

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

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

*Seventh Sitting*

*Thursday 12 January 2017*

*(Morning)*

---

#### CONTENTS

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

---

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

**not later than**

**Monday 16 January 2017**

© Parliamentary Copyright House of Commons 2017

*This publication may be reproduced under the terms of the Open Parliament licence, which is published at [www.parliament.uk/site-information/copyright/](http://www.parliament.uk/site-information/copyright/).*

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

*Chairs:* † MRS ANNE MAIN, PHIL WILSON

- |  |  |
|--|--|
| † 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)   |  |
| † Hoare, Simon ( <i>North Dorset</i> ) (Con)           | Farrah Bhatti, Katy Stout <i>Committee Clerks</i>                          |
| † 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)         | † <b>attended the Committee</b>  |

## Public Bill Committee

Thursday 12 January 2017

(Morning)

[MRS ANNE MAIN *in the Chair*]

### Children and Social Work Bill [Lords]

#### New Clause 14

##### DUTY TO HAVE DUE REGARD TO UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

“(1) A public authority must, in the exercise of its functions relating to safeguarding and the welfare of children, have due regard to the UN Convention on the Rights of the Child.

(2) For the purposes of this section—

- (a) “public authority” has the same meaning as in section 6 of the Human Rights Act 1998, and
- (b) “United Nations Convention on the Rights of the Child” has the same meaning as in section 2A(2) of the Children Act 2004.—(*Mrs Lewell-Buck.*)

*Brought up, and read the First time.*

11.30 am

**Mrs Emma Lewell-Buck** (South Shields) (Lab): I beg to move, That the clause be read a Second time.

It is a pleasure to serve again under your chairship, Mrs Main. The new clause would place a duty on all public authorities to have due regard to the United Nations convention on the rights of the child when exercising all their functions. It would require public authorities to determine the impact of local service provision and decision making on the rights of children, and would provide a framework for public service delivery in relation to children.

Just last year, the UN Committee on the Rights of the Child, in response to the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, urged the UK to introduce a “statutory obligation” to consider children’s needs

“when developing laws and policies affecting children,”

because at present the Government have failed to give due consideration to the UNCRC when developing legislation. The UN committee found numerous examples of where children’s views were not systematically heard in policy making or by professionals, and where there was a lack of a statutory obligation systematically to conduct children’s rights impact assessments. It is little wonder, then, that we have ended up in a situation in which just under 4 million children in the UK live in poverty, or in which in England there are more than 70,000 homeless children, many of whom live in squalid temporary accommodation, or that we have seen reports of our children being among the most unhappy in the world.

The UK ratified the treaty in 1991, but has never gone so far as to enshrine it in domestic law. Instead, it has taken a sector-by-sector approach to implementing

the convention. The UN committee has rightly said that the Government must do more. It has called on them to expedite

“bringing...domestic legislation, at the national and devolved levels...in line with the Convention in order to ensure that the principles and provisions of the Convention are directly applicable and justiciable under domestic law.”

Incorporation through a duty on public authorities should enable the provisions of the convention on the rights of the child to be directly invoked before the courts, and ensure that it will prevail where there is a conflict with domestic legislation or common practice.

This approach also has the approval of the Joint Committee on Human Rights, which says that it would like the convention to be incorporated in UK law in the same way as the European convention on human rights has been incorporated by means of the Human Rights Act 1998—an Act that is under threat from this Government.

It is staggering that in Wales and Scotland a totally opposite approach has been taken. Instead of taking away children’s rights, Wales and Scotland have built on them, giving some statutory recognition to the convention. In Wales, Ministers are under a duty to consider or give due regard to children’s rights; and in Scotland, public authorities are required to report on steps that they have taken to secure children’s rights. It is clear that we lag behind our neighbours when it comes to legislative protections for children’s rights. It is wrong that they are becoming a postcode lottery. They should be offered universally, and we should be leading the way.

This topic was fastidiously debated in the other place at every stage of the Bill’s passage. The debates highlighted topics ranging from legal aid to deprivation of family environment to having a child’s best interests as the primary consideration. The topics covered every single right open to our children, and the *Hansard* transcripts show why that is so important. Although the Lords amendment was ultimately withdrawn after a commitment from Lord Nash to consider what further steps could be taken to embed consideration of children’s rights, UNICEF, the Children’s Rights Alliance for England and Labour Members feel that that falls far short of a robust and systematic approach to implementing the CRC.

The Minister will be aware that in 2010 a ministerial commitment was given that due consideration would be given to the UNCRC in all new legislation, that Cabinet Office guidance has been rolled out, and that recently the Department for Education’s permanent secretary has written to all other permanent secretaries regarding their obligations to the CRC. Last October, the Minister himself laid a statement urging all Departments simply to reflect on the committee’s concerns. However, the reality remains that a recent report by the Children’s Rights Alliance for England showed that only two of all the Government Departments were able to show how the UNCRC had developed policy or decision making.

The UNCRC is a groundbreaking treaty that acts as a creed of children’s rights. It is designed to promote the protection of our children worldwide. It is important to acknowledge those rights within the Bill, because they are too often overlooked or systematically violated in the UK. Children in our country are going without adequate food, clothing, housing and warmth—basic human rights.

In recent years, we have seen dramatic changes in the political landscape. The UK's decision to leave the EU has cast doubt on the continued enjoyment of many rights and entitlements and created uncertainty. If we do not act now and accept this new clause, we are saying we are happy with the status quo. In other words, we are allowing legislation to continue to be made that does not adequately protect and promote children's rights. In fact, we are often allowing legislation that does the exact opposite. I hope Committee members will agree to the new clause.

**Kate Green** (Stretford and Urmston) (Lab): I want to add a few remarks in support of the new clause, to which I added my name.

The recent conclusions of the UN Committee on the Rights of the Child identified where the UK has so far failed to put effective law, policy and resources in place to protect and promote children's human rights. The report of the Joint Committee on Human Rights on the Bill also concluded:

“the Government's assertion that legislation is already assessed for compatibility with the UNCRC is not borne out by the evidence.”

I am aware of concessions made by the noble Lord Nash during the passage of the Bill in the House of Lords, including commitments to raise awareness of the convention through Civil Service Learning and to hold a roundtable with civil society organisations over the course of this year. However, those commitments do not go far enough. They will not have the impact of a due regard duty in strengthening compliance with the convention across the board.

What Opposition Members are asking for is very simple. In order to ensure that a systematic and robust accountability mechanism is in place to take account of and protect children's rights now and in the future, we need to embed these rights within our own statutory body. We have these commitments under international law. We made them many years ago, as my hon. Friend the Member for South Shields pointed out. We profess to take them seriously in policy development, so I cannot see why we would not be prepared to reflect them in statute and to ensure accountability if the commitment is not borne out in practice.

Political commitments by this Minister and this Government will not be enough. Children cannot be put at risk by political cycles. Responsible Governments have to build on a framework of legislation that protects children for not only today but the future. Paying due regard to the UN convention sends a signal worldwide that we want to be better as a country at protecting children, and that means we are in a strong position to use our international influence with others while improving things at home.

A national approach to strengthening children's rights is a crucial foundation for ensuring every child everywhere can have a better life, but equally important is ensuring that those agencies children encounter on a day-to-day basis are also driven by respect for children's rights. Rights become most real for children at the local day-to-day level, in their homes, in their schools—I have seen some immensely impressive examples of rights-respecting schools—in their communities and through their contact with local services and practitioners.

A children's rights framework such as the one created by the new clause would embed the convention in children's services and other public authorities working with children and families, no matter where they are. It would enable public authorities to better safeguard, support, promote and plan for the rights and welfare of children in their area.

I would like to know what evidence the Government have that there would be difficulties with incorporating the convention into UK statute, that it would not be effective to do so or that it might turn out to be a box-ticking exercise. If the Minister has such evidence, perhaps he will put it before the Committee. My view is that the implementation of such a duty at a national level would rest with the Government and that ensuring that it is more than just ticking a box is therefore in their hands.

If the Government insist on pursuing a non-legislative approach to children's rights, will the Minister commit to introducing a comprehensive child rights framework across Government to improve on the current commitments and set out how that framework could have the same effect as a due regard duty? We need to understand how and, importantly, when such a framework will be introduced to ensure that children's rights are not forgotten once the opportunity presented by the Bill has passed.

