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GENERAL COMMITTEES

Public Bill Committee

CHILDCARE BILL [*LORDS*]

Third Sitting

Thursday 10 December 2015

(Morning)

CONTENTS

CLAUSE 3, as amended, under consideration when the Committee adjourned till this day at Two o'clock.

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IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chairs: †NADINE DORRIES, MR DAVID HANSON

- | | |
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| † Berry, James (<i>Kingston and Surbiton</i>) (Con) | † Matheson, Christian (<i>City of Chester</i>) (Lab) |
| † Cadbury, Ruth (<i>Brentford and Isleworth</i>) (Lab) | † Phillips, Jess (<i>Birmingham, Yardley</i>) (Lab) |
| † Cunningham, Alex (<i>Stockton North</i>) (Lab) | † Smith, Chloe (<i>Norwich North</i>) (Con) |
| † Donelan, Michelle (<i>Chippenham</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Drummond, Mrs Flick (<i>Portsmouth South</i>) (Con) | † Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con) |
| † Frazer, Lucy (<i>South East Cambridgeshire</i>) (Con) | Walker, Mr Robin (<i>Worcester</i>) (Con) |
| † Glass, Pat (<i>North West Durham</i>) (Lab) | Fergus Reid, Joanna Welham, <i>Committee Clerks</i> |
| † Green, Chris (<i>Bolton West</i>) (Con) | † attended the Committee |
| † Gyimah, Mr Sam (<i>Parliamentary Under-Secretary of State for Education</i>) | |
| † James, Margot (<i>Stourbridge</i>) (Con) | |

Public Bill Committee

Thursday 10 December 2015

(Morning)

[NADINE DORRIES *in the Chair*]

Childcare Bill [Lords]

11.30 am

Christian Matheson (City of Chester) (Lab): On a point of order, Ms Dorries, may I seek your advice on the tabling of Government amendments, please, in the light of an occurrence overnight in the Housing and Planning Bill Committee? The Government tabled amendments for the last day of consideration that will fundamentally change the structure of the Bill and bring great insecurity to social housing tenants with the ending of long-term secure tenancies. Is it in order for me to seek an assurance from the Government that no such stunts will be pulled in this Committee? If the Government intend to table amendments that will fundamentally change the nature of the Bill, perhaps we will be given time to consider them properly, rather than doing so on the last day of consideration.

The Chair: That is not an issue for the Chair; the issue for the Chair is that amendments will be accepted for this, or presumably any other Bill Committee only if they are tabled three full working days before the next sitting. If the Minister wishes to table an amendment for Tuesday, as long as it is tabled by the rise of the House today, which will be three full working days before the Committee's next sitting, he is quite within his rights to do so, as the hon. Gentleman or the Opposition spokesman would be. I hope that answers the hon. Gentleman's question.

Clause 3

NON-COMPLIANCE IN THE LABOUR MARKET ETC:
INTERPRETATION

Pat Glass (North West Durham) (Lab): I beg to move amendment 14, in clause 3, page 3, line 14, at end insert—

“(bb) make provision to enable priority to be given to qualifying children who are also assessed as being disadvantaged in the allocation of childcare places in childcare settings that have been classed as outstanding (or equivalent) following inspection;”

To require priority to be given to children who have been assessed as disadvantaged in the allocation of childcare places in childcare settings that have been classed as outstanding (or equivalent) following inspection.

Many of us have sat on Bill Committees before, but I have never led on one before. As with so much in life, I actually understand what is going on now—at the end.

When I first came into Parliament in 2010, given my background of working in education for 25 years, the former Member for South Shields, David Miliband, used to send me his speeches on education occasionally, asking me to have a look at them. After the first couple of times of me going back to him and saying, “You know, this is really important, but it is not the most important issue in education”, he stopped sending them to me.

The most serious problem in education today is not the limited number of children from disadvantaged homes who are making it into Oxford and Cambridge, or even into Durham University, wonderful institution though it is; it is not the perception of grade creep at GCSE, whether real or not; and it is not how many of our children are achieving at grade A or A* at GCSE, or at the C-D or B-C borderline, undoubtedly serious as those issues are.

The most serious problem in education today is not even the number of children who get five A to Cs at GCSE; it is the number of children who do not. Decreasing, but still significantly large, numbers of children of average, close-to-average and above-average ability in this country are failing to achieve five good GCSEs, and an even larger number are failing to achieve five good GCSEs including English and maths. The most serious and worrying issue in education today is the percentage of those children who are on free school meals, and the percentage of those children who are assessed as having special educational needs, even the most minor SEN. I am not talking about children who have profound or even serious or moderate SEN; I am talking about those who fall in the wide band between close to average and above average. They can and should achieve five good GCSEs.

The attainment gap has narrowed slowly. It was narrowing slowly in the period 2007 to 2010 and continues to narrow marginally, but the rate at which it is closing has slowed down significantly. If that is not addressed, it will start to go the other way quite soon. That gap leaves us without the trained and experienced workforce that we need in industries such as engineering, construction, childcare, catering and many others. It is creating a widening gap in productivity between the UK and the rest of Europe and the far east. If the gap is not addressed, history tells us that it will lead to serious and costly social problems throughout society.

I already talked on Tuesday about the Ofsted report that was published last week, in which Sir Michael Wilshaw expresses concern about the number of disadvantaged two-year-olds who are still failing to access early education. He is concerned that even if disadvantaged two-year-olds are accessing early education, a large percentage are not getting access to the best and most outstanding provision.

Alex Cunningham (Stockton North) (Lab): I have heard it said that the higher the income a person has and the more articulate they are, the sharper their elbows are when it comes to fighting for their children. Parents at the other end of the scale, however, do not have the sharp elbows and they certainly do not have the income. That might be all the more reason why we have to give them and their children a helping hand at the earliest point in their lives.

Pat Glass: I do not think the sharp elbows are necessarily linked to income. I have met some very sharp-elbowed parents at the bottom of the income scale, and I certainly do not blame any parent for trying to get their child into the best provision that they can. However, too many of the children who need access to the best provision and the best teachers are simply not getting such access. Even in secondary schools where there is a particular issue—I know we are talking about early years—one of the arguments I used to have with headteachers, particularly in schools that required improvement, was about the tendency to put their best teachers at key stage 4 and not at key stage 3, which is where they need to be.

The Parliamentary Under-Secretary of State for Education (Mr Sam Gyimah): The hon. Lady makes the excellent point that early years provision is absolutely vital to give children the best start in life and to narrow the gap. Does she agree that introducing 15 hours of free early education for disadvantaged two-year-olds is a big step in that direction?

Pat Glass: I absolutely agree, but it is equally important that the children who need access to the best teachers are not pushed out of the system, or not pushed into provision that is not good or requires improvement. I do not know whether the Minister has had a chance to look at the Ofsted report, but the chief inspector of schools clearly says that far too many of our disadvantaged children are not getting access to the best provision and too many end up in childcare settings and schools that require improvement.

If we want to narrow the gap—clearly, we all do—it is not enough for the Government to simply will this. They have to will the means as well as the ends. Admissions is a key factor in making that happen. As somebody who has managed admissions over the years, I know they are tricky, but they came under one of the areas that I managed and quite liked. I understood why parents got really angry if they could not get their child into the school that they wanted. I had a huge amount of sympathy for them. When I managed admissions, I always tried to get a balance between having not too many surplus places but enough to give parents the access that they needed to the schools that they wanted. So I understand how tricky admissions can be.

Parental choice is a myth that continues to be talked about a lot. It is really parental preference, but in far too many cases it is not parental preference that presides, but school choice. Schools make choices about children.

