Amendment 33

Moved by ***Baroness Young of Hornsey***

33: After Clause 7, insert the following new Clause—

"Care leavers' access to personal information

(1) It shall be the duty of every local authority and voluntary organisation that looks after or provides accommodation for a child or young person to maintain such records as prescribed by regulations.

(2) Regulations under subsection (1) may provide for the transfer of records held by a voluntary organisation comprehensive information from the records relating to their personal history, family background and time in care.

(3) A care leaver has the right, at his request, to receive from the local authority or voluntary organisation comprehensive information from the records relating to their personal history, family background and time in care while they were a looked after child or young person, and such information will include personal sensitive data and also identifying information about other family members, acquaintances and significant others.

(4) Subsections (1) and (3) do not apply to a request for information in circumstances where the local authority or voluntary organisation is authorised by regulations to withhold the information or any part of it.

(5) Local authorities and voluntary organisations have a duty to provide appropriate and reasonable support on request, including information and advice, along with explanations of the process of redaction, the offer of appropriate counselling and access to intermediary services to care leavers having received their care records.

(6) The regulations may provide for the circumstances in which the local authority or voluntary organisation holding the records may arrange for another local authority or voluntary organisation near the care leaver's home to provide access to the records and support.

(7) In this section, "care leaver" refers to a person aged 16 and over who, while they were a child or young person, was in the care of or looked after or accommodated by a local authority or voluntary organisation.

(8) It shall be a defence to any allegation of unlawful disclosure of data under the Data Protection Act by the data controller, if it can be shown that the data controller has made a reasonable examination of the data and has satisfied himself as to the need to disclose data and identities of individuals whose consent has not been obtained under section 7(4) of the Act having regard to the needs of the care leaver as set out elsewhere in this Act."

Baroness Young of Hornsey (CB): My Lords, I start by declaring an interest as someone who has had direct experience of the childcare system and of accessing social services care records.

This amendment is informed by the experience of care leavers and by professionals in the Access to Records campaign group, which comprises, among others, the Care Leavers' Association, the British

Association for Adoption and Fostering, the Association of Child Abuse Lawyers, the Childcare History Network, the Post Care Forum and Barnardo's and is also supported by the charity TACT.

Whether they have spent all or part of their childhood and/or adolescence in the care system, for too many the current system simply is not working in a consistent, helpful way. At the moment, care leavers apply under the Data Protection Act for access to personal information held in care records, but unfortunately the DPA is often misinterpreted by local authorities, with some organisations severely restricting the information made available. There are too many examples of care leavers receiving such incomplete and heavily redacted records that their case histories are rendered virtually meaningless. Furthermore, the service given by local authorities is erratic and inconsistent: some are enabling and supportive while others are bureaucratic and obstructive. Some seem so concerned about negligence claims and media headlines that their position is defensive from the very beginning.

The relationship between practice and legislation was brought up in discussion on the previous amendment, and it is key here, too. Our argument is that, although there are regulations and guidelines in place, they are not working sufficiently well. Before I go into the detail of the amendment, I want to say something about the rationale behind it.

Many of the points made by the noble Baroness, Lady Hamwee, last week in relation to Amendment 25 resonated with me, because very similar issues concerning identity, belonging and knowledge of family history are relevant to this amendment. The question, "Who am I?", is fundamental; it is a question necessary for us to recognise our sense of self and our status as a distinctive and unique human being. We understand that responses to that question are highly complex: we are the sum of our experiences and memories, and of what other people tell us and how they respond to us. Some experiences are indelible and remain with us through memory; some experiences, even though they are an essential part of our experience of the world, may none the less be forgotten, especially if they have produced trauma of one kind or another.

If you have been brought up in care, you come to think about what kind of person you are and where you have come from, asking, "Who am I?". However, these questions may be unanswerable. Who is there to tell you at what age you accomplished something or about a specific difficulty you had, or the circumstances of your early life? How is it possible to

accumulate the kind of knowledge about yourself that people brought up in conventionally caring situations take for granted? It may be your story and your journey but it seems to belong to the state in the form of records, whether they are hand-written, type-written or whatever.