**The Minister for Vulnerable Children and Families (Edward Timpson):**

I am grateful to Opposition Members for raising the important issue of the United Nations convention on the rights of the child, to which the Government are fully committed. We have already taken and continue to take steps to raise awareness of and strengthen action to promote the rights that the convention contains, as well as the safety and welfare of children more generally. Implementing the UNCRC has been a continuous process by successive Governments since its ratification in 1991, and we must never cease to look for new and better ways of promoting the rights and interests of children. However, the question is what the best way to achieve that is and what will have the most impact on changing behaviours and improving the way in which we consider children's rights in policy making.

The Government do not believe that introducing the duty set out in the new clause is the right way to achieve those goals. As has been mentioned, a UNCRC due regard duty was debated in the other place, where Lord Nash set out clearly the Government's position and why we think that such a duty is not the best way forward.

Our commitment to the UNCRC is already reflected in legislation. For example, the Children Acts 1989 and 2004 set out a range of duties to safeguard and promote the welfare of children. Section 11 of the 2004 Act places duties on a range of organisations, including local authorities, the police, health services and a variety of other agencies, to ensure that their functions and any services that they contract out to others

“are discharged having regard to the need to safeguard and promote the welfare of children”,

which is one of the key rights set out in the convention. In 2013, we issued statutory guidance to directors of children's services that requires them to

“have regard to the General Principles of the United Nations Convention on the Rights of the Child (UNCRC) and ensure that children and young people are involved in the development and delivery of local services.”

[*Edward Timpson*]

Recent legislation in the area—particularly the Children and Families Act 2014, which I took through the Bill Committee, as well as many aspects of this Bill—provides further examples of how we constantly seek not only to protect children’s rights but to enhance them. Ofsted plays a role in assessing the experiences of children and young people and testing the quality of support through the single inspection framework. The Children’s Commissioner has a statutory function of promoting and protecting the rights of children, having particular regard to the UNCRC. Those responsibilities and powers were strengthened in the 2014 Act.

So there is a lot in place already, but I agree with Opposition Members that there is more we can do. There is no doubt that introducing a duty is one of those options. The hon. Member for South Shields spoke about Scotland and Wales. Although they have ratified the convention, they have not incorporated it into their domestic law, as is the case in England. Both have more recently gone down the route of a “having regard” duty, but they have chosen significantly different approaches and it is still too early to understand fully what the consequences of those different approaches will be. However, I will continue to look carefully at their emerging impact and, having assessed that, will remain open-minded about the right way forward in due course.

Although we are not persuaded that the duty is the right approach, we agree on the need to focus on changing the culture so that officials and practitioners think about children and their rights as an integral part of their everyday work. In many ways, that is the concept behind the corporate parenting principles set out in clause 1. I want those who work with children, particularly those who work with the most vulnerable children, to recognise that that concept is a moral imperative and see the benefits of better policy and delivery that it will bring. As was pointed out by the hon. Lady, we issued a written ministerial statement in October last year. It is about changing culture across Government at both the national and the local level. We also responded to the UN’s concluding recommendations through that WMS and a letter from the permanent secretary to his counterparts across government. We are determined to follow through with a number of other significant measures designed to embed children’s rights in Whitehall and beyond.

11.45 am

First, as the hon. Member for Stretford and Urmston mentioned, we have introduced a programme to raise awareness of the UNCRC among civil servants and to increase understanding of what it means to have regard for the articles on carrying out public duties in relation to children. The programme will include a new core learning and development offer through Civil Service Learning, and an offer through the policy profession led by the director-general for children and social care and the chief social worker. That work is beginning now, and I expect to see the learning and development offer in place within six months. That goes further than any previous Government have in making the UNCRC an integral part of civil service development.

Secondly, we have made a commitment to work with the Joint Committee on Human Rights on how to

promote and embed good practice, including through the use of children’s rights impact assessments. As those develop, I am sure that Opposition Members will want to have further information about how they can be of benefit.

Thirdly, later this month the Department will host a roundtable with the likes of UNICEF and the Children’s Rights Alliance for England to explore how we can develop the framework of action for which the hon. Member for Stretford and Urmston was calling. We will have input from those who have the experience and expertise to support us to change behaviours and culture and to promote children’s rights in policy making both locally and nationally.

Fourthly, the Department will work with UNICEF—I have had an opportunity to meet it on a number of occasions recently—to spread best practice from local authorities that are effective in promoting children’s rights and in articulating the principles and values associated with such practice. We will also ensure that the next review of the statutory guidance, “Working together to safeguard children”—the main statutory obligations for those working with children in the care system and on the edge of care—looks at the underpinning principles and how those can be strengthened to reflect children’s rights.

We will, of course, continue to discuss and review progress with relevant non-governmental organisations as well—this cannot be the preserve of Departments alone—while also continuing to observe and assess the results of those various approaches to implementing the UNCRC, in particular in Scotland and Wales. As I said, we will keep an open mind on where we may be able to go further in the future. I hope that our comprehensive piece of work, hitherto unprecedented by a Government, will embed the UNCRC as deeply and as broadly as possible across government nationally and locally and that it will provide the reassurance that hon. Members are looking for.

**Kate Green:** I am very encouraged by much of what the Minister is saying and by the additional work to embed a framework to protect children’s rights. If, having done that and evaluated its effectiveness, the Minister thinks it is a very short step to adopting fully a duty to have due regard in law, would he be willing to consider doing so?

**Edward Timpson:** I have said that the process is ongoing. It has developed over many years, with Governments taking different approaches but all trying to improve our ability to respond to the convention in how we carry out domestic law in this country. I do not see that that process will ever have an end, so of course we need to remain open-minded about where we go in future. As things stand, we have set out a comprehensive programme of work, which gets to the heart of what will make a difference: that those charged with the responsibility of making or delivering policy have, at heart, an understanding and appreciation of children’s rights and an ability to have them at the centre of their thinking. I hope that that gives the hon. Member for South Shields a sense of the strong commitment of the Government to the UNCRC. I also hope that she will withdraw her amendment.

**Mrs Lewell-Buck:** I thank the Minister and am pleased that he has made some acknowledgement of the fact that the Government’s way is not working and that

there is more work to be done. I am happy to withdraw the amendment on the basis that my hon. Friends and I will be monitoring what the Government are doing very carefully. We look forward to a formal response to the UN committee's concluding observations, which I am sure the Minister will provide in due course. On that basis, I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

### New Clause 15

#### SIBLING CONTACT FOR LOOKED AFTER CHILDREN

“(1) In section 34(1) of the Children Act 1989, after paragraph (d) insert—

“(e) his siblings (whether of the whole or half blood).”

(2) In paragraph 15(1) of Schedule 2 to the Children Act 1989, after paragraph (c) insert—

“(d) his siblings (whether of the whole or half blood).”—  
(*Mrs Lewell-Buck.*)

*This new clause would ensure that children in care are allowed reasonable contact with their siblings.*

*Brought up, and read the First time.*

**Mrs Lewell-Buck:** I beg to move, That the clause be read a Second time.

This new clause relates to improving sibling contact for children in care. The Children Act 1989 requires local authorities to allow a looked-after child reasonable contact with their parents, but there is no similar provision for a looked-after child's contact with their siblings or half-siblings. Work by the Family Rights Group shows that half of all sibling groups in local authority care are split up and that those in residential care are even less likely to be living with their brothers or sisters.

The Children and Young Person's Act 2008 includes a duty on local authorities to place siblings together as far as reasonably practicable as that is generally the best option for them. I accept that in some cases, such as when there has been inter-sibling abuse, separation may be deemed necessary. However, the main barrier to siblings being placed together is a dire shortage of foster placements able or equipped to take sibling groups. Research has shown that the average number of sibling foster carers is one per local authority, and some have none at all. Even when there are sibling carers, there are no figures for how many siblings they can take. It could be a group of two, three, four or five.

That is the backdrop against which sibling contact is so important. If siblings cannot be placed together, they should have the same rights defined in legislation to have contact with one another as they do with their parents.

