutional challenge to the principle of universal application of primary legislation everywhere and at all times throughout the land, and an equally fundamental challenge to the primacy of Parliament. At most, an exemption would require an affirmative resolution in Parliament, and such motions are almost never opposed. Historically, Parliament has passed 9,999 of 10,000 resolutions since 1965. What is the emergency that causes such far-reaching legislation? No evidence has been presented to explain why we are being asked to agree to the undoing of decades of protection. The fact is that it is not legislation that hinders effective children’s social care.

Professor June Thoburn, who received a prestigious award last year for her outstanding contribution to social work, said that none of the substantial body of research—some Government-funded and some independently funded—on the workings of the Children Act 1989, as amended, points to the need for any specific sections of the legislation to be suspended on the grounds that they are impeding flexible and good-quality practice. Action for Children and the NSPCC briefed the Commons in December, stating:

“Despite numerous conversations with ministers and officials, ‘the evidence for the need for this power remains unconvincing and does not justify the potential risks of suspending primary legislation.”

The Department’s own factsheet accompanying the amendments states that local authorities have raised some ideas on how this power could be used, such as removing the requirement for an independent reviewing officer to be present at all reviews because some—only some—children say they do not want IROs present or to chair their reviews. That wrongly suggests that reviews are nothing more than a meeting or that the law prevents children from chairing review meetings. As the National Association of Independent Reviewing Officers has explained, IROs have a great deal of discretion in how they manage reviews for children and young people and are guided by the young person as to how they wish to make arrangements for their own reviews.

In 2015, the care planning regulations were amended by the DFE to allow children in recognised long-term foster placements to have increased flexibility in how their care plans are reviewed, and in particular to reduce the number of meetings if they wish. It is therefore a concern that there is so little understanding of the IRO role among those who seek to reduce or remove it.

IROs were created in response to judicial concerns that care plans agreed in care proceedings were not being followed. They are completely independent from day-to-day decisions. Without that independent oversight, a child may well be very unhappy in their placement, with no one to turn to. What if that child’s situation changes? Worse still, what if they are abused and have no relationship with their social worker and no IRO, and their carers are complicit in that abuse? We remove safeguards such as this at our peril.

Besides bringing an end to universal IROs, the factsheet includes four more examples affecting disabled children, adopting a new definition of fostering assessments, and care leavers. There are five examples in all in the Minister’s factsheet, with fewer than two pages of information, that could extinguish swathes of our legislation.

The Committee has been presented with more evidence against these amendments in a single month than the Government have managed to produce in favour of them in eight months. We have received detailed submissions from distinguished academics such as Professor Mike Stein, who has been researching the problems and challenges faced by care leavers for more than 40 years. He warns of the risk of returning to the failures of a discretionary system that resulted in both territorial and service injustices.

For robust critiques of each of the examples in the factsheet, I recommend that Members look at the submission from CoramBAAF. It says that removing legal protection from children on the basis of geography legally enforces a postcode lottery, which the Minister has acknowledged and referred to as some small-scale variations in the past. He should be focusing on ending variation in children’s social care provision, not legitimising and increasing it.

I will repeat a line I have quoted before in this Committee from the NAO report “Children in need of help or protection”:

“Nationally the quality of help and protection for children is unsatisfactory and inconsistent, suggesting systemic rather than just local failure.”

The amendments do nothing to remedy that—indeed, experts tell us that they are likely to make matters a whole lot worse. Children and families living close by but across local authority boundaries could have different rights, and councils could have different statutory responsibilities. Courts would cover local authority areas where the law, as amended by the Secretary of State, was not uniform and not consistent. That could create a dangerous patchwork of legal protection.

10.30 am

Nagalo has told us that the welfare of individual children would still be the paramount statutory consideration for guardians and courts. Therefore applying different rules for different children and criteria for local authority practice in different areas could put children’s guardians in breach of their statutory duties and would provide fertile grounds for multiple appeals.

The new clauses also have the potential to breach rights under the Human Rights Act 1998 and the convention on the rights of the child, both of which require the enjoyment of rights without any form of discrimination. There is also the potential to breach the common law principle of equal treatment. Local authorities would be likely to retain their common law duty of care towards children where such a duty currently exists, so the new clauses would be creating a legal minefield for local authorities and making the law fragile, unpredictable and unstable for children and young people.

We should not be perpetuating in our legislation the instability, uncertainty and inequity that children and young people have already suffered in their lives. All the examples held up by the Government are about cutting and withdrawing statutory entitlements, giving local authorities freedom to work outside the law. They are not about resourcing and doing something new and additional; they are not about strengthening or improving legal protection. Some local authorities have been referred to as supporting these amendments. It is no coincidence that a number of those authorities have been bequeathed
innovation monies by the Spring consortium investment board, which advises Ministers on which projects to fund.

Edward Timpson: I ask the hon. Lady to be very careful. I would like to know what she is insinuating.

Mrs Lewell-Buck: I thank the Minister; I will get to what I am insinuating very soon.

Some local authorities are being placed in an impossible situation. If they do not back the Government, is it fair to assume that they will not receive funding—especially given that, last October, many of them received a rather threatening letter from the chief social worker stating that they did not back the new clauses they could never again complain about bureaucracy and grandly suggesting that this was a once-in-a-lifetime chance for them all to do the right thing? If she is so certain that this policy is in the interests of young people and children, why has she not shared her thinking with the Committee? It is telling that the Committee has received no evidence from her.

The fact is that the Local Government Association is being placed under immense pressure to back the new clauses. Is it not the case that only a small number of local authorities, if any, back them? Can the Minister tell the Committee that the Secretary of State’s intervention powers will never be used to coerce local authorities into applying for exemptions?

My final comments concern the Minister being well aware that much of the anxiety about the new clauses comes from the fear that they pave the way for the privatisation of child protection services. Despite new clause 2(3), those fears legitimately remain. If the Government are so resoundingly against profit in child protection, why, in the explanatory memorandum attached to the 2014 regulations, do they advise companies that subsidiaries of profit-making companies are not banned from running such services?

The Deregulation Act 2015 now means that social work services to individual looked-after children and care leavers operating outside local authorities are no longer required to register with Ofsted. Add to that the LaingBuisson review, commissioned by the Department at the behest of the chief social worker and two others, which gives advice on how the market could flourish in children’s social work and says that independent providers are happy to play the long game on a journey to whole-system outsourcing.

Companies such as G4S, Serco and Virgin Care have all attended meetings with the Department to consider how they can play a role in delivering and shaping statutory children’s social care services. It is little wonder that very few trusted the motivation behind the original clauses or that fears persist that behind this power is an insatiable appetite for breaking up children’s social care.

The Minister has tried to distance himself from this report for which his Department wrote the terms of reference and which it funded, yet refused to release for all those who attended meetings with the Department to consider how they can play a role in delivering and shaping statutory children’s social care services. It is little wonder how they can play a role in delivering and shaping whole-system outsourcing.

The Minister has tried to distance himself from this report for which his Department wrote the terms of reference and which it funded, yet refused to release for all those who attended meetings with the Department to consider how they can play a role in delivering and shaping whole-system outsourcing.

If the Minister really means what he says about profit and child protection, he should be seeking to prohibit subsidiaries of profit-making companies from delivering social care functions. Getting legislation right in children’s social care is extremely important. Our legal duties are vital in protecting those most in need. We should always approach change in this area with great care and caution, to ensure that children and young people are not put in any jeopardy.

The new clauses have no place at all in the Bill. I implore hon. Members to reject them and to bring an end to the enormous fear and concern that have built up outside the walls of this place. The Minister has not fully responded to the comprehensive critique from the Lords, and there remains a gaping black hole as to which legislation the sector is crying out to be exempted from, and who on earth is crying out for the exemption.

The Government should withdraw the new clauses as a matter of honour and out of respect for the vulnerable children and young people who depend on the legal protections that Parliament has given them over decades. The Minister may then undertake some robust and meaningful consultation, and could return to the House later if he wished.

Simon Hoare: It is a pleasure to serve under your chairmanship, Mrs Main. We should be grateful to the hon. Member for South Shields for sharing with us her Momentum-commissioned essay; possibly the instruction was “Write an essay about what you think a wicked Tory Government might want to do with regard to children’s social services”—that is, without actually having seen any of the new clauses that the Minister has tabled.

Mrs Lewell-Buck: I assure the Committee that I have read the new clauses, thank you very much.

Simon Hoare: It is an enormous shame that having read them the hon. Lady did not include them, or edit her speech having reflected on them. I am not entirely sure—[Interruption.]—[Interruption.]

The Chair: Order. The hon. Gentleman is speaking.

Simon Hoare: Thank you, Mrs Main. I have great respect for the hon. Member for South Shields, and it is with great respect that I say that I do not think she has read the clauses. She seemed to conjure up a picture in which the current rules and regulations are perfect and the best practice and statutory requirements set out for local authorities to follow are so beyond any form of change or improvement that there should be no scope for innovation. [Interruption.] I do not want to detain the Committee too long.

One might almost think that the cases of Baby P and Victoria Climbié, for example, had never taken place. I am in no way suggesting that the new clauses tabled by my hon. Friend the Minister will guarantee that such atrocities do not happen again, but there may well be benefits from the use of local professional expertise and from local authorities’ designing of innovative proposals for better care of vulnerable young people.

Mrs Lewell-Buck rose—

Steve McCabe rose—
Simon Hoare: I give way to the hon. Member for Birmingham, Selly Oak, who looks as if he may burst a blood vessel unless I do.

Steve McCabe: My blood vessels are in good shape, I am happy to say. Given the hon. Gentleman’s extensive understanding of the subject, would he care to say which specific item of legislation he would like local authorities to be exempted from at the moment, to advance innovation in child social work?

Simon Hoare: The hon. Gentleman has fallen into the trap of misreading or misconstruing, accidentally or otherwise, the purpose of the new clauses. We can all read them, but the Opposition Front Bench has characterised—

Mrs Lewell-Buck: Will the hon. Gentleman give way?

Simon Hoare: No. The way the hon. Lady has characterised the proposals in her remarks is—I conjure up a scenario—that someone from some town or city hall knocks on the door of the Secretary of State and says, “I have a whizzy idea: we are going to do this,” and the Secretary of State says, “Oh, that sounds quite interesting—go ahead and do it,” in some secret smoke-filled-room deal.

Let us look at new clause 2: it talks about the purpose of helping to promote physical and mental health. Contrary to what the hon. Lady said, it is also about “taking into account the views, wishes and feelings of children or young people”.

That is in subsection (1)(c). As to the idea that there is carte blanche for the private sector, I suggest that she look at subsection (3), which specifies a different set of criteria. The hon. Lady talked about six years as a de facto, but if she looks at the new clauses she will see that the period can be up to three years with one further three-year extension, which makes six years—not six years from the outset, as the hon. Lady said. The Secretary of State will also need to be persuaded of the need for an extension.

It is not only the Secretary of State. We are very lucky to have a Minister who, owing to his personal family experience, is recognised for his interest in and understanding of this subject. However, my hon. Friend will not always be the Minister in charge. The Bill is not couched or tabled in a way that purely relies on the capability of State. They—

“must invite an expert panel to give advice about...the capability of the authority”;

because it is absolutely key that the authority should have the wherewithal, financial skills and so on to be able to deliver the innovation. That advice must also assess “the likely impact” and “the adequacy of any measures that will be in place to monitor the impact”.

The idea that the hon. Lady did her best to present to the Committee as the root of her opposition to the new clauses—that finger in the air, pie in the sky, blue-sky thinking ideas would merely require the sign-off of a Secretary of State—is, I think, a gross distortion of what the new clauses intend. If the hon. Lady and her Opposition colleagues have no faith in the independent veracity of, for example, the Children’s Commissioner or the chief inspector of education, children’s services and skills, who are stipulated in new clause 6(2)(a) and (b) to provide advice to the Secretary of State, I think that is a poor state of affairs.

On the consultation, new clause 6(4) and (5) clearly state the timetable and the trigger for action that the Secretary of State must follow. I do not see the new clauses as a way for local authorities to duck out of their obligations. I served on a Local Government Association panel for several years, and I must tell the hon. Lady that the LGA is unbeatable and incoercible; if it thinks a Government of whatever stripe are doing something wrong, it will always tell the Government that that is the case.

Mrs Lewell-Buck: The fact is that local government is split on this issue; there is not a consensus. In relation to all of the times the hon. Gentleman refused to give way, he should go back and read Hansard; he has misquoted everything I have said and I look forward to his apology.

Simon Hoare: I will certainly be reading Hansard: I do not quite follow William Hague’s example of reading it under the bedclothes at 2 o’clock in the morning, but I shall look at what the hon. Lady said. Lady said: if I have misconstrued her, I will of course apologise unreservedly. However, I took from what she said and how she presented her arguments that this will give carte blanche to a Secretary of State, in cahoots with a chief executive or a head of children’s services in a local authority, to find a way to deliver below-the-radar financial savings and to deliver some sort of third or fourth-rate children’s protection, and that there is a whole cadre of local authority professionals who are desperate to be freed from the shackles of statute, regulation and guidance.

I was not quite sure what the hon. Lady meant, but was moving us towards in her thinking—whether those people will turn around and say, “Gosh, we are now free of all of that, we are saving ourselves a huge amount of money; we can sit around and have a cup of tea and a biscuit and talk about things in a rather ideological or theoretical way”, or whether they are going to pilot things that are so conspicuously dangerous and ill-advised for young people that there would be an enormous rise in the amount of terrible cases. That is the impression with which the hon. Lady left me and, I suggest, other Government Committee members.

10.45 am

I spent 12 years in local government and I was lucky to serve with quality councillors and quality officers. Many of us have had that experience. It is certainly my experience that we should be harnessing the ability to think innovatively and to tailor a solution to meet a pressing local need way above what could be comprehended, devised or tailored by officials and Ministers in Whitehall.

I take the hon. Lady’s point that this should not be a sort of carte blanche—a laissez-faire free-for-all—for people to duck obligations. This is merely allowing them to say, “This is what we are trying to do. It is all about child protection. We have found a different way of doing it that we would like to trial. What do you think, Secretary of State?” The Secretary of State does

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not take his or her own view; the proposal has to go to the experts to test the robustness of the ability to deliver and make sure that there are sound arguments.

Mrs Lewell-Buck: Will the hon. Gentleman give way?

Kate Green rose—

Simon Hoare: I give way to the hon. Member for—

Kate Green: Stretford and Urmston.

Simon Hoare: I was going to say “Stratford”.

Kate Green: It is not quite the same. What concerns me is that as a result of these proposals we will see the risk that currently good joint working across agencies may become fragmented. That particularly troubles me in relation to children within the ambit of the criminal justice system, who are very under-addressed in this legislation. The hon. Gentleman has just said that, as a local councillor himself, he thought that there were really good opportunities to work with officers to devise good quality, flexible local solutions. Can he give me an example of that kind of achievement in the local authority of which he is a member—or indeed any other local authority?

Simon Hoare: I certainly refer to the hon. Lady, who has a wealth of experience in this area, far greater and wider than I have. I will leave the point she makes about young people in the criminal justice system for the Minister to comment on, because I am not entirely sure about that. I think it is best to say that.

On the opportunity for joint working, if the hon. Lady looks at local government she will see shared services and joint chief executives and joint directors of this, that and the other, and councils coming together in order to safeguard frontline services, often across geographical boundaries. I was a councillor in Oxfordshire, where we hooked up with three councils in Gloucestershire to do all sorts of things.

The order of general competence contained in the 2011 Localism Act allows for that to continue and flourish, where there is joined-up working between local authorities and statutory partners and others, under these new clauses. All it will mean is a discussion between two, three or four parties to see if they want to buy into an innovative idea which they will then take to the Secretary of State.

To conclude, I think the new clauses are absolutely right. The tone and the tenor of the debate in the other place was a gross distortion of what the Government wish to do. That was certainly echoed in the remarks of my noble friend Lord True, leader of Richmond Council. Chris Wright, the Chief Executive of Catch22 said:

“Rather than restricting social workers to box ticking”—

that is not saying we are taking away all the boxes, there will still be boxes to tick, of course—

“we should give them the power to build interventions based upon their professional expertise”. This clause moves us closer to the goal of more human services that work for children and their families. The phrase “human services” certainly struck a chord with me. These new clauses should be supported. The argument deployed by the hon. Lady should be resisted most strongly.

Steve McCabe: I agree with the Minister in welcoming innovation in our approach to children’s services. It is something he and I have in common. We both have a history of working with children in this area, and I welcome measures designed to free up social workers to do better for children.

When a Government embark on a radical change of this nature, we normally have some kind of preparation for that change. There might be a Green Paper or a White Paper, or extensive consultation to allow us to shape what will happen. What seems to be happening—I do not know whether this is what the Minister intends—is that we are legislating without any real sense of what the pilots are designed to do and without any real description of them. In fact, the Bill does not refer to pilots at all, and for all anyone knows, they could be an exercise in exempting local authorities from long-standing primary legislation.

I accept that the notion of pilots exists in the Minister’s mind and that that is his intention, but it is not clear from what we are debating or from what we are being asked to vote on, and will not be the result of the legislative changes. I do not want to restrict or inhibit any effort at innovation, but it would be useful if he could give the Committee an explanation of why he is departing so radically from the normal approach to these changes in the way he has decided to proceed.

I have some specific questions about what will happen. We debated the three-year limit with the potential extension of a further three years, but what will happen at the end of six years? Let us suppose that a pilot is an outstanding success. Will the Minister then legislate for the change to be applied across the entire country, or will the exemption simply lapse at the end of that period? As the hon. Member for North Dorset reminded us, the Minister might not be in post forever. Let us suppose there is a change. What will happen to the policy then?

Kate Green: I agree that we need to know what the intention is if these pilots roll out successfully, but do we not also need to know what will happen if they roll out un成功fully and whether there is any scope for early cancellation of an experiment if it is harming children?

Steve McCabe: I entirely agree with my hon. Friend. It would be helpful if the Minister could make his intention clear to the Committee. It would be horrific if people were trapped in a failing system for three years because the legislation was passed in such haste that no one had envisaged what should be done if something went wrong. We seem to have had enough examples of that in legislation for children over the years.

I am genuinely curious to know what will happen if the pilots are successful. How will the Minister ensure that, if there is a change in the occupancy the post, what he seeks to do will continue beyond the six-year period? He mentioned the Labour pilots as an example of this not being particularly new, and that is the case, but if I remember correctly, those pilots were tied to sunset clauses that had to be renewed in legislation. I seem to
recall being in this very Committee Room when he proposed a statutory instrument to enable one of the Labour pilot provisions to be converted into law.

Will the Minister say a little more about research into the pilots? I have no problem with his panel of experts. They look like people we should be able to rely on; I hope we can. As I understand it, their role will be to assess the initial offer and proposal. We need to know about the thorough examination of the pilot.

How will we know that it is a success? Presumably, we are not going to rely simply on the local authority saying, “Hey, this has worked. Isn’t it good?” Will the Minister tell us whether there will be a requirement, when the local authority introduces the measure, for it to describe exactly how the proposals are to be assessed and measured, so that the expert panel can take that into consideration? Will he also tell us whether this innovation will cover only a single local authority introducing a pilot, or is it likely that two or three local authorities in partnership could come to him with a specific proposal?

Kate Green: Does my hon. Friend agree that that is a particularly important question in the context of Greater Manchester, for example, where children’s services are the responsibility of each of the 10 local authorities? There may well be a wish to look across the footprint of the whole Greater Manchester conurbation when we move forward with the Government’s devolution plans.

Steve McCabe: I am grateful to my hon. Friend because she anticipates what I was going to ask. This proposal comes at a time when a lot of other innovation is taking place in local government. We have the proposals in Greater Manchester, Merseyside and the West Midlands Combined Authority. I am not clear how this measure would fit with a proposal from one of those authorities. I am not trying to be clever; I assume the Minister has discussed this with colleagues and some thought has been given to it. It is part of the question about what happens after three or six years. I am interested to know how the proposal would make progress. I do not want to dwell on this matter.

Mrs Lewell-Buck: I am sure the Minister will respond to my hon. Friend’s points but I asked the Minister in written questions what would happen after the six-year period. The response was that it would not be possible for a trial to be extended beyond six years. So, even if this measure works, it will be totally pointless because it will not be extended beyond six years.

Steve McCabe: I am grateful to my hon. Friend. I assumed that it could not be the case that we would spend hours in Committee legislating for something that could be a success but would simply end after six years. It is important, since we are being asked to make these changes to primary legislation, that the Minister provides answers not just for the Opposition but for his own Back Benchers, as they may have to explain this in their constituencies. That would be very helpful.

I want to deal with the question of who is or is not supporting the Minister’s proposals. It is always difficult when a Minister starts reading a list. The rule of thumb is that his officials find a list of supporting organisations and give it to the Minister so he can read it out. That is standard and happens in every Government. What the Minister never mentions are the people who do not share his view.

11 am

The Minister pointed out, quite reasonably, that the Children’s Society and Barnardo’s are supportive of what he says. He did not bother to point out that the NSPCC, which most of us would accept is a pretty respectable organisation dealing with childcare and children’s issues, is still opposed to the Minister’s proposals and has some doubts. The Family Rights Group still opposes what the Minister says. Liberty has concerns about this approach to statute and whether there is a risk to children’s rights. Action for Children, which my hon. Friend the Member for South Shields mentioned, and at least 40 other organisations have registered their objections as well. It would therefore be wrong and misleading to give the Committee the impression that organisations are lining up to support the Minister. I think that he would accept that although he has been able to win some support for this radical set of proposals, he still has to win over quite a number of people and organisations. That would be a more reasonable description of the current state of affairs.

Would the Minister like to comment specifically on this point when he sums up? One reason why the NSPCC is still not happy with what he says is that it fears that his proposals risk undermining children’s legislation at a time when, it says, there is a geographical imbalance in the provision of children’s services. We spent the first part of the sitting hearing about that imbalance and the fact that we have to export children to different parts of the United Kingdom because we cannot guarantee proper provision in certain places. The NSPCC indicated in the briefings that I think it sent to the Minister’s hon. Friends as well as to me that it is still open to talks and consultation with the Minister. Has he had an opportunity to discuss with it that concern about geographical imbalance?

I ask that question partly because I would be interested to know what early indications the Minister has had from local authorities that they have proposals that they would like to bring forward. It would be much easier to understand what is driving these innovative ideas if we knew the local authorities involved. If they are successful local authorities, whose performance the Minister is already impressed by and that are already meeting most of their targets and indicators and doing a good job, I would certainly want to hear from them. I would want to hear from people such as that, who want to innovate. However, if they are not successful, if they are local authorities about which we have concerns and where there is a shortage of provision and of social workers, their motives for wanting to depart from some of their statutory responsibilities could be slightly different.

I accept that the Minister’s panel of experts will almost certainly want to take that into account when they come to assess specific proposals, but it would be helpful if the Minister could give us the information to which I have referred. He said that he had a list—all the fair, he did not say “a list”. He said that a number of local authorities had approached him asking for specific exemptions. It would be useful to have an idea of the local authorities that he expects to come forward
and perhaps some idea of the timescale in which they will do so and the kind of proposals that he expects them to make. That would at least give us some idea of the geographical area.

In that context, I was slightly surprised by something in the Minister’s speech. I realise that he is probably under time pressure, but in extolling the virtues of the change, he did not cite a single example of the kind of exemption that he expects to be ruling on. He did not give the Committee a single example of how local authorities are currently being inhibited and how they will be freed up by the proposed changes. It would be really helpful if we had some examples. Certainly I, in terms of my conscience, would find it much easier to vote for something if I knew what I was voting for, so it would be useful if the Minister took the time to give us some examples.

I pressed the hon. Member for North Dorset on that very point. I think that he was at the time suggesting that my hon. Friend the Member for South Shields was not sufficiently conversant with the proposals, but he told us that he was confident in his mind that they were the way to innovation and that rafts of existing social work legislation and requirements were restricting progress. I asked him in an intervention to give an example and of course he declined to take the opportunity.

I simply say to Conservative Members that it would be useful before they vote on the new clauses to have some idea of what is to be put right, and which requirements local authorities will be given the power to opt out of. That is what we are being asked to do, and at the moment it appears that we do not know exactly what the requirements in question are.

I want to put a couple of minor points to the Minister. When a local authority or perhaps a consortium comes forward with a proposal, will there be any opportunity for public consultation on it before it is determined—or recommended or otherwise—by the expert panel? I believe that the Secretary of State will have powers to consult as she sees fit. I am asking the question because my hon. Friend the Member for Stretford and Urmston asked about the situation in Greater Manchester. In such a circumstance a proposal might suit one local authority but not the people in a neighbouring one, and there might be significant contention in a small geographical area. Does the Minister have any plans to test those possibilities, or will the exercise be solely one for Government and experts, from which the public will be excluded altogether?

I have a very simple question for the Minister: why is improving outcomes no longer included in the Bill? If that is the fundamental object of the exercise, one might have thought that the opportunity to enshrine it in legislation would have been taken. I see that the Minister has decided against that, and perhaps he would tell us why.

Will the Minister confirm something in relation to a specific example? Is it the case, as I understand it is, that the proposals extend to section 2 of the Chronically Sick and Disabled Persons Act 1970? That Act places a duty on local authorities to meet the needs of children with disabilities. Is it conceivable that a local authority could, perhaps with a well-founded proposal for doing things differently—ask to be exempted from that legislation under the Minister’s proposals? I ask because there has been no specific reference to children with disabilities in the debate, but I know that it is a subject that the Minister treats very seriously. In fact, in the previous Parliament, he brought in extensive legislation on the issue, so I wonder if that is what he now has in mind.