Lucy Frazer (South East Cambridgeshire) (Con): The hon. Lady makes an excellent point: the sentiment is an honourable one. However, has she thought through the practicalities of the issue that she raises? I represent a rural constituency where there may be only one provider. We are operating in a sector in which many nursery providers are private providers. The Bill is permissive; it is not mandatory. People do not have to provide for 30 hours if they do not want to do so. Is not the answer to her point that we need to level up standards and ensure that all nurseries and all schools are good or outstanding? The Government have made significant progress, ensuring that 1 million more students are now getting outstanding or good education. Is not that the answer?

The Chair: Order. That is a long intervention.

Pat Glass: I would not disagree with the hon. Lady. She needs to make a speech, because she makes some good points. I am not for one moment underestimating the difficulties of doing this, and I will address the issue of admissions in early years. Such admissions are not statutory, which makes it even trickier. However, just because it is tricky, it does not mean to say that we should not at least try to address it.

Mr Gyimah: The hon. Lady has referred to Ofsted's latest annual report a number of times, and I draw the Committee's attention to what it says:

“Children in England now start their lives with a high chance of spending all of their early educational experiences up to the age of 11 in a good or outstanding early years provider and primary school.”

The report also says:

“Early education has never been stronger”.

Pat Glass: I am sure the report does say that, and I am sure I could go through the report, which is very thick, and pick out all kinds of things that support my argument. If the Minister goes straight to the main recommendations at the front, he will see that the chief inspector's No. 1 recommendation—I have not had to scour the report to support my argument—is about disadvantaged two-year-olds getting access to the best provision. That is so much of an issue that the inspector has put it right there on the front page.

Mr Gyimah: The hon. Lady is aware that the Bill provides for 30 hours of childcare for three and four-year-olds, and is not about the two-year-old offer.

Pat Glass: I accept that. The issue of admissions is tricky, but that is not a reason to ignore it. I entirely accept that it becomes more complicated in the early years, pre-school and childcare sectors because there is no statutory requirement. Where there is a shortage of provision, such as in areas with just one provider, effective provisions choose children, and provision operates on a first come, first served basis everywhere else.

The most able, advantaged and well organised usually get their children's names down first for outstanding provision, and it is equally true that the disadvantaged and less well organised tend to lose out. That is borne out by the Ofsted report. Children who would be assessed as disadvantaged do get access to provision that is good and outstanding—we are not saying that they do not—but far too many children from such disadvantaged homes end up in provision that is judged to be requiring improvement or failing, and the cycle of disadvantage and failure begins all over again. We accept the difficulties, but we have to intervene somewhere. We have to look at the best triggers for intervention to stop that cycle.

Mr Gyimah: I am listening to the hon. Lady's speech with close interest, and I notice that she has not defined “disadvantage,” which is at the core of her amendment.

Pat Glass: I am using exactly the same definition of “disadvantage” as the Department does when it looks at disadvantaged two-year-olds. The amendment would require childcare providers to give priority for admission to children who have been assessed as disadvantaged in the allocation of childcare provision. We know who those children are. Health visitors and social workers are already identifying and assessing disadvantaged two-year-olds, so it is simply about taking that forward. Extending it to childcare provision for four and five-year-olds would require little effort. If the Government are serious about narrowing the gap, if they want to get the acceleration in narrowing that gap going again—the acceleration is slowing—if they are serious about making the step change that is needed to raise the achievement of all children and if they want more and more children to be educated in outstanding childcare provision, hopefully the Minister will support this amendment.

The Chair: Order. Ms Glass, do not beat yourself up too much about what happened on Tuesday. Although you strayed from the parameters of the debate, it is accepted practice to give whoever opens a debate, no matter which side of the Committee they are on, more leniency in setting the tone of the debate.

11.45 am

Alex Cunningham: I am pleased to support amendment 14, which, as my hon. Friend the Member for North West Durham has outlined, would require children assessed as being disadvantaged to be given priority in the allocation of childcare places in settings that have been classed as outstanding. Members will recall from the Committee's sitting on Tuesday that there is substantial evidence to show that high-quality early education and childcare have a positive impact on children's development. Importantly in the context of amendment 14, that is particularly true for children from low-income families, who are more likely to fall behind. There is overwhelming evidence that children assessed as being disadvantaged are less likely to be able to access outstanding childcare provision, as my hon. Friend has said. Instead, they are much more likely to be able to access childcare that requires improvement.

We face the sorry reality of knowing that children from disadvantaged backgrounds are much more likely to fall behind. My hon. Friends and I have spelled out the facts in earlier Committee sittings. One in four children in England arrive at primary school without good early language development, and that figure rises to one in three for children from disadvantaged backgrounds, who, as I mentioned in support of new clause 1, start school on average 15 months behind their peers in language and vocabulary skills.

Many organisations with expertise in the sector have agreed that action is needed to close the attainment gap between the most disadvantaged children and their better-off peers. Closing the gap has been an aspiration of successive Governments over the last 20 years or so, but despite record levels of spending on education between 1997 and 2010, some of which the current Government have built on—a little, at least—that gap is still much in evidence. The Government will have the support of all Opposition Members if they can narrow it over the Parliament. The Minister knows, as does everyone else, that closing the gap has to start with our youngest. If he gets that right in the Bill, he will go down as a success, but if he does not, he will simply end up with a report card that says, "Could do better."

Mr Gyimah: On the subject of successes, or perhaps I should say progress, is the hon. Gentleman aware that 85% of two-year-olds are taking their funded place in a good or outstanding setting already?

Alex Cunningham: Yes, and that is good news, but there are still 15% who are not. The organisations that we speak to and that brief us tell us that the most disadvantaged are still the most likely to lose out on the best provision. In the testimony given to the House of Lords Affordable Childcare Committee, published in February this year, there was strong consensus on the evidence for the persistence of the gap and its effects. Barnardo's, for instance, noted the "consistent and large gap in educational attainment in the UK, based on income".

The Early Childhood Research Centre noted a "19 month vocabulary gap at age 5 between children from the poorest and most affluent families".

The Child Poverty Action Group spoke of intergenerational poverty being far greater in the UK than elsewhere, with children

"far more likely to follow in their parents' footsteps in terms of income and educational level."

For context, 53% of children in the 30% most deprived areas of England in 2014 achieved a good level of development in the early years foundation stage profile, compared with 65% of children in other areas. As the Minister knows, that gap of 12 percentage points has remained unchanged since 2011. That hiatus should be all the evidence we need to convince us that positive steps are required actively to address the sorry situation and revitalise efforts to close the attainment gap.

I am clear that the only route to resolving this unacceptable situation, and righting the inequality of opportunity that many children and young people from disadvantaged backgrounds face growing up, is to take action to level the playing field from the outset. We all accept that early education has a crucial role to play in helping disadvantaged children to catch up with their most advantaged peers. The Minister has accepted that as the case for investment, and he has made that clear. I do not need to remind him that in the light of the evidence of the difference to school readiness that early education makes, he suggested that

"being able to invest in it early, especially for the disadvantaged" was key to narrowing the attainment gap. Indeed, the House of Lords Committee recommended that the Government consider targeting more resources at the most disadvantaged children because that is where the strongest evidence of the impact of high-quality education lies. It is not, however, clear that the Bill addresses that recommendation. I am therefore pleased to support the amendment to correct that oversight. It would give priority for high-quality childcare provision to those children identified as being from disadvantaged backgrounds and who are more likely to fall behind. Such a step would not only be a move towards closing the attainment gap, but would contribute to raising overall attainment levels. It is the right thing to do and I hope the Minister will join me in supporting the amendment.