Many siblings who come from neglectful or abusive backgrounds often state that their only constant, positive and reassuring relationship is with their siblings. After all, they have a shared experience—and no matter how horrific it is, it is something only they truly know about. For a younger sibling, the older one is the only person who kept them safe. It is never appropriate for an older sibling to take on that role, but it is a fact that they often do.

Separating siblings in such circumstances can have consequences on placement stability and create anxiety for both the younger and older one. The younger may be worried about their new environment with strangers in an unfamiliar environment without their older protector, and the older may be in a similar situation, as well as

not knowing how their younger sibling is coping or who is looking after them. If siblings have known only adults who cause them harm, the initial days in placement until they feel safe with their new carers are the most precarious.

Efforts to increase the number of carers who will take sibling groups have not matched the scale of demand. As the number of children in care rises, it is unlikely that the number of carers will catch up any time soon. In this context, it is right that sibling contact is given the same prominence as parental contact. It cannot be right that our legislation gives more weight to a child's contact with those who may have or have caused them significant harm than with their siblings who are totally blameless.

Removing a child from a family home is one of the most traumatic and heartbreaking experiences for any children's social worker. It means that the relationship dynamics of working with a family to improve children's lives and to make sure they are protected from harm have reached crisis level. This may be an emotional overload for professionals, let alone the family, and often involves the police, violence, tears and aggression. The list goes on.

I recall from my own practice many occasions when I was left with a child alone in a car after the initial trauma of removing them, and having to explain to them at some roadside that not only were they going to be living somewhere else for a period that no one was sure about, but that they were going to be separated from their siblings. That is the most painful of all. No matter how the situation is explained, children often feel that that is the end—of not only their family, but their relationships with their siblings. As each child in a sibling group is dropped off at their respective placement, there is muted relief that they are safe, but deep sadness that they are completely alone.

The wheels of social services then spring into action. Solicitors for parents demand in court to have contact, as enshrined in legislation for parents, and that is arranged with urgency. In a resource-poor environment, what has to be done is often what is done first. Other issues, such as guidance that recognises the importance of maintaining contact with siblings, take a back seat and are deemed a lesser priority.

Many siblings see each other at contact with their parents, which can be three or four times a week for one hour, but they rarely have sibling-only contact. When they do, it will be monthly or considerably less often. Worse still, if that sibling is a newborn or not a full sibling, contact with their parents is separate and plans for their future are made separately. That breaks that early attachment between newborns and their elder siblings before it has fully developed, leaving an unimaginable feeling of loss for the siblings. However, the parents' contact with the newborn is upheld, even if all of the children could be reunited at home with their parents, or if they are placed for permanence together, which again brings more difficulties when settling into a new permanent home.

The sibling relationships of children from abusive homes are the most enduring. A recent Ofsted study found that 86% of all children in care thought it was important to keep siblings together in care, while more than three quarters thought councils should help to keep children in touch with their siblings. A recent Centre for Social Justice report stated:

[Mrs Lewell-Buck]

“One of our greatest concerns is that the bonds between siblings in care, which can lead to greatly valued lifelong relationships, are being broken.”

We all know that guidance is no substitute for a clear duty. While not everything can be in the Bill, if we really value and understand sibling relationships we should absolutely allow their voices to be heard in the legislation.

**Edward Timpson:** Again, I thank the hon. Lady for her amendment. I have a lot of sympathy for what she said and welcome many of the points she raised. Like her, I have extensive experience of situations in which decisions are being made about brothers or sisters’ futures together. Those are often difficult decisions, not only because of the circumstances in which those children happen to be, but often because of their complex family relationships.

The hon. Lady raised practical points about finding placements for them that meet all those children’s needs. I was chair of the all-party parliamentary group on looked-after children and care leavers before becoming a Minister, and I heard at almost every meeting of the need to listen to children who value their relationship with their sibling. I hope that most of us know from our own lives that it is our brothers and sisters who provide us with the most enduring relationships throughout our whole lives. Sibling contact can provide continuity and stability for a child—particularly those who are vulnerable at a time of uncertainty and, possibly, great change. It can help a child to maintain their identity in what could be an unfamiliar environment for them, and it can help to promote their self-esteem and provide them with additional emotional support.

I do not disagree with much of what the hon. Lady said. It is a matter of making sure that we have the balance right in legislation, so that those who are making those difficult decisions are able to do so against a backdrop of understanding the importance of those relationships for those children, but always in those children’s best interests. The new clause seeks to add an express duty to the Children Act 1989 for local authorities to allow a looked-after child reasonable contact with his or her siblings, which is absolutely right when it is in the best interests of the child.

I reassure hon. Members that that is already provided for under existing legislation, and any reading of case law, in *Family Law Reports* or elsewhere, will reveal that, in contact cases, sibling contact arrangements are carefully considered by the courts before they make a decision. Section 34(2) of the Children Act 1989 states:

“On an application made by the authority or the child, the court may make such order as it considers appropriate with respect to the contact...between the child and any named person.”

“Any named person” includes, as is well established in law, half and full siblings. Similarly, schedule 2(15)(1) to that Act requires local authorities to endeavour to promote contact between the child and any relative, friend or other person connected with the child if that is consistent with the child’s welfare and is reasonably practical.

Matters relating to sibling contact are also spelt out in the Care Planning, Placement and Case Review (England) Regulations 2010. If a child has a sibling for whom the responsible authority or another authority are providing

accommodation, and the children have not been placed together, arrangements must be made to promote contact between them, so far as is consistent with the child’s welfare. Also, matters relating to contact with parents and siblings must be included in a child’s placement plan.

12 noon

In my experience, where this process goes wrong is when there is practice on the ground that is not keeping pace with what the law requires and which cannot be fixed by trying to duplicate legislation that already exists. The legal framework for not only allowing contact between siblings but for placing them together where that is in their best interests is already comprehensive and clear.

At the review of a child’s care plan, consideration should be given as to whether sibling contact commitments in care plans have been appropriately implemented and whether the child is happy with the contact they have with their siblings. It should be checked that the child is happy with both the frequency and quality of that contact. Again, if the practice in this area is following the clear requirements, all of that checking should happen as a matter of course. However, where the practice is not following those requirements, it is a question of ensuring that the professionals who are there to ensure that a child’s views are taken into consideration are carrying out their duties effectively.

Furthermore, the care planning statutory guidance, which local authorities must act under, is unambiguous: the child’s views on sibling contact should be included in all assessments and reviews. We know that enduring relationships are often what gives people the resilience they need when things go wrong, so the importance of maintaining sibling contact for looked-after children cannot be underestimated. I hope that point comes out clearly from this debate.

Clearly, sibling contact has to be in the best interests of the children being looked after. I know from my time as a family law barrister and as a foster sibling that there will be circumstances when, as the hon. Member for South Shields said, sibling contact is not appropriate, but where it is appropriate it must be properly supported. The legislation that I have referred to provides for precisely the flexibility that is needed, on a case-by-case basis.

I have thought carefully about the hon. Lady’s proposition. What draws me back from it is the need to enable these decisions to be made on a case-by-case basis, with the flexibility that the court requires. The legislation that already exists ensures that, as Ofsted findings have shown recently, siblings are being kept together and placed without undue delay in most circumstances. There is good cause to believe that although there needs to be improvement in practice—I am happy at a future date to discuss with the hon. Lady how we can go about trying to do that—the legal framework in place is sufficient to ensure that sibling contact is being properly considered at every stage of a child’s involvement with both children’s services and the court process.

On that basis, I hope that I have sufficiently reassured the hon. Lady for her to withdraw her amendment.

**Mrs Lewell-Buck:** I thank the Minister for that response. However, I am a little disappointed that although he says he has sympathy and understands what I am proposing,

and he has quoted some provisions, he knows all too well—as well as I do—that in a resource-poor environment what is an absolute must is what is done, and that sibling contact, including half-sibling contact, is given lesser weight than other issues.

My new clause would allow case-by-case consideration, so I am really disappointed that the Minister does not support it. I want to have further discussions with him, but I also want to press the new clause to a vote, because it is a simple amendment that would remedy some big problems that children face right now. I am really disappointed that it is not being supported.