I would find it helpful—and it may not be too late for the Committee—to have an opportunity to compare examples of what the Government see as core and non-core duties. The hon. Member for North Dorset clearly did not want the people in Whitehall making decisions when there are people with well-founded expertise working locally, who he feels could make a better contribution. I am inclined to agree with that, but what has happened is that the people in Whitehall are determining what are core duties and non-core duties. I find it slightly difficult to understand.

An example passed to me related to section 20 of the Children Act 1989. As far as the Government are concerned it is a core duty. It includes the duty on local authorities under section 20(1), which means that every local authority shall provide accommodation for any child in need within its area who appears to require accommodation, whether that is because they have been abandoned, no one has parental responsibility for them or the person caring for them has been prevented temporarily or permanently from providing for them. There is an obligation on local authorities there.

Section 22 of the 1989 Act, which is identified in the new clause as a non-duty, covers exactly the same provisions as section 20(1) in relation to accommodating children. Is it possible at this stage for us to have, for comparison purposes, a description of what are core and non-core duties and how that decision was arrived at?

My concluding point is this: normally in this House, decisions to remove statutory protections are made by Parliament on a case-by-case basis. That is what we are paid to do. What we are being asked to do with the new clauses is write a blank cheque for the Minister to remove statutory protections on the say-so of local authority bureaucrats, with that removal tested solely by his chosen panel of experts, and where we will know after we have legislated which powers we have taken away to protect children. That strikes me as peculiar. It is certainly innovative in a legislative sense, but it is a remarkably peculiar way of doing it.

Edward Timpson: I want to reassure the hon. Gentleman—I am sure this issue is something he will follow through—that the process I set out earlier is very clear. Every application that goes through that very rigorous process, which includes the application going through the expert panel and the Secretary of State then deciding whether to go ahead with a pilot, has to be put before Parliament so that it can decide whether that pilot should go ahead. It is a time-limited pilot; it does not change any legislation on the statute book in relation to children’s social care. There is rightly an opportunity for Parliament to have its say and express its view.

Steve McCabe: I am grateful to the Minister. It is is certainly innovative in a legislative sense, but it is a remarkably peculiar way of doing it.
to mislead the Committee by pretending otherwise. None the less, the crucial decision about giving the Minister a blank cheque to remove protections will be taken today by this Committee. We will find out the consequences of that decision further down the line. That is the point I am seeking to make. In my view, that is innovative, but I am not sure it is the kind of innovation I want to be associated with.

Kate Green: I had not planned to speak at this point, but a number of points that have come up in the past hour have raised further questions in my mind, and I hope that the Minister will allow me to explore a few of them a little more. It is important to say to all Members that no Labour Member is against innovation or the notion that we should take seriously a lot of the ideas and suggestions of local experts around local circumstances, but when it comes to child protection, we have a long history in this country of learning from when things go wrong, and it is important that we protect that learning. Much of the range of child safeguarding legislation that we have today has been a result of very dire consequences for very vulnerable children.

It is therefore important that we are mindful of what we could be unpicking, particularly given that, as my hon. Friend the Member for Birmingham, Selly Oak, pointed out, we have got a permission in advance that says, “Go off and do what you like, and then come back and tell us how it went.” That causes some concern for Opposition Members. May I ask the Minister specifically whom he sees as being accountable for the outcome of a pilot authorised by him or the Secretary of State, particularly if it has caused harm to an individual child? It is really important that the public understand who is responsible and ultimately accountable in those circumstances. As he knows, those are the most difficult, public, contentious and distressing cases; it is very important that we know where the buck stops.

11.15 am

As a Greater Manchester MP, I would like to explore a little further something that has opened up in the course of this debate: the implications of this legislation sitting alongside the direction of travel we are pursuing in relation to Greater Manchester devolution. Local authority children’s services currently sit with each of the 10 local authorities in Greater Manchester. However, the Minister will be aware that health and social care together will be a responsibility of the Mayor of the combined authority. Moves to integrate health and social care provision—presumably including children’s services—across the Greater Manchester footprint may mean that, over time, we begin to see arrangements that cross the 10 local authority boundaries, in terms of local authorities’ responsibilities for children.

Has the Minister explored with colleagues in the Department for Communities and Local Government, or with the combined authorities and shadow mayors, how the direction of travel of those devolved footprints might be impacted by or be helpful to the legislation he proposes? If he thinks there is an opportunity for innovation across local authority boundaries within the combined authority, who is accountable? Accountability in relation to devolution is very uncertain. It is not at all clear that there are good transparency and scrutiny arrangements across the Greater Manchester governance structures being introduced.

Steve McCabe: I do not want to get too bogged down in detail. The Minister may need time to answer this, but I am curious: if the circumstances he just described led to a court case over a care outcome, with one local authority arguing that it had never supported the exemption and the other having argued for it, how does he think that might affect the outcome of the judgment?

Kate Green: I am afraid I have no idea. The Minister might be able to offer his reflections on that—if not immediately, perhaps he could come back to the Committee in due course.

As well as social care, the other area where there is real interest in Greater Manchester in moving forward with a combined authority footprint is the justice system—both the criminal and family justice system. I declare an interest: I am a life member of the Magistrates Association, which has raised particular concerns and submitted written evidence to the Committee. I am very unclear what the intentions are in Greater Manchester in terms of reshaping the justice system on that combined conurbation footprint.

The Magistrates Association has rightly pointed to the useful work of Lord Laming, which highlighted the need for a much more integrated approach to young people in the youth justice system. There are concerns that such integration could be impacted if the proposed pilots do not specifically engage with the justice agencies with which those young children might come into contact. It is unclear what impact the proposals will have on the family courts and on young people in the criminal justice system.

This is my final question to the Minister. In Greater Manchester and more generally, how does he see relationships between local authorities making suggestions for innovation sitting alongside the relationships that need to exist with a whole range of other non-local authority services with which children and families come into contact? It is not clear to me what happens if a local authority says that it wants to innovate in a particular way and take advantage of exemptions from current statutory positions if other public authorities say that that really is not acceptable to them or may conflict with their statutory obligations. Will the Minister explain to the Committee how such potential conflicts would be handled?

Edward Timpson: I am grateful for hon. Members’ contributions to this important debate, which have, understandably, provoked a lot of discussion on the attempt in these clauses to enable local authorities to try new ways of working with the sole purpose of improving children’s outcomes. We have had an opportunity to explore not only some of the detail around the process, which is a crucial part of this House’s scrutiny, but what we are seeking to achieve, and for me, that is ultimately the main driver behind these clauses.

I should say at the outset that the principle behind this approach is not necessarily new. I spoke earlier about the social work practices under the last Labour Government, and of course there are also the provisions that were brought in in 2002 by the last Labour Government to allow for innovation in education. In many ways, the proposals before us are closely modelled on those provisions. It is helpful to have that context when discussing how we try to do in children’s services what the last Labour Government tried to do in education.
I will do my best to address the many points made by hon. Members, and apologise in advance if I am unable to remember all of them, or to scribble quickly enough to ensure that I answer every question, but I will do my best. I want to start by talking about the question around the Secretary of State’s intervention in this process. I assure the House that it is absolutely not the Government’s intention to direct a local authority to use the power against its wishes. It is really crucial that the House understands that this is a grassroots power, designed for those working most closely for children; it is for them to decide how to use it. This is not a top-down policy. It is a bottom-up policy that enables local authorities, under their own steam, to come forward with their own ways of trying to improve outcomes for local children, which will then be closely scrutinised, as has already been set out. The Secretary of State’s powers of direction arise where a local authority is not discharging any of its children’s social care functions to an adequate standard. That is where it would apply.

Hon. Members have asked why we have chosen to exclude specific duties. I want to be clear that by excluding certain duties from the scope of the power, we are not signalling the wholesale disapplication of other duties that apply. The chief determinant of whether a pilot will be granted is whether it can promote one of the outcomes that I have outlined.

Steve McCabe: I think I must have misheard the Minister there. Did he say that it would apply where a local authority is not adequately discharging its duties?

Edward Timpson: What I said was that the Secretary of State only uses her powers of direction when they arise where a local authority is not discharging any of its children’s social care functions to an adequate standard. I apologise if I did not speak with enough eloquence, or provided one less word than necessary in that sentence to make it acceptable to the hon. Gentleman.

There are many aspects of legislation where I expect local authorities would find it extremely difficult to demonstrate how a change would be in the best interests of children. We are seeking to remove a small number of specific duties because they reflect the core responsibilities of local authorities to protect the wellbeing of children. We have taken extensive legal advice on exactly what those core duties would be, based on the legislative framework, and we have also worked with local authorities to make sure that we have the right aspects and duties in place to ensure that they are out of scope. We aim to put that beyond doubt, so that these core duties cannot be revisited. [Interruption.] I can see that the hon. Member for Birmingham, Selly Oak is itching to get up.

Steve McCabe indicated dissent.

Edward Timpson: No, he is just listening intently. That is good to see. I should also reassure the hon. Member for South Shields that the principles that are set out—
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New clauses under consideration when the Committee adjourned till Thursday 12 January at half-past Eleven o’clock.
Written evidence reported to the House.
No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 14 January 2017

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The Committee consisted of the following Members:

**Chairs:** Mrs Anne Main, † Phil Wilson

† Caulfield, Maria (Lewes) (Con)  
† Creasy, Stella (Walthamstow) (Lab/Co-op)  
† Debnaine, Thangam (Bristol West) (Lab)  
Fellows, Marion (Motherwell and Wishaw) (SNP)  
† Fernandes, Suella (Fareham) (Con)  
† Green, Kate (Stretford and Urmston) (Lab)  
† Hoare, Simon (North Dorset) (Con)  
† Kennedy, Seema (South Ribble) (Con)  
† Lewell-Buck, Mrs Emma (South Shields) (Lab)  
† McCabe, Steve (Birmingham, Selly Oak) (Lab)  
† Merriman, Huw (Bexhill and Battle) (Con)  
† Milling, Amanda (Cannock Chase) (Con)  
† attend the Committee  
† Caulfield, Maria (Lewes) (Con)  
† Creasy, Stella (Walthamstow) (Lab/Co-op)  
† Debnaine, Thangam (Bristol West) (Lab)  
Fellows, Marion (Motherwell and Wishaw) (SNP)  
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† Green, Kate (Stretford and Urmston) (Lab)  
† Hoare, Simon (North Dorset) (Con)  
† Kennedy, Seema (South Ribble) (Con)  
† Lewell-Buck, Mrs Emma (South Shields) (Lab)  
† McCabe, Steve (Birmingham, Selly Oak) (Lab)  
† Merriman, Huw (Bexhill and Battle) (Con)  
† Milling, Amanda (Cannock Chase) (Con)  
† attend the Committee
New Clause 2

POWER TO TEST DIFFERENT WAYS OF WORKING

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

(a) promoting the physical and mental health and well-being of children, young people or their families,
(b) encouraging children or young people to express their views, wishes and feelings,
(c) taking into account the views, wishes and feelings of children or young people,
(d) helping children, young people or their families gain access to, or make the best use of, services provided by the local authority or its relevant partners (within the meaning given by section 10(4) of the Children Act 1989),
(e) promoting high aspirations for children or young people,
(f) promoting stability in the home lives, relationships, education or work of children or young people, or
(g) preparing children or young people for adulthood and independent living.

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

(a) exempt a local authority in England from a requirement imposed by children’s social care legislation;
(b) modify the way in which a requirement imposed by children’s social care legislation applies in relation to a local authority in England.

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

(4) Regulations under this section may not be used to exempt a local authority in England from, or modify, its duties under—

(a) section 17 of the Children Act 1989 and Part 1 of Schedule 2 to that Act (duty to provide appropriate services to children in need);
(b) section 20 of that Act (provision of accommodation for children who appear to require it for certain reasons);
(c) section 22 of that Act (duty to safeguard and promote welfare of looked after children etc);
(d) section 47 of that Act (duty to make enquiries and take action to safeguard or promote welfare of children at risk);
(e) section 10 of the Children Act 2004 (duty to make arrangements for promoting co-operation to improve well-being of children);
(f) section 11 of that Act (duty to make arrangements to ensure that regard is had to the need to safeguard and promote the welfare of children).

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

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

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

(8) Regulations under this section may include consequential modifications of children’s social care legislation.'—(Edward Timpson.)
change for all local authorities, all the usual process would apply, including consultation and full parliamentary scrutiny. The pilot, however, is only the first step towards helping us build the evidence base on which we may want to make further changes in future.

**Kate Green** (Stretford and Urmston) (Lab): Will the Minister clarify whether the evaluation would be independent? A concern expressed this morning by my hon. Friend the Member for Birmingham, Selly Oak was that local authorities might be evaluating their own pilots—marking their own homework.

**Edward Timpson**: Part of the evaluation is through the expert panel, which is involved in ensuring some independent oversight of the pilot, but it would need to be evaluated locally, as well as nationally. In addition to local government, the Department will keep a close eye on the development of the pilot; I will say a little more about that later.

If a pilot is not successful, it will be monitored locally, as well as nationally by the Department, to ensure that there are no adverse impacts on children. For example, we can track the relevant performance metrics, and random case audits are a helpful tool as well. As I mentioned in answer to the question from the hon. Member for Stretford and Urmston, the expert panel will scrutinise the proposed monitoring arrangements locally and by the Department to ensure that they are robust in what they are evaluating. If the Department gains intelligence through those processes that a pilot is not working in the best interests of children, that would be investigated and acted on immediately.

All regulations can be revoked through the negative procedure at any point. To answer a question posed earlier about whether a pilot can be terminated within the three-year period, I should say that it can be revoked at any point, should that be deemed necessary. That is clear in regulation. We will also want assurance in the application from a local authority that it will end a pilot immediately if there is evidence of an adverse impact on children.

**Mrs Emma Lewell-Buck** (South Shields) (Lab): I am not sure whether the Minister will include this in his comments, but is not putting in the provision that a pilot can be revoked at any point if it is causing harm to children a backward way of doing things? Will he not accept the comments made by me and my hon. Friend that there should be robust consultation? The Bill should be clear in statutory guidance that the local authority will be very clear lines of responsibility and accountability within that, because ultimately it is the local authority that is responsible for providing those services; it holds that function.

**Edward Timpson**: I understand what the hon. Lady says and take it in good spirit, but it misses the point of what these clauses are about: building an evidence base. We cannot future-proof all of children’s social care on the basis that we are already seeing failure—I will come to the geographical spread of success and failure across the country—irrespective of the fact that we have a very rigid and complex legislative framework within which all these local authorities have to work. In itself, that framework is providing the inconsistencies that it is meant to prevent. What we are trying to do in the Bill, in a careful and controlled way, is enable different ways of working that are not about what local authorities have to do but about how they do it. That is the purpose of the new clauses.

**Edward Timpson**: The answer to the hon. Gentleman’s first point is yes, but of course the authority still has to comply with all the elements put in the applications and the process that follows in respect of the scrutiny of the application, and whether it is approved. There need to be very clear lines of responsibility and accountability within that, because ultimately it is the local authority that is responsible for providing those services; it holds that function.

As for the hon. Gentleman’s question about the Mayor, it is not one that I have been asked directly before; I know that it is becoming more relevant in some parts of the country. My initial view—I will clarify it later; if he does not mind, I will take some time to do that—would be that this is something approved by Parliament,
which cannot be superseded by a Mayor or their powers. However, I will certainly seek to ensure that the hon. Gentleman gets chapter and verse on that point.

I also wish to consider the issue around consultation, which hon. Members have raised. The Department has had a period of very open consultation about the power and it has spoken with a wide range of organisations, including representative bodies of social work, local government, the voluntary sector, children’s organisations and others. Those meetings have been instrumental—indeed, critical—in forming our thinking on the new clauses, but we will of course continue to consult as we develop the detail of the process. We have committed to consult publicly on the statutory guidance to accompany the clauses and, as I have said before, there will also be consultation on each individual use of the power.

Mrs Lewell-Buck: Does the Minister not accept the information I shared with the Committee earlier: that there are far more organisations, practitioners and experts who are against the new clauses than for them? More than 100,000 people have signed a petition against the measures. If the Minister really wanted to listen to the sector and the public, would he not be going back and deeply re-thinking the new clauses? Even the NSPCC has said:

“Despite numerous conversations with ministers and officials, the evidence for the need for this power remains unconvinging and does not justify the potential risks of suspending primary legislation.”

More than 50 organisations in this country who are experts in the field share that view. Why is the Minister not listening to them?

Edward Timpson: Of course I respect all the views expressed about the Government’s view on any policy. I am not somebody who will not listen; in fact, I dare suggest that I have a good track record of listening to those who have views on matters that fall within my portfolio. The truth is that no legislation under her party’s Government or this one has ever passed where people have expressed only one side of the argument. Can the hon. Lady tell me any different?

It is my job to listen to both sides of the argument but to come to a considered and informed view as a decision-maker in a position of responsibility to make legislation. I have already alluded to the many representations I have had that I cannot ignore, from the likes of the Local Government Association and the Children and Family Court Advisory and Support Service. I also mention the support from the Children’s Commissioner for the new clause, which I did not mention before. There is a balance to be struck. I accept that this is not an uncontroversial piece of legislation. It has provoked strong views, but is one on which, on balance, I think we have come to the right conclusion.

Simon Hoare (North Dorset) (Con): Unless I am misreading new clause 2 and onwards, it would provide a power to enable local authorities to explore an innovative way of working: there is no compulsion. If they decide not to do that—if they do not want to do innovative, blue-sky work or whatever we wish to call it—there is no obligation for them so to do. It is an enabling power; it is not an enforcing power.

Edward Timpson: My hon. Friend is right: the whole purpose is to ensure that this is a grassroots movement from a local level. There is no direction from Government about how local authorities decide they would like to provide the services they are responsible for. If no local authority applies, that is the end of the matter. The reason we are debating the clause is that local authorities have come forward and said that they want to be able to do that. It is important that we listen to those who are on the frontline, charged with making decisions and bringing policy into action, when they come to Government with a very clear view about what they think needs to be done.

Mrs Lewell-Buck: I take the Minister’s point about consultation; there are always two sides to the argument, but the balance is heavily weighted against him on this measure. Other colleagues may correct me if I am wrong, but I have always held the belief that there is a history in this House of making child protection legislation—legislation that protects our most vulnerable children—on more of a cross-party consensus, as was the case with Children Act 1989, which is the flank of legislation used by all practitioners and all agencies when discharging functions in relation to protecting children.

The Minister said that local authorities are coming forward. I do not want to embarrass anyone, but when I asked one local authority that he had cited before as coming forward what power it wanted to be exempt from, it could not say. Is it not the case that there is just not enough support out there for these measures at all? The new clauses should be scrapped.
What are the powers that they feel are currently restricting their innovating practice and which they are seeking to be freed from?

**Edward Timpson:** I am sure that the hon. Gentleman took the time to read the letter that I sent round to all Committee members, which set out a number of examples of how local authorities think the power can be used. There is no presumption that those would be granted, of course: any application would need to go through robust scrutiny before it was agreed, as I have set out.

**Mrs Lewell-Buck:** Will the Minister give way?

**Edward Timpson:** I am just answering the question from the hon. Gentleman, if the hon. Lady could be patient for a few moments. If the hon. Gentleman rereads the letter, he will remember that it talks about testing changes to the planning processes, trialling new approaches to the independent reviewing officer, more agile approaches to adoption and fostering assessments, and looking at different approaches to assessing friends and family carers.

Of course, the whole point of the new clauses is that it is not me telling local authorities, “This is what you must do”; it is for them, over time, to come up with their own ideas about how they think they can improve their services. It is not what they have to do, but how they do it. If that is a concept that some struggle with—not necessarily the hon. Gentleman, but perhaps some in his party—I am afraid we are never going to have a consensus that, I agree, we are able to reach in the majority of cases on child protection.

There is a fundamental disagreement about what we are trying to achieve and the way we go about it. I am absolutely sure that the approach we are taking will do what local authorities want and what Eileen Munro set out in her report almost six years ago.

**Mrs Lewell-Buck:** Will the Minister give way?

**Edward Timpson:** I will now give way.

**Mrs Lewell-Buck:** The Minister is being extremely generous. I read his letter in depth and the fact sheet that went with it. As I said in my opening comments, there are four examples that would get rid of vast swathes of legislation that protects children. Evidence from CoramBAAF to this Committee debunks every one of those four examples and highlights the extremely dangerous pitfalls there would be if that were to take place.

The Minister keeps quoting Eileen Munro, as if in her review in 2011 she recommended dispensing with primary legislation. She never did. That is what the Minister is trying to do, but Eileen Munro never recommended that.

**Edward Timpson:** I am sorry that the hon. Lady takes that view, because I was under the impression that the review into child protection carried out by Professor Eileen Munro in 2011 was widely welcomed and respected across the political spectrum. That is exactly what is reflected in the many Hansard reports I have read from across the House, in which hon. Members all lauded a report that finally got down to the nuts and bolts of why we need to have a system that, as the tri-borough rightly expressed in relation to this clause, gets social workers out working directly with families and away from being in front of a computer at their desks.

The reason why I keep quoting Eileen Munro is that she was the person charged by Government to provide an independent review, which has been considered, scrutinised and generally approved by this House as the way to go. I am often held to account for how many of Eileen Munro’s recommendations we have implemented, so I place credence in what she has to say about what we are trying to do, because she has already considered it and come up with a solution for Government, in her independent capacity. She says:

“I welcome the introduction of the power to innovate set out in the Children and Social Work Bill. This is a critical part of the journey set out in my Independent Review of Child Protection towards a child welfare system that reflects the complexity and diversity of children’s needs.”

I cannot ignore that, because it demonstrates that her report is still relevant in many ways. I would like to know whether the hon. Member for South Shields agrees with the Munro report. If she does, but disagrees with what Eileen Munro is saying now, what has changed? What is different? I cannot see where the logic would take us.

That is why it is important to allow local authorities such as Hampshire, North Yorkshire, the tri-borough and others—such as Richmond and Kingston—within their “Achieving for Children” in Richmond—to try out new ways of working. They might not know, at the moment, exactly what those will be, but they need the opportunity to try them in a controlled, safe way. The Bill provides that without removing swathes of legislation. It enables them to trial or pilot a new way of working, exactly as was done with social work practices under the last Labour Government. Then a decision can be made about whether to go forward with it.

**Mrs Lewell-Buck:** The Minister seems to be painting the picture that I disagreed with Eileen Munro’s recommendations. I certainly did not. In fact, I strongly supported recommendation 10 that councils should have a legal duty to provide enough early intervention services, which this Government rejected. He listened to my opening comments. He knows why I disagree with the new clauses, and he knows why thousands of people outside this House do as well.

**Edward Timpson:** I am not sure what question the hon. Lady wants me to answer on the back of that, but I can reassure her that Eileen Munro said in her conclusion:

“A move from a compliance to a learning culture will require those working in child protection to be given more scope to exercise professional judgment in deciding how best to help children and their families.”

I still do not understand what there is in our clauses, according to the hon. Lady, that contradicts that approach.

There are a number of other issues that I want to cover before I conclude, because it is important that every question asked by an hon. Member receives a response. One question was about which of the measures would be within the scope in the Bill. IROs in particular have been mentioned as an example; it is only an example. There has been some debate about the possibility of relaxing IRO support. The local authorities interested
in that approach are talking not about getting rid of the role in its entirety but about using it more flexibly; it is an important distinction to make.

The hon. Member for Birmingham, Selly Oak asked where improving outcomes is now in relation to the Bill. We have expanded the requirements that we set out in relation to new clause 2, replacing them with a more detailed set of requirements to ensure that the outcomes that we are seeking for the relevant children, whom I listed earlier, are much more clearly defined. We have also extended the consultation requirements on local authorities to go beyond safeguarding partners to include other relevant persons, particularly in relation to children and young people. The hon. Member for Stretford and Urmston mentioned schools, which are important and which we must ensure are part of the consultation where relevant.

Depending on the impact that the use of a power will have, it might be appropriate for local authorities to consult publicly, as they would in other circumstances. If the Secretary of State were dissatisfied with the extent of consultation, she could ask local authorities to widen it before agreeing to grant an application.

I risk of falling out a little further with the hon. Member for South Shields. She unhelpfully raised the link between funding and local Government support for these new clauses. I can categorically say there is no link between them and funding received by any local authority. The chief social worker was simply urging the profession to take this opportunity. I am sorry that the hon. Lady chose to try and suggest, or at least insinuate, otherwise and I hope she will disassociate herself from those comments.

In closing, I want to reiterate two points that must not be overlooked. First, this power is about grass-roots innovation. It is all about believing in and trusting professionals to test new approaches, and it is hard. The purpose of the power is to improve the services we deliver for children. If we look at who is calling for this power, it is not private companies or failing children's services seeking to cut costs, but some of our country's most inspirational leaders and innovative charities. To characterise this as something that is intended to take away support from children or even enable privatisation is to misrepresent our ambition and undermine the integrity and professionalism of staff who work with children on the frontline.

The new clauses being debated by the Committee today are significantly different from those debated in the other place, and I hope the Committee recognises that the Government have listened and taken substantial steps to put safeguards in place around the power. I remain ready at any time to discuss these new clauses further, but in the end, they are a genuine attempt to help local authorities test different approaches and better ways of working in the interests of children. I urge the Committee to support them.

Mrs Lewell-Buck: I want to make some brief concluding comments.

If Government Members want to vote for this, they should be able to articulate with total conviction and clarity which primary legislation—out of the lists provided by concerned organisations and individuals under threat—

during the course of which any person is kept away from their home, they may also cause a serious risk to themselves or another person, or they may be a serious risk to themselves or another person.

The Minister asked for support, but he has not articulated a case, built on strong evidence and stakeholder engagement, for why these clauses are needed. He has not offered any comfort or explanation to people who are seriously concerned about the threat that these clauses pose to vast swathes of legal protection, on which the most vulnerable children and young people rely. I have not been reassured that the endgame is not the marketisation of social work.

