

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### CHILDREN AND SOCIAL WORK BILL [*LORDS*]

*Fifth Sitting*

*Tuesday 10 January 2017*

*(Morning)*

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New clauses under consideration when the Committee adjourned till this day at Two o'clock.

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**Saturday 14 January 2017**

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**The Committee consisted of the following Members:**

*Chairs:* † MRS ANNE MAIN, PHIL WILSON

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

## 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 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 support the Minister's new clause because 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 come about because social workers, researchers and young people have told the Department for Education that authorising the use of secure units in Scotland for looked-after children from England and Wales 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 Kenmure 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 a comprehensive list.

**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 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 a 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 overflow, 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

(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."

*This new clause would give the Secretary of State a power to enable local authorities in England to test different ways of working under children's social care legislation for one of the purposes mentioned in subsection (1). Subsections (3) and (4) include safeguards on the use of the power. The power may only be exercised on an application by a local authority. See also the following, which are related: NC3, NC4, NC5, NC6, NC7, NC8 and NC9.—(Edward Timpson.)*

*Brought up, and read the First time.*

**Edward Timpson:** I beg to move, That the clause be read a Second time.

**The Chair:** With this it will be convenient to discuss Government new clause 3—*Duration*—

Government new clause 4—*Parliamentary procedure*—

Government new clause 5—*Consultation by local authority*—

Government new clause 6—*Consultation by Secretary of State*—

Government new clause 7—*Guidance*—

Government new clause 8—*Annual report*—

Government new clause 9—*Interpretation*—.

**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

[Edward Timpson]

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 be doing this or asking the Government, as they have, to support these new clauses in the their 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? Nagalro 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 Barnardo’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

[Mrs Lewell-Buck]

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 the Bill appeared. It said that exemption trials would offer

"a controlled environment in which we could enable local authorities to test deregulatory approaches that are not currently possible, before taking a decision to make substantial changes to existing legislation that would apply across the board."

Any proposed full repeal of legislation would have to come back to Parliament—I understand that—but for trials to have any credible and reliable influence on future legislation, they must be ethical and robust. Nagalro has correctly told us that if a local authority obtains an exemption, all the children in its jurisdiction will be subject to it whether they agree with it or not. They will have no individual say in the matter. What on

earth does the Minister envisage happening if some children who do not agree come back to a future Government and claim that they were treated wrongly compared with those in neighbouring authorities?

In "Putting children first", the chief social worker for children and families asserted:

"We must be enabled to use our professional judgment in flexible and creative ways, rather than having to follow a procedural path"

or a set of "legal rules." The chief social worker avoiding having to follow legal rules is concerning and not a positive message for social workers or those considering joining the profession. Who would choose to work in a local authority that has fewer duties to vulnerable children and young people than its neighbouring councils?

**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 those 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, adoption and 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 entrenches 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

Nagalro 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 out 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 if 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 a considerable time. Perhaps it is waiting until the Bill has passed through both Houses.

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.]*

**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 Bencher 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 bespoke integrity of my hon. Friend. New clause 6 clearly tells us of the new obligations on the Secretary 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; 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 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

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 defer 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 unsuccessfully 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 decisive 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—well, to be 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 absolutely fair that by negative or affirmative resolution there will be an opportunity for a small weighted Committee of Members of Parliament—like all Committees, its membership will be determined by the parliamentary majority—to determine that outcome. I would not want

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.

*[Edward Timpson]*

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—

11.25 am

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

*Adjourned till this day at Two o'clock.*