*Question put, That the clause be read a Second time.*

*The Committee divided: Ayes 4, Noes 8.*

### Division No. 15]

#### AYES

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

#### NOES

Caulfield, Maria	Syms, Mr Robert
Fernandes, Suella	Timpson, Edward
Hoare, Simon	Tomlinson, Michael
Merriman, Huw	Whately, Helen

*Question accordingly negated.*

### New Clause 16

#### NATIONAL OFFER FOR CARE LEAVERS

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

- (a) in regulation 102(2)—
  - (i) in paragraph (a) after “18 or over” insert “and paragraph (b) does not apply”;
  - (ii) in paragraph (b) after “16 or 17” insert “or is a care leaver within the meaning given by section 2 of the Children and Social Work Act 2016 and is under the age of 25”;
- (b) in regulation 103(2)—
  - (i) in paragraph (a) after “18 or over” insert “and paragraph (b) does not apply”;
  - (ii) in paragraph (b) after “16 or 17” insert “or is a care leaver within the meaning given by section 2 of the Children and Social Work Act 2016 and is under the age of 25”;
- (c) in regulation 104(2) after “18 or over” insert “and section (3) does not apply”.
- (d) in regulation 104(3) after “16 or 17” insert “or is a care leaver within the meaning given by section 2 of the Children and Social Work Act 2016 and is under the age of 25”.

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

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

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

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

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

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

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

#### “Care leavers

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

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

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

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

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

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

*Brought up, and read the First time.*

*Question put, That the clause be read a Second time.*

*The Committee divided: Ayes 4, Noes 8.*

### Division No. 16]

#### AYES

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

#### NOES

Caulfield, Maria	Syms, Mr Robert
Fernandes, Suella	Timpson, Edward
Hoare, Simon	Tomlinson, Michael
Merriman, Huw	Whately, Helen

*Question accordingly negated.*

### New Clause 17

#### PRE-PROCEEDINGS WORK WITH FAMILIES

‘In section 47 of the Children Act 1989 (local authority’s duty to investigate) after subsection (8) insert—

“(8A) Where, as a result of complying with this section, a local authority conclude that a child may need to become looked after in order to safeguard and promote their welfare, the local authority must, unless emergency action is required—

- (a) identify and consider the willingness and suitability of any relative, friend or other person connected with the child, to care for them as an alternative to them becoming looked after by unrelated carers; and
- (b) offer the child’s parents or other person with parental responsibility a family group conference to develop a plan which will safeguard and promote the child’s welfare.”—(*Mrs Lewell-Buck.*)

*This new clause would ensure effective work is undertaken with the family so that all safe family options are explored at an early stage of intervention.*

*Brought up, and read the First time.*

**Mrs Lewell-Buck:** I beg to move, That the clause be read a Second time.

The new clause would ensure that effective work is undertaken with families so all safe family options are explored at an early stage of intervention. I know that some social workers already do that—I was one of them—but the introduction of a 26-week timetable for care proceedings and strict case management guidance for courts means that once care proceedings are under way, it can sometimes be too late for potentially suitable kinship carers to be considered and assessed.

I recall receiving a case where multiple family members had not been approached to care for a child who had been in foster care for two years and in multiple placements. The plan for that child, which the court had indicated it approved of and all parties in the proceedings bar the parents agreed upon, was adoption. I appeared before the court and pleaded with the judge for the proceedings to be halted to allow for proper family exploration. It turned out that there were suitable family members, and after intensive and complex work, that child was able to go and live with extended family and maintain contact with their wider family.

The new clause would make that kind of work standard, saving unnecessary heartache and pain and the disruption that can be caused by fostering and care proceedings, not to mention the staggering cost to the public purse. The absolute worst case scenario of a child being adopted when there are family members who are willing to love and care for them might also be avoided.

In answer to a recently parliamentary question, the Minister revealed that 73% of children in a kinship care foster placement had previously experienced a looked-after placement. Although we do not and cannot know the circumstances of every child in that cohort, that means that 73% of children in kinship care may have gone through being removed from their parents—their primary carers—and placed with strangers when there were family members out there who were willing to care for them.

If more extensive work had been done by children's services, such as offering family group conferences or investigating wider families, such traumatic events for children could and would have been avoided. Leeds City Council is leading the way in demonstrating the benefits of family group conferences, but the Family Rights Group has found that 25% of local authorities neither run nor commission such conferences, and among the 75% that do, Leeds is unusual in routinely offering them.

Sir James Munby, the president of the family division, recently said that the care system was

“facing a crisis and, truth be told, we have no very clear strategy for meeting the crisis.”

Child protection inquiries are increasing, and the number of new care proceedings, which is at a record level, continues to rise. New care applications increased by 21% between April to November 2015 and the same period in 2016. As of March last year, there were more than 70,000 looked-after children in England—the most since 1985. Those numbers suggest that we are missing opportunities to safely avert the need for some children to come into care. Placing a child in care, even when it is for their own protection and completely the right thing to do, can have a profound impact on their mental and

emotional wellbeing, not to mention their overall development. It always should be a last resort. If we agreed to the new clause, the premise that it is a last resort would only be strengthened.

**Kate Green:** I rise to add briefly to my hon. Friend's remarks. The Minister will be aware of the rise in the number of care proceedings initiated—my hon. Friend alluded to that—and the disparity in outcomes for different ethnic groups. There are much higher instances of children from certain ethnic backgrounds being in care compared with the population as a whole.

I particularly draw the Minister's attention to the appalling outcomes for Gypsy, Traveller and Roma children. I have been looking at the figures for March 2011 to March 2015. They show that the number of looked-after children from Irish Traveller backgrounds rose from 50 to 90. The number is small, but the increase is large. For Gypsy and Roma children, the number rose from 90 to 250 children over that period. That is an increase of 177% in the number of Gypsy and Roma children in care, which is shocking when compared with the overall rise in the number of children in care.

Gypsy and Traveller family networks are exceptionally strong. Family is very important to those communities, so it particularly concerns me that we are seeing such high numbers of those children being taken into care when it seems likely that family members could in many cases provide suitable care for those children. That would enable them to maintain links with their communities, heritage and families.

While I appreciate that we are talking about a small number of children in the grand scheme of things, it is a vulnerable group of children who suffer particularly poor outcomes. I hope that the Minister will acknowledge the opportunities that exist for family care for those children and undertake to look with colleagues at what can be done to improve their chances of remaining in family care.

**Edward Timpson:** The new clause would insert a new subsection into section 47 of the Children Act 1989. My understanding from what the hon. Member for South Shields said is that the first part of the new clause would require local authorities to

“identify and consider the willingness and suitability of any relative, friend or other person connected with the child”

who may need to become looked after before starting formal care proceedings. I agree that children and young people should be supported to maintain relationships with relatives and friends where that is possible and in their best interests. Such relationships are often crucial in providing continuity and preserving the child's sense of belonging to a wider family network.

The statutory guidance already requires local authorities to consider relatives and friends as carers at every stage of the decision-making process. Section 22C of the 1989 Act provides that where a child is looked after and not able to live with a parent or other person with parental responsibility, local authorities must give preference to a placement with an individual who is a relative, friend or other connected person. The individual must

be a local authority foster carer in order to ensure that they can provide the high-quality care and support that the child needs.

The court orders and pre-proceedings statutory guidance and the care planning, placement and case review statutory guidance, which accompany the 1989 Act, reinforce that position. Local authorities must demonstrate that they have considered and, where appropriate, prioritised family members at each stage of the decision-making process and at the earliest opportunity. In addition, existing secondary legislation allows local authorities to place a looked-after child with a relative, friend or other person connected with the child for up to 16 weeks, even if that person is not a local authority foster parent. That allows the child to be placed with that relative, friend or other connected person until they become a local authority foster parent or other more permanent arrangements can be made. In such circumstances, the local authority must have assessed the suitability of the relative, friend or connected person and be sure that the arrangements will safeguard and promote the child's welfare and meet the child's needs as set out in the care plan.