These clauses have been the main thrust of the Bill from the outset. They epitomise this ideologically driven Government at their very worst and set a precedent, as Liberty, CoramBAEF and others have said in their evidence, for changing the fundamental rules on how our country’s laws are made and how we are governed, which MPs on all sides of the House have always adhered to. I am deeply disappointed that this Minister, of all people, is going along with this. We on this side will never, ever go along with it.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 10, Noes 5.

Division No. 11]

AYES

Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Kennedy, Seema
Merriman, Huw

NOES

Creasy, Stella
Debonaire, Thangam
Green, Kate
Lewell-Buck, Mrs Emma
McCabe, Steve

Question accordingly agreed to.

New clause 2 read a Second time, and added to the Bill.

New Clause 3

DURATION

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

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

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

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

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

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

Brought up, and read the First time.
Question put, That the clause be read a Second time.

The Committee divided: Ayes 10, Noes 5.

Division No. 12]

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Question accordingly agreed to.

New clause 3 read a Second time, and added to the Bill.

New Clause 4

PARLIAMENTARY PROCEDURE

'(1) Regulations under section (Power to test different ways of working) are subject to the negative resolution procedure if they only—

(a) relate to requirements imposed by subordinate legislation that was not subject to affirmative resolution procedure, or

(b) revoke earlier regulations under that section.

(2) Any other regulations under section (Power to test different ways of working) are subject to the affirmative resolution procedure.

(3) At the same time as laying a draft of a statutory instrument containing regulations under section (Power to test different ways of working) before Parliament, the Secretary of State must lay before Parliament a report—

(a) explaining how the purpose mentioned in subsection (1) of that section is expected to be achieved, and

(b) confirming that the regulations are not expected to have a detrimental effect on the welfare of any child and explaining any measures that have been put in place to ensure that is the case.

(4) If regulations under section (Power to test different ways of working) are subject to the affirmative resolution procedure and would, but for this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, they are to proceed in that House as if they were not a hybrid instrument.

(5) For the purposes of subsection (1)(a) subordinate legislation “was not subject to affirmative resolution procedure” if it was not subject to any requirement for a draft to be laid before, and approved by a resolution of, each House of Parliament.—(Edward Timpson.)

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

Brought up, and read the First time.
Question put, That the clause be read a Second time.

The Committee divided: Ayes 10, Noes 5.

Division No. 13]

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Question accordingly agreed to.

New clause 4 read a Second time, and added to the Bill.

New Clause 5

CONSULTATION BY LOCAL AUTHORITY

'(1) Before making an application for the Secretary of State to make regulations under section (Power to test different ways of working) a local authority in England must—

(a) consult such of the other safeguarding partners and relevant agencies in relation to its area as it considers appropriate, and

(b) any other person that the local authority considers appropriate.

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

This would impose a consultation requirement on local authorities before making an application under NC2.

Brought up, read the First and Second time, and added to the Bill.

New Clause 6

CONSULTATION BY SECRETARY OF STATE

'(1) Where a local authority in England make an application for the Secretary of State to make regulations under section (Power to test different ways of working) the Secretary of State must invite an expert panel to give advice about—

(a) the capability of the authority to achieve the purpose mentioned in subsection (1) of that section if the regulations are made, and

(b) the likely impact of the regulations on children and young people, and

(c) the adequacy of any measures that will be in place to monitor the impact of the regulations on children and young people.

(2) The expert panel is to consist of—

(a) the Children’s Commissioner,

(b) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills, and

(c) one or more other persons appointed by the Secretary of State to consider the application.

(3) The Secretary of State may appoint a person under subsection (2)(c) to consider an application only if the Secretary of State thinks that the person has expertise relevant to the subject matter of the application.
(4) Having invited the expert panel to advise, the Secretary of State must wait at least 6 weeks before making regulations under section (Power to test different ways of working) in response to the application.

(5) Before making regulations under section (Power to test different ways of working) in response to the application, the Secretary of State must also publish any written advice given during that 6 week period by the expert panel. — (Edward Timpson.)

This would impose consultation requirements on the Secretary of State before making regulations under NC2.

Brought up, read the First and Second time, and added to the Bill.

New Clause 7
GUIDANCE

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

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

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

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

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

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

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

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

(b) publish a summary of the consultation responses.'— (Edward Timpson.)

This would require the Secretary of State to give local authorities guidance on certain matters to do with NC2 and NC3.

Brought up, read the First and Second time, and added to the Bill.

New Clause 8
ANNUAL REPORT

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

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

Brought up, read the First and Second time, and added to the Bill.

New Clause 9
INTERPRETATION

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

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

“children’s social care legislation” means—

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

“local authority in England” means—

(a) a county council in England;

(b) a district council;

(c) a London Borough council;

(d) the Common Council of the City of London

(in their capacity as a local authority);

(e) the Council of the Isles of Scilly;

(f) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

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

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

“subordinate legislation” has the same meaning as in the Interpretation Act 1978;

“young people” means people, other than children,

under the age of 25.' — (Edward Timpson.)

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

Brought up, read the First and Second time, and added to the Bill.

New Clause 10
IMPROVEMENT STANDARDS

'(1) The Secretary of State may—

(a) determine and publish improvement standards for social workers in England;

(b) carry out assessments of whether people meet improvement standards under paragraph (a).

(2) The Secretary of State may make arrangements for another person to do any or all of those things (and may make payments to that person).

(3) The Secretary of State must consult such persons as the Secretary of State considers appropriate before determining a standard under subsection (1)(a).

(4) In this section “improvement standard” means a professional standard the attainment of which demonstrates particular expertise or specialisation.

(5) Nothing in this section limits anything in section 38.'— (Edward Timpson.)

This new clause allows the Secretary of State to determine and publish improvement standards for social workers or arrange for someone else to do so. There is also a power to carry out assessments. The clause does not limit the regulator’s functions under clause 38.

Brought up, and read the First time.

Edward Timpson: I beg to move, That the clause be read a Second time.

This new clause supports our aim of establishing a new career pathway for social workers that recognises specialist, post-qualification expertise in child and family social work and will reinforce our focus on the quality of practice. It makes provision for the Secretary of State to determine and publish improvement standards for social workers in England, or to arrange for someone else to do so on her behalf. An improvement standard is a post-qualification professional standard which, if attained, demonstrates a particular expertise or specialisation. The Secretary of State will be required to consult before determining any improvement standards.
I would like to make it clear that these standards are distinct from the proficiency standards which the regulator, Social Work England, will set and which must be met by all social work leaders in order to become one. The new clause is vital to enable the introduction of the national assessment and accreditation system which is a fundamental part of our national reform programme that seeks to ensure that all children and families get the support and protection they need.

We are all aware that child and family social workers do an incredibly important job under very trying circumstances, and we all thank them for it. They deal with complex and fraught situations that require great depth of skill, knowledge, understanding and empathy. To clearly set out what characterises effective work with children at their most vulnerable, the chief social worker for children and families, Isabelle Trowler, has published three statements on the knowledge and skills needed to operate at three levels of practice for child and family social workers. That includes frontline practice, supervisory roles and practice leader. One of the Department’s priorities is supporting the workforce in consistently meeting these aspirations.

The knowledge and skills statements will form the basis of a national assessment and accreditation system for child and family social work, or NAAS. Child and family social workers will be accredited against these standards in order to recognise consistently the specialist knowledge and skills that child and family social workers, supervisors and leaders need in order to practise effectively. NAAS will provide, for the first time, a consistent way of recognising the specialist knowledge and skills needed by child and family social workers, supervisors and leaders to practise effectively. It will recognise progression through the child and family specialism, making clear what good practice looks like and what path a career in social work could take. Supporting social workers to improve their practice is vital when it comes to supporting the profession, and thus the children and families they work with.

We have carried out extensive work with the profession to establish what form assessment will take, and we have launched an open consultation to support our thinking on how the new system is to be rolled out. While there are no current plans for a NAAS for adult social work, this measure would enable the Secretary of State to determine and publish a similar set of improvement standards in relation to adult social workers in England. There is already a degree of specialisation in this area through the roles of approved mental health practitioner and best interest assessor. We intend to look closely at whether taking further steps in this direction for adult social work could be desirable.

I trust that the Committee will support this important work to build the professional and public status of children and family social work and support the profession so that it can focus ever more closely on practice that delivers for vulnerable children. [Interruption.] I cannot conclude without hearing from the hon. Member for Birmingham, Selly Oak.

Steve McCabe: As I have said before, the Minister is extremely generous. I wanted to ask him about people who have acquired higher-level awards and qualifications as part of previous accreditation exercises. He will be familiar with the old CCETSW post-qualification award in children services. I think I am right in saying that the NSPCC ran a similar award at one stage. There are therefore practitioners who have a previous higher-level qualification award. Is it the Minister’s intention that their awards will be accredited or in some way fitted into the new framework or will those people now be expected to acquire an additional higher-level qualification?

Edward Timpson: This is a new form of accreditation and assessment. Over time, all practitioners who want to work in the field will need to be accredited against the new standards set out in the knowledge and skills statement. The difference now is that there are three different tiers. One of the things that has led to our bringing in this proposal is the strong feeling that there has not been a clear career pathway for children’s social workers. When they become experienced they may even become Members of Parliament or they end up in management, away from the frontline but still using their great expertise and knowledge about how to deliver good social work. They have an opportunity to supervise practitioners or to become a practice leader.

Those who are already accredited and have shown that they have relevant experience will be well placed to meet the new accreditation standards that are being set for supervisory and practice leader role. We hope that over time that will enable more of those very high-quality, well-versed and experienced social workers to remain active in social work, rather than our losing that precious commodity as they move into corporate roles within their organisation. I hope that explanation finds favour with the hon. Gentleman and that hon. Members will support the new clause.

Mrs Lewell-Buck: I have a few brief comments and questions for the Minister. I am a little concerned that we are seeing an attempt to put back into the Bill powers for the Secretary of State to determine professional standards and assess whether social worker practitioners meet them or not. It is right that Ministers should want to take action to improve standards, but will the Minister explain what those standards will be as they will be subject to secondary legislation and therefore not subject to intense parliamentary scrutiny? It is only right that the Committee is clear about the intention of the new clause and understands why the Secretary of State feels the need to determine professional social worker standards. It is also a little concerning that after the success in the Lords of the noble Lord Hunt as regards an arm’s length social worker regulatory body, new clause 10(1)(b) is now proposed. Will the Minister explain the rationale for the new clause and give assurances that there will not be Government interference, influence or Government-funded assessment activities of social workers against improvement standards?

The new clause attempts to reassert the role of the Secretary of State in setting standards and developing assessment benchmarks post-qualification. Could that not result in confusion and conflict with the role and functions of the proposed social worker regulatory body, or is the intention that the Secretary of State and persons appointed to assess improvement will be a de facto second regulator? I am sure the Minister agrees that that could have the adverse effect of creating confusion about who is setting and who is assessing standards. It could create more bureaucracy in an already highly complex and fraught situation.
complicated arena and would have an adverse effect on recruitment and retention—an area in which, as the Minister knows, the sector is already struggling.

After this morning’s debate, I cannot help thinking that there is an attempt to do something else with the new clause, especially as it has been introduced once again without any consultation or discussion with the social work sector. In answering my questions, can the Minister convince us otherwise?

Edward Timpson: I am grateful to the hon. Lady for her reasoned and helpful questions to try to establish what the new clause proposes. I think I have set that out in some detail already, but I will try to address some of the specifics that she has raised.

I have already given a picture of what the consultation has involved to date. It is also worth reminding the Committee that more than 1,000 social workers have volunteered to test out the assessment accreditation process as it is rolled out so that we can be sure that what we have at the other end is fit for purpose. There has been widespread involvement of the social work profession. This is not a new phenomenon. It is being brought in very carefully as regards this important change for those working on the frontline.

2.45 pm

The knowledge and skills statements are simply statements and they will not take on any formal status until the Secretary of State has powers to publish standards against which an assessment of skill and knowledge is made. That is not unusual; in other public service professions, such as doctors, nurses and midwives, there is a similar approach.

Social Work England will have a role as the regulator in approving post-qualifying courses, both those relating to the approved mental health professionals, which I mentioned before, and the training of the best interests assessors. In time, the new regulator will also be able to take responsibility for the national assessment and accreditation system.

The system will be rolled out in the first instance by the Department for Education. Phase one of the roll-out will be in 2017-18 and phase two in 2019-20. Once the regulator is up and running, there is a clear logic for it to take on that role of approving post-qualifying courses, of which this would be one. That is an important distinction to make and is very much in line with what happens in other parts of the public service.

As I set out in my opening remarks, this system is very different from the clear remit of Social Work England and the regulation of the profession. This is about how to maintain standards post-qualification, how we support social workers as they move through the profession and gain experience, and how we can be confident that they have the requisite knowledge and skills to provide a first-class service for children in their area.

I will continue to discuss these points with the hon. Lady. If there are other specific questions that I have not covered, I will endeavour to do so in writing. This measure has not appeared suddenly overnight; it has been through a long process of development with the profession. It has been welcomed and constructively engaged with by social workers and local authorities, which are very interested in seeing how they can ensure that it improves not only the quality but the status of social work in their areas.

Question put and agreed to.

New clause 10 accordingly read a Second time, and added to the Bill.

New Clause 11

Safeguarding: provision of personal, social and health education

“(1) For the purpose of safeguarding and promoting the welfare of children a local authority in England must ensure that pupils educated in their area receive appropriate personal, social and health education.

(2) For the purposes of subsection (1) “personal, social and health education” must include but shall not be restricted to—

(a) sex and relationships education,
(b) same-sex relationships,
(c) sexual consent,
(d) sexual violence, and
(e) domestic violence.

(3) Targeted inspections carried out by the Office for Standards in Education, Children’s Services and Skills (Ofsted) under section 136 of the Education and Inspections Act 2006 shall include an assessment of the provision of personal, social and health education under subsection (1), including whether the information provided to pupils is—

(a) accurate and balanced,
(b) age-appropriate,
(c) inclusive, or
(d) religiously diverse.

(4) Assessments made under subsection (3) must include an evaluation of any arrangements for pupils of sufficient maturity to request to be wholly or partly excused from participating in personal, social and health education.

(5) For the purpose of subsection (4) “sufficient maturity” shall be defined in guidance by the Secretary of State.

(6) Withdrawal from personal, social and health education by pupils under subsection (4) shall not be considered a breach of the safeguarding duties of a local authority.

(7) This section comes into force at the end of the period of twelve months beginning with the day on which this Act is passed.”—[Stella Creasy.]”

Brought up, and read the First time.

Stella Creasy (Walthamstow) (Lab/Co-op): I beg to move, That the clause be read a Second time.

I hope the Committee will bear with me. As can be heard, I am not as well as I should be. I have to admit I probably would not have been here today were I not so passionate about this subject and the importance of providing sex and relationship education as a form of safeguarding for all children. With that in mind, I will probably not speak as loudly and clearly as I might do otherwise. I hope that does not dull the willingness of Government Members to listen to the case for the new clause.

I want to go through a number of elements of the new clause and explain why it would be a worthwhile addition to the Bill. First, this is a safeguarding issue and, as we know, the Bill covers safeguarding. On Second Reading, the Minister agreed that it should be
part of the discussion of the Bill. Secondly, introducing this element of safeguarding needs specific legislation as it is clear from the evidence on the provision of relationship education to children that guidance will not cut it. Thirdly, we need to consider the status quo and the response of the public. Our role as politicians is to lead but also to listen. There is overwhelming public support for such an important measure.

Finally, I shall explain why we must see progress now and in this Bill on this issue, which has been debated in this House for as long as I have been a Member of Parliament. In 2010, as Members may recall, the previous Government made the first effort to legislate. We have had these discussions now for six years. Thinking back in time, though, is perhaps the point at which all of us will start with this discussion, perhaps remembering our own sex and relationship education. For me, 2017 is important, because it is the year in which I turn 40—a big statement birthday. Do not all shout at once that that could not possibly be so—[Interruption.] Too late!

This has already been one of those years in which I have had conversations with people that remind me that I am no longer a tender teenager—not least, having a conversation with my staff where they expressed incredulity about the fact that when I was at school we did not have Wikipedia. We did not have the internet—[Interruption.] Government members of the Committee are nodding their heads. The world in which our young people are growing up is very different from the one that we knew.

As a former youth worker I am always reminded of something we taught ourselves, which was, “Everybody has been a 15-year-old but not everybody has been a 15-year-old in the modern world.” When people first reflect on the idea of sex and relationship education, they think of the headlines, the concerns that many of us have about things such as Snapchat, sexting and online pornography—the normalisation of an extremely sexualised culture.

I know that some who have been concerned about these proposals have written to Members to say, “There are groups in our society who are not privy to this online forum and therefore should not be involved in this legislation,” but that makes me think about why this is not to do with the internet or the modern world, but with the timeless challenge that we face in our society of how we ensure that everybody has good, healthy and constructive relationships with other people, and with the importance of sex and relationship education in that, because it is a safeguard. If we are honest, when we look back to our childhood and to some of the things that all of us of my generation—or, indeed, those who are older—know, we are aware that exploitation, danger and risk to children have always been prevalent in our society.

When we think about the scandals that have been uncovered in the last couple of years, about how people used to talk and interact with young people, or about the treatment of young girls in our society, we can see that safeguarding children is not a question of the modern world but a question of a better world. New clause 11 is very much not about the internet; it is about the world we live in today and how we make sure that all our young people are given the right education and the right skills, not simply to identify risk but to prevent risk.

The new clause is also about recognising the range of issues that we need to deal with in our world today. I am extremely proud of a young woman called Hibo Wardere from Walthamstow, who has been a leading campaigner on female genital mutilation, and of the young woman from my community called Arifa Nasim, who set up Educate2Eradicate. They are going around schools in this country talking about issues with “honour-based violence”—I call it that, but there is no honour in it. We know that there are multiple issues within our society that we have to be able to talk to our young people about if we want to keep them safe.

Given how sensitive people are about the concept of sex and relationship education, it is very important to think about it in terms of the risks people might face and the importance of addressing them. It is easy for British people to laugh about sex, and to feel uncomfortable or awkward about it. I remember my first sex education lesson at school, where I fell asleep and was woken up by a teacher waving a female condom at me—nevermore do I think about a plastic bag in that way. However, this is not a comedy issue, because we know that millions of young people in this country are at risk. Some 47,000 sexual offences were recorded against children last year. I say “recorded” deliberately: these are just the ones we know about. Crucially, a third of those were perpetrated by children against children.

We know that 5,000 rapes have been reported in our schools in the past couple of years and that nearly 60% of young women aged 13 to 21 report facing sexual harassment in their school or their college. The place that we want all our children to go to, to be safe, and to be able to learn, grow and expand their minds, has become a place of danger and risk for too many in our society. The truth is that the world is different from the one that we grew up in. There has been a normalisation of extreme sexual imagery because of the accessibility of pornography. I remember people having magazines and books at school that would probably be considered pornographic. Now, it is on a phone or a computer. Only 18% of parents think that their children have accessed pornography; the reality is very different—it is closer to 40%. Indeed, 79% of young men and 62% of young women report it being part and parcel of their everyday life.

At the moment, sex education is mandatory in terms of the biology of sex. In the biology curriculum, we teach young people about reproduction, but we do not teach them about relationships. That is where the risk comes in and where the gap in our safeguarding procedures exists. At the moment, we only have sex and relationship education across our schools in a very patchy way. Some schools are doing amazing work, and we should recognise that, but safeguarding only works if every young child has access to information, training and support.

Ofsted found in 2013 that 40% of schools required improvement or were inadequate in their provision of sex and relationship education. That means millions of children in our schools right now are simply not getting the right sort of information about relationships, consent and sensitive issues such as their relationships with the other sex and with the same sex, domestic violence and abuse, female genital mutilation and forced marriage.

Critically, Ofsted also showed us that young people are crying out for this kind of information and support to keep themselves safe and that they were extremely
disappointed in the quality and frequency of lessons. Inevitably, it is part and parcel of their lives to ask these questions. However old we are, we all remember the point when we first become aware of our own feelings of wanting guidance and the right kind of relationships with people.

It is fascinating that study after study shows the value, power and potency of good sex and relationship education to address many of those issues and to keep our young people safe. A study by Bristol University just last year found that while schools find it difficult to acknowledge that our young people might be sexually active, children do not. Young girls reported being harassed in school if they asked questions about sex and relationships, and young boys reported feeling inadequate and anxious if they revealed an ignorance about relationships. We cannot let that stand. Frankly, if we do not step into that void, the internet or the playground will. That is where the risk comes.

For avoidance of doubt, this is not about replacing parents. It is about supporting parents and recognising an environment in which sexual feelings and sexual imagery are so much a part of modern life. Even with the best parenting and the good advice that we know millions of parents across this country try to give their children, if the people who children come into contact with on the street, in the playground or in chatrooms do not have the same set of values and level of support, the risk remains.

Only one in seven children in our schools have had any form of sex and relationship education. That means six other children are missing out and therefore might have negative impressions about what a good, positive and healthy relationship looks like. We know that this is something children themselves have reported, with 46% of children saying they have not learned how to tell when a relationship is healthy. We should think about that for a moment. When children do not know that violence and intimidation should not be part of a close, loving relationship, and when 44% of children have not been taught what an abusive relationship is, that is not an environment in which we can consider our children to be safe.

It is about not only physical violence but intimidation and coercive control. We have now legislated on that for adults, but we have a gap when it comes to young people. Some 43% of children do not know they have a responsibility to seek consent and have a choice about whether to give it. That is startling. The children who have not had that education are crying out for us, as politicians, to get this right, which is what we are trying to do through the new clause.

We should create a safe environment in which children of any age get the right kind of education to make healthy relationships and to know not simply what sexual conduct is, but what it means to give their consent, to be with someone for love, and what an equal and loving relationship looks like. This is not only about having healthy relationships with peers. It is also about a young child recognising when they are at risk. One of the concerns we have and the reason the new clause discusses age-appropriate education is the importance of starting early with children. One of the most shocking cases I dealt with as an MP in my constituency was not one, but two instances of children under the age of 13 engaging in sexual behaviour in local parks, involving children who did not want to be involved—that is the best way I can put it.

Think about that for a moment: children under 13. That means we need to start with children under 10, if not younger, giving them the right words to be able to say no and describe what is happening to them, and what they do and do not like. Yet, again, we are finding in the Ofsted studies that too many children are not being taught the proper words for their own organs and how to talk about what might be happening to them. This becomes a safeguarding issue, because we know that when children are given the right information in an age-appropriate fashion they are much more likely to report abuse or be able to report something happening to them.

3 pm

It is too risky to us and this Bill’s ethos about keeping children safe not to address this omission. We know we need to address it because of the cases that have come out. Both the Jay report into child sexual exploitation in Rotherham and the Children’s Commissioner inquiry into gangs identified the provision of sex and relationship education as a crucial way to stop harm and said that the lack of information about healthy relationships and consent was a contributing factor in the vulnerability of those involved in the cases.

I know that when we talk about sex and relationship education people are frightened about the headlines they might see in the Daily Mail and other publications of equal value and note to our society. [ Interruption. ] I have no idea why Conservative Members are laughing. We also know parents want to see this happen: 78% of parents said they wanted to see good sex and relationship education in schools as a way to support them and to bridge the gap, so they could be confident that when they gave their kids the best values in life, the kids they were meeting would be equally well trained. We also know the new clause has the backing of a wide range of children’s charities—that is, the people who deal with safeguarding issues day in, day out: Barnardo’s, the Terrence Higgins Trust, the NSPCC, the Scout Association, the Family Planning Association and the National Children’s Bureau.

There is widespread support for the importance of doing this and, if we are honest, that support has been there for some time. While we can all recognise the concerns of a small minority of organisations, I believe there are ways in which we can bring in this legislation to reflect those concerns while not letting them get in the way of safeguarding and recognising this as an important part of safeguarding. I certainly do not share the concerns of the former Education Minister, who believed we should not legislate to make relationship education mandatory in schools because it was about giving schools the freedom to set their curriculum. When we have seen such a failure, frankly, to provide this sort of education, it is simply not good enough to leave things to chance, and nor do I believe that this is something that can be kicked into the long grass and continually pushed back.

I think the Minister and the Education Secretary recognise this as something we need to do. The trouble is we keep recognising it as something we need to do and never get round to doing it. We know children are
at risk as a result. I hear the Education Secretary saying that this is in her in-tray. I also think it is worth referring back to what the Minister said on Second Reading: “This matter is a priority for the Secretary of State, so I have already asked officials to advise me further on it, but I will ask them to accelerate that work so that I can report on our conclusions at a later point in the Bill’s passage, when everyone in the House will be able to look at them and have their say.”—[Official Report, 5 December 2016; Vol. 618, c. 84.]

The challenge we face today is that we are almost at the end of consideration in Committee in the House of Commons for this legislation. We are running out of time for this to become part of the legislation, and the elephant in the room that will define politics for us for this year, and perhaps for years to come, that of Brexit, means it is hard to see when there might be other such legislative opportunities. One reason for tabling the new clause is to ask the Minister to make the commitment today for a piece of legislation, because we know this is going to have to be part of law for it to happen. We know this is going to have to be part of law to make sure every school—not just maintained schools, but academies—provides this form of education. We agree on its value, but we also recognise the urgency of acting. If not in this legislation—we are at a very late stage—it is hard to see when there might be alternative time for progress to be made.

The risk is that we will spend another year telling our young people that we hear their message that they want this form of support and telling parents that we get it. They want to know that other kids have had good education, too. We will listen to teachers saying, “Unless it is part of the curriculum and we are given support to be able to provide this, we can’t teach it.” It needs to be part of the national curriculum. If not now, when? That is the question for us.

I want to hear what the Minister has to say, because I heard him on Second Reading.