Several thousand people ask to see their records and many of these requests come from people in their middle or later years. The lifelong needs of adult care leavers are at least as pressing as those of adults who have been adopted, although this is rarely recognised in respect of access to care records and the aftermath. The DPA enables care leavers to see personal information about them on their care files. The problem is that

when asking a local authority to see these files, care leavers' experiences range from a response which is at best enabling and supportive and at worst bureaucratic, restrictive and inconsistent with the corporate parenting role. There are some examples of good practice but we want the Government to ensure that local authorities work with the Information Commissioner's Office to enable care leavers to have all the personal information they are entitled to, and to exercise their discretion regarding third-party information in a less restrictive way.

As I have suggested, despite the requirements already in place, we think that the standard and quality of case-record keeping is not consistent across the children's services sector. Organisations need to be mindful of keeping older records safely and under secure conditions, whether they are paper, scanned or microfilmed. We have heard too many instances where organisations with poor archival records and retrieval systems respond to the care leaver's request for personal information with a statement that the files or records cannot be found, without any sense of the profound impact that that can have on the post-care adult. Without support, the persistence necessary to obtain care files places a substantial psychological and emotional burden on the individual, who may already be very isolated. Even if they are not isolated, the impact of disturbing revelations can have repercussions on current relationships and families.

We also need to make sure that we can track where records have moved to: for example, a children's home might have been closed or a voluntary organisation wound up or absorbed into another organisation. Not being able to find records on that basis is also frustrating and works against care leavers. Regulations could provide a framework for the coherent transfer of care records systems across childcare service providers.

Our evidence suggests that the response from the authorities is often not focused on the rights and needs of the individual care leaver. Again, this echoes other points that have been made in respect of children. Although we are clearly talking here about adults, they still have rights and needs as care leavers that are not being respected by the rather defensive attitudes often displayed by local authorities, which seem to be worried about potential criticism or fearful of litigation.

Similarly, when it comes to sensitive personal data, care leavers can find that many data controllers interpret existing provisions narrowly and that the information withheld significantly reduces clarity about the information they want to access. There are circumstances where organisations can withhold information, and there are plenty of guidelines on that. However, again we come to this point: they are not being implemented consistently or necessarily in the best interests of the adult care leaver who is seeking to find out more about their past, particularly when it comes to relatives. Even if somebody gets hold of their care records, there is then the issue of whether they understand how and why the data controller has made decisions about what information is provided and about what has been withheld, redacted or left out. In relation to that, there is also the need for

adult care leavers to at least be offered the opportunity to have some kind of support in going through what is often a difficult situation to navigate.

We understand that some data controllers feel nervous about making disclosures of a sensitive nature that particularly affect other people's personal backgrounds—for example, a mother or father or other relative—and we want to make sure that data controllers have adequate protection in such circumstances, hence the latter part of the amendment. To summarise, care leavers seek information about their past for all kinds of reasons. It may be that they are starting a new relationship or becoming a family, or perhaps they have been bereaved.

I should like to give a flavour of the experiences of some adult care leavers who have been in touch with, particularly, the Care Leavers' Association. In one instance, a care leaver—let us call him Arthur—wanted to connect with his records because he was coming to a new phase in his life. He was told that he had come into care because his mother was admitted to hospital but he was not told why. It was considered that the reason for her admission was private and that he had no right to know. It turned out that his mother had suffered from a long-term, severe mental illness.

A second example is of a social worker who took a boxful of records, unsorted, and handed them over to someone on their doorstep and went away again. So there was no support or help through that difficult situation at all.

Another care leaver said:

"I am now at the stage in my search of having applied to Council X three times, Council Y once … Council Z and Council Q as well as making numerous Freedom of Information requests about the children's homes and other institutions I was kept in as a child".

Again, the implication of this is that if your own family and children ask you, "What was it like? Where are the photographs of you? What was your family like?", and you do not have that information, having to persistently knock on the door can be very debilitating.