Mr Gyimah: Once again, it is a pleasure to serve under your chairmanship, Ms Dorries. At the start of the line-by-line scrutiny of the Bill, I said that there were three aims behind our childcare policy: to enable parents to work more hours; to help parents with the cost of living; and to give children the best start in life with high-quality early education.

Jess Phillips (Birmingham, Yardley) (Lab): Does the Minister recognise that a mother's education is the single biggest factor in how well her children go on to achieve? As we are focusing on children's attainment, does he agree that helping women in education to access this childcare provision would be a step towards one of his three aims?

Mr Gyimah: Obviously helping women in education is a broad aim of the Government, but those are the three objectives of this particular Bill. The amendment

addresses the third objective of giving children the best start in life, and I am grateful to hon. Members for tabling it, as it draws attention to the importance of closing the gap in achievement between disadvantaged children and their peers. I am pleased to say that more children, including those in receipt of free school meals, are now achieving a good level of development at the end of the early years foundation stage. In 2015, 66.3% of children achieved a good level of development. That figure was up from 51.7% in 2013. In 2015, 51% of children on free school meals achieved a good level of development compared with 45% in 2014. That is the equivalent of an extra 5,800 children. The gap in achievement between disadvantaged children and other children has narrowed from 18.9 percentage points in 2014 to 17.7 percentage points in 2015, which is welcome news. However, the gap is still too large and the Government are absolutely committed to narrowing it.

Alex Cunningham: As the Minister says, that development is very much to be welcomed. I appreciate that the current Government and the previous coalition Government built a little bit on what Labour achieved in government when we funded education properly for the first time in a generation. However, there is still the same attainment gap that there has been since 2011. There has been a slowdown. What will the Minister do about that? Backing the amendment would help.

Mr Gyimah: I will come to the practicalities and issues of the amendment, which my hon. and learned Friend the Member for South East Cambridgeshire pointed to so deftly in her comments. The hon. Gentleman asked what we are doing to help to narrow the attainment gap. That is the reason we extended the pupil premium into the early years with the introduction of the early years pupil premium this year, providing £50 million of additional funding to support the early education of disadvantaged three and four-year-olds. The extra funding, worth 53p an hour—about £300 a year—goes directly to providers to help them to increase the quality of their setting. I am pleased that the feedback from local authorities is that providers are using the additional funding to achieve exactly that.

Pat Glass: I thank the Minister; that was exactly what I was going to ask about. There is a lot of evidence currently emerging that shows that, when the pupil premium is being used and targeted at specific children and specific programmes, it is making a difference. When it is simply backfilling funding, as it appears the Minister is doing with this, it is not making any difference at all. Why is he so convinced that it will make a difference in the early years?

Mr Gyimah: The pupil premium is not backfilling funding. To re-hash the funding debate, the £300 million uplift that was provided by the Chancellor in his spending review excludes the pupil premium. The pupil premium is not being used to backfill core funding. It is a new initiative—I think it started earlier this year. I will be the first to admit that there is some way to go to ensure providers are using it for the right interventions. Regarding the amendment specifically, however, what the pupil premium does is to put a higher price on the heads of disadvantaged children. If someone is a provider and they take on disadvantaged children, they get more

money as a result, so there is already an incentive built into the system for good and outstanding providers to take on more disadvantaged children. There are more funds attached to those children.

Pat Glass: I do not want to burst the Minister's bubble at all, but the additional pupil premium is not convincing schools to take on more children in receipt of free school meals, so what makes him think it will convince providers of early years? If it is not working with schools, do we not need something else to ensure good providers take on disadvantaged children?

Mr Gyimah: On good providers taking on disadvantaged children, specifically in the early years, we must acknowledge that the early years setting is very different. Schools are in the maintained sector, but here we have private providers. There are parents who have different ideas of where they want their children to take their early education. Some parents prefer childminders because they want their children to have their early education in a domestic setting; some would prefer a private nursery; and some would prefer a nursery in a school. In practice, as my hon. and learned Friend the Member for South East Cambridgeshire mentioned, making this proposal work would be tremendously difficult, because we would have to compel a private provider to take a specific type of child rather than operating on a “first come, first served” basis, which is how the system currently works.

The important news is that there are many good examples of how the pupil premium is working.

Alex Cunningham *rose*—

Mr Gyimah: I would like to develop that argument, but I will take the intervention from the hon. Gentleman first.

Alex Cunningham: I thank the Minister for giving way. However, even if his figures from the former Deputy Prime Minister's pupil premium initiative are correct, we have got to concentrate on what is happening long before the pupil premium kicks in for young children. We need to be kicking in at the offer for two, three and four-year-olds. That is where we need the quality and the funding.

Mr Gyimah: The hon. Gentleman is talking about having an intervention long before the early years pupil premium, which is for three and four-year-olds, kicks in. This is the Government who introduced for the first time ever early education for disadvantaged two-year-olds, spending something like £750 million a year on that. I would argue that we are already making that intervention. However, the Bill is about providing 30 hours for three and four-year-olds. I will just mention a few examples of how the early years pupil premium is helping disadvantaged three and four-year-olds.

In one nursery, the funding has been used for staff training and equipment, to help children achieving below their age-related averages on entry in mathematics, and in communication and language skills. Another provider has been able to employ a dedicated early years special educational co-ordinator and language specialist, to help children to develop attention skills, turn-taking and speaking in sentences. Another provider has put the funding towards the recruitment of specialist staff to communicate with the families and children who have English as an additional language, as well as to support

[Mr Gyimah]

their other learning needs. These are the sorts of interventions that really make a difference in narrowing the gap, and we will look to roll them out across the sector.

I am sure that hon. Members will share my view that the additional help and support can make a real difference to the most vulnerable children in our society, particularly as they get ready to start school. That is why the Conservative-led Government introduced the two-year-old entitlement, which has been maintained in the spending review. In June, local authorities reported that around 167,000 two-year-olds were already benefiting from a funded early education place, and that figure continues to rise.

That is an achievement for an entitlement that was only introduced as recently as three years ago, I think. We have seen rapid increases in take-up in local authorities that had initially struggled, with some remarkable increases in London, for example. However, we must remember that the offer to parents, as far as the education for two-year-olds is concerned, is voluntary. Parents do not have to enrol their two-year-olds in a nursery setting, and one of the projects that I worked on when I was first appointed as the childcare Minister was to consider how we can encourage more parents to take up the offer for two-year-olds.

12 noon

Many parents thought that the age of two was too soon to enrol their children in early education. We noticed that there were some parents who did not even open the official envelope inviting them to take the offer that they received, because when they saw a brown envelope that looked as if it came from Government, it was the last envelope they wanted to open. We had to think about new techniques. We worked out that colourful envelopes were opened. We also realised that the messages made a big difference—saying to parents that their child can play and enjoy themselves with other children made a big difference.

We are coming from a position where for many people, a child being in an educational setting at the age of two is a big step. We are making huge progress on that. We should work with the grain of how parents want to take this, rather than trying to foist things on them as the amendment would do.

For some parents, cultural barriers are a challenge. We noticed that some local authorities were far more responsive to the offer for two-year-olds than others. Some said their demographics meant that parents did not want to take the offer, but we highlighted the comparison with local authorities with similar demographics, and then those parents began to take the offer. There is a lot of work going on, but there is no magic bullet to get parents to enrol in the offer for two-year-olds. We must get that right rather than impose further conditions, as the amendment suggests.