Steve McCabe: Before my hon. Friend concludes, I want to say that I am more than happy to support her new clause, although the Minister may be about to tell us that he has an alternative or additional proposal.

Since we have spent so much time talking about the value of innovation, would my hon. Friend be open to a proposal in which the Minister encouraged schools to innovate? We could make a start right away by finding the best models for my hon. Friend’s proposals and some of the wider issues referred to by other organisations, including online safety, tobacco, alcohol, drug abuse and broader health issues. Would she be open to a proposal that said, “Let’s invite schools to innovate. Let’s ask Ofsted to report on the success of that innovation. Let’s encourage schools that are doing the right thing, so that the Minister can free the others from the constraints and encumbrances that current legislation imposes on them.”?

Stella Creasy: My hon. Friend will be aware of previous conversations about staying from the point. We were very mindful in drafting this new clause that we should focus on relationship education as part of PSHE, which has been declining in schools. I believe there has been a 21% decrease in the number of PSHE lessons in the past year because it is seen that it had a particular role to play in safeguarding because of the widespread evidence of sexual harassment of children.

I completely agree with my hon. Friend about the value of other forms of lessons. I will give a shout-out to Kris Hallenga and the CoppaFeel! team who have been looking at how to provide cancer education within PSHE. There is clearly a broader debate, but we do not know if there is going to be any alternative education legislation that might allow such proposals to be included.

The point about innovation and safeguarding is apposite. One reason Opposition Members were concerned about other parts of this legislation is that we want to give schools a clear framework about what should be included. Within that, we could work in a way that works for pupils and their location. That is why the new clause specifies a framework for sex and relationship education as part of safeguarding, recognising that it needs to be age appropriate.

The way in which a five, six- or seven-year-old would be taught about their body and how to ensure that, if anything happened that they were not happy or comfortable with, they could speak out, would be very different from the conversations that might be had with 13, 14 or 15-year-olds about some of the things that were going on in their lives. It would also be done in a way that was inclusive. I am particularly mindful of the evidence of young people who are gay and lesbian who said they were not given good sex and relationships education, which caused them huge amounts of harm at a young age, so it is important to ensure it is inclusive.

Finally, we need to recognise different religious perspectives. That is an important element, and I do not underplay that. Concerns have been expressed by religious organisations. We need to respect different religious perspectives without using that to stop the important provision of relationships education.

The new clause is drafted in such a way that it is very much about the role of Ofsted, which I am sure would be involved in any form of safeguarding and monitoring of sex and relationships education in schools, however the Government choose to do this—if they do want to. There is a clear role for Ofsted to look at this as a form of safeguarding. Schools that were not providing sex and relationship education would be judged inadequate on safeguarding, which is a very serious matter, but it would reflect the importance of the topic.

Crucially, the new clause would give young people the opportunity to say whether they wanted to take part in this education. Some 90% of young people surveyed said they wanted this education, so it is important to give them the power to opt out, rather than that being led by their parents. The Secretary of State would have the role of setting the age at which they would be of sufficient maturity to do that. I am thinking particularly of young people who might be at college or in further education who would be covered by the new clause: we want to ensure that they have the right to take part in lessons if they choose to do so.

Finally, returning to the point that my hon. Friend the Member for Birmingham, Selly Oak made in saying, “Let’s just get on and do it”, the new clause sets out a clear timetable. That is the message I want to give to the Minister. I heard his words on Second Reading and I have seen the briefings from the Education Secretary. There has clearly been a sea change in the Government’s perspective on the issue over the past year, which is welcome.
I recognise that there is cross-party support for sex and relationships education. Five Select Committee Chairs said they wanted to see it happen. All of us who have been campaigning on the issue for some time want to see action, because we are all acutely aware that we have lost previous opportunities to make progress. The guidance that covers sex and relationships education for our young people was produced in 2000, before the era of Snapchat, Facebook and even Twitter, which feels as old as the hills. We need to move with the times, but most importantly we need to move. If the Minister will not accept new clause 11 and work with us to make it work, I want to hear him make a commitment to legislation. I tell him plainly: another consultation, another review and a generalised commitment will not do any more. Young people in this country need and deserve better from us.

Huw Merriman (Bexhill and Battle) (Con): It is a pleasure to follow the hon. Member for Walthamstow. I find it strange to say—she perhaps will find it strange to hear—but I am critical of the new clause because it is not ambitious enough. Rather than just talking about safeguarding and listing aspects of personal, social and health education under subsections (a) to (e)—aspects, in reality, of sex education and relationships management—I would like to be bolder and enlighten and empower all our pupils in the whole sphere of personal, social, health and, indeed, economic education. In that sense, my call to the Minister is to be more ambitious and go further than the hon. Lady. Set out.

The hon. Lady referred to 90% of pupils wanting this form of education. I think it is 92% of pupils who want it, and they are not just referring to the limited form of education that she talked about. They want a sphere that would include economic education too. That is hugely important. Within schools, we are focusing more on mental health issues, wellbeing and preparing our pupils not only to cope with the challenges and pressures of their school surroundings, but with the challenges of the workplace and life in general. To pick up on the hon. Lady’s theme, I would like to see legislation that covers all those parameters. There is great support for that—some 92% of parents and 88% of teachers support it.

Legislation has to be properly thought about within this sphere, however, because 12% of teachers are not positive about such provision. That may be because they are concerned about their workload and want some reassurance about what may be taken out of the curriculum if this particular provision put in. I would prefer to take a thoughtful approach. I have no issue with a consultation, because it gives us the opportunity to feed in on how legislation should be formed.

I do not wish to speak further, because I am pleased and keen to hear what the Minister has to say. I reassure the hon. Lady that while I will not be voting for a new clause that is restrictive and could go much further, I am certainly behind the general thrust of ensuring that we enlighten all our schoolchildren on the wider area—an area that does not just cover sex education and relationships management, but all the challenges of daily life.

Kate Green: It is a pleasure to serve under your chairmanship, Mr Wilson. I support the new clause tabled by my hon. Friend the Member for Walthamstow. I am sure she welcomed the enthusiasm that the hon. Member for Bexhill and Battle displayed for a broad-based PSHE offer for young people. I am afraid I was rather chilled by his final words that the intention was enough.

As my hon. Friend the Member for Walthamstow pointed out very eloquently, as long as she and I have been in Parliament—and no doubt for many years before that—that is what we have heard: the intentions are good, but nothing materialises. In the meantime, our young people are crying out for this kind of education offer.

3.15 pm

Huw Merriman: Perhaps it is the lawyer in me, but I think it is important to note that the new clause says that personal social and health education “must include but shall not be restricted” to certain subjects. There is also a danger that this is not the greatest piece of legislation. Anyone looking at the new clause will think that they are required to teach all the things that I have added, perhaps with the exception of the economic aspect. It is not entirely clear what provision the hon. Member for Walthamstow is trying to restrict—or widen.

Kate Green: I find the whole sentiment behind this discussion rather disappointing. I think it is very clear what the concerns of young people, parents and teachers are and why my hon. Friend the Member for Walthamstow has tabled the new clause. She, of course, can speak for herself. Of all my colleagues, I think it is fair to say that, but may I say on her behalf that if this proposal is not perfect, we are amenable if the Minister wishes to produce something better, but we want it now. We have waited too long for something to happen, as opposed to warm words and expressions of enthusiasm.

The hon. Member for Bexhill and Battle is absolutely right to point to the importance of the debate in the context of all the attention the Government are giving to mental health and wellbeing. If we look at the record of previous Governments, including the coalition Government and the present Government, on a whole lot of related issues, it seems a great shame that we are not supporting those steps forward, which have been made with cross-party support in relation, for example, to female genital mutilation; in relation to stalking, which will be the subject of amendments in Committee later this afternoon; and in relation to coercive control, mentioned by my hon. Friend the Member for Walthamstow; in relation to same-sex marriages; and in relation to the very good follow-up which has been put in place following some of the appalling child sex scandals of recent years. It is tragic that the Government and previous Governments, having made great social steps forward in all those areas, are unwilling to underpin them with really good education for our young people so that they can understand their rights under that legislation.

Stella Creasy: I always stop my hon. Friend when she gets going at my peril because she is such a powerful advocate. Can I give reassurance to the hon. Member for the constituency which I cannot think in my head right now but I am sure is a wonderful place?

Huw Merriman: Bexhill and Battle.

Stella Creasy: That’s it—a lovely place. Personal and social education is already part of the curriculum, but what we have seen over the past couple of years is a
diminution in time allocated to it. The new clause would make the provision of lessons on these particular issues part of the safeguarding element that is inspected, and so prompt schools to ensure that these issues are covered. That does not preclude any of the points that have been made and the wider debate we can all have.

There is cross-party consensus about the value of PSHE and concern about the diminution in its delivery over the past couple of years. However, the measure would ensure that these subjects were part of the framework on which schools were inspected. If they were not providing lessons and guidance on these issues, that would be a matter for failing by Ofsted.

Ofsted looks at the provision of sex and relationships education, as we have seen, and has shown that it is of poor quality in many schools right now. However, at the moment it is not part of the safeguarding duty that they inspect. By making it part of the safeguarding duty, the measure gives Ofsted stronger powers to push schools to do it. It is not about PSHE being restrictive—the hon. Member for Bexhill and Battle is reading the proposal in quite a literal way—it is about Ofsted’s powers. If the hon. Gentleman wants to have a conversation about Ofsted, I would be happy to talk to him, but I suspect it is beyond the scope of today’s debate. I hope that reassures all my colleagues as to why we want to make sure that these particular topics are covered.

Kate Green: I am grateful to my hon. Friend. I want to pick up the point that the hon. Member for Bexhill and Battle made about teachers’ confidence in dealing with this subject. As my hon. Friend has explained, in embedding in the inspection regime an expectation that safeguarding standards are part of the way in which the curriculum is delivered, we create a need to ensure that teachers are properly equipped to teach that curriculum. That will have an effect on what is taught in teacher training colleges and on teaching practice. It will have an effect on the way in which schools organise, manage, support, mentor and develop their staff and on the way in which staff time is allocated, to ensure that teachers are able to teach the subject properly.

From talking to teachers, I do not think that their worry about this subject is so much about whether or not they have time to do it—they think it is important and want to make the time—as about a fear that they do not know how to do it. It requires proper attention to equip and educate them to deliver top-quality teaching.

We know that quality is an issue. My hon. Friend pointed out that one in seven children are receiving no sex and relationships education at all. Of those children who are receiving such education, half told the Terrence Higgins Trust in research it carried out that the teaching they received was poor or even terrible. There is little point in offering a poor or terrible education to our children. We have to raise the quality. That is not an excuse for doing nothing. It is an excuse for embedding firmly an expectation and an obligation on schools, along with an inspection regime to ensure that they meet it.

I am troubled that despite all the social progress we have made in my adult lifetime, and particularly the immense progress in relation to equality between women and men, young people’s attitudes to relationships between the sexes remain primitive in so many ways. We have seen shocking research in recent years, which has shown that young men and young women—teenagers—believe it is acceptable, for example, for a boy to hit his girlfriend if he sees her talking to another bloke or for a man to expect the woman in a partnership to put food on the table when he wants it.

The fact that those attitudes should still be pervasive among young people shows that there is a very real need to educate them in relation to not only in the biology of sexual relationships, as my hon. Friend said, but on the much broader dimensions of respect and equality. We have delivered those things in so many other ways—in legislation and social practice—but they need to be underpinned in our education system.

I want to conclude by saying, on my behalf if not on behalf of my hon. Friends, that if the Minister thinks the new clause is deficient, I insist he introduces something else as a matter of urgency. We would be happy to consider that. As my hon. Friend said, time is running out. If such a proposal is not available in Committee or on Report, there is no further chance to achieve the intention that is constantly expressed in this House and which is the will of the House and the wider public: to do so much better than we do now. I look forward to hearing what the Minister has to say. Without strong assurances that things will now change, I am pleased to support my hon. Friend’s new clause.

Simon Hoare: I am the father of three young daughters, eight, six and four. The moment I am dreading is when they start asking what we used to call “those questions”. I am rather hoping my wife will be on hand. I am sure she will then promise to give me some sex education after she has dealt with the children.

This is such a complex and complicated issue, as the hon. Member for Walthamstow set out. I rise to make a few remarks against the backdrop of having attended a faith school and as a practising Roman Catholic. My wife is a member of the Church of England, but my children are Catholics. I very much support what lies behind the hon. Lady’s new clause. I see nothing contradictory in being a practising Christian and wanting to ensure our next generation is equipped with as much resource and education as possible for the challenges that face modern youth—challenges that I, as a 47-year-old, could never have envisaged when I was 14, 15 or 16.

I remember the acute embarrassment—teenagers like to do this to their teachers—when we had a spinster nonconformist Methodist biology teacher in a Catholic state school who was asked by a friend of mine during this biology lesson—one where we had those pictures that were never quite clear anatomically—“Miss, what does a man do if he wants to have sex, but they do not want to have a child?” He knew full well what the Catholic teaching was on artificial contraception, but it threw this nonconformist spinster into an absolute tailspin and her answer was, “I think you should go to talk to the school chaplain”—she did not know how to answer. So it is as much about educating the educators as it is educating those who need the information.

The hon. Member for Walthamstow has been in this place longer than I, and I am reluctant to give her any advice about it—the new clause, that is, not anything expect the woman in a partnership to put food on the table when he wants it.---[Laughter]---Before my hon. Friend the Member for Faversham and Mid Kent chips in with anything slightly “Carry On Laughing” or whatever, I think there are some omissions between 2 (a) and (e). For example,
and to feel good about themselves as well. right education and support to have healthy relationships with the same sex or different sex, the We need to give every young person, whether they have perspective to inhibit what we might teach young people. could spell out what he is talking about. Specifying with him that this is not an issue for women; it is an continue to do so—and cross-gender, as well. I agree he means by inhibition? acknowledging those children. Can he just clarify what getting this right is making sure that every school is concerned about children who are same-sex attracted in his remarks, but he should be aware that many of us are particular aspect of sexuality?”

We have all bandied statistics around, but I remember reading that today most teenage boys that have accessed pornographic websites, just out of interest and teenage curiosity, actually believe that most women do not have pubic hair. That is a direct bit of education from the internet that affects the mindset and changes how we think about ourselves and our potential partners in a relationship.

I also notice—and it slightly belies what has actually been support from my hon. Friend the Member for Bexhill and Battle and I hope, certainly in theory, from the Minister—that the new clause is tabled solely in the name of Labour Members of Parliament who all happen to be women. This is an issue that should command cross-party support and certainly representation from both sexes. A father, a husband and a boyfriend have as much interest in ensuring a high quality of PSHE as women do. The hon. Member for Walthamstow might want to think about that point, which is why I hope that she will not press this new clause to a vote today but instead think about some proactive cross-party working on Report. That is not to kick the issue into the long grass; it would just help to create a better base.

Some wording—some form of protection—is needed for those who run faith schools, all faiths, to make the position absolutely clear. I have little or no doubt that I will receive emails from constituents who happen to read my remarks. They will say that this is all about promotion, and this or that religion thinks that homosexuality—or another element—is not right. So to provide a legislative comfort blanket, for want of a better phrase, the new clause needs to include a clear statement that we are talking not about promotion, but about education, and where sex education is delivered in a faith school environment, those providing the education should not feel inhibited about answering questions such as “What is the thinking of our faith on this particular aspect of sexuality?”

Stella Creasy: The hon. Gentleman has touched on an incredibly sensitive issue. I do not want to misinterpret his remarks, but he should be aware that many of us are concerned about children who are same-sex attracted in faith schools. One of the things that is important about getting this right is making sure that every school is acknowledging those children. Can he just clarify what he means by inhibition?

We did try to work in a cross-party way on this, and I continue to do so—and cross-gender, as well. I agree with him that this is not an issue for women; it is an issue for all of us. We are where we are with the new clause, but it would be helpful if the hon. Gentleman could spell out what he is talking about. Specifying religious inclusiveness and recognition of different religious perspectives is not the same as allowing a religious perspective to inhibit what we might teach young people. We need to give every young person, whether they have relationships with the same sex or different sex, the right education and support to have healthy relationships and to feel good about themselves as well.

[Simon Hoare]

it is important to have something about transgender. Likewise, while the hon. Lady said at the start of her remarks that this was not solely about digital, given its huge impact on perception, the curriculum should include an element on digital and the internet.

3.30 pm

Simon Hoare: I take the hon. Lady’s point but I think we are looking through different ends of the same telescope. I do not think it would be sensible, or maximise the benefit of the thrust of the new clause, if faith schools were able to say “This aspect of human sexuality is contrary to”—I use that term in its broadest sense—“our religious doctrine, and we will not teach it.” The point I am making is that it should be taught because it is part of human nature—people are born straight or gay, or whatever phraseology one cares to use—but the school would not be in breach of any regulation or legislation to say to the class “We are a Muslim”—or Catholic, Jewish or Methodist—“school: this happens in human life, but the religious teaching of our majority faith in this classroom is that we don’t promote it”, or “That is not what we think.”

That is in part why this sort of debate is not best suited to the Committee. These discussions should take place across the genders and across the parties in preparation for Report. I am conscious that in trying to answer a legitimate point, fairly raised by the hon. Lady, I may have used terms that a 47-year-old white Catholic would use, which some people might find slightly old-fashioned and out of date, or perhaps not as politically correct as they should be. The thrust of what the hon. Lady is talking about is absolutely right, and germane to the whole of the Bill. However, if we are to command support from the religious as much as the secular, the sensitivities and anxieties that people often jump to—“This is all about promotion and trying to convince children at six that they should be gay, and if they are not there is something wrong with them, etc.”—need to be clearly and sensitively identified, so that those particular hares do not start running.

That is why I urge the hon. Lady, if she and her colleagues are serious about the new clause getting a fair crack of the whip, not to press it to a vote this afternoon but to work in a cross-party way to see what can be achieved, hopefully with the support of the Minister—we shall listen with interest to his remarks in a moment—on Report.

Mrs Lewell-Buck: It is a pleasure to speak in support of the new clause tabled by my hon. Friend the Member for Walthamstow, which would ensure that all local authorities would provide accurate, age-appropriate personal, social and health education, including age-appropriate sex and relationship education. I believe that we speak for most of the hon. Members in the Committee Room, and in the House more broadly, in saying that steps in such a direction are necessary and important to ensure that children can stay safe, happy and healthy in the 21st century. The current guidance in the area, as my hon. Friends have said, is out of date, and therefore woefully unable to address the challenges and possible dangers they outlined. The education system must respond to change in society to provide young people with the skills and knowledge they need to be safe. While guidance in PSHE and particularly in sex and relationships education is not able to do that, the dangers are clear, as is the case for acting.

I welcome the fact that the Minister and the Education Secretary seem to be coming round to the cross-party consensus on the issue, with suggestions in the media that the Education Secretary is planning a change of policy in that area. The issue is not about politics or
partisan point scoring, but about protecting the best interests and the health of children. I am sure all Members in this room will agree that that must be one of our highest priorities.

The Bill offers an ideal opportunity for the Government to make the changes in our education system that are so badly needed. I hope the Minister will support the new clause tabled by my hon. Friend the Member for Walthamstow.

Edward Timpson: May I begin by congratulating the hon. Member for Walthamstow on a stoic effort when she is clearly under the weather? I wholeheartedly agree with the hon. Members who have spoken in what has been a helpful debate in teasing out the issues that surround these sensitive subjects. Now is the time to make sure that every child has access to effective, factually accurate, age-appropriate sex and relationships education and PSHE. That is why we are responding positively and strongly to calls for further action. I am grateful to the hon. Members for tabling this new clause.

Perhaps surprisingly, we have ended up with a greater level of consensus on this new clause than we have had on previous new clauses. As I have said in previous debates on the Bill, we hear the call for further action on PSHE and we have committed to exploring all the options to improve delivery of SRE and PSHE. We are actively looking at how best to address both the quality of delivery, rightly raised by the hon. Member for Stretford and Urmston, and accessibility to ensure that all children can be supported to develop positive, healthy relationships and to thrive in modern Britain today. We welcome the support in delivering this in a timely and considered manner.

The Secretary of State herself has made this a personal priority, as we have heard, and we will be able to say more at a later stage in the Bill about how the Government intend to secure provision that is fit for purpose, inclusive and supports all young people growing up in our country today. It therefore seems to me that we are all pursuing similar aims. We all welcomed the excellent report published on 13 September by the Women and Equalities Committee and the considered recommendations within it. We are already moving on the non-statutory three-hour sex and relationships education that we committed to in the run-up to the 2017 general election. We have set up an advisory group to look at how the issues and guidance from the Committee’s report can be best reflected within existing Department for Education guidance for schools, including the statutory guidance, “Keeping children safe in education” and our behaviour and bullying guidance.

Clearly, there is more that we need to do, which is why the Secretary of State is prioritising progress on the quality and availability of PSHE and SRE. In doing so, we must of course, as the hon. Member for Walthamstow said, look at the excellent work that many schools already do as the basis for any new support and requirements. As we know, sex education is already compulsory in all maintained secondary schools. Academies and free schools are also required by their funding agreement to teach a broad and balanced curriculum, and we encourage them to teach sex and relationships education within that. For example, many schools cover issues of consent within SRE, and schools draw on guidance and specialist materials from external expert agencies such as the PSHE Association, which produced the “Sex and Relationships Education (SRE) for the 21st Century” guidance in 2014. This supplementary guidance was developed by the PSHE Association, Brook, and the Sex Education Forum. It provides specific advice on what are sadly all too modern issues, including online pornography, sexting and staying safe online.

The guidance equips teachers to support pupils on those challenging issues, developing their resilience and ability to manage risk.

In addition, Ofsted publishes case studies on its website that highlight effective practice in schools, including examples of how SRE is taught within PSHE. Examples include a girls’ Catholic secondary school that has used pupil feedback to enhance its programme to equip students to learn about healthy relationships and issues of abuse and consent. I do not dismiss out of hand the suggestion by the hon. Member for Birmingham, Selly Oak that innovation might have a place in this arena. There is much to commend his suggestion, and I will take it away and give it further thought.

We are also actively considering calls to update the guidance on SRE. As hon. Members have said, the guidance is out of date, and attempts since 2000 to update it have not come to fruition. The guidance is already clear that young people should learn about what a healthy relationship looks like, but it does not necessarily equip children with the skills and knowledge that they need in the world as it is today or ensure that they understand the importance of the law and the benefits of SRE that the hon. Member for Walthamstow spoke about is properly reflected.

Whatever we do, as hon. Members have said—including my hon. Friend the Member for North Dorset, in relation to faith schools—we must attempt to allow everybody with a view a chance to make their case. It is a sensitive issue, as everyone is aware, but we want to ensure that we bring as many people with us as possible. The broader the consensus, the greater the prospect that any change will be successful. As the hon. Member for Walthamstow is aware, I have already said that work is in train and we will return to these issues later, at a stage of the Bill when the whole House will have an opportunity to debate them.

Stella Creasy: It is great to hear that the Government are now working on this. My challenge to them is that I need some specific responses. The Minister talked about a framework. Will it be statutory? Over the last couple of years, we have seen clear evidence that because SRE is not a statutory part of the curriculum, it is not happening in too many schools. Some 60% of schools in this country are now academies; the measures that he is discussing cover maintained schools. Will his
framework be statutory in all schools, including academies? When will it be introduced, and when will we see the difference?

I said to the Minister in my initial remarks that I would like him to address the question of when we will see the change. A consultation, a framework and guidance are great, but if there are no teeth—if SRÉ is not statutory and schools are not inspected on it—nothing will change on the timescale that we want. I say to him gently that all of us recognise the difficulties and sensitivities involved in the religious issues—that is why these matters are part of the new clause—but I am not sure that I know of any other policy area that has such overwhelming public support. The risk is that if we keep finding long grass, we can stay in it. Can he give us an explicit commitment now about what the framework will actually do legislatively?

The Minister talked about the Bill coming back at a later stage. We are at the end of Committee stage, so he was talking only about Report. That is not much time for all of us to consider it and ensure, if legislation is involved, that it will be effective. If legislation is not involved, the clear evidence is that any measures will not make a difference.

**Edward Timpson:** Just to be clear, when I talked about the framework, I was doing so in the context of the response to the report of the Women and Equalities Committee on sexual harassment in schools. It is a framework to support schools to produce their own new codes of practice on issues of inclusion, tolerance and combating bullying, harassment and abuse of any kind. It is not a catch-all framework for PSHE or SRÉ; it is specifically to deal with those issues raised by the Committee. It illustrates the seriousness with which the Government take those issues and the fact that we are prepared to do something about it, rather than just thanking the Committee for its work.

There is a balance—I know that the hon. Lady is trying hard to strike it—between giving Government constructive assistance in finding a way forward and appreciating that this issue cannot be resolved with a new Secretary of State in a short period of time. There are lots of repercussions that need to be thought through. The last time that legislation was attempted in 2008-09—I think the then Minister was Jim, now Lord, Knight—that was played out for all to see. We therefore need to be careful about the process we set up and how we ensure that we bring people with us.

3.45 pm

The hon. Lady should be reassured, and I hope she is, that we have a commonality in trying to establish how we ensure that by the time children growing up in Britain today reach adulthood—we hope it will be much earlier than that—and are moving away from the environment of their families and schools and into the big, wide world, they have resilience, knowledge and understanding of what they are capable of doing and what people are capable of doing to them. We want them to know where those lines can be drawn, so that they can react and ensure that they make good decisions as they go through their lives. That is the clear intention behind what we are all seeking to achieve.

I am afraid that the hon. Lady will have to be a bit more patient so that we can ensure that we make the right response that can come to fruition—unlike the attempt by the Labour Government, laudable though it was, in 2008-09. As she rightly identified, there will be a whole range of views, and people will want the opportunity to have oxygen to express them in. We need to be mindful of that, because we do not want to set up anything to fail: that would be the worst thing we could do for children, whom we are seeking to help and support.