The second part of the new clause would require local authorities to offer a family group conference to those with parental responsibility for the child before starting formal proceedings. The court orders and pre-proceedings statutory guidance is clear that local authorities should consider referring the family to a family group conference service if they believe there is a possibility that the child may not be able to return to their parents. Promoting the use of interventions at the pre-proceedings stage is important, and we are committed to doing so. For instance, we have previously funded the Family Rights Group to develop family group conference services, working with local authorities across the country, including North Yorkshire, Essex and Lancashire. We have also provided £4.85 million of funding to Leeds City Council, as the hon. Member for South Shields referred to, through the children's social care innovation programme, to embed restorative practice across its children's services, including by introducing an entitlement to family group conferences.

12.15 pm

The evaluation of the project will include looking at the extent to which the family group conference model has been established and whether the outcomes achieved may be spread more widely across the system. We believe, however, that local authorities are best placed to decide the circumstances in which a family group conference should be offered.

We are able to know whether local authorities are making progress on this important matter, because all Ofsted inspection reports look at it and challenge poor practice where they find it. For example, in one local authority Ofsted found:

“The creative potential of family group conferences to explore and develop family-based solutions is not being fully realised.”

It has also found examples of good practice. For example, it found that Cheshire West and Chester

“assisted families to make informal appropriate arrangements within the wider family to avoid the need for the child to become looked after by the local authority”.

We need to improve that local practice everywhere. Ofsted inspectors are challenging poor practice where they find it, an important legal framework is already in

place and local authorities are improving their practice. We need to meet the challenge of ensuring that, when a case eventually comes to court, every effort has been made to ensure that families have had an opportunity to demonstrate that they can care for a child, as is set out in the Bill. That care might be from an individual or a group of family members, as I have seen when I have taken cases through the family courts.

I will look at the issue raised by the hon. Member for Stretford and Urmston in relation to Gypsies and Travellers. I am aware of the point she made and I am happy to discuss it with her further. Clearly, any case that comes to court is the result of a decision made by the tribunal as to whether the threshold has been met and whether an order is necessary. That is irrespective of the background of the child and the community they might have come from. We are talking here about what happens before then, and some of the decisions made by local authorities in that context. It is a serious area that we need to look at, and I am happy to do so. If the hon. Lady has any further information that she would like to share with me, I would be happy to receive it.

I hope that, on that basis, the hon. Member for South Shields will feel able to withdraw the new clause.

**Mrs Lewell-Buck:** I thank the Minister for that response. I hope that when we next meet to discuss all the matters he has committed to discuss with myself and others on the Bill, he is open to exploring how often this situation occurs, because the example I gave is not isolated. If the Minister is prepared to explore further incidences such as I have raised, I would be happy to withdraw the new clause.

**Edward Timpson:** As I indicated, I always have an open-door policy, and this is no exception. Because it is an area that both of us, as Minister and shadow Minister, have cause to remain interested in, it makes perfect sense for us to continue that dialogue beyond this Committee.

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

*Clause, by leave, withdrawn.*

### New Clause 18

#### ASSESSMENT OF PHYSICAL AND MENTAL HEALTH AND EMOTIONAL WELLBEING NEEDS

“(1) In section 22C of the Children Act 1989, after subsection 11 insert—

“(11A) Regulations made under subsection (11) must make arrangements for—

- (a) the assessment of a looked after child's mental and physical health and emotional wellbeing needs, and
- (b) the assessment of the mental and physical health and emotional wellbeing needs of relevant and former relevant children.

(11B) Subsection (11A) shall come into force at the end of the financial year ending with 31 March 2019.”—  
(*Tulip Siddiq.*)

*This new clause requires the Secretary of State to make regulations for mental health assessments for looked after children. A time delay in commencement is included to allow time for the pilots to be completed before details of the regulations are decided.*

*Brought up, and read the First time.*

**Tulip Siddiq** (Hampstead and Kilburn) (Lab): I beg to move, That the clause be read a Second time.

**The Chair:** With this it will be convenient to discuss new clause 19—*Duty to promote physical and mental health and emotional well-being*—

‘(1) In section 22 of the Children Act 1989, in subsection (3)(a) at end insert—

“(3D) The duty of a local authority under subsection (3)(a) to safeguard and promote the welfare of a child looked after by them includes a particular a duty to promote the child’s physical and mental health and emotional wellbeing.

(3E) For the purpose of supporting a local authority in discharging its duty under subsection (3D), each clinical commissioning group must appoint—

- (a) at least one registered medical practitioner, and
- (b) at least one registered nurse,

for each local authority with which any part of the clinical commissioning group overlaps.”

*This new clause would improve the outcomes for looked after children through a clarification of duties of cross agency working between local authorities and health partners, by elevating the roles of designated doctors and nurses into primary legislation.*

**Tulip Siddiq:** It is a pleasure to serve under your chairmanship, Mrs Main, and to speak to new clauses 18 and 19. Following the Prime Minister’s announcement that she wants to employ the power of Government to deal with mental health problems across society, I hope that these new clauses will not prove contentious to the Minister and Government Members.

According to the Care Quality Commission’s report last year, “Not seen, not heard”, almost half of children in care have a mental health disorder. Worryingly, the Department for Education’s report on young people leaving care shows that they have five times the risk of a suicide attempt of their peers. We tabled new clause 18 because we believe that mental health assessments are important tools for identifying mental health conditions early. Barnardo’s has made the point over and over that mental health needs must be met early to avoid crisis points.

Last year, the Government argued that automatic mental health assessments for children in care and care leavers would be stigmatising, and that it would not be appropriate for them to have mental health assessments at a given time. We have taken that on board. Bearing in mind what the Government have said about stigma, our new clause does not propose automatic mental health assessment for all children in care and care leavers at a specific time. Instead, we simply seek to ensure that the changes to mental health provision are supported by primary legislation.

By agreeing to the new clause, the Minister could ensure that the Government give mental health priority at every level, and that the Bill covers children in care and care leavers. New clause 18 would allow the Government to incorporate the outcomes of the recently announced mental health assessment pilots into regulations, and I hope that he will support it.

The same goes for new clause 19, which would improve outcomes for looked-after children by clarifying the duties for cross-agency working between local authorities and health partners and elevating the roles of designated professionals into primary legislation. Children in care and care leavers need someone who can ensure that health and social care services meet their particular mental health and wellbeing needs. Children in care currently have a designated doctor and nurse tasked

with assisting local commissioners in addressing the health needs of looked-after children in their area, but the problem is that their exact responsibilities are unclear. Many local areas struggle to fill posts, and where posts are filled, professionals report that they are unable to influence planning decisions.

The Alliance for Children in Care supports stronger requirements for the role of designated doctors and nurses for looked-after children, as they believe that would begin to address current shortcomings and enshrine the role of designated professionals in legislation. I hope that the Minister will listen to the experts and the views that I have outlined and support the new clause.

**Edward Timpson:** I thank the hon. Lady for raising the important issue of the mental health and emotional wellbeing of looked-after children and care leavers. Improving mental health services and support for all children and young people is a priority for the Government. As she reminded the Committee, on Monday 9 January, the Prime Minister announced that the Department for Education and the Department of Health would work together to produce a Green Paper on the mental health of children and young people. That Green Paper will consider specifically how to build on what has already been done since “Future in Mind” to bring together a practical strategy for improving specialist mental health services, as well as how to improve preventive activity to help and support children and young people from nought to 25 years.

The paper will cover all relevant parts of the system—not just health but the care system, schools, universities and families. I agree that looked-after children and care leavers should receive the best possible assessment of their needs and then the necessary mental health support, but unfortunately, we know that not all such young people experience the best possible response. I have seen at first hand, both in my constituency and in my previous practice, how transformative timely and high-quality mental health support can be. Sadly, I have also seen the consequences where that is not provided.

However, improvements to mental health assessments are unlikely to be delivered by additional legislation; it is better practice on the ground that will deliver a better response to children’s needs. There are already legal requirements for health assessments, covering both physical and mental health, for looked-after children on their entry into care. Under the Care Planning, Placement and Case Review (England) Regulations 2010, all local authorities must set out a care plan for looked-after children, which must include a health plan setting out what arrangements the authority will make to meet the child’s health needs. A child’s health is expressly defined as including emotional and mental health.