Ofsted's early years report called for schools in particular to take more disadvantaged two-year-olds, as they generally have well-qualified staff and additional services in place to support those children. We have legislated to make it easier for schools to take two-year-olds by simplifying the registration process. Again, there is a need for a

cultural change. There are a lot of headteachers of schools who do not want to get involved in day care, as they see it. They see working with two-year-olds as completely different from the well established pre-school work with three and four-year-olds.

Schools that have begun to take two-year-olds are seeing the benefits of working with children earlier and are able to help sooner when children and families need specific support. Importantly, we have changed the admissions code to enable schools to prioritise the most disadvantaged children. We are already giving those children priority access to outstanding provision.

Furthermore, two-year-olds benefit from the highest-quality early education, because local authorities can only fund places for them in settings with a grading of less than good if there is insufficient accessible good or outstanding provision. If there is insufficient good or outstanding provision, local authorities can fund a place in a setting that is on its way to improving its Ofsted rating. As I said, 85% of settings are currently good or outstanding.

Of course, we want all children to experience high-quality provision. The quality of the early years sector is improving. Our data show that more and more providers are rated good or outstanding—79% in the most disadvantaged areas. Hon. Members will be reassured to hear that in inspections, Ofsted puts an explicit focus on checking that disadvantaged children are making the progress that is expected and that additional funding for them, such as the EYPP, is being used well to close the gaps. Providers that do not deliver that are demonstrating inadequate performance.

Hon. Members will also be aware of the evidence that the biggest influence on the quality of a setting is the quality of the workforce. The quality of the workforce is improving, as we debated in the context of the amendment on workforce strategy. I am proud of the Government's record in providing quality early education to disadvantaged children, and I support the motive behind the amendment, but I have some difficulties with the amendment itself. Neither local authorities nor the Government allocate early years places to children. Most free childcare places are provided by the private, voluntary and independent sector and are not, therefore, controlled by Government. Providers are not required by existing legislation or the Bill to deliver the free entitlement. They can do whatever they want.

It is important that parents, not Government, choose the provider that best meets the needs of their children. For example, parents may not want to be prioritised to a place that is many miles from their home or workplace and is not delivered by the type of provider that a parent would prefer to use. Our absolute priority must therefore be to drive up the quality of early years provision across the board, ensuring that all disadvantaged children are able to access and benefit from high-quality provision in a non-stigmatising way. I am confident that the Government's significant additional investment in the early years, the policies that we have in place and the focus in the accountability framework on outcomes for disadvantaged children will increase our progress in narrowing the attainment gap and ensuring that the early years entitlement benefits all children.

Although we are clearly on a journey with the early years pupil premium, the early years foundation stage profile results show that school-readiness is increasing

for the children in question and that the gaps are starting to close. In view of that, and of my commitment to focus relentlessly on the issue, I hope that the hon. Member for North West Durham will feel sufficiently reassured to withdraw the amendment.

Pat Glass: The Minister said right at the beginning that the Government had three aims in introducing the Bill: enabling parents to work, helping with the cost of living and giving children the best start in life. I think the amendment would fit in very nicely with that. This is the most serious issue in education today, and I remind the Minister that I said that it is not sufficient for the Government to will the ends; they have to will the means. The amendment would have been a useful way to do that. I accept the difficulties in achieving the aim, but this is about the sentiment rather than the amendment, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Pat Glass: I beg to move amendment 15, in clause 3, page 3, line 14, at end insert—

“(bc) make provision to enable parents to use their total entitlement to free childcare per year flexibly for the purposes of reflecting variations in need effectively (for example school holidays).”

To allow parents to use their entitlement to 30 hours of free childcare flexibly throughout the year.

The Chair: With this it will be convenient to discuss Government amendment 4.

Pat Glass: On a point of clarification, I will speak to amendment 15, Ms Dorries, but may I then raise any issues that I have with Government amendment 4 before the Minister speaks? It is only a couple of technicalities.

The Chair: Yes.

Pat Glass: Amendment 15 is a probing amendment. I hope that when the Minister gets to his feet, he will support my call for flexibility and deliver what I am asking for. I just have a feeling in my water that that will not be the case.

The need for childcare is different for different families. It is clear that most working families can find ways of boxing and coxing their childcare provision during the week. However, we have heard about the variable levels of occupancy, ranging from 75% to 95%. There is heavier childcare occupancy on Tuesday, Wednesday and Thursday, and lighter occupancy on a Monday and Friday as families find other solutions on those days.

Family solutions are as different as the families themselves. Some parents work part time, some work in job shares and, in many families, one parent works a regular pattern of nine-to-five or thereabouts—often the higher earner—while the other works an early morning or a late shift to ensure that there is childcare at the beginning and end of every day. That was the pattern in my home when I was growing up. My dad was pretty rubbish at breakfast, but we got used to it. *[Laughter.]* He was really rubbish at breakfast, but it allowed both parents to work, and that is what many families do. Some family solutions are dependent on grandparents from both sides of the family taking a share of the childcare. Indeed, in many families today, grandparents are the childcare. Other families do not live close enough to grandparents for that to be a regular, reliable solution.

Whatever childcare solutions families find from birth to the age of three, and from Monday to Friday, many parents tell me—I am sure they tell the Minister the same thing—that the biggest problem is how to manage school holidays. There are holidays at Christmas and Easter and half-term holidays in February, May and October, but what parents really worry about are the six-week summer holidays. Two working parents with 25 days of holiday entitlement each, and understanding and flexible colleagues, could theoretically cover all but three weeks of the school holidays, but that would mean giving up all their holiday entitlement and in most cases never having one day when all the family is on leave together. Many other families find themselves in situations that are not even as fortunate as that, and not all employers are accommodating. Most parents work alongside colleagues who also want time off during the school holidays, so they cannot depend on taking their full entitlement in the school holiday period.

Ruth Cadbury (Brentford and Isleworth) (Lab): My hon. Friend describes the situation for a family with two parents in work. The situation is far, far worse for lone parents, not all of whom have local family support, particularly if they have had to move house to find somewhere affordable to live.

Pat Glass: My hon. Friend is absolutely right, and I will touch on the situation of single-parent families in a moment. Even in the most flexible and helpful of employment situations, parents tell me that if they each take two weeks' leave, that still leaves them with two weeks in the summer to cover, and they have to prevail on wider family or friends or other solutions for those remaining two weeks. Parents tell me that they dread that time, and that should not be the case. The six-week summer holiday should be a time when parents and children can be together, and it should be a good time, not something that parents dread. I have even been told by some parents that after struggling to put childcare solutions together—prevailing upon their friends, family and acquaintances to the point where those people avoid them—they have still had to take unpaid leave, or in some extreme cases give up their job to cope with the summer holidays.

While for many couples it is a case of misery being better shared, single parents do not even have that, as my hon. Friend said. There is no one to share the childcare management with and no one to share the worry and the stress. The last Labour Government introduced a childcare vouchers scheme that was based on employment. Parents and employers could buy into the scheme, but I understand that the Government are phasing out the scheme and not allowing new applicants, and that is a shame. Those who used the scheme have told me that what they liked best about it was its flexibility.

Mr Gyimah: The hon. Lady is absolutely right to say that the childcare vouchers scheme is being phased out, to be replaced with tax-free childcare. There were deficiencies in the childcare vouchers scheme. People had to have an employer that was willing to do the vouchers, which meant it was often only large employers. Self-employed people did not qualify, nor did people on the minimum wage. However, people who earned £1 million a year could still get the vouchers. Tax-free childcare strikes the right balance in focusing things on the parents who

[Mr Gyimah]

need it, while also having the same level of flexibility in the providers that parents can use and allowing different professions to use it. That means it applies to the self-employed and those on the national minimum wage.