**Stella Creasy:** This is difficult. I thank the Minister for what he has said; I appreciate that it feels a bit as if every amendment and new clause I am involved in is a sticky wicket for him. I asked him some very specific questions about legislation and the need for legislative action on the issue, on which I think we all agree. He referred to 2008-09. There was an attempt in 2013 to make legislation, and that was pushed back by the previous Government for the same reasons that he is talking about. We have proposals and there is support for them.

**Edward Timpson:** There is an important distinction. The parallel I am drawing is with 2008, when there was an attempt by the Government to lead an independent review and to look at making changes. In 2013, the attempt was not by Government. We are talking about the Government coming forward with proposals. That is the parallel I am trying to draw, rather than looking at 2013.

**Stella Creasy:** The difference is that there was legislation in 2008-09, and the Minister will recall that it was caught up in the wash-up ahead of the general election. There is not legislation here, and that is what we are looking for now.

The parallel for me is with what my mother calls “eat the frog” moments. If a person has to eat a frog, there is no nice way of doing it, so they might as well just get on and eat the frog. There will be people who oppose whatever we try to do on this issue, and the Government cannot keep saying “at a later date” and not specifying anything.

Are we going to see a legislative proposal on Report? If we will not, then continuing to press the new clause is the best way we have of pushing to make progress. Members from all parts of the House agree that we need progress and a recognition that while we will never get it perfect, we can get good legislation. The failure to make progress over the past six years has let our children down. Unless the Minister wants to intervene and say, “We will commit to bring forward a legislative opportunity on Report”, however late in the day, I will press the new clause to a vote. It is important to set a marker.

I appreciate that Government Committee members are shaking their heads. I am sorry, but frameworks and guidance are what we have had for the past six years, and we are not making progress. As the Minister does not want to intervene, I will press the new clause to a vote.

**Question put,** That the clause be read a Second time.
The Committee divided: Ayes 5, Noes 10.

Division No. 14]

AYES

Creasy, Stella
Debbonaire, Thangam
Green, Kate
Milling, Amanda
Merriman, Huw

NOES

Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Kennedy, Seema
Nettain, Huw

Lewell-Buck, Mrs Emma
McCabe, Steve
Syms, Mr Robert
Timson, Edward
Whately, Helen

Question accordingly negatived.

New Clause 12

ARRANGEMENTS FOR REMAINING IN A RESIDENTIAL CHILDREN'S HOME AFTER REACHING ADULTHOOD

(1) The Children Act 1989 is amended as follows.

(2) In section 23CZA (arrangements for certain former relevant children to live with former foster parents)—

(a) in subsection (2)(b)—

(i) after "person" insert "or residential children's home";
(ii) leave out "former foster parent" and insert "former care giver";
(iii) after second "parent" insert "or residential children's home"

(b) in the second sentence of subsection (2) after "together" insert ", or at the residential children's home";
(c) for all references to "former foster parent" substitute "former care giver".

(3) In paragraph 19BA in Part 2 of Schedule 2 (local authority support for looked after children)—

(a) in sub-paragraph (1), after "parent" insert "or in a residential children's home";
(b) in sub-paragraph (3)(b), after "parent" insert "or residential children's home".

Steve McCabe: It is a pleasure to serve under your chairmanship, Mr Wilson. Hopefully this will not take too long and will not be terribly contentious. The Minister and I might not necessarily agree on the nature of my new clause, but I hope that there is not too much between us on this issue. As far as I can see, the new clause follows a very welcome decision that he took in the last Parliament about children in foster care staying put. I believe that was the right thing to do and he deserves credit for it. I should say in passing that the idea flows from a previous Labour pilot; we did not have to exempt a single local authority from a single bit of legislation to implement that pilot, but there you go.

Anyway, the new clause comes from a decision taken by the Minister. I always thought at the time that people would inevitably say, “Well, if you are making this provision for children in care who happen to live in a foster home, what about other children in care who have different arrangements?” In fact, I am slightly surprised that we have not reached a stage where this has been tested out in court. It always occurred to me that someone would inevitably seek to challenge and test the legality of a situation whereby we can have rather different sets of rules for children who are subject to the same care provision but are living in slightly different arrangements.

What I seek to do with the new clause is simple: I am trying to mirror the arrangements that the Minister made for children being able to remain in foster care for other children who might want to remain in the children’s home where they live. There are two aspects to consider. First, there is a moral issue. For children who are subject to care orders, we are their parents. They are our responsibility. That is what we sign up to when we receive such children into care.

I listened to the hon. Member for North Dorset talking about being a father and about his children. I assume that all of us who are parents are not the sort of people who are likely to kick our kids out at 18. Maybe some of us will be quite glad to see them go off to university, so that we get a bit of a break and a breather from time to time, but generally I would not think most of us, and most parents, are like that.

The truth is that parenthood is one of those things that people buy into probably for their entire life. There will always be times when children will come back, and there is no golden rule saying that at 18 or 21, they are
capable of standing on their own two feet and can be cut adrift. If that is how we would behave towards our own children, it is not unreasonable to say that we should behave like that towards all children, and certainly children for whom we have become the parents.

The situation with foster care is more clear cut. I know that the Minister has a great deal of personal experience of this. The children are living in a semi-permanent arrangement with a particular parent or set of parents and have often been there for a very long time. It makes perfect sense for someone such as the Minister to say, “Well, it is ridiculous to have an artificial cut-off point—I am going to seek to extend that.”

The issue is much more tricky when it comes to children’s homes, because that provision has developed at different times under different frameworks: some local authority—although there is probably much less of that now—some private or in charity or not-for-profit organisations. The nature of the buildings and the homes is different. Although the new clause is designed to try to mirror the provision for foster care arrangements, I am reluctant to say that I want the Minister to legislate to say that everyone can remain in a children’s home, come what may. I do not personally think that is sensible.

As a consequence, I went back and had a look at a proposal drawn up a couple of years ago by a consortium of organisations, many of which the Minister has a lot of contact with: the National Children’s Bureau, the Who Cares? Trust, Action for Children, Barnardo’s and the Centre for Child and Family Research at Loughborough University. I am sure the Minister is familiar with the work they engaged in, which was a scoping exercise, “Staying put for young people in residential care”. The consortium came up with four options that it suggested we might want to consider.

The first option is for care leavers to continue to live in the same children’s home that they were living in when in care, as this is obviously about what we do with children after they pass the cut-off point of 18. My own hunch is that that may work in some circumstances and not in others.

A second option was that the care leaver lives in a separate building but in the same grounds as the children’s home they were living in when in care. Again, that might work in some situations. There may not be scope for that sort of provision in all situations so it may not work and there may not be funding or finance to deal with it.

The third option is that a care leaver might live in a different house from the one they were living in when in the children’s home, but that they would continue to have support—something akin to supported lodgings. The fourth option, which I think is more commonly referred to as “stay close”, is for the young person to live independently but with regular access to their former home—for example, being invited back for tea on a regular basis.

That strikes me as broadly what happens with our own children. They may continue to live with us beyond the age of 18 or they may come back periodically: they may at times live near us and come back. One would hope that we are always available when they need help and support. That is what I am asking the Minister about in the new clause.

Depending on his response, I am not sure that I will want to press the clause to a vote. I am making the point that we cannot have a situation where we have decided that someone who has been told to be in foster care gets extended provision and we recognise their needs beyond the age of 18, but if someone lives in a different kind of care provision, they do not get the same consideration. I do not hold the Minister responsible, but we hear horror stories of care leavers ending up in bed-and-breakfast accommodation, virtually doss-houses in some cases, where they are required to live alongside people with serious alcohol and drug problems, with prostitution on the premises.

4 pm

What happens to youngsters when they leave care is pretty important in my book, which is why I tabled the new clause. Its purpose is to explore with the Minister how he intends to mirror the very good staying-put provision that he introduced for those in foster care and extend it to other children in care. I want to remind the Committee that the biggest danger with such provision for young folk is that it becomes part of a very bureaucratic local government exercise, although the Minister was telling us earlier about why he wants to loosen some things up. The one thing that a 19 or 20-year-old in a crisis does not need to be told is to come back when the office is open at 9 or 10 o’clock in the morning. What we need is the same thing we offer our children when we say, “I’m here when you need me, because it is my responsibility to care about you and I love you. I am going to make sure that you get the possible help that I can provide for you.” We would do that for our kids, and we should do it for any child we take into care.

MRS LEWELL-BUCK: I shall speak in support of new clause 12, tabled by my hon. Friend the Member for Birmingham, Selly Oak, and my new clause 20.

As it stands, there is a clear inconsistency in the law, where children in stable foster placements can stay with their foster families until the age of 21 under the terms of staying-put arrangements introduced by the Children and Families Act 2014, but similar provisions do not exist for those in residential care. I am sure that the Minister agrees that that is simply unacceptable. We cannot have a two-tier system under which those in foster care receive more comprehensive support from the state, their corporate parents, than those in residential care.

I know that the Department for Education is in discussion with key organisations on this matter, and that the Minister is aware that children in residential care often have complex needs and require an immense amount of support. I have no doubt that he is also aware that safe and secure housing is key to improving life chances, especially for some of our most vulnerable children, yet more than often that is not the case. Care leavers have disproportionately poorer outcomes compared with other young people; 40% of care leavers are not in education, employment or training compared with 14% of their peers. The Government’s own figures show that nearly one in five care leavers aged 19 to 21 were in accommodation that was considered either unsuitable or that suitability was not even known. I am sure that the Minister would want to use the Bill to take every opportunity to improve life chances and outcomes for
those care leavers, and whenever he did so, he would have the support of all of us in this room, because safe and stable accommodation is a basic human need and the starting point for providing young people with absolutely the best beginning in life.

The statistics on the number of care leavers who come into contact with the criminal justice system in comparison with those in the general population are heart-breaking. According to recent figures, the offending rates for looked-after children in England are now four times those for all other children. For those who end up in prison, a recent study by Her Majesty’s inspectorate of prisons found that 27% of young people in the young offender institutions it surveyed had previously been in care. When female young offenders were looked at, that figure was up to 45%. It is clear from those figures alone that the current legislation is failing care leavers. One of the factors that is known to give them a better chance in life is to ensure that they all have suitable and stable accommodation.

Local authorities have a duty to ensure that there is sufficient accommodation for looked-after children in their area. New clause 20 would introduce a similar duty to ensure “sufficient...accommodation for all care leavers up to age 21.”

The Bill requires local authorities to consult on, and publish details of, their local offer to care leavers, setting out the support available for areas such as education, health, employment and accommodation. However, the local offer, as currently drafted, does not go far enough. It requires only that local authorities state publicly what they already provide, and there is no duty on them to ensure that the provision in their area meets local need. There is also no evidence, as we discussed earlier—that the local offer for SEN introduced in the Children and Families Act 2014 has made it more likely that relevant needs are met.

Many care leavers have had to deal with enormous trauma, instability and disruption in their young lives before they have learned the coping skills to deal with the impact of their experiences. That is why so many children growing up and leaving care have related mental health issues. It is absolutely vital that we support these young adults by offering them the stability of safe and secure accommodation. I want the Minister to explain to the Committee what he is going to do to remedy the inequality between children in foster care and children in residential care, and to ensure that the accommodation needs of every single one of our children leaving care are met, and met appropriately.

**Kate Green:** I just want to say briefly that I support both new clauses tabled by my hon. Friends. In introducing the Staying Put legislation for young people in foster families, the Minister took a big step forward. I have seen the benefit of that in my constituency, including the fact that it has put pressure on the whole system to facilitate keeping those young people in the families that have been providing the foster care, including ensuring that the financial arrangements to support housing costs are consistent with the Staying Put legislation. I have had casework where a foster parent has come to me to say that she faced a cut in the household housing benefit, and we were able to push back on that to enable the young person to stay in the foster home post-18.

That is a really important lesson, if I may say so, in relation to young people leaving residential accommodation.

We know that there have been very difficult conversations going on over the last year or so relating to financial support for supported accommodation, as referred to by my hon. Friend the Member for Birmingham, Selly Oak. The Government have delayed, on two occasions, changes to housing benefit as they would apply to supported accommodation, but delay is not a long-term answer to what is putting huge uncertainty into the circumstances in which housing providers of that particular kind of accommodation are able to plan for the future.

We could send a really good, useful signal in this legislation about the need for proper, strategic underpinning of accommodation for young people whether they leave foster care or residential care. We need to provide continuing housing support for them as young adults. This legislation is an important opportunity to reinforce that as our starting priority, which is the best interests of those young people.

I hope that the Minister will respond favourably to both new clauses. I think that he did a very good thing with the Staying Put legislation and it would be good to see that extended to the benefit of all looked-after, and formerly looked-after, young people so that we can really do everything. As my hon. Friend the Member for Birmingham, Selly Oak said, we should, as corporate parents, do what parents would do for their own children.

**Edward Timpson:** I am grateful to hon. Members for tabling these new clauses. They would place a duty on local authorities to secure sufficient accommodation for care leavers up until the age of 21 and would extend the existing Staying Put duty to those children leaving residential children’s homes. I understand the purpose behind both the new clauses and agree that care leavers should be supported to access the accommodation they need.

As a backdrop, it is worth going to the start of these Committee sittings and remembering some of the other aspects in the Bill in respect of corporate parenting principles, the care leaver offer and the extension of the personal adviser to every care leaver up to the age of 25 when requested. This is not an area where we have been neglectful. On the contrary: we are the first Government I am aware of who have managed to pull together a comprehensive cross-Government strategy on care leavers and get commitment from a whole range of Departments in areas where we know care leavers particularly require help and support.

I remind the Committee that local authorities are already responsible for providing suitable accommodation to all care leavers aged 16 to 17. When care leavers reach age 18, local authority leaving care teams are responsible for helping care leavers access suitable accommodation. Their new home must be suitable for their needs and linked to their wider plans and aspirations—for example, living close to work or college.

The tapered support offer that already exists for care leavers, which clause 3 will strengthen, is designed to help move young people away from dependence. The corporate parenting principles we are introducing in clause 1 will also ensure that local authorities remain focused on providing appropriate support as care leavers move to independence.
When a care leaver is homeless or at risk of homelessness, the homelessness legislation provides strong protection for them. Local housing authorities have a statutory duty to house care leavers under the age of 21 if they become homeless and people over 21 who are vulnerable as a result of being in care. Statutory guidance for councils also makes clear that those leaving care should be treated as a priority group for social housing.

The Government recognise the importance of improving practice and are funding the homeless charity St Basils to work with local authorities to improve joint working between children's and housing services, to help them develop accommodation pathways for care leavers that provide a range of options, reflecting care leavers' readiness to live independently. The Government are also supporting the private Member's Homelessness Reduction Bill, which will place duties on local housing authorities to provide targeted information and advice for care leavers on preventing homelessness.

Another accommodation option for young people leaving foster care—it has already been mentioned—is Staying Put, which we introduced in 2014. That enables young people to stay living with their former foster carers where that is what they both want. The latest data show that, encouragingly, more than half of 18-year-olds who were eligible for Staying Put are now choosing to do so.

New clause 20 would extend Staying Put to young people leaving residential care. I completely agree with the hon. Member for Birmingham, Selly Oak that those young people should have the same opportunity as those in foster care to maintain relationships with their former care givers. That is why earlier this year, after the research that the hon. Gentleman mentioned from the NCB and others, we asked Sir Martin Narey to conduct a review of residential care. Like the hon. Gentleman, Sir Martin believed that simply extending the Staying Put duty to those leaving residential children’s homes was not the right answer and that the Government should test variations of Staying Close—I am afraid we are back into innovation territory—as an alternative to Staying Put for those leaving residential care. In July, we accepted his recommendations and committed to introducing Staying Close for all those leaving care through that route.

We are not biding our time. On 21 December, we invited local authorities to bid to run pilots, through which we will learn what works to deliver Staying Close, as recommended by Sir Martin Narey. We will use that information to make sure that the future roll-out is fully effective and properly targeted.

Mrs Lewell-Buck: Will there be an option in Staying Close for children in residential care to remain in their residential placement if they wish to, or not? Mr Wilson, I should probably have declared at the outset that I am a patron of Every Child Leaving Care Matters, which campaigns on this issue.

Edward Timpson: The hon. Lady will be pleased to know that we have been working very closely with the Every Child Leaving Care Matters team, so that it is able to positively contribute to the work and look at the different models that we need to test out through the piloting of Staying Close. In that way, the needs of each individual young person can be met by the range of models available. Some of the early innovation that has already taken place through the children's social care innovation programme has shown, interestingly, that there are different types of arrangements that work for different young people.

For example, in North Yorkshire we have the No Wrong Door project, which is centred around having a consistent keyworker throughout not only the young person's time in care but also their time leaving care, irrespective of the place that they are then in. That is built around the concept, which has come through the care inquiry and other routes, that helping maintain those important relationships through that transition can be as beneficial as anything else that we do to support them.

The House Project in Stoke has set up a housing co-operative run by care leavers, who are responsible for managing their tenancy. They have formed their own community, have a good social network and continue to be well supported, but they are starting to gain a sense of independence. I think that the answer to the hon. Lady's good question is that we want to ensure, through the piloting, that we allow the opportunity to try all the different options available for young people leaving residential care. There are already some residential care settings that keep on young people beyond 18. We need to discover through the pilot what level of demand there is for that and where it is right for that to be done.

4.15 pm

We must also not look at the issue in isolation but consider it across the piece, including alongside the fostering stocktake that is now ongoing. Specialist fostering placements could also play a role in some of the work that might be needed to transition out of residential care.

Mrs Lewell-Buck: Just to clarify the option to remain in some of the models that the Minister has said are being explored, will there be an option for children who want to remain in residential care to do so, or will there not? I am not clear from his response so far.

Edward Timpson: We have accepted the recommendations of Sir Martin Narey that there should not be a duty to provide that for every young person leaving residential care. Through the piloting of Staying Close, we want to consider the different opportunities to find not just the right accommodation solution but the right relationships and pathway into independence for each of those young people.

I think that that is the right approach, and a sensible and proportionate way to respond to the consistent view of the hon. Member for Birmingham, Selly Oak on staying in residential care. Having now understood the basis for his new clause, I hope that I have given him a sense that we are travelling in a direction that accords with where he hopes to go. However, there is still some work to do, and we have committed in our response to Sir Martin Narey’s report to rolling the measures out across the country, so that every young person leaving residential care will have the opportunity to continue with the support received by those in foster care.
Steve McCabe: That was a helpful response from the Minister, and I would like the chance to reflect on what he has said. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Ordered, That further consideration be now adjourned.

—(Mr Symes.)

4.18 pm

Adjourned till Thursday 12 January at half-past Eleven o’clock.
Written evidence to be reported to the House

CSWB 15 Jay Williams
CSWB 16 Article 39
CSWB 17 John Dawson, Senior Social Work Practitioner
CSWB 18 Alice Barker Trust
CSWB 19 Sonia Mainstone-Cotton
CSWB 20 Dr Judith King
CSWB 21 Kirsty Walker
CSWB 22 CLIC Sargent
CSWB 23 British Association of Social Workers England
CSWB 24 Jon Blend
CSWB 25 Yorkshire & Humberside Independent Panel Chairs forum
CSWB 26 Michael Shaw
CSWB 27 Dr Steve Rogowski
CSWB 28 Dr Peter Whitaker
CSWB 29 CoramBAAF
CSWB 30 Children England
CSWB 31 Alan Kennelly
CSWB 32 Louise O’Sullivan IRO
CSWB 33 John Kemmis
CSWB 34 Lisa Bailey
CSWB 35 Helen Macfarlane
CSWB 36 John Plummer
CSWB 37 Patrick Wilkins
CSWB 38 Ms Roisin Sweeny
CSWB 39 Rachel Olaoye
CSWB 40 Lana Gayle
CSWB 41 Alderman Mark Fittock
CSWB 42 Unicef UK and the Children’s Rights Alliance for England
CSWB 43 Bolanle Kayode
CSWB 44 Association of Independent LSCB Chairs
CSWB 45 Nagalro
CSWB 46 Action for Children
CSWB 47 Professor Mike Stein
CSWB 48 Anne Jackson
CSWB 49 London and South East regional Foster Panel Chairs forum
CSWB 50 PSHE Association and NAHT
CSWB 51 Royal College of Nursing
CSWB 52 Pete Bentley
CSWB 52A Pete Bentley (supplementary)
CSWB 53 Local Government Association
CSWB 54 David Hersh, Chairman of Governors, Tiferes High School
CSWB 55 Young Futures
CSWB 56 Mrs Judith Nemeth, Executive Director of NAJOS, the National Association of Jewish Orthodox Schools
CSWB 57 Association of Professors of Social Work
CSWB 58 Article 39 - further submission
CSWB 59 Dr Ray Jones, Emeritus Professor of Social Work, Kingston University and St George’s, University of London
CSWB 60 Coram Children’s Legal Centre
CSWB 62 Oliver Mills
CSWB 63 Ateres High School, Gateshead
CSWB 64 Dr Anna Gupta
CSWB 65 National Association of Reviewing Officers (NAIRO)
CSWB 66 Emeritus Professor June Thoburn
CSWB 67 Maria Stanley
CSWB 68 Menorah Grammar School (London)
CSWB 69 Jewish Community Council of Gateshead
CSWB 70 Keser Girls’ School, Gateshead
CSWB 71 Nagalro - further submission
CSWB 72 Dr F H Mikdadi
CSWB 73 Liberty
CSWB 74 The Adolescent and Children’s Trust (TACT)
CSWB 75 Mrs Alex Bemrose
Public Bill Committee

CHILDREN AND SOCIAL WORK BILL [LORDS]

Seventh Sitting
Thursday 12 January 2017
(Morning)

CONTENTS

New clauses under consideration when the Committee adjourned till this day at Two o’clock.
No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 16 January 2017

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The Committee consisted of the following Members:

**Chairs:** † MRS ANNE MAIN, PHIL WILSON

† Caulfield, Maria (Lewes) (Con)
† Creasy, Stella (Walthamstow) (Lab/Co-op)
† Debbonaire, Thangam (Bristol West) (Lab)
Fellows, Marion (Motherwell and Wishaw) (SNP)
† Fernandes, Suella ( Fareham) (Con)
† Green, Kate (Stretford and Urmston) (Lab)
† Hoare, Simon (North Dorset) (Con)
† Kennedy, Seema (South Ribble) (Con)
† Lewell-Buck, Mrs Emma (South Shields) (Lab)
McCabe, Steve (Birmingham, Selly Oak) (Lab)
† Merriman, Huw (Bexhill and Battle) (Con)
Milling, Amanda (Cannock Chase) (Con)
† Siddiq, Tulip (Hampstead and Kilburn) (Lab)
† Syms, Mr Robert (Lord Commissioner of Her Majesty's Treasury)
† Timpson, Edward (Minister for Vulnerable Children and Families)
† Tomlinson, Michael (Mid Dorset and North Poole) (Con)
† Whately, Helen (Faversham and Mid Kent) (Con)

Farrah Bhatti, Katy Stout Committee Clerks

† attended the Committee
Public Bill Committee

Thursday 12 January 2017
(Morning)

[MRS ANNE MAIN in the Chair]

Children and Social Work Bill [Lords]

New Clause 14

DUTY TO HAVE DUE REGARD TO UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

“(1) A public authority must, in the exercise of its functions relating to safeguarding and the welfare of children, have due regard to the UN Convention on the Rights of the Child.

(2) For the purposes of this section—

(a) “public authority” has the same meaning as in section 6 of the Human Rights Act 1998, and

(b) “United Nations Convention on the Rights of the Child” has the same meaning as in section 2A(2) of the Children Act 2004.—(Mrs Lewell-Buck.)

Brought up, and read the First time.

11.30 am

MRS EMMA LEWELL-BUCK (South Shields) (Lab): I beg to move, That the clause be read a Second time.

It is a pleasure to serve again under your chairship, Mrs Main. The new clause would place a duty on all public authorities to have due regard to the United Nations convention on the rights of the child when exercising all their functions. It would require public authorities to determine the impact of local service provision and decision making on the rights of children, and would provide a framework for public service delivery in relation to children.

Just last year, the UN Committee on the Rights of the Child, in response to the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, urged the UK to introduce a “statutory obligation” to consider children’s needs “when developing laws and policies affecting children,” because at present the Government has failed to give due consideration to the UNCRC when developing legislation. The UN committee found numerous examples of where children’s views were not systematically heard in policy making or by professionals, and where there was a lack of a statutory obligation systematically to conduct children’s rights impact assessments. It is little wonder, then, that we have ended up in a situation in which just under 4 million children in the UK live in poverty, or in which in England there are more than 70,000 homeless children, many of whom live in squalid temporary accommodation, or that we have seen reports of our children being among the most unhappy in the world.

The UK ratified the treaty in 1991, but has never gone so far as to enshrine it in domestic law. Instead, it has taken a sector-by-sector approach to implementing the convention. The UN committee has rightly said that the Government must do more. It has called on them to expedite “bringing...domestic legislation, at the national and devolved levels...in line with the Convention in order to ensure that the principles and provisions of the Convention are directly applicable and justiciable under domestic law.”

Incorporation through a duty on public authorities should enable the provisions of the convention on the rights of the child to be directly invoked before the courts, and ensure that it will prevail where there is a conflict with domestic legislation or common practice.

This approach also has the approval of the Joint Committee on Human Rights, which says that it would like the convention to be incorporated in UK law in the same way as the European convention on human rights has been incorporated by means of the Human Rights Act 1998—an Act that is under threat from this Government.