To help inform the health plan, local authorities are required to carry out a statutory health assessment for all looked-after children on entry into care. It must be carried out by a registered medical practitioner and must address physical, mental and emotional health. Guidance from the medical royal colleges sets out the knowledge, skills and competences needed to undertake the assessments. Department for Education and Department of Health statutory guidance on care planning and promoting the health of looked-after children emphasises the importance of mental health, developmental milestones and social and relationship skills, which form part of a statutory health assessment.

Although the law and statutory guidance are clear, I share the concerns of the hon. Member for Hampstead and Kilburn about the quality of the initial health assessments for looked-after children and about whether in practice enough importance is placed on mental health needs. We listened to the issues raised by the Select Committee on Education, organisations such as the National Society for the Prevention of Cruelty to Children, and Baroness Tyler and other peers. As a consequence, we have announced that we will establish pilots to test new approaches to mental health assessments for looked-after children.

I am happy to reiterate that commitment today. Initial meetings have already taken place among DFE, Department of Health and NHS England colleagues, who will take forward that work with a view to beginning pilots in April or May. The pilots will give us an opportunity to test and explore a range of approaches, building on the findings of the Education Committee and other research in this area. We may, for example, look at the skills and training of those carrying out healthcare assessments, and particularly at assessment methods and identification tools, and models of multi-agency working. I am also keen that children and young people themselves help to shape the pilots and inform best practice in this area.

Alongside the pilots, the expert working group on the mental health of looked-after children provides a huge opportunity to improve the mental health support that children in care receive. How looked-after children's mental health is assessed is a focus for the group, crucially alongside the services that are put in place to support those children. The expert group is looking not only at entry into care but at suitable assessment support as a continuum across the child's life. That includes the support that they receive on leaving care, including through routes such as special guardianship or adoption.

It is important that we do not pre-empt the group's findings. Legislating before the expert group's report and the pilots would risk tying the Government to a legislative option that may not make the tangible improvements to services that young people need. At worst, it would stymie the ability to use the findings from the expert group and the pilots in the best way possible for children and young people. We are committed to acting on those findings. Should they recommend that further legislation is needed, the Government will of course consider introducing it at that point. I appreciate that the hon. Lady's new clause would come into force after the pilots have finished, but it simply duplicates what is already set out in law. In our judgment, what is needed is a change in practice on the ground, not in legal requirements.

Turning to the needs of former relevant children, looked-after children should have a review of their care plan, including their health plan, prior to leaving care. Consideration of their health needs, including mental and emotional health, should already be part of the review. We know from young people themselves that one of our priorities needs to be to get the transition between child and adolescent mental health services and adult services right. To improve practice regarding that transition, in December 2014 and January 2015, NHS England published new service specifications for commissioners, giving guidance and best practice on the transition from children and adolescent mental

health services to adult services or elsewhere. Those specifications intentionally do not stipulate an age threshold for transition. They state that transition should be built around the needs of the individual, rather than their age.

I turn briefly to the proposed duty on local authorities to promote looked-after children's physical and mental health and emotional wellbeing. There is an existing statutory duty under the Children Act 1989 to safeguard and promote the welfare of looked-after children. Promoting a child's health is an integral part of promoting their welfare, and the regulations and statutory guidance on care planning are explicit that health includes mental and emotional health.

In addition to what I have already set out, we have further strengthened the legal position by making explicit reference to physical and mental health in the corporate parenting principles in clause 1. A Government amendment in the other place on the subject has been widely welcomed. It means that all local authorities in England will be required to have regard to the need to promote the physical and mental health and wellbeing of all looked-after children and care leavers. I hope that reassures the hon. Lady enough that she will be able to withdraw her new clause.

**Tulip Siddiq:** I thank the Minister for his response. The trials and pilots are a welcome step forward. With some reluctance I will withdraw the new clause, although it would clarify the exact positions of the designated professionals and put a little more practice into looking after a vulnerable group. Opposition Members will keep a close eye on this matter, because the Government's record on mental health in all areas so far has been appalling. However, I will withdraw the new clause, because I appreciate the points about defining what the trials cover and the outcome of the pilots that he proposes and the Green Paper. I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

## New Clause 21

### DESIGNATED SUPPORT FOR FAMILY AND FRIENDS CARERS

“(1) In the Children Act 1989, after section 17ZI insert—

“17ZJ Designated support for family and friends carers

Each local authority must appoint at least one person as a designated lead for family and friends care, to co-ordinate the provision within their area of family and friends care support services.””  
.—(*Mrs Lewell-Buck.*)

*This new clause would provide kinship carers, council staff and other agencies with clarity as to who is the named senior manager with responsibility for family and friends care in the authority and who has responsibility for ensuring that the local authority complies with family and friends care guidance.*

*Brought up, and read the First time.*

12.30 pm

**Mrs Lewell-Buck:** I beg to move, That the clause be read a Second time.

It is me again, Mrs Main—[HON. MEMBERS: “Hear, hear!”] The new clause provides that every local authority should designate a lead person who has responsibility for family and friends carers. As the Minister knows,

[Mrs Lewell-Buck]

there are a multitude of arrangements whereby a child may be cared for by extended family or friends. At times there will be no or limited involvement from children's services in some of those arrangements. That can make it difficult for carers to know who to turn to should they need help or advice or if their situation changes. Having a senior lead manager within local authorities who can ensure that the authority is effectively meeting its responsibilities to all children in family and friends care and complying with statutory family and friends care guidance is important.

DFE statutory guidance on family and friends care states:

"The Director of Children's Services should identify a senior manager who holds overall responsibility for the family and friends care policy. He or she will need to ensure that the policy meets the statutory requirements, and is responsive to the identified needs of children and carers."

However, a 2015 study by the Family Rights Group examined 53 English local authorities' family and friends care policies and found that one third made no reference to a senior manager with such responsibility. The new clause seeks for that to be a duty in primary legislation. It should not be an additional burden on local authorities as they should be complying already. In areas where that is not already common practice, the clause would provide family and friends carers and others clarity on who to contact. The duty already exists for adoption; adoption support services legislation states that an adoption support services adviser, whose role is to give advice both to adopters and to the local authority about adoption support and services, needs to be in place in each local authority. I can see no reason why other permanent carers of children under arrangements other than adoption should not be afforded the same support.

**Edward Timpson:** I am afraid it is also me again, Mrs Main—[HON. MEMBERS: "Hear, hear!"] I was not trying to tee that up, but I am grateful to my hon. Friends for their response. I am also grateful to the hon. Member for South Shields for the proposed new clause, which would introduce, as part of the Children Act 1989, a new requirement on local authorities to appoint a designated lead for family and friends care who would be responsible for co-ordinating the provision of family and friends care services within their area.

I am sure we all recognise and appreciate the valuable contribution made by family and friends across the country who care for children who, for whatever reason, cannot live with their parents. It is important that all family and friends carers are aware of and able to access support services so that they can provide the high quality care that children require. Our statutory guidance on family and friends care already requires local authorities to publish a policy setting out their approach to promoting and supporting the needs of all children living with family and friends carers. The policy must be updated regularly and made available widely.

Importantly, the statutory guidance clearly states that a senior manager must hold overall responsibility for family and friends care to ensure that the local authority's policy meets the identified needs of children and carers. As such, I do not believe it is necessary to appoint a designated lead for family and friends care. Such a requirement would be over-prescriptive and would reduce

the ability of local authorities to respond to local needs in the way they consider best.

To ensure that local authorities are fulfilling their duties properly, I wrote to all directors of children's services in October last year. In my letter I reminded them of their duty to have an up-to-date and comprehensive family and friends care policy, as well as a senior manager with overall responsibility for the policy that others would be aware of. I asked them to send a web link to that policy, and the details of their named lead, to the Family Rights Group. I will ask officials for an update from the Family Rights Group to ascertain how the situation appears as regards the details we have requested.

In addition, we provided £150,000 of funding to Grandparents Plus and three partner organisations in 2015-16 to develop an early help model for family and friends carers, to ensure that they are aware of, and can get access to, the support they need. The model includes website materials and bespoke training for professionals. I believe that that is the approach that is required. I have had the opportunity to have several meetings with the Family Rights Group during the passage of the Bill, and remain open to further constructive discussion about what more we can do with the group to improve practice on the ground. I hope that the hon. Lady is reassured that in the circumstances she can withdraw her new clause.