The Chair: Order. Could we please keep the interventions a bit shorter, or we will never get to the end?

Pat Glass: The Minister is right. I am not pretending for one moment that the voucher scheme was perfect. It was far from perfect, but I am using it to illustrate what parents said they liked about it. Large employers that used the scheme, such as the John Lewis Partnership, said that they liked the flexibility.

The amendment would put flexibility into the system. We have already heard of many parents who use their childcare entitlement on certain days of the week and not on others. For many families, other childcare solutions can be found for Mondays and Fridays. The idea of being able to spread the childcare entitlement across 52 weeks, rather than 38 weeks, would take away an extreme worry for an awful lot of parents. They see the summer holidays coming, and they absolutely dread it, because they just do know what they are going to do.

Ultimately, all of us—including the Government, I presume—want to see a system in which childcare is not seen as an ever present worry and problem, so that parents can feel secure about going out to work knowing that there is sufficient good provision for their children irrespective of their needs. The amendment is intended simply to give parents some control over their childcare allocation. It would put some of it in the hands of parents so that it was not exclusively in the hands of providers, and it would enable parents to use it flexibly to meet their wider family needs.

We have already talked about changing patterns of work, such as part-time work, job shares, shift work, seasonal work, self-employment and zero-hours contracts. We are working very differently now, and the amendment would ensure that parents who have problems with childcare over the long summer holidays and the other school holidays could use their entitlement flexibly.

12.15 pm

Alex Cunningham: I am pleased to support amendment 15, which would ensure that parents were given the flexibility to use their 30-day entitlement to free childcare throughout the year. It would ensure that they were not restricted in when and how they take the additional 15 hours.

As my hon. Friend said, the concept of flexibility is central to the success of the 30-hour offer. All children aged three and four are currently eligible for 15 hours of free early education each week, or 570 hours each year. That offer can be taken over the 38-week academic year or be stretched over the calendar year to provide roughly 11 hours of free childcare a week. Although those 15 hours are of some help to parents, we are all too aware that they are often available only in inflexible morning or afternoon sessions, and that they frequently do not correspond to parents' child caring needs.

We have already heard that the availability of affordable and flexible childcare is widely recognised to be a central issue for families across the country. According to figures

published by 4Children earlier this year, nearly one in five parents are considering reducing their hours or giving up work altogether because of the cost of childcare.

Mr Gyimah: Is the hon. Gentleman aware that the Bill doubles the entitlement to 30 hours, and that parents will be able to stretch it across the year and take it alongside tax-free childcare or the childcare element of universal credit—whichever applies to them? We are giving parents a lot more flexibility than he is acknowledging.

Alex Cunningham: That is extremely helpful. That is the reassurance we seek, but we need it to be spelled out in the Bill. Perhaps the Minister will say that in his speech.

When the Chancellor of the Exchequer announced in the summer Budget that the Government would extend free childcare, he said that there would be a pilot in 2016 and that it would be rolled out from 2017. The Minister has just said—this was not clear at the time—that there is elasticity around the additional provision. I hope he will reiterate that in his speech and tell us how he is going to spell it out in regulations—preferably, he will do it in the Bill—to give parents the flexibly that they need.

The 30-hour offer must account for parents who work atypical hours, irregular patterns and inconsistent shifts. The Family and Childcare Trust highlighted that 29% of mothers routinely work at atypical times, such as during the evening or at weekends. Childminders are the principal means through which flexibility is offered in formal childcare provision. Other parents—my hon. Friend the Member for North West Durham referred to some of them—work full-time hours but are on zero-hours contracts, so they require even more flexibility in accessing childcare because they do not know when they will be working from one week to the next. I would welcome further clarification from the Minister on that issue.

There is also the challenge of ensuring that childminders have a role in providing flexible care. The Government's proposals are not straightforward. Because of the increased competition from centre-based providers and the low levels of remuneration commonly available to childminders—often due to reduced fees from local authorities following central Government cuts—less than 1% of free early education for three and four-year-olds is currently delivered by childminders. If the Bill is to succeed in allowing parents to enter and stay in the kinds of jobs that are available to them, it is self-evident that childcare must be available to cover the hours they work. For that reason, it is important that free places are offered flexibly. The Minister has said that that is possible, but the sector must provide places when shorter or longer sessions are required. Parents must not be required to pay top-up fees because of when they need childcare.

It is also essential to get the balance right and ensure that quality is maintained as the free entitlement is extended. That means that the quality of the existing 15-hour entitlement should not be compromised by the reforms in the Bill. At the same time, questions remain on the pressing issue of how sessional and maintained providers will be both funded and supported to extend their offerings from part-time to full-time hours.

As the Committee has heard previously, 73% of three and four year-olds accessing free childcare at any one time are attending a school-based setting or sessional

pre-school. Those schools and sessional pre-schools face barriers in extending provision to 30 hours each week.

The Chair: Order. Mr Cunningham, could you please stay within the scope of the amendment?

Alex Cunningham: I thought I was staying within the scope of the amendment, about the flexibility required for 30-hour provision.

For instance, if pre-schools are to extend childcare across the full day, they face having to dramatically reduce the number of places they can offer. Similarly, there are core logistical hurdles that need to be overcome. Many sessional pre-schools, for instance, use shared community premises for part of the day at vastly reduced rates of rent. Those institutions would need to move to new premises and access additional funding to extend their offerings and provide the flexibility that is needed, unless the funding is available to keep complexes accessible. In the same vein, nursery class facilities in schools may not be suitable for day care, with many lacking vital rest areas and requiring significant adaptation to cater for children across a full day.

It is important to be absolutely clear that the 30-hour offer is valuable, at least on the face of it, because it significantly increases the potential flexibility available to parents to go out to work or progress towards work. Certainly, the extension of the free childcare entitlement can play an important role in providing parents with the support they need to balance work and childcare responsibilities. However, the extent to which that potential is realised is, of course, dependent on the degree of support and malleability the Government offer providers.

It is therefore imperative that we do all we can to ensure that the Bill delivers provision that is inclusive, high-quality and supports good outcomes for all children. That, in my view, necessarily entails a comprehensive package that gives parents a realistic option of using their 30-hour entitlement flexibly. Of course, it is all very well being able to use entitlement flexibly, provided the facilities and the offer are there for the community to access.

Mr Gyimah: The amendments are focused on ensuring that the 30-hour entitlement delivers sufficient flexible childcare for working parents. I completely agree with the principle of the amendments tabled in the other place and by the hon. Members for North West Durham, for Birmingham, Yardley and for Stockton North, which is that the extended entitlement should be delivered flexibly to support working parents.

However, delivering flexible provision is not simply about ensuring that childcare is available outside the hours of nine to five, as the amendment made in the other place suggests, or during the school holidays, as suggested in this debate. Each parent has different needs. Some parents will need childcare to cover the period between leaving work and picking up their child, while a number of parents of children with special educational needs want their child to spend part of their time in a mainstream setting and part of their time in a special educational needs setting.

Real flexibility, therefore, is about responding to the specific requirements of working parents, and I am passionately committed to delivering that. I feel strongly

that setting out in primary legislation a requirement for local authorities to secure provision to meet each parent's individual needs will not work in practice.

Alex Cunningham: I am interested in the school-based settings for nurseries. What work is the Minister planning across Government, and with local government in particular, to see how the provision and facilities that exist can be utilised during school holidays, thus offering flexibility to parents?