It is staggering that in Wales and Scotland a totally opposite approach has been taken. Instead of taking away children’s rights, Wales and Scotland have built on them, giving some statutory recognition to the convention. In Wales, Ministers are under a duty to consider or give due regard to children’s rights; and in Scotland, public authorities are required to report on steps that they have taken to secure children’s rights. It is clear that we lag behind our neighbours when it comes to legislative protections for children’s rights. It is wrong that they are becoming a postcode lottery. They should be offered universally, and we should be leading the way.

This topic was fastidiously debated in the other place at every stage of the Bill’s passage. The debates highlighted topics ranging from legal aid to deprivation of family environment to having a child’s best interests as the primary consideration. The topics covered every single environment to having a child’s best interests as the primary consideration. The debates highlighted topics ranging from legal aid to deprivation of family environment to having a child’s best interests as the primary consideration. The topics covered every single environment to having a child’s best interests as the primary consideration. The topics covered every single environment to having a child’s best interests as the primary consideration. The topics covered every single environment to having a child’s best interests as the primary consideration. The topics covered every single environment to having a child’s best interests as the primary consideration. The topics covered every single environment.

The Minister will be aware that in 2010 a ministerial commitment was given that due consideration would be given to the UNCRC in all new legislation, that Cabinet Office guidance has been rolled out, and that recently the Department for Education’s permanent secretary has written to all other permanent secretaries regarding their obligations to the CRC. Last October, the Minister himself laid a statement urging all Departments simply to reflect on the committee’s concerns. However, the reality remains that a recent report by the Children’s Rights Alliance for England showed that only two of all the Government Departments were able to show how the UNCRC had developed policy or decision making.

The UNCRC is a groundbreaking treaty that acts as a creed of children’s rights. It is designed to promote the protection of our children worldwide. It is important to acknowledge those rights within the Bill, because they are too often overlooked or systematically violated in the UK. Children in our country are going without adequate food, clothing, housing and warmth—basic human rights.
In recent years, we have seen dramatic changes in the political landscape. The UK’s decision to leave the EU has cast doubt on the continued enjoyment of many rights and entitlements and created uncertainty. If we do not act now and accept this new clause, we are saying we are happy with the status quo. In other words, we are allowing legislation to continue to be made that does not adequately protect and promote children’s rights. In fact, we are often allowing legislation that does the exact opposite. I hope Committee members will agree to the new clause.

**Kate Green** (Stretford and Urmston) (Lab): I want to add a few remarks in support of the new clause, to which I added my name.

The recent conclusions of the UN Committee on the Rights of the Child identified where the UK has so far failed to put effective law, policy and resources in place to protect and promote children’s human rights. The report of the Joint Committee on Human Rights on the Bill also concluded:

“the Government’s assertion that legislation is already assessed for compatibility with the UNCRCD is not borne out by the evidence.”

I am aware of concessions made by the noble Lord Nash during the passage of the Bill in the House of Lords, including commitments to raise awareness of the convention through Civil Service Learning and to hold a roundtable with civil society organisations over the course of this year. However, those commitments do not go far enough. They will not have the impact of a due regard duty in strengthening compliance with the convention across the board.

What Opposition Members are asking for is very simple. In order to ensure that a systematic and robust accountability mechanism is in place to take account of and protect children’s rights now and in the future, we need to embed these rights within our own statutory body. We have these commitments under international law. We made them many years ago, as my hon. Friend the Member for South Shields pointed out. We profess to take them seriously in policy development, so I cannot see why we would not be prepared to reflect them in statute and to ensure accountability if the commitment is not borne out in practice.

Political commitments by this Minister and this Government will not be enough. Children cannot be put at risk by political cycles. Responsible Governments have to build on a framework of legislation that protects children for not only today but the future. Paying due regard to the UN convention sends a signal worldwide that it is more than just ticking a box is therefore in their hands.

If the Government insist on pursuing a non-legislative approach to children’s rights, will the Minister commit to introducing a comprehensive child rights framework across Government to improve on the current commitments and set out how that framework could have the same effect as a due regard duty? We need to understand how and, importantly, when such a framework will be introduced to ensure that children’s rights are not forgotten once the opportunity presented by the Bill has passed.

**The Minister for Vulnerable Children and Families** (Edward Timpson): I am grateful to Opposition Members for raising the important issue of the United Nations convention on the rights of the child, to which the Government are fully committed. We have already taken and continue to take steps to raise awareness of and strengthen action to promote the rights that the convention contains, as well as the safety and welfare of children more generally. Implementing the UNCRCD has been a continuous process by successive Governments since its ratification in 1991, and we must never cease to look for new and better ways of promoting the rights and interests of children. However, the question is what the best way to achieve that is and what will have the most impact on changing behaviours and improving the way in which we consider children’s rights in policy making.

The Government do not believe that introducing the duty set out in the new clause is the right way to achieve those goals. As has been mentioned, a UNCRCD due regard duty was debated in the other place, where Lord Nash set out clearly the Government’s position and why we think that such a duty is not the best way forward.

Our commitment to the UNCRCD is already reflected in legislation. For example, the Children Acts 1989 and 2004 set out a range of duties to safeguard and promote the welfare of children. Section 11 of the 2004 Act places duties on a range of organisations, including local authorities, the police, health services and a variety of other agencies, to ensure that their functions and any services that they contract out to others “are discharged having regard to the need to safeguard and promote the welfare of children”, which is one of the key rights set out in the convention. In 2013, we issued statutory guidance to directors of children’s services that requires them to “have regard to the General Principles of the United Nations Convention on the Rights of the Child (UNCRC) and ensure that children and young people are involved in the development and delivery of local services.”
[Edward Timpson]

Recent legislation in the area—particularly the Children and Families Act 2014, which I took through the Bill Committee, as well as many aspects of this Bill—provides further examples of how we constantly seek not only to protect children's rights but to enhance them. Ofsted plays a role in assessing the experiences of children and young people and testing the quality of support through the single inspection framework. The Children's Commissioner has a statutory function of promoting and protecting the rights of children, having particular regard to the UNCRC. Those responsibilities and powers were strengthened in the 2014 Act.

So there is a lot in place already, but I agree with Opposition Members that there is more we can do. There is no doubt that introducing a duty is one of those options. The hon. Member for South Shields spoke about Scotland and Wales. Although they have ratified the convention, they have not incorporated it into their domestic law, as is the case in England. Both have more recently gone down the route of a “having regard” duty, but they have chosen significantly different approaches and it is still too early to understand fully what the consequences of those different approaches will be. However, I will continue to look carefully at their emerging impact and, having assessed that, will remain open-minded about the right way forward in due course.

Although we are not persuaded that the duty is the right approach, we agree on the need to focus on changing the culture so that officials and practitioners think about children and their rights as an integral part of their everyday work. In many ways, that is the concept behind the corporate parenting principles set out in clause 1. I want those who work with children, particularly those who work with the most vulnerable children, to recognise that that concept is a moral imperative and see the benefits of better policy and delivery that it will bring. As was pointed out by the hon. Lady, we issued a written ministerial statement in October last year. It is about changing culture across Government at both the national and the local level. We also responded to the UN’s concluding recommendations recently—to spread best practice from local authorities that are effective in promoting children’s rights and in articulating the principles and values associated with such practice. We will also ensure that the next review of the statutory guidance, “Working together to safeguard children”—the main statutory obligations for those working with children in the care system and on the edge of care—looks at the underpinning principles and how those can be strengthened to reflect children’s rights.

We will, of course, continue to discuss and review progress with relevant non-governmental organisations as well—this cannot be the preserve of Departments alone—while also continuing to observe and assess the results of those various approaches to implementing the UNCRC, in particular in Scotland and Wales. As I said, we will keep an open mind on where we may be able to go further in the future. I hope that our comprehensive piece of work, hitherto unprecedented by a Government, will embed the UNCRC as deeply and as broadly as possible across government nationally and locally and that it will provide the reassurance that hon. Members are looking for.

Kate Green: I am very encouraged by much of what the Minister is saying and by the additional work to embed a framework to protect children’s rights. If, having done that and evaluated its effectiveness, the Minister thinks it is a very short step to adopting fully a duty to have due regard in law, would he be willing to consider doing so?

Edward Timpson: I have said that the process is ongoing. It has developed over many years, with Governments taking different approaches but all trying to improve our ability to respond to the convention in how we carry out domestic law in this country. I do not see that that process will ever have an end, so of course we need to remain open-minded about where we go in future. As things stand, we have set out a comprehensive programme of work, which gets to the heart of what will make a difference: that those charged with the responsibility of making or delivering policy have, at heart, an understanding and appreciation of children’s rights and an ability to have them at the centre of their thinking. I hope that that gives the hon. Member for South Shields a sense of the strong commitment of the Government to the UNCRC, I also hope that she will withdraw her amendment.

Mrs Lewell-Buck: I thank the Minister and am pleased that he has made some acknowledgement of the fact that the Government’s way is not working and that promote and embed good practice, including through the use of children’s rights impact assessments. As those develop, I am sure that Opposition Members will want to have further information about how they can be of benefit.

Thirdly, later this month the Department will host a roundtable with the likes of UNICEF and the Children’s Rights Alliance for England to explore how we can develop the framework of action for which the hon. Member for Stretford and Urmston was calling. We will have input from those who have the experience and expertise to support us to change behaviours and culture and to promote children’s rights in policy making both locally and nationally.

Fourthly, the Department will work with UNICEF—I have had an opportunity to meet it on a number of occasions recently—to spread best practice from local authorities that are effective in promoting children’s rights and in articulating the principles and values associated with such practice. We will also ensure that the next review of the statutory guidance, “Working together to safeguard children”—the main statutory obligations for those working with children in the care system and on the edge of care—looks at the underpinning principles and how those can be strengthened to reflect children’s rights.

We will, of course, continue to discuss and review progress with relevant non-governmental organisations as well—this cannot be the preserve of Departments alone—while also continuing to observe and assess the results of those various approaches to implementing the UNCRC, in particular in Scotland and Wales. As I said, we will keep an open mind on where we may be able to go further in the future. I hope that our comprehensive piece of work, hitherto unprecedented by a Government, will embed the UNCRC as deeply and as broadly as possible across government nationally and locally and that it will provide the reassurance that hon. Members are looking for.
there is more work to be done. I am happy to withdraw the amendment on the basis that my hon. Friends and I will be monitoring what the Government are doing very carefully. We look forward to a formal response to the UN committee’s concluding observations, which I am sure the Minister will provide in due course. On that basis, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 15

**SIBLING CONTACT FOR LOOKED AFTER CHILDREN**

“(1) In section 34(1) of the Children Act 1989, after paragraph (d) insert—

“(e) his siblings (whether of the whole or half blood),”

(2) In paragraph 15(1) of Schedule 2 to the Children Act 1989, after paragraph (c) insert—

“(d) his siblings (whether of the whole or half blood).” —

(Mrs Lewell-Buck.)

This new clause would ensure that children in care are allowed reasonable contact with their siblings.

**Brought up, and read the First time.**

**Mrs Lewell-Buck:** I beg to move, That the clause be read a Second time.

This new clause relates to improving sibling contact for children in care. The Children Act 1989 requires local authorities to allow a looked-after child reasonable contact with their parents, but there is no similar provision for a looked-after child’s contact with their siblings or half-siblings. Work by the Family Rights Group shows that half of all sibling groups in local authority care are split up and that those in residential care are even less likely to be living with their brothers or sisters.

The Children and Young Person’s Act 2008 includes a duty on local authorities to place siblings together as far as reasonably practicable as that is generally the best option for them. I accept that in some cases, such as when there has been inter-sibling abuse, separation may be deemed necessary. However, the main barrier to siblings being placed together is a dire shortage of foster placements able or equipped to take sibling groups. Research has shown that the average number of sibling foster carers is one per local authority, and some have none at all. Even when there are sibling carers, there are no figures for how many siblings they can take. It could be a group of two, three, four or five.

That is the backdrop against which sibling contract is so important. If siblings cannot be placed together, they should have the same rights defined in legislation to have contact with one another as they do with their parents.

Many siblings who come from neglectful or abusive backgrounds often state that their only constant, positive and reassuring relationship is with their siblings. After all, they have a shared experience—and no matter how horrific it is, it is something only they truly know about. For a younger sibling, the older one is the only person who kept them safe. It is never appropriate for an older sibling to take on that role, but it is a fact that they often do.

Separating siblings in such circumstances can have consequences on placement stability and create anxiety for both the younger and older one. The younger may be worried about their new environment with strangers in an unfamiliar environment without their older protector, and the older may be in a similar situation, as well as not knowing how their younger sibling is coping or who is looking after them. If siblings have known only adults who cause them harm, the initial days in placement may be very precariously.

Efforts to increase the number of carers who will take sibling groups have not matched the scale of demand. As the number of children in care rises, it is unlikely that the number of carers will catch up any time soon. In this context, it is right that sibling contact is given the same prominence as parental contact. It cannot be right that our legislation gives more weight to a child’s contact with those who may have or have caused them significant harm than with their siblings who are totally blameless.

Removing a child from a family home is one of the most traumatic and heartbreaking experiences for any children’s social worker. It means that the relationship dynamics of working with a family to improve children’s lives and to make sure they are protected from harm have reached crisis level. This may be an emotional overload for professionals, let alone the family, and often involves the police, violence, tears and aggression. The list goes on.

I recall from my own practice many occasions when I was left with a child alone in a car after the initial trauma of removing them, and having to explain to them at some roadside that not only were they going to be living somewhere else for a period that no one was sure about, but that they were going to be separated from their siblings. That is the most painful of all. No matter how the situation is explained, children often feel that that is the end—of not only their family, but their relationships with their siblings. As each child in a sibling group is dropped off at their respective placement, there is muted relief that they are safe, but deep sadness that they are completely alone.

The wheels of social services then spring into action. Solicitors for parents demand in court to have contact, as enshrined in legislation for parents, and that is arranged with urgency. In a resource-poor environment, what has to be done is often what is done first. Other issues, such as guidance that recognises the importance of maintaining contact with siblings, take a back seat and are deemed a lesser priority.

Many siblings see each other at contact with their parents, which can be three or four times a week for one hour, but they rarely have sibling-only contact. When they do, it will be monthly or considerably less often. Worse still, if that sibling is a newborn or not a full sibling, contact with their parents is separate and plans for their future are made separately. That breaks that early attachment between newborns and their elder siblings before it has fully developed, leaving an unimaginable feeling of loss for the siblings. However, the parents’ contact with the newborn is upheld, even if all of the children could be reunited at home with their parents, or if they are placed for permanence together, which again brings more difficulties when settling into a new permanent home.

The sibling relationships of children from abusive homes are the most enduring. A recent Ofsted study found that 86% of all children in care thought it was important to keep siblings together in care, while more than three quarters thought councils should help to keep children in touch with their siblings. A recent Centre for Social Justice report stated:
One of our greatest concerns is that the bonds between siblings in care, which can lead to greatly valued lifelong relationships, are being broken.”

We all know that guidance is no substitute for a clear duty. While not everything can be in the Bill, if we really value and understand sibling relationships we should absolutely allow their voices to be heard in the legislation.

Edward Timpson: Again, I thank the hon. Lady for her amendment. I have a lot of sympathy for what she said and welcome many of the points she raised. Like her, I have extensive experience of situations in which decisions are being made about brothers or sisters’ futures together. Those are often difficult decisions, not only because of the circumstances in which those children happen to be, but often because of their complex family relationships.

The hon. Lady raised practical points about finding placements for them that meet all those children’s needs. I was chair of the all-party parliamentary group on looked-after children and care leavers before becoming a Minister, and I heard at almost every meeting of the need to listen to children who value their relationship with their sibling. I hope that most of us know from our own lives that it is our brothers and sisters who provide us with the most enduring relationships throughout our whole lives. Sibling contact can provide continuity and stability for a child—particularly those who are vulnerable at a time of uncertainty and, possibly, great change. It can help a child to maintain their identity in what could be an unfamiliar environment for them, and it can help to promote their self-esteem and provide them with additional emotional support.

I do not disagree with much of what the hon. Lady said. It is a matter of making sure that we have the balance right in legislation, so that those who are making those difficult decisions are able to do so against a backdrop of understanding the importance of those relationships for those children, but always in those children’s best interests. The new clause seeks to add an expression of the children’s views on sibling contact should be included in the Bill, to promote their self-esteem and provide them with additional emotional support.

I reassure hon. Members that that is already provided for under existing legislation, and that the child’s views on sibling contact should be included in the Bill, to promote their self-esteem and provide them with additional emotional support.

I do not disagree with much of what the hon. Lady said. I think it is a matter of balance in legislation, so that those who are making those difficult decisions are able to do so against a backdrop of understanding the importance of those relationships for those children, but always in those children’s best interests. The new clause seeks to add an expression of the children’s views on sibling contact should be included in the Bill, to promote their self-esteem and provide them with additional emotional support.

I have considered carefully the arguments made by the hon. Lady. I have listened carefully to the points she has made, and I believe that we have made good progress in this debate. I hope that the hon. Lady will feel reassured by what I have said, and I look forward to continuing to work with her on this issue.

Edward Timpson: I thank the Minister for that response. I have listened carefully to the points she has made, and I believe that we have made good progress in this debate. I hope that the hon. Lady will feel reassured by what I have said, and I look forward to continuing to work with her on this issue.

I have thought carefully about the hon. Lady’s proposition. What draws me back from it is the need to ensure that these decisions are made on a case-by-case basis, with the flexibility that the court requires. The legislation that already exists ensures that, as Ofsted findings have shown recently, siblings are being kept together and placed without undue delay in most circumstances. There is good cause to believe that although there needs to be improvement in practice—I am happy at a future date to discuss with the hon. Lady how we can go about trying to do that—the legal framework in place is sufficient to ensure that sibling contact is being properly considered at every stage of a child’s involvement with both children’s services and the court process.

On that basis, I hope that I have sufficiently reassured the hon. Lady for her amendment.

Mrs Lewell-Buck: I thank the Minister for that response. However, I am a little disappointed that although he says he has sympathy and understands what I am proposing,
and he has quoted some provisions, he knows all too well—as well as I do—that in a resource-poor environment what is an absolute must is what is done, and that sibling contact, including half-sibling contact, is given lesser weight than other issues.

My new clause would allow case-by-case consideration, so I am really disappointed that the Minister does not support it. I want to have further discussions with him, but I also want to press the new clause to a vote, because it is a simple amendment that would remedy some big problems that children face right now. I am really disappointed that it is not being supported.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 4, Noes 8.

Division No. 15

AYES
Debbonaire, Thangam
Green, Kate
Lewell-Buck, Mrs Emma
Siddiq, Tulip

NOES
Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Merriman, Huw
Sym, Mr Robert
Timpson, Edward
Tomlinson, Michael
Whately, Helen

Question accordingly negatived.

New Clause 16

NATIONAL OFFER FOR CARE LEAVERS

‘(1) The Universal Credit Regulations 2013 are amended as follows—

(a) in regulation 102(2)—
   (i) in paragraph (a) after “18 or over” insert “and paragraph (b) does not apply”;
   (ii) in paragraph (b) after “16 or 17” insert “or is a care leaver within the meaning given by section 2 of the Children and Social Work Act 2016 and is under the age of 25”; the Housing Benefit Regulations 2009 are amended as follows—
   (a) in regulation 2, in the definition of “young individual”, in each of paragraphs (b), (c), (d), (e) and (f), for “22 years” substitute “25 years”.

(b) in Schedule 1 (persons disregarded for purposes of discount), after paragraph 10 insert—
   “Care leavers
   10A (1) A person shall be disregarded for the purposes of discount on a particular day if on the day the person is—
   (a) a care leaver within the meaning given by section 2 of the Children and Social Work Act 2016; and
   (b) under the age of 25.”

(5) The Council Tax (Exempt Dwellings) Order 1992 is amended as follows—
   (a) in Article 3, Class N, after paragraph 1(b) insert—
   “(c) occupied only by one or more care leavers within the meaning given by section 2 of the Children and Social Work Act 2016 who are under the age of 25.”

(6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.’.—(Mrs Lewell-Buck.)

Brought up, and read the First time.

Question put. That the clause be read a Second time.

The Committee divided: Ayes 4, Noes 8.

Division No. 16

AYES
Debbonaire, Thangam
Green, Kate
Lewell-Buck, Mrs Emma
Siddiq, Tulip

NOES
Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Merriman, Huw
Sym, Mr Robert
Timpson, Edward
Tomlinson, Michael
Whately, Helen

Question accordingly negatived.

New Clause 17

PRE-PROCEEDINGS WORK WITH FAMILIES

‘In section 47 of the Children Act 1989 (local authority’s duty to investigate) after subsection (8) insert—

“(8A) Where, as a result of complying with this section, a local authority concludes that a child may need to become looked after in order to safeguard and promote their welfare, the local authority must, unless emergency action is required—

(a) identify and consider the willingness and suitability of any relative, friend or other person connected with the child, to care for them as an alternative to them becoming looked after by unrelated carers; and

(b) offer the child’s parents or other person with parental responsibility a family group conference to develop a plan which will safeguard and promote the child’s welfare.”.—(Mrs Lewell-Buck.)

This new clause would ensure effective work is undertaken with the family so that all safe family options are explored at an early stage of intervention.

Brought up, and read the First time.
Mrs Lewell-Buck: I beg to move, That the clause be read a Second time.

The new clause would ensure that effective work is undertaken with families so all safe family options are explored at an early stage of intervention. I know that some social workers already do that—I was one of them—but the introduction of a 26-week timetable for care proceedings and strict case management guidance for courts means that once care proceedings are under way, it can sometimes be too late for potentially suitable kinship carers to be considered and assessed.

I recall receiving a case where multiple family members had not been approached to care for a child who had been in foster care for two years and in multiple placements. The plan for that child, which the court had indicated it approved of and all parties in the proceedings bar the parents agreed upon, was adoption. I appeared before the court and pleaded with the judge for the proceedings to be halted to allow for proper family exploration. It turned out that there were suitable family members, and after intensive and complex work, that child was able to go and live with extended family and maintain contact with their wider family.

The new clause would make that kind of work standard, saving unnecessary heartache and pain and the disruption that can be caused by fostering and care proceedings, not to mention the staggering cost to the public purse. The absolute worst case scenario of a child being adopted when there are family members who are willing to love and care for them might also be avoided.

In answer to a recently parliamentary question, the Minister revealed that 73% of children in a kinship care foster placement had previously experienced a looked-after placement. Although we do not and cannot know the circumstances of every child in that cohort, that means that 73% of children in kinship care may have gone through being removed from their parents—their primary carers—and placed with strangers when there were family members out there who were willing to care for them.

If more extensive work had been done by children’s services, such as offering family group conferencing for investigating wider families, such traumatic events for children could and would have been avoided. Leeds City Council is leading the way in demonstrating the benefits of family group conferences, but the Family Rights Group has found that 25% of local authorities neither run nor commission such conferences, and among the 75% that do, Leeds is unusual in routinely offering them.

Sir James Munby, the president of the family division, recently said that the care system was “facing a crisis and, truth be told, we have no very clear strategy for meeting the crisis.”

Child protection inquiries are increasing, and the number of new care proceedings, which is at a record level, continues to rise. New care applications increased by 21% between April to November 2015 and the same period in 2016. As of March last year, there were more than 70,000 looked-after children in England—the most since 1985. Those numbers suggest that we are missing opportunities to safely avert the need for some children to come into care. Placing a child in care, even when it is for their own protection and completely the right thing to do, can have a profound impact on their mental and emotional wellbeing, not to mention their overall development. It always should be a last resort. If we agreed to the new clause, the premise that it is a last resort would only be strengthened.

Kate Green: I rise to add briefly to my hon. Friend’s remarks. The Minister will be aware of the rise in the number of care proceedings initiated—my hon. Friend alluded to that—and the disparity in outcomes for different ethnic groups. There are much higher instances of children from certain ethnic backgrounds being in care compared with the population as a whole.

I particularly draw the Minister’s attention to the appalling outcomes for Gypsy, Traveller and Roma children. I have been looking at the figures for March 2011 to March 2015. They show that the number of looked-after children from Irish Traveller backgrounds rose from 50 to 90. The number is small, but the increase is large. For Gypsy and Roma children, the number rose from 90 to 250 children over that period. That is an increase of 177% in the number of Gypsy and Roma children in care, which is shocking when compared with the overall rise in the number of children in care.

Gypsy and Traveller family networks are exceptionally strong. Family is very important to those communities, so it particularly concerns me that we are seeing such high numbers of those children being taken into care when it seems likely that family members could in many cases provide suitable care for those children. That would enable them to maintain links with their communities, heritage and families.

While I appreciate that we are talking about a small number of children in the grand scheme of things, it is a vulnerable group of children who suffer particularly poor outcomes. I hope that the Minister will acknowledge the opportunities that exist for family care for those children and undertake to look with colleagues at what can be done to improve their chances of remaining in family care.

Edward Timpson: The new clause would insert a new subsection into section 47 of the Children Act 1989. My understanding from what the hon. Member for South Shields said is that the first part of the new clause would require local authorities to “identify and consider the willingness and suitability of any relative, friend or other person connected with the child” who may need to become looked after before starting formal care proceedings. I agree that children and young people should be supported to maintain relationships with relatives and friends where that is possible and in their best interests. Such relationships are often crucial in providing continuity and preserving the child’s sense of belonging to a wider family network.

The statutory guidance already requires local authorities to consider relatives and friends as carers at every stage of the decision-making process. Section 22C of the 1989 Act provides that where a child is looked after and not able to live with a parent or other person with parental responsibility, local authorities must give preference to a placement with an individual who is a relative, friend or other connected person. The individual must
be a local authority foster carer in order to ensure that they can provide the high-quality care and support that the child needs.