**Mrs Lewell-Buck:** I was pleased to hear about the Minister's proactive engagement with the Family Rights Group on the issue, and beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

## New Clause 22

### EXTENDING PLACEMENT ORDERS TO SPECIAL GUARDIANSHIP ORDERS

"In the Adoption and Children Act 2002, after section 21, insert—

"21A Placement orders: special guardianship orders

(1) In this section a placement order is an order made by the court authorising a local authority to place a child, whom that local authority has decided should be placed under a special guardianship order, with any prospective special guardian who may be identified by the authority.

(2) A "prospective special guardian" is a person who is entitled to apply for a special guardianship order with respect to a child under section 14A(5) of the Children Act 1989.

(3) The court may not make a placement order in respect of a child unless—

- (a) the child is subject to a care order,
- (b) the court is satisfied that the conditions in section 31(2) of the Children Act 1989 (conditions for making a care order) are met, or
- (c) the child has no parent or guardian.

(4) The court may only make a placement order if the court is satisfied—

- (a) that no other permanence order is appropriate and that only a special guardianship order will meet the needs of the child, and
- (b) in the case of each parent or guardian of the child—
  - (i) that the parent or guardian has consented to the child being placed under a special guardianship order with the prospective special guardian identified by the local authority and has not withdrawn consent, or

- (ii) that the parent's or guardian's consent should be dispensed with.

This subsection is subject to section 52 (parental etc consent).

(5) When making a decision in any proceedings where the court might make a placement order, the court must apply the welfare checklist under section 1(4) of this Act and must consider the whole range of powers available to it in the child's case (whether under this Act or the Children Act 1989), including making no order.

(6) On the making of a placement order and until such an order is revoked—

- (a) any existing child arrangement or supervision order ceases to have effect,
- (b) no other order may be applied for, and
- (c) a care order is suspended.

(7) A placement order continues in force until—

- (a) it is revoked under section 24,
- (b) a special guardianship order is made in respect of the child, or
- (c) the child marries, forms a civil partnership or attains the age of 18 years.”—(*Mrs Lewell-Buck.*)

*This new clause would extend the provisions for placement orders under section 21 of the Adoption and Children Act 2002 to special guardianship orders.*

*Brought up, and read the First time.*

**Mrs Lewell-Buck:** I beg to move, That the clause be read a Second time.

The new clause would extend the provisions for placement orders under section 21 of the Adoption and Children Act 2002 to special guardianship orders. I have argued in discussion with the Minister at various times that there is a need for special guardianship to have the same status as adoption. Children who are placed with members of their wider family under SGOs have had the same difficulties as those placed for adoption. Often, they may never before have met the members of the wider or extended family with whom they are placed, and they may move to another part of the country, as is the case with adoption.

Unlike what happens with adoption, however, because there is no severance of parental rights many children under special guardianship maintain contact with their parents. The parents could have harmed them in some way—hence their removal from their care in the first place—so special guardians, in many instances, have even more difficulties than adopters. They must manage complex family relationships while attempting to build a relationship with the child in their care. I assure the Committee that that is far from easy.

That is why it is vital that when SGOs are made it is on the same robust terms as adoption, and there should be a requirement, as with adoption, for thorough and robust assessment, including placing the child with the new carers to assess the suitability of the placement. Only when those requirements are satisfied should the matter return to court, so that the applicants can be supported in the making of the SGO.

At present there is no comprehensive legal requirement for anyone to conduct a full, thorough assessment of a potential special guardian. The court can make the orders of its own volition. Statistics published by the Department for Education show that 3,830 special guardianship orders were made in the year ending 31 March 2016. The total number of SGOs granted has come close to doubling since 2010 when 1,780 were made. I

have stated before in the House that because the process of applying for an SGO is less stringent and because an order can be made without any testing of the placement, meaning that that the process is less arduous and time-consuming than adoption, SGOs are being misused.

I know that the Department has already done some work to look at that, but I am not aware of any figures on SGO breakdown. However, I know anecdotally and from practice that it can be common, yet such an outcome can cause immeasurable harm to all those involved. A clear lesson learned from fostering and adoption is that the assessment process allows families the opportunity to conclude that it is not the right course of action for them. Under the current SGO arrangements family members are far too often hurried through an assessment process that allows insufficient time for proper assessment, and allows them no time to reflect on their commitment to a life-changing and lifelong decision.

In recent years the Government issued a statutory instrument requiring greater attention to be paid when reports on special guardians are prepared for the court to the needs of the child and to the potential of the special guardian to meet them in the short term and throughout the child's life. However, that is clearly not enough. Courts are not allowed to make adoption orders easily, and they should not be allowed to make SGOs easily. That approach has widespread support from the family judiciary, the Children and Family Court Advisory and Support Service and many directors of children's services. Knowing the Minister's professional background prior to coming to this place, I would be very surprised if he was against this new clause.

**Edward Timpson:** I thank the hon. Lady for tabling the new clause, which seeks to improve decisions about whether to place a child under a special guardianship order. I recognise the problems that she is trying to address and agree that we need to improve decision making about permanence options for children who cannot live with their birth parents. Indeed, that is exactly what clause 8 seeks to do—to improve permanence decision making. Uncharacteristically, I not only agree with the synopsis of the hon. Lady but would say that in some ways, she has gone further than I would in trying to resolve the issue. Clause 8 is part of trying to do that. As Andy Elvin of the Adolescent and Children's Trust—TACT—said:

“All of this is eminently sensible. In practical terms it will raise the evidential bar for all care planning. The biggest impact, rightly, will be on special guardianship order assessments.”

That needs to be addressed because, as the hon. Lady set out, we have seen an exponential rise in the use of special guardianship orders without confidence in the assessment process to establish whether the carer named in the order has sufficient ability to look after that child and meet its specific needs for the duration of its time in their care, up to the age of 18. Clause 8 seeks to look at the longer-term requirement.

**Mrs Lewell-Buck:** I am not entirely clear where clause 8 refers to special guardianship orders. If the Minister could clarify that, it would be helpful.

**Edward Timpson:** Under clause 8, when a court is making a decision about a child's future permanence arrangements, whatever order that may be under, it has

[*Edward Timpson*]

to consider the child's long-term needs and the abilities of the carer. The carer may be a long-term foster carer or a special guardian, or the child may be returning home, but they have to demonstrate the qualities and abilities necessary to meet that child's specific needs in not only the immediate but the long term. That is an important distinction.

As the hon. Lady said, one concern is that some assessments for special guardianship orders have been cursory at best. That has led, in some cases, to the breakdown of the placement. We all know that that is the worst possible outcome for the child involved. We carried out an important piece of work with those in the court system, in children's services and in the charitable sector to understand what was driving those decisions and the breakdown of those placements. Our response was to tighten up and make more stringent the assessment process required before someone is approved as a potential long-term carer for a child under a special guardianship order.

The hon. Lady asked about evidence on breakdown rates. I recall that Professor Julie Selwyn from Bristol University carried out an extensive piece of research a couple of years ago, which showed that the breakdown rate for special guardianships was around 6%—double what it was for adoption. I know the figure for those returning to care was much higher, and I can share that with the hon. Lady once it is to hand.

There is cause to look at rectifying that and coming up with the right approach. We must ensure that in doing so, we give the court the tools it needs to make not only the right decision but a timely one. However, I am not convinced that the approach the hon. Lady proposes in the new clause is the right way forward. I want to take a few minutes to explain why so that she is fully aware of the reasons we do not support the amendment.

**Mrs Lewell-Buck:** Does the Minister not agree that it is important that an SGO placement, as it is the same as an adoption, has an opportunity to be tested to avoid further breakdowns? The Minister quoted Andy Elvin from TACT; the new clause has the support of TACT.

12.45 pm

**Edward Timpson:** I am aware of that. Mr Elvin is also very supportive of the changes we are making in clause 8. It is worth reminding the hon. Lady that I do not think there is the universal support for the new clause that she suggested. There are mixed views about what the right approach is and that is why we need to tread with some caution on the way forward.