Mr Gyimah: The hon. Gentleman is alluding to the announcement we made earlier this week on wrap-around care, which will allow private providers to bid to use a school site to provide care for school-age children during the holidays. So we are already working on that. I will come later to what we can do for children under five.

Local authorities depend on the market to supply childcare places. We want them to work with local providers to transform the market and increase flexible childcare provision for parents with out-of-hours working patterns. It would not be reasonable to place a statutory duty on them to guarantee out-of-hours or holiday provision for every parent who wants it, since their local childcare market may not be able to deliver that.

Returning to the hon. Gentleman's point about school nurseries, there are a number of local authorities, particularly in the north-east, where the majority of childcare is delivered by sessional providers such as maintained schools or nurseries. A large number of those providers cannot offer out-of-hours or holiday provision. As Lord Sutherland said in the other place, for those providers "to continue provision outside their normal hours may well stop them operating completely".—[*Official Report, House of Lords*, 14 October 2015; Vol. 765, c. 265.]

Placing a duty on local authorities will not change that overnight. It is also important to note that local authorities, rightly, cannot require private providers to deliver the free entitlement. Therefore it is simply not right to give them a legal duty to secure flexible provision for every parent in their area.

In my view, the way to promote flexible provision is to work with local authorities and providers to look for innovative ways to meet the needs of parents, and to encourage new providers to enter the market to give parents more choice. We should encourage provision to respond flexibly to demand. It does not make sense to require every local authority to secure a particular type of provision when parental working patterns and the type of demand for childcare will vary from area to area.

I reassure the Committee that there is already flexibility in the system used for the existing 15-hour entitlement, and we intend to build on that flexibility in delivering the extended entitlement. There is no requirement that free entitlement places can only be in line with school term dates, or during the hours of nine to five.

In fact, the previous Government changed the statutory guidance to enable local authorities to fund providers to allow parents to access places between 7 am and 7 pm, so that parents can drop off their children earlier in the day or collect them later. Providers can also stretch their entitlement across the full year rather than limiting them to term-time only provision, and a number already do that.

[Mr Gyimah]

The Bill is very carefully drafted at clause 2(1) to say that the free childcare must be available for a period “equivalent to 30 hours in...38 weeks”

so that the primary framework allows for the stretched offer. Some local authorities are already promoting flexible childcare provision, including Brighton and Hove City Council, where 82% of year-round nurseries offer a stretched entitlement; Blackpool local authority, where nurseries and childminders work in partnership to offer out-of-hours provision, including weekends and evenings; and Bradford Council, which offers a community nanny scheme, providing flexible childcare for lone parents struggling to access work or training. In Tuesday’s discussion of eligibility I mentioned the great work that Swindon Council is doing to offer weekend sessions from January 2016. In addition, we will set up a flexible funding model to support providers to deliver flexible provision to meet the needs of parents.

Although it is great that some local authorities are already delivering flexible provision to meet parents’ needs, I want more local authorities to deliver the 30-hour entitlement in that way. I have been clear that the extended entitlement needs to support parents to work. We have been working with the Local Government Association to set up an expert local government working group in the new year, to build on existing flexible provision and make the extended entitlement even more flexible.

Jess Phillips: Is there anything to stop private providers just setting off a block of time within their timetable and saying that the free hours can be claimed in that time? That was certainly my experience of what happened under the 15-hour provision. They could say, “You can use your free hours only between nine and five.”

Mr Gyimah: The hon. Lady makes a good point—what sort of restrictions can private providers impose on parents taking the free entitlement? We want providers to deliver this more flexibly. Now that the offer is moving to 30 hours from 15 hours the scope for providers to say, “You can take it only at this time,” is significantly limited, because if a child is taking all of the 30 hours, that is most of the week.

The Department for Education will be working with the Local Government Association to enable the sector to take a leading role in expanding existing provision and responding effectively to emerging demand as the extended offer is rolled out. We will also review the statutory guidance to remove any barriers to the flexible delivery of childcare, such as those the hon. Lady mentioned. We will set out work that local authorities can do to enable parents to take the current entitlement in a pattern of hours that best meets their needs.

12.30 pm

Ruth Cadbury: I appreciate the care that the Minister is taking in responding. How would the provision work for my constituents who work at the airport, for example, and have different work patterns, such as early mornings, normal days and late days, while working four days on and four days off? If they were only able to claim their 30 hours during the normal working day and could not claim the full amount, would they be disadvantaged because of the nature of their working patterns?

Mr Gyimah: The hon. Lady raises an important point. First, it is difficult to use legislation to clearly define flexibility. Indeed, doing so in primary legislation is almost a contradiction; it cannot work. Secondly, she points out why our approach is the right one. It allows local authorities to work with providers to deliver the sort of flexibility that works in their local area. The flexibility that her constituents will need will be quite different from that required by parents in a rural area, which is why we cannot define it in primary legislation. However, we want to ensure that the 30 hours is equally accessible by all parents, which brings me on to my next point.

It is clear that the market will need to adapt to support a flexible childcare offer in the extended entitlement, and we will encourage different types of providers to offer the additional hours. The hon. Member for Stockton North mentioned the role of childminders in flexibility, and I agree that they have an important part to play. There are currently over 46,000 childminders on the early years register, but not all offer the free entitlement due to local authorities’ payment terms, for example. We want to consider that carefully to see how they can be encouraged to offer the entitlement, because they can contribute to flexible delivery. For example, some parents could use a school nursery and have a childminder either pick their children up or drop them off. A shift-worker at the airport might use a childminder during evening or weekend work alongside some nursery provision.

I have said to the Professional Association for Childcare and Early Years, which represents childminders, that there is a big opportunity for childminders to work with nurseries and schools to deliver a full offer of the 30 hours. In the previous Parliament, we allowed childminders to operate outside their domestic premises for 50% of the time. Childminders can now team up with schools to offer after-school provision. If a child does a morning session, they can be looked after by a childminder on school premises for the afternoon to allow parents to pick them up. That flexibility for childminders will come into force from January 2016 and will open up many new opportunities.

I also recognise that a number of parents already use multiple childcare providers, such as sending their child to a nursery and then getting someone else to pick them up, as I have said. I want to ensure that the system continues to allow parents to make the right decisions for their children and will encourage information sharing between different providers so that there is continuity for the child and that their best interests are taken into account when multiple providers are involved in childcare delivery. On Tuesday, we discussed the Government’s plans to introduce the 30-hour entitlement early in some areas, and flexibility will be a focus. The early implementers will look at ways to encourage different providers to enter the market, including childminders who are not currently offering the free entitlement.

I hope that Committee members are reassured that the Government are absolutely committed to ensuring that parents have access to flexible childcare to fit their working patterns. I would therefore encourage Committee members to support Government amendment 4 and urge the hon. Member for North West Durham to withdraw amendment 15. I emphasise that the Government are committed to delivering flexible childcare for children of all ages, as I said in response to an intervention from

the hon. Member for Stockton North. That is why we will consult on parents having the right to request wraparound and holiday care at their child's school, as the Prime Minister announced on Monday. Providers will also have a right to request use of a school's facilities when the schools are not using them. That will help local authorities to ensure as far as possible that there is sufficient childcare in the area that responds to parental demand.

Alex Cunningham: What will happen when an agreement cannot be reached with a local school or local authority, or when the private provider is not prepared to be more flexible in its provision? How do we ensure parents' needs are met if the system in their particular area is not flexible enough?