The court orders and pre-proceedings statutory guidance and the care planning, placement and case review statutory guidance, which accompany the 1989 Act, reinforce that position. Local authorities must demonstrate that they have considered and, where appropriate, prioritised family members at each stage of the decision-making process and at the earliest opportunity. In addition, existing secondary legislation allows local authorities to place a looked-after child with a relative, friend or other person connected with the child for up to 16 weeks, even if that person is not a local authority foster parent. That allows the child to be placed with that relative, friend or other connected person until they become a local authority foster parent or other more permanent arrangements can be made. In such circumstances, the local authority must have assessed the suitability of the relative, friend or connected person and be sure that the arrangements will safeguard and promote the child’s welfare and meet the child’s needs as set out in the care plan.

The second part of the new clause would require local authorities to offer a family group conference to those with parental responsibility for the child before starting formal proceedings. The court orders and pre-proceedings statutory guidance is clear that local authorities should consider referring the family to a family group conference service if they believe there is a possibility that the child may not be able to return to their parents. Promoting the use of interventions at the pre-proceedings stage is important, and we are committed to doing so. For instance, we have previously funded the Family Rights Group to develop family group conference services, working with local authorities across the country, including North Yorkshire, Essex and Lancashire. We have also provided £4.85 million of funding to Leeds City Council, as the hon. Member for South Shields referred to, through the children’s social care innovation programme, to embed restorative practice across its children’s services, including by introducing an entitlement to family group conferences.

12.15 pm
The evaluation of the project will include looking at the extent to which the family group conference model has been established and whether the outcomes achieved may be spread more widely across the system. We believe, however, that local authorities are best placed to decide the circumstances in which a family group conference should be offered.

We are able to know whether local authorities are making progress on this important matter, because all Ofsted inspection reports look at it and challenge poor practice where they find it. For example, in one local authority Ofsted found:

“The creative potential of family group conferences to explore and develop family-based solutions is not being fully realised.”

It has also found examples of good practice. For example, it found that Cheshire West and Chester, “assisted families to make informal appropriate arrangements within the wider family to avoid the need for the child to become looked after by the local authority”.

We need to improve that local practice everywhere. Ofsted inspectors are challenging poor practice where they find it, an important legal framework is already in place and local authorities are improving their practice. We need to meet the challenge of ensuring that, when a case eventually comes to court, every effort has been made to ensure that families have had an opportunity to demonstrate that they can care for a child, as is set out in the Bill. That care might be from an individual or a group of family members, as I have seen when I have taken cases through the family courts.

I will look at the issue raised by the hon. Member for Stretford and Urmston in relation to Gypsies and Travellers. I am aware of the point she made and I am happy to discuss it with her further. Clearly, any case that comes to court is the result of a decision made by the tribunal as to whether the threshold has been met and whether an order is necessary. That is irrespective of the background of the child and the community they might have come from. We are talking here about what happens before then, and some of the decisions made by local authorities in that context. It is a serious area that we need to look at, and I am happy to do so. If the hon. Lady has any further information that she would like to share with me, I would be happy to receive it.

I hope that, on that basis, the hon. Member for South Shields will feel able to withdraw the new clause.

Mrs Lewell-Buck: I thank the Minister for that response. I hope that when we next meet to discuss all the matters he has committed to discuss with myself and others on the Bill, he is open to exploring how often this situation occurs, because the example I gave is not isolated. If the Minister is prepared to explore further incidences such as I have raised, I would be happy to withdraw the new clause.

Edward Timpson: As I indicated, I always have an open-door policy, and this is no exception. Because it is an area that both of us, as Minister and shadow Minister, have cause to remain interested in, it makes perfect sense for us to continue that dialogue beyond this Committee.

Mrs Lewell-Buck: I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 18
Assessment of Physical and Mental Health and Emotional Wellbeing Needs

‘(1) In section 22C of the Children Act 1989, after subsection 11 insert—

“(11A) Regulations made under subsection (11) must make arrangements for—

(a) the assessment of a looked after child’s mental and physical health and emotional wellbeing needs, and

(b) the assessment of the mental and physical health and emotional wellbeing needs of relevant and former relevant children.

(11B) Subsection (11A) shall come into force at the end of the financial year ending with 31 March 2019.”

(Tulip Siddiq.)

This new clause requires the Secretary of State to make regulations for mental health assessments for looked after children. A time delay in commencement is included to allow time for the pilots to be completed before details of the regulations are decided.

Brought up, and read the First time.

Tulip Siddiq (Hampstead and Kilburn) (Lab): I beg to move, That the clause be read a Second time.
The Chair: With this it will be convenient to discuss new clause 19—Duty to promote physical and mental health and emotional well-being—

'(1) In section 22 of the Children Act 1989, in subsection (3)(a) at end insert—

“(3D) The duty of a local authority under subsection (3)(a) to safeguard and promote the welfare of a child looked after by them includes a particular a duty to promote the child’s physical and mental health and emotional wellbeing.

(3E) For the purpose of supporting a local authority in discharging its duty under subsection (3D), each clinical commissioning group must appoint—

(a) at least one registered medical practitioner; and

(b) at least one registered nurse

for each local authority with which any part of the clinical commissioning group overlaps.”

This new clause would improve the outcomes for looked after children through a clarification of duties of cross agency working between local authorities and health partners, by elevating the roles of designated doctors and nurses into primary legislation.

Tulip Siddiq: It is a pleasure to serve under your chairmanship, Mrs Main, and to speak to new clauses 18 and 19. Following the Prime Minister’s announcement that she wants to employ the power of Government to deal with mental health problems across society, I hope that these new clauses will not prove contentious to the Minister and Government Members.

According to the Care Quality Commission’s report last year, “Not seen, not heard”, almost half of children in care have a mental health disorder. Worryingly, the Department for Education’s report on young people leaving care shows that they have five times the risk of a suicide attempt of their peers. We tabled new clause 18 because we believe that mental health assessments are important tools for identifying mental health conditions early. Barnardo’s has made the point over and over that mental health needs must be met early to avoid crisis points.

Last year, the Government argued that automatic mental health assessments for children in care and care leavers would be stigmatising, and that it would not be appropriate for them to have mental health assessments at a given time. We have taken that on board. Bearing in mind what the Government have said about stigma, our new clause does not propose automatic mental health assessment for all children in care and care leavers at a specific time. Instead, we simply seek to ensure that the changes to mental health provision are supported by primary legislation.

By agreeing to the new clause, the Minister could ensure that the Government give mental health priority at every level, and that the Bill covers children in care and care leavers. New clause 18 would allow the Government to incorporate the outcomes of the recently announced mental health assessment pilots into regulations, and I hope that he will support it.

The same goes for new clause 19, which would improve outcomes for looked-after children by clarifying the duties for cross-agency working between local authorities and health partners and elevating the roles of designated professionals into primary legislation. Children in care and care leavers need someone who can ensure that health and social care services meet their particular mental health and wellbeing needs. Children in care currently have a designated doctor and nurse tasked with assisting local commissioners in addressing the health needs of looked-after children in their area, but the problem is that their exact responsibilities are unclear. Many local areas struggle to fill posts, and where posts are filled, professionals report that they are unable to influence planning decisions.

The Alliance for Children in Care supports stronger requirements for the role of designated doctors and nurses for looked-after children, as they believe that would begin to address current shortcomings and enshrine the role of designated professionals in legislation. I hope that the Minister will listen to the experts and the views that I have outlined and support the new clause.

Edward Timpson: I thank the hon. Lady for raising the important issue of the mental health and emotional wellbeing of looked-after children and care leavers. Improving mental health services and support for all children and young people is a priority for the Government. As she reminded the Committee, on Monday 9 January, the Prime Minister announced that the Department for Education and the Department of Health would work together to produce a Green Paper on the mental health of children and young people. That Green Paper will consider specifically how to build on what has already been done since “Future in Mind” to bring together a practical strategy for improving specialist mental health services, as well as how to improve preventive activity to help and support children and young people from nought to 25 years.

The paper will cover all relevant parts of the system—not just health but the care system, schools, universities and families. I agree that looked-after children and care leavers should receive the best possible assessment of their needs and then the necessary mental health support, but unfortunately, we know that not all such young people experience the best possible response. I have seen at first hand, both in my constituency and in my previous practice, how transformative timely and high-quality mental health support can be. Sadly, I have also seen the consequences where that is not provided.

However, improvements to mental health assessments are unlikely to be delivered by additional legislation; it is better practice on the ground that will drive the response to children’s needs. There are already legal requirements for health assessments, covering both physical and mental health, for looked-after children on their entry into care. Under the Care Planning, Placement and Case Review (England) Regulations 2010, all local authorities must set out a care plan for looked-after children, which must include a health plan setting out what arrangements the authority will make to meet the child’s health needs. A child’s health is expressly defined as including emotional and mental health.

To help inform the health plan, local authorities are required to carry out a statutory health assessment for all looked-after children on entry into care. It must be carried out by a registered medical practitioner and must address physical, mental and emotional health. Guidance from the medical royal colleges sets out the knowledge, skills and competences needed to undertake the assessments. Department for Education and Department of Health statutory guidance on care planning and promoting the health of looked-after children emphasises the importance of mental health, developmental milestones and social and relationship skills, which form part of a statutory health assessment.
Although the law and statutory guidance are clear, I share the concerns of the hon. Member for Hampstead and Kilburn about the quality of the initial health assessments for looked-after children and about whether in practice enough importance is placed on mental health needs. We listened to the issues raised by the Select Committee on Education, organisations such as the National Society for the Prevention of Cruelty to Children, and Baroness Tyler and other peers. As a consequence, we have announced that we will establish pilots to test new approaches to mental health assessments for looked-after children.

I am happy to reiterate that commitment today. Initial meetings have already taken place among DFE, Department of Health and NHS England colleagues, who will take forward that work with a view to beginning pilots in April or May. The pilots will give us an opportunity to test and explore a range of approaches, building on the findings of the Education Committee and other research in this area. We may, for example, look at the skills and training of those carrying out healthcare assessments, and particularly at assessment methods and identification tools, and models of multi-agency working. I am also keen that children and young people themselves help to shape the pilots and inform best practice in this area.

Alongside the pilots, the expert working group on the mental health of looked-after children provides a huge opportunity to improve the mental health support that children in care receive. How looked-after children’s mental health is assessed is a focus for the group, crucially alongside the services that are put in place to support those children. The expert group is looking not only at entry into care but at suitable assessment support as a continuum across the child’s life. That includes the support that they receive on leaving care, including through routes such as special guardianship or adoption.

It is important that we do not pre-empt the group’s findings. Legislating before the expert group’s report and the pilots would risk tying the Government to a legislative option that may not make the tangible improvements to services that young people need. At worst, it would stymie the ability to use the findings from the expert group and the pilots in the best way possible for children and young people. We are committed to acting on those findings. Should they recommend that further legislation is needed, the Government will of course consider introducing it at that point. I appreciate that the hon. Lady’s new clause would come into force after the pilots have finished, but it simply duplicates what is already set out in law. In our judgment, what is needed is a change in practice on the ground, not in legal requirements.

Turning to the needs of former relevant children, looked-after children should have a review of their care plan, including their health plan, prior to leaving care. Consideration of their health needs, including mental and emotional health, should already be part of the review. We know from young people themselves that one of our priorities needs to be to get the transition between child and adolescent mental health services and adult services right. To improve practice regarding that transition, in December 2014 and January 2015, NHS England published new service specifications for commissioners, giving guidance and best practice on the transition from children and adolescent mental health services to adult services or elsewhere. Those specifications intentionally do not stipulate an age threshold for transition. They state that transition should be built around the needs of the individual, rather than their age.

I turn briefly to the proposed duty on local authorities to promote looked-after children’s physical and mental health and emotional wellbeing. There is an existing statutory duty under the Children Act 1989 to safeguard and promote the welfare of looked-after children. Promoting a child’s health is an integral part of promoting their welfare, and the regulations and statutory guidance on care planning are explicit that health includes mental and emotional health.

In addition to what I have already set out, we have further strengthened the legal position by making explicit reference to physical and mental health in the corporate parenting principles in clause 1. A Government amendment in the other place on the subject has been widely welcomed. It means that all local authorities in England will be required to have regard to the need to promote the physical and mental health and wellbeing of all looked-after children and care leavers. I hope that reassures the hon. Lady enough that she will be able to withdraw her new clause.

Tulip Siddiq: I thank the Minister for his response. The trials and pilots are a welcome step forward. With some reluctance I will withdraw the new clause, although it would clarify the exact positions of the designated professionals and put a little more practice into looking after a vulnerable group. Opposition Members will keep a close eye on this matter, because the Government’s record on mental health in all areas so far has been appalling. However, I will withdraw the new clause, because I appreciate the points about defining what the trials cover and the outcome of the pilots that he proposes and the Green Paper. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 21

DESIGNATED SUPPORT FOR FAMILY AND FRIENDS CARERS

“(1) In the Children Act 1989, after section 17ZI insert—

“17ZJ Designated support for family and friends carers

Each local authority must appoint at least one person as a designated lead for family and friends care, to co-ordinate the provision within their area of family and friends care support services”.

—[Mrs Lewell-Buck.]”

This new clause would provide kinship carers, council staff and other agencies with clarity as to who is the named senior manager with responsibility for family and friends care in the authority and who has responsibility for ensuring that the local authority complies with family and friends care guidance.

Brought up, and read the First time.

12.30 pm

Mrs Lewell-Buck: I beg to move, That the clause be read a Second time.

It is me again, Mrs Main—[HON. MEMBERS: “Hear, hear!”] The new clause provides that every local authority should designate a lead person who has responsibility for family and friends carers. As the Minister knows,
there are a multitude of arrangements whereby a child may be cared for by extended family or friends. At times there will be no or limited involvement from children’s services in some of those arrangements. That can make it difficult for carers to know who to turn to should they need help or advice or if their situation changes. Having a senior lead manager within local authorities who can ensure that the authority is effectively meeting its responsibilities to all children in family and friends care and complying with statutory family and friends care guidance is important.

DFE statutory guidance on family and friends care states:

“The Director of Children’s Services should identify a senior manager who holds overall responsibility for the family and friends care policy. He or she will need to ensure that the policy meets the statutory requirements, and is responsive to the identified needs of children and carers.”

However, a 2015 study by the Family Rights Group examined 53 English local authorities’ family and friends care policies and found that one third made no reference to a senior manager with such responsibility. The new clause seeks for that to be a duty in primary legislation. It should not be an additional burden on local authorities as they should be complying already. In areas where that is not already common practice, the clause would provide family and friends carers and others clarity on who to contact. The duty already exists for adoption; adoption support services legislation states that an adoption support services adviser, whose role is to give advice both to adopters and to the local authority about adoption support and services, needs to be in place in each local authority. I can see no reason why other permanent carers of children under arrangements other than adoption should not be afforded the same support.

Edward Timpson: I am afraid it is also me again, Mrs Main—[HON. MEMBERS: “Hear, hear!”] I was not trying to see that up, but I am grateful to my hon. Friends for their response. I am also grateful to the hon. Member for South Shields for the proposed new clause, which would introduce, as part of the Children Act 1989, a new requirement on local authorities to appoint a designated lead for family and friends care who would be responsible for co-ordinating the provision of family and friends care services within their area.

I am sure we all recognise and appreciate the valuable contribution made by family and friends across the country who care for children who, for whatever reason, cannot live with their parents. It is important that all family and friends carers are aware of and able to access support services so that they can provide the high quality care that children require. Our statutory guidance on family and friends care already requires local authorities to publish a policy setting out their approach to promoting and supporting the needs of all children living with family and friends carers. The policy must be updated regularly and made available widely.

Importantly, the statutory guidance clearly states that a senior manager must hold overall responsibility for family and friends care to ensure that the local authority’s policy meets the identified needs of children and carers. As such, I do not believe it is necessary to appoint a designated lead for family and friends care. Such a requirement would be over-prescriptive and would reduce the ability of local authorities to respond to local needs in the way they consider best.

To ensure that local authorities are fulfilling their duties properly, I wrote to all directors of children’s services in October last year. In my letter I reminded them of their duty to have an up-to-date and comprehensive family and friends care policy, as well as a senior manager with overall responsibility for the policy that others would be aware of. I asked them to send a web link to that policy, and the details of their named lead, to the Family Rights Group. I will ask officials for an update from the Family Rights Group to ascertain how the situation appears as regards the details we have requested.

In addition, we provided £150,000 of funding to Grandparents Plus and three partner organisations in 2015-16 to develop an early help model for family and friends carers, to ensure that they are aware of, and can get access to, the support they need. The model includes website materials and bespoke training for professionals. I believe that that is the approach that is required. I have had the opportunity to have several meetings with the Family Rights Group during the passage of the Bill, and remain open to further constructive discussion about what more we can do with the group to improve practice on the ground. I hope that the hon. Lady is reassured that in the circumstances she can withdraw her new clause.

Mrs Lewell-Buck: I was pleased to hear about the Minister’s proactive engagement with the Family Rights Group on the issue, and beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 22

EXTENDING PLACEMENT ORDERS TO SPECIAL GUARDIANSHIP ORDERS

“In the Adoption and Children Act 2002, after section 21, insert—

“21A Placement orders: special guardianship orders

(1) In this section a placement order is an order made by the court authorising a local authority to place a child, whom that local authority has decided should be placed under a special guardianship order, with any prospective special guardian who may be identified by the authority.

(2) A “prospective special guardian” is a person who is entitled to apply for a special guardianship order with respect to a child under section 14A(5) of the Children Act 1989.

(3) The court may not make a placement order in respect of a child unless—

(a) the child is subject to a care order;

(b) the court is satisfied that the conditions in section 31(2) of the Children Act 1989 (conditions for making a care order) are met, or

(c) the child has no parent or guardian.

(4) The court may only make a placement order if the court is satisfied—

(a) that no other permanence order is appropriate and that only a special guardianship order will meet the needs of the child, and

(b) in the case of each parent or guardian of the child—

(i) that the parent or guardian has consented to the child being placed under a special guardianship order with the prospective special guardian identified by the local authority and has not withdrawn consent, or
(ii) that the parent’s or guardian’s consent should be dispensed with.

This subsection is subject to section 52 (parental etc consent).

(5) When making a decision in any proceedings where the court might make a placement order, the court must apply the welfare checklist under section 1(4) of this Act and must consider the whole range of powers available to it in the child’s case (whether under this Act or the Children Act 1989), including making no order.

(6) On the making of a placement order and until such an order is revoked—

(a) any existing child arrangement or supervision order ceases to have effect;
(b) no other order may be applied for, and
(c) a care order is suspended.

(7) A placement order continues in force until—

(a) it is revoked under section 24,
(b) a special guardianship order is made in respect of the child, or
(c) the child marries, forms a civil partnership or attains the age of 18 years.”—(Mrs Lewell-Buck.)

This new clause would extend the provisions for placement orders under section 21 of the Adoption and Children Act 2002 to special guardianship orders.

Brought up, and read the First time.

Mrs Lewell-Buck: I beg to move, That the clause be read a Second time.

The new clause would extend the provisions for placement orders under section 21 of the Adoption and Children Act 2002 to special guardianship orders. I have argued in discussion with the Minister at various times that there is a need for special guardianship to have the same status as adoption. Children who are placed with members of their wider family under SGOs have had the same difficulties as those placed for adoption. Often, they may never have before have met the members of the wider or extended family with whom they are placed, and they may move to another part of the country, as is the case with adoption.

Unlike what happens with adoption, however, because there is no severance of parental rights many children under special guardianship maintain contact with their parents. The parents could have harmed them in some way—hence their removal from their care in the first place—so special guardians, in many instances, have even more difficulties than adopters. They must manage complex family relationships while attempting to build a relationship with the child in their care. I assure the Committee that that is far from easy.

That is why it is vital that when SGOs are made it is on the same robust terms as adoption, and there should be a requirement, as with adoption, for thorough and robust assessment, including placing the child with the new carers to assess the suitability of the placement. Only when those requirements are satisfied should the matter return to court, so that the applicants can be supported in the making of the SGO.

At present there is no comprehensive legal requirement for anyone to conduct a full, thorough assessment of a potential special guardian. The court can make the orders of its own volition. Statistics published by the Department for Education show that 3,830 special guardianship orders were made in the year ending 31 March 2016. The total number of SGOs granted has come close to doubling since 2010 when 1,780 were made. I have stated before in the House that because the process of applying for an SGO is less stringent and because an order can be made without any testing of the placement, meaning that the process is less arduous and time-consuming than adoption, SGOs are being misused.

I know that the Department has already done some work to look at that, but I am not aware of any figures on SGO breakdown. However, I know anecdotally and from practice that it can be common, yet such an outcome can cause immeasurable harm to all those involved. A clear lesson learned from fostering and adoption is that the assessment process allows families the opportunity to conclude that it is not the right course of action for them. Under the current SGO arrangements family members are far too often hurried through an assessment process that allows insufficient time for proper assessment, and allows them no time to reflect on their commitment to a life-changing and lifelong decision.

In recent years the Government issued a statutory instrument requiring greater attention to be paid when reports on special guardians are prepared for the court to the needs of the child and to the potential of the special guardian to meet them in the short term and throughout the child’s life. However, that is clearly not enough. Courts are not allowed to make adoption orders easily, and they should not be allowed to make SGOs easily. That approach has widespread support from the family judiciary, the Children and Family Court Advisory and Support Service and many directors of children’s services. Knowing the Minister’s professional background prior to coming to this place, I would be very surprised if he was against this new clause.

Edward Timpson: I thank the hon. Lady for tabling the new clause, which seeks to improve decisions about whether to place a child under a special guardianship order. I recognise the problems that she is trying to address and agree that we need to improve decision making about permanence options for children who cannot live with their birth parents. Indeed, that is exactly what clause 8 seeks to do—to improve permanence decision making. Uncharacteristically, I not only agree with the synopsis of the hon. Lady but would say that in some ways, she has gone further than I would in trying to resolve the issue. Clause 8 is part of trying to do that.

As Andy Elvin of the Adolescent and Children’s Trust—TACT—said:

“All of this is eminently sensible. In practical terms it will raise the evidential bar for all care planning. The biggest impact, rightly, will be on special guardianship order assessments.”

That needs to be addressed because, as the hon. Lady set out, we have seen an exponential rise in the use of special guardianship orders without confidence in the assessment process to establish whether the carer named in the order has sufficient ability to look after that child and meet its specific needs for the duration of its time in their care, up to the age of 18. Clause 8 seeks to look at the longer-term requirement.

Mrs Lewell-Buck: I am not entirely clear where clause 8 refers to special guardianship orders. If the Minister could clarify that, it would be helpful.

Edward Timpson: Under clause 8, when a court is making a decision about a child’s future permanence arrangements, whatever order that may be under, it has
to consider the child’s long-term needs and the abilities of the carer. The carer may be a long-term foster carer or a special guardian, or the child may be returning home, but they have to demonstrate the qualities and abilities necessary to meet that child’s specific needs in not only the immediate but the long term. That is an important distinction.

As the hon. Lady said, one concern is that some assessments for special guardianship orders have been cursory at best. That has led, in some cases, to the breakdown of the placement. We all know that that is the worst possible outcome for the child involved. We carried out an important piece of work with those in the court system, in children’s services and in the charitable sector to understand what was driving those decisions and the breakdown of those placements. Our response was to tighten up and make more stringent the assessment process required before someone is approved as a potential long-term carer for a child under a special guardianship order.

The hon. Lady asked about evidence on breakdown rates. I recall that Professor Julie Selwyn from Bristol University carried out an extensive piece of research a couple of years ago, which showed that the breakdown rate for special guardianships was around 6%—double what it was for adoption. I know the figure for those returning to care was much higher, and I can share that with the hon. Lady once it is to hand.

There is cause to look at rectifying that and coming up with the right approach. We must ensure that in doing so, we give the court the tools it needs to make not only the right decision but a timely one. However, I am not convinced that the approach the hon. Lady proposes in the new clause is the right way forward. I want to take a few minutes to explain why so that she is fully aware of the reasons we do not support the amendment.

Mrs Lewell-Buck: Does the Minister not agree that it is important that an SGO placement, as it is the same as an adoption, has an opportunity to be tested to avoid further breakdowns? The Minister quoted Andy Elvin from TACT; the new clause has the support of TACT.

12.45 pm
Edward Timpson: I am aware of that. Mr Elvin is also very supportive of the changes we are making in clause 8. It is worth reminding the hon. Lady that I do not think there is the universal support for the new clause that she suggested. There are mixed views about what the right approach is and that is why we need to tread with some caution on the way forward.

The majority of special guardianship orders are given to carers with whom the child is living. They are cases where the child already has that relationship or is already in a caring situation. For the few who are not, the proposal would provide an opportunity, as the hon. Lady has said, to test the special guardianship placement in practice and allow the special guardian to reflect on the additional responsibilities they are taking on.

In some cases, that is very sensible. However, we believe that there is already sufficient flexibility to allow for that in the current system if a local authority and court believe that more time is needed to carry out a full assessment of a potential special guardian. Without boring the Committee too much about my previous life at the Bar, I recall a number of cases where there were adjournments of hearings in order for that to take place. Courts have the right to adjourn care proceedings to allow more time for an assessment to take place.

Although we have encouraged courts to complete care proceedings within 26 weeks, the rules are clear that this time can and should be extended where it would be in the interests of children to do so. In many cases, that happens where a potential special guardian has been identified late in care proceedings. We hope that the emphasis now on more pre-proceedings work will ensure that there are fewer cases where at the last minute a new potential carer comes forward.

Other courts have granted care orders to allow the local authority to place the child with a foster carer or kinship carer who is a potential special guardian—that is another route to test a placement—and the special guardianship order is then applied for after the child has lived with the carer for a few months and after a full assessment of their parenting capacity and skills has been carried out.

Although good decision-making is crucial, I am not persuaded that the introduction of a new special guardianship placement order is the best way forward. Indeed, there might be some risk that an order of that kind could encourage delay or instability, if courts and local authorities were to use it as an opportunity for a trial period for an arrangement that has little potential to succeed. That could cause harm for the child in the long term, if they move to a new placement.