The majority of special guardianship orders are given to carers with whom the child is living. They are cases where the child already has that relationship or is already in a caring situation. For the few who are not, the proposal would provide an opportunity, as the hon. Lady has said, to test the special guardianship placement in practice and allow the special guardian to reflect on the additional responsibilities they are taking on.

In some cases, that is very sensible. However, we believe that there is already sufficient flexibility to allow for that in the current system if a local authority and court believe that more time is needed to carry out a full assessment of a potential special guardian. Without

boring the Committee too much about my previous life at the Bar, I recall a number of cases where there were adjournments of hearings in order for that to take place. Courts have the right to adjourn care proceedings to allow more time for an assessment to take place.

Although we have encouraged courts to complete care proceedings within 26 weeks, the rules are clear that this time can and should be extended where it would be in the interests of children to do so. In many cases, that happens where a potential special guardian has been identified late in care proceedings. We hope that the emphasis now on more pre-proceedings work will ensure that there are fewer cases where at the last minute a new potential carer comes forward.

Other courts have granted care orders to allow the local authority to place the child with a foster carer or kinship carer who is a potential special guardian—that is another route to test a placement—and the special guardianship order is then applied for after the child has lived with the carer for a few months and after a full assessment of their parenting capacity and skills has been carried out.

Although good decision-making is crucial, I am not persuaded that the introduction of a new special guardianship placement order is the best way forward. Indeed, there might be some risk that an order of that kind could encourage delay or instability, if courts and local authorities were to use it as an opportunity for a trial period for an arrangement that has little potential to succeed. That could cause harm for the child in the long term, if they move to a new placement.

In agreeing with the hon. Lady about the synopsis, we part ways somewhat when it comes to the solution. As she has acknowledged, we are already making changes through regulation and in the Bill to ensure that any assessment for a potential carer as a special guardian is as robust as it would be for any other placement. We know that we need to try to improve the long-term stability of those placements to avoid the unnecessary breakdown that we are seeing in some cases. On that basis, I hope that the hon. Lady will agree to withdraw the new clause.

**Mrs Lewell-Buck:** The Minister is consistent in disappointing me today. He said that the majority of SGOs are where children are already living with their carers. What about the minority? Surely they deserve the new clause to be in place, because one placement that breaks down for any child is devastating and we should not be allowing it to happen. I will therefore press the new clause to a vote.

*Question put, That the clause be read a Second time.*

*The Committee divided: Ayes 4, Noes 8.*

#### **Division No. 17]**

#### **AYES**

Debonnaire, Thangam  
Green, Kate

Lewell-Buck, Mrs Emma  
Siddiq, Tulip

#### **NOES**

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

Syms, Mr Robert  
Timpson, Edward  
Tomlinson, Michael  
Whately, Helen

*Question accordingly negatived.*

### New Clause 23

#### STANDARDISATION OF LOCAL ARRANGEMENTS FOR SAFEGUARDING AND PROMOTING WELFARE OF CHILDREN

'The safeguarding partners for a local authority area in England must make arrangements for—

- (a) safeguarding partners and relevant agencies, where appropriate, to work across and with multiple local authorities, and
- (b) a minimum local standard setting out allowances, support, training and terms and conditions for foster carers."—(*Mrs Lewell-Buck.*)

*Brought up, and read the First time.*

**Mrs Lewell-Buck:** I beg to move, That the clause be read a Second time.

This new clause seeks to set out a minimum standard of allowances, support, training and terms and conditions for foster carers. The current crisis in foster care is the result not only of chronic underfunding but of a fatally broken system. The phrase "postcode lottery" is often overused, but in fostering it is all too true whether someone is a child in care or a foster parent giving that care. The levels of support, allowances, services and terms and conditions differ greatly from local authority to local authority and that is before we even factor independent agencies into the mix.

Too many foster carers receive no, or below the minimum, allowance. Some local authorities fail to offer any financial support through sickness. Entitlement to annual leave varies greatly between local authorities—some offer 28 days per year, some carers have less and others have no entitlement at all—and whatever currently exists is being eroded as local authorities face continued cuts to their budgets. Nobody in this room would accept employment terms that meant our pay, leave or levels of support depended solely on where in the country we worked. We should not expect that of foster carers who provide such a valuable contribution to society in caring for our most vulnerable children.

The new clause addresses the lottery for foster carers, while making the most of resources and providing a more stable system for looked-after children. If the Government seriously want to address the fostering crisis, they need to offer stability and consistency. If councils were able to offer standardised terms, foster carers could then move freely between councils, which would make the most of all spare beds available and therefore reduce the need for expensive independent agencies. If all council foster carers were treated the same, they would have the security to stay in the profession long-term, cutting recruitment costs and, more importantly, offering greater stability for children.

We all agree that foster carers truly are a great asset doing a very difficult job, but it is no good paying lip service to them—we need to recognise that officially. As one foster carer told the GMB trade union:

"We are always on duty, it is a profession in which we work 365 days, and 24 hours a day. It is nowhere near the government minimum wage in fact at my rate it is £1.65 per hour so no one can say we do it for the money."

Foster carers are doing a job and should be classified as professionals. The first step towards that is access to standardised terms and conditions with pensions, sick pay, skills payments and access to trade union representation.

**Edward Timpson:** Again, I thank the hon. Member for South Shields. I agree with the new clause in its entirety that, where it is appropriate, safeguarding partners and relevant agencies should work together across more than one authority area. That is provided for in clause 21 of the Bill. I suspect that the fact the hon. Lady did not refer to elements of that in her speech suggests that she is not pushing that issue.

Cross-area working relationships can also be beneficial in respect to arrangements made to support foster carers. We recognise the challenging but valuable and rewarding role that foster carers have, and the positive impact that they make to the lives of many vulnerable children and young people. My own parents fostered for more than 30 years, so I am fully versed in not only the demands of foster care but the huge benefits that it can bring not only to the children being looked after but to the foster family themselves.

I have no doubt that all such foster carers, some of whom were recognised in the new year's honours list only a few weeks ago, are among the most impressive people. They give up not only their time, but their homes and often their lives in order to look after children who have no blood connection to them. Whether through altruistic tendencies or a need to reach out, they feel a strong urge to be there for those children, often in difficult circumstances. We recognise the challenge, and it is important that all foster carers are seen as a key part of the team working with a child. They should receive the right support and training to meet the emotional and physical needs of the children in their care.

Regulations, statutory guidance and the national minimum standards apply across England. They make it clear that fostering service providers should make available the training, advice, information and support that foster carers need to look after the children placed with them. That includes practical, financial and emotional support. Fostering services are, however, given some flexibility to deliver in a way to best meet local need. The Government also recommend a national minimum allowance for foster carers. It is for the fostering service to decide the payment systems, but we expect all foster carers to receive at least that allowance, and many receive more.

We recognise, however, the need to keep the fostering system under review. That is why we have committed to undertake a national fostering stocktake. As the hon. Member for South Shields is aware, the stocktake will be a fundamental review of the whole fostering system. It will consider, among other issues, the allowances, support and training that foster carers receive.

The stocktake will be an opportunity to examine many of the issues that the hon. Lady has raised, as well as local variations in practice, and to identify good practice—for example, in how local authorities work with other agencies to recruit and support foster carers. The movement is national and needs a national response. Crucially, the stocktake will help us better understand what changes are needed, and identify practical next steps to bring about sustained improvement to the foster care system. We will work closely with all partners to understand how best to improve outcomes for children in foster care.

We have already begun work on the stocktake. We have started a thorough analysis of available data and statistics. Alongside that, we have commissioned a literature

[*Edward Timpson*]

review of all the available evidence on foster care. Both those pieces of work will be completed in the first quarter of 2017. Further information, including the launch of a call for evidence, will also be published in the next few months.

I share the hon. Lady's commitment to ensure that foster carers are valued, for both personal and professional reasons, and that the right support is in place. We now have an opportunity for her and other colleagues to contribute to the stocktake, to ensure that we continue

to support what I think is one of the most precious roles in our society, and one that we should help to nurture for the future of vulnerable children in our care.

**Mrs Lewell-Buck:** Given the Minister's comments, I beg to ask leave to withdraw the motion.

*Clause, by leave, withdrawn.*

*Ordered,* That further consideration be now adjourned.  
—(*Mr Syms.*)

12.57 pm

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