Mr Gyimah: My hon. Friend the Member for Norwich North made an interesting point on Tuesday: we have significant additional investment in the sector which should be attractive to many new providers. If a provider does not want to offer flexible childcare to all parents in an area, they will struggle to find business somewhere else, because the majority of parents of three and four-year-olds will be entitled to the 30 hours of childcare. Providers that refuse to respond to parental demand may therefore struggle to stay in business.

Alex Cunningham: Government Members have talked about the particular challenges in rural areas, where there might be very little provision. Here we face a situation in which there might be 20 children in a local community who access care; all of a sudden the amount of available care will need to double, and yet there may not be the capacity in that small rural area to do so. How will we cope with that?

Mr Gyimah: As the hon. Gentleman knows, local authorities have a sufficiency duty. I hope that what we will do to encourage providers on the early years register that currently do not offer the free entitlement—such as childminders, who he pointed to—will work. We will also use £50 million of capital investment to target areas where there is a need for more places. Finally, local authorities can fund providers in a way that incentivises flexible provision, so a number of levers can be used to deliver flexible provision for parents.

Pat Glass: I am willing to listen to many of the arguments that the Minister makes, but he has singularly failed to convince me on this one. He gave us lots of examples of local authorities operating flexible systems, but this is not about the best authorities; it is about the worst. The amendment would go some way towards addressing the authorities that need incentivising.

I accept the Minister's point about the wording of the amendment. It is not possible to require every local authority to provide every kind of flexibility for every child, but education legislation is littered with the word "reasonable", and to ask local authorities to make reasonably flexible provision is not beyond the wit of the Minister.

I find myself in an unusual situation: I stand here as the person saying there are opportunities here for the market. We need to allow new entrants into the marketplace, and in my view, the best way to do that is to put some control in the hands of parents, who can then choose

the best providers for their children. At the moment, we have an incredibly inflexible system that we need to move away from in order to help parents with things such as summer holidays.

Although it does not exactly fall within the scope of the amendment, I welcome what the Minister said about wraparound childcare and getting schools to open their incredibly expensive capital buildings, which often stand empty from 3 o'clock in the afternoon, all weekend and during summer holidays. It is amazing that someone has not done that long before now. Clearly, we will have to see the details, but it is a really good idea to open those buildings up to the marketplace. I understand the Minister's concern about creating chaos in the market, but providers are making exactly the same arguments to him that providers made to previous Governments about things such as respite care and social care. We were told that putting the control in the hands of parents, disabled people or elderly people would create chaos in the market, and local authorities said the same, but there was not chaos, and it is a better system as a result.

Mr Gyimah: I agree with the hon. Lady on the principle—what we need here is parent power. However, does she recognise that it is surely not possible to set in primary legislation what flexibility is for every parent?

Pat Glass: I am not saying that we should do that, but if we say that local authorities must provide "reasonable flexibility", that forces those who are not doing anything about that now to start to do something. Unless the Minister tells me that he is prepared to look at that flexibility in regulations, we may need to make an issue of this.

James Berry (Kingston and Surbiton) (Con): Does the hon. Lady agree that councils as public authorities have a duty in law to act reasonably, so the insertion of the word "reasonable" into legislation is superfluous?

Pat Glass: I suggest that the hon. Gentleman looks at the Education Act 2005, which has "reasonable" in every third sentence. It is not superfluous. It makes the point that this measure is not about giving everyone what they want or what they think they need; it is about giving something that is reasonable to the taxpayer and to the parent or child.

Mr Gyimah: The hon. Lady asked for assurance on what the Government will do in respect of flexibility. As I mentioned earlier, statutory guidance already enables providers to stretch hours across the full year and deliver provision from 7 am to 7 pm. We will work with the Local Government Association and local authorities to revise the statutory guidance to remove any perceived or actual barriers to flexible provision.

Pat Glass: Again, as we are talking about technical words such as "reasonable", I point out that the amendment is about ensuring we "enable" parents. Will the Minister expect local authorities to do that?

Jess Phillips: And private providers.

Pat Glass: Indeed. I am happy for the Minister to intervene.

Mr Gyimah: Of course, we will expect flexibility in the market so that parents can access the 30 hours to make the policy successful.

Pat Glass: Does the Minister expect not just that there will be provision for 30 hours, but that that will be implemented flexibly?

Mr Gyimah: That is precisely what I said we would do with the early implementers. After we have tested the provision with the early implementers, we will expect all local authorities to implement it in a flexible way for parents.

Pat Glass: I thank the Minister. On that basis and because of his confirmation that the word “flexible” will be included in the regulations, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Pat Glass: I beg to move amendment 13, in clause 3, page 3, line 32, at end insert

“and in connection with the unreasonable refusal of a childcare place to a qualifying child with a disability”.

To ensure that a disabled child is not refused a childcare place on the grounds of their disability.

The amendment would make it clear that a place could not be refused to a disabled child on the grounds of their disability. Members of the Committee will know that 41% of parents of disabled children cannot access the current 15 hours of provision and that of them 25% cannot do so because their child has been refused or excluded from a place purely on the grounds of their disabilities. I have gone on and on about this and I am probably boring members of the Committee, but it is important. It is illegal under the Disability Discrimination Act 1995, yet it happens again and again. The stories I have heard from parents of disabled children have made me angry enough to want to take every opportunity to do something about it.

I welcome the Minister’s offer to work with me on this. His office has been in touch and we have set up a meeting early in the new year. I welcome that and I absolutely accept his commitment to change this. I know that the Minister for Children and Families is also keen to change this. This is clearly the direction of travel and we are all focused on this now. So I am hopeful for the future, but mindful of the past. I am sure the Minister will say the amendment is unnecessary because the issues are covered adequately in other legislation, and yet the situation for many parents of disabled children remains the same. It is covered, but it does not change anything.

12.45 pm

Olivia McLeod, who was the director of early years and childcare in the Minister’s Department, gave evidence to the inquiry that we have talked about. She said:

“We know there is a general issue about the cost and affordability and choice of childcare for all parents and obviously that is exacerbated hugely when a child has a disability.”

I cannot help thinking, if it is so obvious, why have we not done something about it? How would we have felt if that sentence had ended with something else? Would we accept it if the sentence had said that obviously that is

exacerbated hugely when a child is black, Jewish, Catholic, Muslim, or a girl? We simply would not accept that. We would be demonstrating outside Parliament, marching, holding candlelit vigils and throwing ourselves in front of the king’s horse—I am excited about this because I have been to see “Suffragette” this week. We would not accept those things. We would not say, “obviously, that is hugely exacerbated”; we would do something about it. Yet, in the second decade of the 21st century, it is obviously happening to families of disabled children, and we seem to be happy to let that continue, with the exception of we three: the Minister, me and the Minister for Children and Families.

Alex Cunningham: Does my hon. Friend agree that, although the vast majority of childcare providers do their very best, some will benefit from specifically knowing that discriminatory behaviour against children in the care setting will see them prosecuted?

Pat Glass: Unfortunately, it simply is not happening.

Alex Cunningham: It is not, but if it was specific, it might.

Pat Glass: The situation is so bad that we need to send out a strong message, which is why I want the amendment included in the Bill.

I will read from the parliamentary inquiry into childcare for disabled children. A parent told us:

“Even now, at age 3, we have only managed to secure 6 hours a week at a nursery, during term-time”.

One said:

“I feel like the 15 hours scheme at the moment is really invented for normally functioning kids”,

but it could be easily turned into something that could help children like hers. Another parent said:

“This is a nightmare. I have tried for a year to find an out of school provider that is suitable for my daughter...and...have not been successful.”