In agreeing with the hon. Lady about the synopsis, we part ways somewhat when it comes to the solution. As she has acknowledged, we are already making changes through regulation and in the Bill to ensure that any assessment for a potential carer as a special guardian is as robust as it would be for any other placement. We know that we need to try to improve the long-term stability of those placements to avoid the unnecessary breakdown that we are seeing in some cases. On that basis, I hope that the hon. Lady will agree to withdraw the new clause.

Mrs Lewell-Buck: The Minister is consistent in disappointing me today. He said that the majority of SGOs are where children are already living with their carers. What about the minority? Surely they deserve the new clause to be in place, because one placement that breaks down for any child is devastating and we should not be allowing it to happen. I will therefore press the new clause to a vote.

Question put. That the clause be read a Second time.

The Committee divided: Ayes 4, Noes 8.

Division No. 17]

AYES
Debbonaire, Thangam
Green, Kate
Lewell-Buck, Mrs Emma
Siddiq, Tulip

NOES
Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Merriman, Huw

Syms, Mr Robert
Timpson, Edward
Tomlinson, Michael
Whately, Helen

Question accordingly negatived.
New Clause 23

STANDARDISATION OF LOCAL ARRANGEMENTS FOR SAFEGUARDING AND PROMOTING WELFARE OF CHILDREN

“...The safeguarding partners for a local authority area in England must make arrangements for—

(a) safeguarding partners and relevant agencies, where appropriate, to work across and with multiple local authorities, and

(b) a minimum local standard setting out allowances, support, training and terms and conditions for foster carers.”—(Mrs Lewell-Buck.)

Brought up, and read the First time.

Mrs Lewell-Buck: I beg to move, That the clause be read a Second time.

This new clause seeks to set out a minimum standard of allowances, support, training and terms and conditions for foster carers. The current crisis in foster care is the result not only of chronic underfunding but of a fatally broken system. The phrase “postcode lottery” is often overused, but in fostering it is all too true whether someone is a child in care or a foster parent giving that care. The levels of support, allowances, services and terms and conditions differ greatly from local authority to local authority and that is before we even factor independent agencies into the mix.

Too many foster carers receive no, or below the minimum, allowance. Some local authorities fail to offer any financial support through sickness. Entitlement to annual leave varies greatly between local authorities—some offer 28 days per year, some carers have less and others have no entitlement at all—and whatever currently exists is being ever eroded as local authorities face continued cuts to their budgets. Nobody in this room would accept employment terms that meant our pay, leave or levels of support depended solely on where in the country we worked. We should not expect that of foster carers who provide such a valuable contribution to society in caring for our most vulnerable children.

The new clause addresses the lottery for foster carers, while making the most of resources and providing a more stable system for looked-after children. If the Government seriously want to address the fostering crisis, they need to offer stability and consistency. If councils were able to offer standardised terms, foster carers would make the most of all spare beds available and therefore reduce the need for expensive independent agencies. If all council foster carers were treated the same, they would have the security to stay in the profession long-term, cutting recruitment costs and, more importantly, offering greater stability for children.

We all agree that foster carers truly are a great asset doing a very difficult job, but it is no good paying lip service to them—we need to recognise that officially. As one foster carer told the GMB trade union:

“We are always on duty, it is a profession in which we work 365 days, and 24 hours a day. It is nowhere near the government minimum wage in fact at my rate it is £1.65 per hour so no one can say we do it for the money.”

Foster carers are doing a job and should be classified as professionals. The first step towards that is access to standardised terms and conditions with pensions, sick pay, skills payments and access to trade union representation.

Edward Timpson: Again, I thank the hon. Member for South Shields. I agree with the new clause in its entirety that, where it is appropriate, safeguarding partners and relevant agencies should work together across more than one authority area. That is provided for in clause 21 of the Bill. I suspect that the fact the hon. Lady did not refer to elements of that in her speech suggests that she is not pushing that issue.

Cross-area working relationships can also be beneficial in respect to arrangements made to support foster carers. We recognise the challenging but valuable and rewarding role that foster carers have, and the positive impact that they make to the lives of many vulnerable children and young people. My own parents fostered for more than 30 years, so I am fully versed in not only the demands of foster care but the huge benefits that it can bring not only to the children being looked after but to the foster family themselves.

I have no doubt that all such foster carers, some of whom were recognised in the new year’s honours list only a few weeks ago, are among the most impressive people. They give up not only their time, but their homes and often their lives in order to look after children who have no blood connection to them. Whether through altruistic tendencies or a need to reach out, they feel a strong urge to be there for those children, often in difficult circumstances. We recognise the challenge, and it is important that all foster carers are seen as a key part of the team working with a child. They should receive the right support and training to meet the emotional and physical needs of the children in their care.

Regulations, statutory guidance and the national minimum standards apply across England. They make it clear that fostering service providers should make available the training, advice, information and support that foster carers need to look after the children placed with them. That includes practical, financial and emotional support. Fostering services are, however, given some flexibility to deliver in a way to best meet local need. The Government also recommend a national minimum allowance for foster carers. It is for the fostering service to decide the payment systems, but we expect all foster carers to receive at least that allowance, and many receive more.

We recognise, however, the need to keep the fostering system under review. That is why we have committed to undertake a national fostering stocktake. As the hon. Member for South Shields is aware, the stocktake will be a fundamental review of the whole fostering system. It will consider, among other issues, the allowances, support and training that foster carers receive.

The stocktake will be an opportunity to examine many of the issues that the hon. Lady has raised, as well as local variations in practice, and to identify good practice—for example, in how local authorities work with other agencies to recruit and support foster carers. The movement is national and needs a national response. Crucially, the stocktake will help us better understand what changes are needed, and identify practical next steps to bring about sustained improvement to the foster care system. We will work closely with all partners to understand how best to improve outcomes for children in foster care.

We have already begun work on the stocktake. We have started a thorough analysis of available data and statistics. Alongside that, we have commissioned a literature
[Edward Timpson]

review of all the available evidence on foster care. Both those pieces of work will be completed in the first quarter of 2017. Further information, including the launch of a call for evidence, will also be published in the next few months.

I share the hon. Lady’s commitment to ensure that foster carers are valued, for both personal and professional reasons, and that the right support is in place. We now have an opportunity for her and other colleagues to contribute to the stocktake, to ensure that we continue to support what I think is one of the most precious roles in our society, and one that we should help to nurture for the future of vulnerable children in our care.

Mrs Lewell-Buck: Given the Minister’s comments, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Ordered, That further consideration be now adjourned.

—(Mr Syms.)

12.57 pm

Adjourned till this day at Two o’clock.
CONTENTS

New clauses considered.
New schedule considered.
Clauses 58 to 64 agreed to, some with amendments.
Bill, as amended, to be reported.
No proofs can be supplied. Corrections that Members suggest for the
final version of the report should be clearly marked in a copy of
the report—not telephoned—and must be received in the Editor’s
Room, House of Commons,

not later than

Monday 16 January 2017
The Committee consisted of the following Members:

*Chairs:* † MRS ANNE MAIN, PHIL WILSON

† Caulfield, Maria *(Leves)* (Con)
† Creasy, Stella *(Walthamstow)* (Lab/Co-op)
† Debbonaire, Thangam *(Bristol West)* (Lab)
Fellows, Marion *(Motherwell and Wishaw)* (SNP)
† Fernandes, Suella *(Fareham)* (Con)
† Green, Kate *(Salford and Urmston)* (Lab)
† Hoare, Simon *(North Dorset)* (Con)
Kennedy, Seema *(South Ribble)* (Con)
† Lewell-Buck, Mrs Emma *(South Shields)* (Lab)
McCabe, Steve *(Birmingham, Selly Oak)* (Lab)
† Merriman, Huw *(Bexhill and Battle)* (Con)
Milling, Amanda *(Cannock Chase)* (Con)

† Siddiq, Tulip *(Hampstead and Kilburn)* (Lab)
† Syms, Mr Robert *(Lord Commissioner of Her Majesty's Treasury)*
† Timpson, Edward *(Minister for Vulnerable Children and Families)*
† Tomlinson, Michael *(Mid Dorset and North Poole)* (Con)
† Whately, Helen *(Faversham and Mid Kent)* (Con)

Farrah Bhatti, Katy Stout *Committee Clerks*

† attended the Committee
Public Bill Committee

Thursday 12 January 2017

(Afternoon)

[Mrs Anne Main in the Chair]

Children and Social Work Bill [Lords]

New Clause 24

Legal aid for parents who are care leavers: children in voluntary accommodation and to be placed in a foster for adoption placement

‘After regulation 5(1)(e) of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013, insert—

“(ea) family help (lower) in any matter described in paragraph 1(1)(b) (care, supervision and protection of children) or paragraph 1(1)(ii) (placement orders, recovery orders or adoption orders) of Part 1 of Schedule 1 to the Act to the extent that the matter concerns a placement to be made or contemplated to be made under section 22C(9B)(c) of the Children Act 1989 (placement with a local authority foster parent who has been approved as a prospective adopter), where the child is being accommodated under section 20 of that Act, and the individual to whom the family help (lower) may be provided is—

(i) the parent of a child, or the person with parental responsibility for a child within the meaning of the Children Act 1989 in respect of whom a local authority has given notice of a placement or contemplated placement under s22C subsection (9B)(c) of that Act and is themselves a looked after child or a care leaver, or

(ii) in the case of an unborn child in respect of whom a local authority has given notice of a placement or contemplated placement under section 22C(9B)(c) of the Children Act 1989, the person who, following the birth of the child—

(a) is a looked after child or a care leaver, and

(b) will be the parent of the child, and

(c) will have parental responsibility for the child within the meaning of the Children Act 1989.’”

—[Mrs Lewell-Buck.] This new clause would allow access to free, independent legal advice for parents, who are themselves a looked after child or care leaver, and whose children are subject to a placement order application (permission to place a child for adoption).

Mrs Lewell-Buck: As we have discussed previously in Committee in relation to my proposed amendments to clause 3, care leavers are particularly vulnerable to early pregnancy and to losing a child to the care system or adoption. That, on top of the feelings that many new parents have, brings additional challenges.

Under the Children and Families Act 2014, babies and children who are looked after, either under a care order or by way of a voluntary agreement under section 20 of the Children Act 1989 with the child’s parents, can be placed under foster for adoption with potential adopters who are approved as foster carers. That was a welcome move, but as with many legislative changes, some of the consequences and pitfalls of the legislation were not known until it became embedded. We now have a situation whereby a child who is looked after under section 20 may be placed in a foster for adoption placement without their young parents having had a right to free independent legal advice and representation, and without any court scrutiny of the process or any court decision that the child should be permanently removed from their parents. Once a child is living with a potential adopter, it is much harder for the parent to persuade the court that the child should be returned to their care, because of the status quo argument, which is aimed at minimising disruption for the child.

New clause 24 would deal with that injustice. It would ensure that where a parent was in care themselves or a care leaver and a foster for adoption placement was proposed for their child who was voluntary accommodated, that parent would be entitled to non-means-tested and non-merits-tested public funding. That would be entirely consistent with what is available to persons with parental responsibility during the pre-proceedings process.

There are also a small number of cases in which parents are not entitled to non-means and merits-tested legal aid when the court is deciding, following an application from the local authority, whether to make a placement order for a child. A placement order permits the local authority to place the child for adoption. In such circumstances, the local authority and the child will have a legal representative at court, but the parents may not, because there have been no earlier care proceedings—for example, where a voluntarily accommodated child has been in a foster for adoption placement, because in that situation a young parent may have had no legal aid—or because care proceedings have concluded and a placement order application is subsequently made.

Young parents who are themselves in care or care leavers are at particular risk of that injustice. The Centre for Social Justice reported in 2015 that 22% of female care leavers become teenage mothers—that is three times the national average—and that one in 10 care leavers aged 16 to 21 have had a child taken into care.
Sir James Munby, president of the family division, has cited the observation of Mr Justice Baker:

“..."The justification for automatic public funding in care proceedings is the draconian nature of the order being claimed by the local authority."" [sic]

Given that a placement order is equally if not more draconian, the same rationale should apply.

New clause 25 would close the loophole and give parents legal advice and representation when the state is proposing to remove their child or children from their care. Surely the Minister can see that, as things stand, there is the potential for miscarriages of justice, and that miscarriages of justice are taking place.

Mrs Lewell-Buck: On that basis, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 27

Placing children in secure accommodation elsewhere in Great Britain

“(1) Schedule (Placing children in secure accommodation elsewhere in Great Britain) ends at the end of the period of two years beginning with the day on which this Act is passed.”—(Mrs Lewell-Buck.)

This new clause would revoke provisions in the Bill that enable local authorities in England and Wales to place children in secure accommodation in Scotland, and vice versa, two years after the Act comes into force.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 5, Noes 8.

Division No. 18]

AYES
Creasy, Stella
Debbonaire, Thangam
Green, Kate
Lewell-Buck, Mrs Emma
Siddiq, Tulip

NOES
Caulfield, Maria
Fernandes, Suella
Hoare, Simon
Merriman, Huw
Syme, Mr Robert
Timpson, Edward
Tomlinson, Michael
Whatley, Helen

Question accordingly negatived.

New Clause 28

Guidance on the handling of child to child abuse in schools

“For the purpose of safeguarding and promoting the welfare of children, within eight weeks of this Act coming into force the Secretary of State must issue guidance to all schools on how to handle allegations of abuse made by a child against another child at the school.”—(Mrs Lewell-Buck.)

This new clause would place a duty on the Secretary of State to issue guidance to all schools on how to handle allegations of child to child abuse.

Brought up, and read the First time.
Mrs Lewell-Buck: I beg to move, That the clause be read a Second time.

The Committee will be pleased to hear that this is the last new clause that I am proposing. It would place a duty on the Secretary of State to issue guidance to all schools on how to handle allegations of child-to-child abuse. About a third of all child abuse is carried out by other children or peers; in 2013-14, more than 4,000 children and young people were reported as perpetrators of sexual abuse. Of course, we can never know the true incidence of such abuse, but we can look at the evidence before us and try to act on it. Even one child being harmed in this way is one too many.

Peer-to-peer abuse frequently goes unreported because although adult-perpetrated abuse has now sunk into the public psyche as something to report and look out for, peer-to-peer abuse has not. It often occurs outside adults’ direct supervision. Even if witnessed or known about by adults, it can often be dismissed as harmless by those who do not understand the implications. Children who are sexually victimised by other children show largely the same problems as children victimised by adults, including anxiety disorders, depression, substance abuse, suicide, eating disorders, post-traumatic stress disorder, sleep disorders, difficulty trusting peers in the context of relationships and increased risk of victimisation in their life.

As with adult-perpetrated abuse, the victim often thinks that the act was normal, not knowing about healthy relationships or assuming that all children were being similarly abused, does not have the language to tell anybody about what is happening, fears they will get into trouble if they try to disclose it, and thinks sometimes that they were the initiator or that they went through the act voluntarily. They are left with unimaginable feelings of guilt, which no child or adult should ever suffer on top of the harm they have already suffered.

We all agree that we have a responsibility to keep children safe, yet the current iteration of the “Keeping children safe in education” guidance simply lacks the detail to support schools where incidents involve peer-to-peer abuse. Moreover, many schools do not have the appropriate processes in place to support children returning to school following a serious incident. Abuse is never the fault of the victim, yet in all too many cases children are left isolated, with no avenue for escape.

Imagine being a young girl in school and being raped by one of your classmates, but despite that allegation of rape being upheld, you have to go back into the classroom day after day, lesson after lesson, with the same boy who raped you. We would never force anyone in the workplace or in any other scenario to go through that, but that has happened in some of our schools.

Children contacting ChildLine have described being subjected in school to inappropriate sexual touching and verbal threats on the bus, in the playground, in toilets, in changing rooms and even in classrooms during lessons. Many young girls have reported feeling vulnerable, anxious and confused through being pressured for sex by boys at school. Some feel they should consent, as their peers all talk about being sexually active. Others are threatened with physical violence if they refuse and have rumours and lies spread about them.

Part 4 of “Keeping children safe in education” is devoted entirely to how schools should handle allegations of abuse against teachers or other adults in a school setting. Any teacher accused of a sexual offence would be suspended while police investigations continued. Why on earth is that not considered necessary when the alleged perpetrator of sexual abuse being investigated by police is a pupil?

Our schools should be safe havens for children. Often, for children who are suffering abuse at home, school is the one place they feel safe and have some sense of stability. That is why the new clause is needed. At present, while statutory guidance for schools in England under “Keeping children safe in education” states that peer-on-peer abuse needs to be recognised and addressed and that abuse is abuse, so peer-on-peer abuse should therefore be addressed with the same process as any action against abuse, it also leaves it up to schools to formulate their own policies and procedures. That is where the problem lies. We cannot just leave the response to a potentially serious, life-ruining criminal act to the discretion of individual schools.

Research done by the NSPCC found that guidance is variable across the country and can be inconsistent. Any single child who is abused by one of their peers in the same class or school deserves the same protection, no matter where in the country they go to school. The new clause would ensure that. If the Minister is minded not to support my new clause, which is likely—that has been the theme throughout the Committee, despite our well-evidenced and well-meaning proposals—will he at least give a commitment to carry out urgent consultation, to understand the prevalence of peer-to-peer abuse between children who attend the same school? If he does that, I will withdraw the new clause.

2.15 pm

Edward Timpson: I am genuinely grateful to the hon. Lady for tabling the new clause, because she raises what is in some ways a very harrowing and real issue. If at all possible, and despite the many disappointments I have thrust upon her over the past few weeks, I will put her mind at rest and explain the current process with regards to child-to-child abuse as well as the work my Department has planned for the near future.

As the hon. Lady said, “Keeping children safe in education” is statutory guidance that all schools in England must have regard to when carrying out their duties to safeguard and promote the welfare of children. That guidance sets out that all schools should have an effective child protection policy that includes procedures to minimise the risk of child-to-child abuse and sets out how allegations of such abuse will be investigated and dealt with. The policy should also be clear on how victims of child-to-child abuse will be supported and should reflect locally agreed inter-agency procedures put in place by the local safeguarding children board and, in future—as a consequence of the Bill—any arrangements by the safeguarding partners.

If a child has been abused by another child, the school should raise a referral with the relevant local authority’s children’s social care department, and possibly, depending on the circumstances, with the police. Local authority social workers will also be able to consider conducting inquiries under either sections 17 or 47 of the Children Act 1989; those inquiries will consider both the abused child and the abuser.
Schools should work in partnership with social workers throughout those processes. Schools are best placed to handle each case of child-to-child abuse because of the unique circumstances of each of those cases, but with the help and support of social workers, guidance from the local safeguarding children board—and, in future, from safeguarding partners—and with reference to “Keeping children safe in education”. New, separate guidance is not the answer; making the existing framework and suite of guidance documents work more efficiently and effectively is. “Keeping children safe in education” is under review and will be updated as appropriate to address, among other things, any changes introduced by the Bill.

I am sure the hon. Lady is aware of the recent inquiry by the Women and Equalities Committee into sexual harassment and sexual violence, which we discussed during an earlier Committee sitting. In its response to the Committee’s report, and noting the hon. Lady’s view that the guidance on child-to-child abuse needs to be clearer, we are committing to reviewing how child-to-child abuse is reflected in that statutory guidance. My officials are in the process of setting up working groups with sector experts to do just that.

Any additional guidance for schools on child-to-child abuse would be best placed in the section already dedicated to that in “Keeping children safe in education”, because that is the main statutory document that every school has to follow. I assure the hon. Lady that my officials will work closely with those working groups to consider the best way to reflect any further guidance on child-to-child abuse in the statutory guidance as appropriate. That guidance will also address the changes to the multi-agency working arrangements provided for in the Bill as soon as possible.

Before I ask the hon. Lady to withdraw the new clause, I believe this is the last time I will be speaking at any length during the Committee stage of the Bill, and so I want to put on the record my thanks to you, Mrs Main, and to Mr Wilson for your purposeful and pragmatic chairing of the Committee. I also thank the Clerk and other Committee officials for their efficient and professional administration of proceedings; my Whip, for his exemplary stewardship; my Parliamentary Private Secretary and my hon. Friends for their considered attendance; Opposition Committee members for their engagement and constructive debate on these important issues; and finally, officials from my Department for the excellent support they have given me throughout the Bill’s Committee stage—I hope that that will continue on Report. With that ringing in their ears, I ask the hon. Lady to withdraw her amendment.

Mrs Lewis-Buck: Without going through the same list as the Minister, I thank everyone. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Schedule 1

Placing children in secure accommodation elsewhere in Great Britain

Children Act 1989

1 The Children Act 1989 is amended as follows.
2 (1) Section 25 (use of accommodation in England for restricting liberty of children looked after by English and Welsh local authorities)—
3 Approval by Secretary of State of secure accommodation in a children’s home

(a) to extend also to Scotland, and
(b) is amended as follows.
(2) In subsection (1)—
(a) for “local authority in Wales” substitute “in England or Wales”;
(b) after “accommodation in England” insert “or Scotland”;
(3) In subsection (2)—
(a) in paragraphs (a)(i) and (ii) and (b), after “secure accommodation in England” insert “or Scotland”;
(b) in paragraph (c), for “or local authorities in Wales” substitute “in England or Wales”;
(4) After subsection (5) insert—
(5A) Where a local authority in England or Wales are authorised under this section to keep a child in secure accommodation in Scotland, the person in charge of the accommodation may restrict the child’s liberty to the extent that the person considers appropriate, having regard to the terms of any order made by a court under this section.”
(5) In subsection (7)—
(a) in paragraph (c), after “secure accommodation in England” insert “or Scotland”;
(b) after that paragraph, insert—
“(d) a child may only be placed in secure accommodation that is of a description specified in the regulations (and the description may in particular be framed by reference to whether the accommodation, or the person providing it, has been approved by the Secretary of State or the Scottish Ministers).”
(6) After subsection (8) insert—
(8A) Sections 168 and 169(1) to (4) of the Children’s Hearings (Scotland) Act 2011 (asp 1) (enforcement and abscinding) apply in relation to an order under subsection (4) above as they apply in relation to the orders mentioned in section 168(3) or 169(1)(a) of that Act.”
3 In paragraph 19(9) of Schedule 2 (restrictions on arrangements for children to live abroad), after “does not apply” insert “—
(a) to a local authority placing a child in secure accommodation in Scotland under section 25, or
(b) “.
4 The Children (Secure Accommodation) Regulations 1991 (S.I. 1991/1505) are amended as follows.
5 In regulation 1—
(a) in the heading, for “and commencement” substitute “, commencement and extent;”;
(b) the existing text becomes paragraph (1);
(c) after that paragraph insert—
(2) This Regulation and Regulations 10 to 13 extend to England and Wales and Scotland.
3 Except as provided by paragraph (2), these Regulations extend to England and Wales.
6 In regulation 2(1) (interpretation), in the definition of “children’s home”, for the words from “means” to the end, substitute “means—
(a) a private children’s home, a community home or a voluntary home in England, or
(b) an establishment in Scotland (whether managed by a local authority, a voluntary organisation or any other person) which provides residential accommodation for children for the purposes of the Children’s Hearings (Scotland) Act 2011, the Children (Scotland) Act 1995 or the Social Work (Scotland) Act 1968”.
7 For regulation 3 substitute—
“3 Approval by Secretary of State of secure accommodation in a children’s home

(1) Accommodation in a children’s home shall not be used as secure accommodation unless—
(a) in the case of accommodation in England, it has been approved by the Secretary of State for that use;
Clause 62
EXTENT

Amendments made: 9, in clause 62, page 33, line 12, at end insert—

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

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

Amendment 10, in clause 62, page 33, line 13, leave out subsection (1).

The subsection left out by this amendment is replaced by amendment 13.

Amendment 11, in clause 62, page 33, line 14, at beginning insert “Except as mentioned in subsection (A1),”.

This amendment is consequential on amendment 9.

Amendment 12, in clause 62, page 33, line 15, leave out “enactment” and insert “provision”.

This amendment is consequential on amendment 9.

Amendment 13, in clause 62, page 33, line 16, leave out subsection (3) and insert—

“(1) Subject to subsections (A1) and (2), Parts 1 and 2 extend to England and Wales only.

(2) This Part extends to England and Wales, Scotland and Northern Ireland.”—(Edward Timpson.)

This would ensure that the final Part of the Bill extends throughout the United Kingdom, as well as making changes consequential on amendment 9.

Clause 62, as amended, ordered to stand part of the Bill.

Clause 63
COMMENCEMENT

Amendments made: 14, in clause 63, page 33, line 19, leave out “This Part comes” and insert “The following come”.

This amendment and amendment 15 would provide for NC1 and NS1 (placing children in secure accommodation elsewhere in Great Britain) to come into force on the passing of the Bill.

Amendment 15, in clause 63, page 33, line 19, at end insert—

“(a) section (Placing children in secure accommodation elsewhere in Great Britain) and Schedule (Placing children in secure accommodation elsewhere in Great Britain);

(b) this Part.”.—(Edward Timpson.)

See the explanatory statement for amendment 14.

Clause 63, as amended, ordered to stand part of the Bill.

Clause 64
SHORT TITLE

The Chair: Exceptionally, I have used my discretion to select the starred amendment, as it is only a technical amendment removing the privilege disclaimer inserted by the Lords. It is common practice to remove this disclaimer at this stage of the Bill’s passage through the House.

Amendment made: 44, in clause 64, page 33, line 25, leave out subsection (2).—(Edward Timpson.)

This amendment removes the “privilege amendment” inserted by the Lords.

Clause 64, as amended, ordered to stand part of the Bill.

Bill, as amended, to be reported.

2.23 pm

Committee rose.