One told us:

“We have contacted every single private childcare provider (childminders, holiday clubs, day care nurseries etc) yet no one is willing to take on a disabled child”.

Another parent said:

“I have tried to access childcare. I contacted many child-minders and had a very negative experience. Some of the things they said were very hurtful and eventually I gave up as it was so demoralising.”

Lucy Frazer: In the previous sitting, the hon. Lady highlighted all the risks of creating criminal liability for a parent who might not satisfy the income threshold at a later date. Does the same principle not apply when she talks about criminal penalties on childcare providers?

Pat Glass: I am not creating criminal penalties. What I am describing is illegal now, yet it continues. All I want to do is to send out a very strong message in whatever way we can. At the moment, we have a Bill—if I could find any other way of helping the situation, I would. It is illegal at the moment, and I am not seeking to create anything new.

Mr Gyimah: Amendment 13 would give the Secretary of State the power to create a criminal offence where a disabled child is unreasonably refused a childcare place. Was that the intention behind the amendment?

Pat Glass: I apologise if it is carelessly worded; that was not my intention. I simply want to make clear in the Bill that it is illegal to refuse a place on the grounds of a child's disability, in exactly the same way as it is under the Disability Discrimination Act 2005. I do not know whether there is a criminal penalty attached to that, but that is the current legislation, and that was my intention.

James Berry: Will the hon. Lady give way?

Alex Cunningham: Will the hon. Lady give way?

Pat Glass: Before I give way, can I make it clear that we do not want to put anyone in prison? As I said to the Minister, if the amendment is carelessly worded, I am happy to change it. The current situation cannot continue and I simply want to change it, however that may be possible, so that it is line with Disability Discrimination Act.

James Berry: The examples the hon. Lady gave are horrific. However, if the measure is already on the statute book, should she not call for proper implementation of the legislation we already have, rather than duplicating it?

Pat Glass: That is exactly what I want to do. I have a Bill in front of me, and I want in some way to ensure that the current position—that what I have described is illegal—is used to improve the situation for the parents of disabled children, however we do that.

Alex Cunningham: I do not believe that the vast majority of care providers want to discriminate against children with disabilities. They do it possibly because they are ill equipped and do not have the experience, understanding and skills to cope with disabled children. Perhaps the answer is, as we discussed earlier, an upskilling programme across all situations, so that staff can feel confident that they can take on and deal with disabled children.

Pat Glass: I agree. I also think there is an element of childcare providers and even maintained settings not being aware of the law regarding refusal to take a child on grounds of disability. It is not absolutely clear to them.

I want to talk about the evidence given by one young couple. They had a lovely baby girl who had severe and multiple learning difficulties. The mother told me that she had approached every provider in her London borough. As soon as she explained the extent of her child's problems, they were suddenly full. This young woman told me that she was attending mother and toddler groups with her child, and other mothers, who approached the same providers later, found they were not full. That is awful. One needs to sit face to face with this mother to understand how deeply she was disturbed and upset by that. It is wrong and should not be happening, but it is happening time and time again.

I appreciate that the childcare providers might be frightened. They will feel that they do not have the skills, knowledge or training to admit such children. However, when a child is born with a major disability the parents do not magically acquire skills and expertise. The NHS does not give parents special training.

Lucy Frazer: On a point of order, Ms Dorries. In my reading, the amendment should be to paragraph (h), which starts with the words

“create criminal offences in connection with”.

If the hon. Lady's amendment were accepted it would create a criminal liability, which she states she does not intend to do. Given that the amendment would not achieve her objective, is it appropriate?

The Chair: It is up to the Opposition spokeswoman to request where she wants the amendment to be made. It has been accepted, and it is in order.

Pat Glass: Thank you, Ms Dorries. I think I have made my intentions perfectly clear.

Parents who have a disabled child do not magically acquire special skills and knowledge. The NHS does not give them special training before they leave hospital with their baby, when they are often in shock and grieving for the child they were expecting but did not get.

We need to ensure, as my hon. Friend the Member for Stockton North said, that childcare providers can access the training that will give them the confidence they need. However that is done, the Government need to put down a huge marker that the current situation cannot continue.

Mr Gyimah: The amendment would ensure that a disabled child is not refused a childcare place on the grounds of their disability. As I highlighted on Tuesday, I absolutely agree that children with special educational needs or a disability should not be put at a disadvantage and that they should have the same access to high-quality childcare as children without disabilities. The Government are committed to ensuring that all families have access to high-quality, flexible and affordable childcare, and I am delighted that the hon. Lady has agreed to meet with me and the Minister for Children and Families to look at how we can improve access to childcare for children with special educational needs and disabilities.

As I pointed out in my intervention, the amendment would create a criminal offence if a disabled child were unreasonably refused a childcare place. Although I agree with the principle behind the amendment, and agree that all children should be able to access childcare, I do not agree that would be the right approach. I have been clear in our debates so far that local authorities are already required by law to secure free entitlement places.

Ruth Cadbury: One of the ways of encouraging childcare providers to be open and welcoming to children with disabilities is to ensure that funding is available for additional support—in large childcare settings, a disabled child might need one-to-one support—as well as for specialist training and, occasionally, specialist equipment. Will funding be available in the programme over and above the normal funding per child for the 30 hours?

Mr Gyimah: We covered the issue of funding on Tuesday, when I made it quite clear that the £5 billion high needs funding block applies to ages nought to 25. Funding will also be available to parents who have access to tax-free childcare up to £4,000. They can access that for children from the ages of nought to 18.

[Mr Gyimah]

Amendment 13 is about what providers do when confronted with a child with special educational needs or disabilities. It is important that we are clear that the Equality Act 2010 sets out the legal obligations that early years providers and local authorities have towards disabled children and young children in their care. Refusing to admit a disabled child may amount to unlawful discrimination, if that refusal is as a direct result of their disability or something arising in consequence of their disability. The Equality Act applies to all early years settings, whether or not they are in receipt of Government funding.

If a parent of a disabled child believes that their child has been discriminated against by a school setting, they can appeal to the first-tier tribunal or, in certain cases, to local admissions panels. Where the case involves a provider that is not a school, a discrimination claim is heard in the county court.

I take on board the comment made by the hon. Member for North West Durham that she does not intend to create a criminal offence through the amendment. I therefore suggest that when we look at the model agreement that local authorities have with providers delivering the free entitlement, we make the situation quite clear to them and draw their attention to the Equality Act requirement.

The hon. Lady raised a point about the confidence of the workforce to deal with the situation, which is not strictly a legal matter. We intend to look at that as part

of the workforce strategy that I committed to on Tuesday. That will build on the requirement that already exists in the early years foundation stage. The significant funding that we give to voluntary and community service organisations can support providers in the workforce to develop confidence and skills.

On that basis, and given that the hon. Lady's amendment would not really achieve what she wanted to achieve, I urge her to withdraw it.

Pat Glass: I am happy to do that. I have made my point. We are going to talk about this collectively, and we will find a way forward. I just want to point out very clearly that the unreasonable refusal of childcare places for children with disabilities is covered in the Equality Act 2010 and the Disability Discrimination Act 1995, yet it still happens. We would not accept that if the child were black, or for any other kind of child. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 4, in clause 3, page 3, line 46, leave out subsection (3).—(Mr Gyimah.)

This amendment removes the provision which requires the Secretary of State to make provision, in regulations, to ensure that childcare is made available for parents who have alternative working patterns and during the school holidays.

Ordered, That further consideration be now adjourned.—(Margot James.)

1 pm

Adjourned till this day at Two o'clock.