The Care Leavers' Association says:

"Care Leavers above a certain age are … a largely invisible group whose rights and needs to access basic information about their family background and childhoods are continually being denied. This discrimination needs to be addressed to ensure that they can access crucial information that may profoundly affect the decisions they make in life. Care leavers' fundamental human right to access their social care files should be recognised in legislation and fully supported so that they can make sense of their past and go forward into the future".

I beg to move.

Baroness Massey of Darwen: My Lords, I strongly support the amendment of the noble Baroness, Lady Young. This is a very important issue. I applaud her efforts in challenging the current problems for care leavers in accessing their records and I respect her poignant experiences and her descriptions of the loss of identity, the "Who am I?" and the journey.

The treatment of care leavers can be about blatant discrimination and defensive responses. I have been told by two people how much distress and frustration this has caused them. As the noble Baroness said—I want to underline some of these matters—there are many forms of such discrimination. Those that I have

heard of relate to organisations which have poor information, or have a reluctance to seek out information and respond that the records cannot be found—that they have lost the records. In one case, I heard that records had been moved. As the noble Baroness said, children's homes close and organisations merge. Where do these records go? How does the care leaver find them? What help is there for them to find them?

Some local authorities or voluntary organisations become defensive or evasive, despite the fact that a care leaver has the right to access personal information. The request for information may also involve another person who has to give permission, although it may be deemed possible to give the information without permission, but some organisations which control those data may interpret the rules very narrowly. I know of one person who is still trying to access information after a year of trying. Redaction of records may occur, as the noble Baroness said. In this case, surely local authorities and voluntary organisations should provide explanations and offer counselling and support to those who receive their care records.

There needs to be flexibility about who can provide the information. People change residence. It should be possible for another local authority or voluntary organisation near where the care leaver lives to provide information and support the care leaver. People who have been in care may be desperate to access information about their life—just as

those who have been adopted may wish to access records. To remove part of someone's life history is surely cruel and unnecessary. I look forward to the Minister's response.

5.15 pm

The Earl of Listowel: I rise to strongly support the amendment moved by the noble Baroness and to speak to my Amendment 41. I support the amendment because of the importance of human curiosity. In recent child case reviews commentators have criticised professionals because they simply were not curious. They did not ask, "Why was this child bruised?" Why did somebody not ask why the child kept coming back? They complained about the lack of curiosity among professionals. When Anna Freud, back in the 1930s, spoke to teachers about how to be a good teacher, she said that the most important quality was curiosity. She said, "We need you to be curious about the child, think about where he is, where he is going, and how to get the child to go there".

Curiosity is so important and is reflected in our culture. If we think about the stories from Genesis or of Michelangelo's most celebrated works of art, they are about where we come from? Another example is Haydn's "Creation". We are fascinated about our origins. The noble Lord, Lord May, is absent now, but he knows that we spend billions on finding out about the origin of the universe. How did we come into being? I am concerned that to deny young people the opportunity to find out where they come from is a way of undermining and frustrating their curiosity. It is a way of stifling their wishes and interest in the world if you say, "No, you can't know where you come from; no, we will not help you with that". This weekend I was looking at some photographs of my father from the 1950s which

I had never seen before. I found them inspiring. I very much identify with the concerns of the noble Baroness and it was a privilege to hear her talking about her own experiences in this area. I hope that the Minister will give a sympathetic reply to her amendment.

My amendment deals with support for young people leaving the care system and allowing all young people to have access to personal advisers up to the age of 25. Currently, past the age of 21 it is restricted to young people in training and education. I give the example of a young man, Ashley Williamson, who is a care leaver of 21 or 22. He left care at the age of 16. I have met him on a number of occasions recently. He has chaired the All-Party Parliamentary Group for Children and Young People in Care; he has provided advice on matters around sexual exploitation of children in children's homes; and he left care himself at the age of 16 and wanted nothing more to do with the system. He washed his hands and went on with his life. However, at the age of 20 he connected with his local authority again and asked for help. He found a fantastic personal adviser who was very supportive and helped him to get a fantastic home for himself. Now, in his early twenties, he has a good, solid base. He has been very helpful to me and I am sure he will be helpful to other young people in care because he is articulate, intelligent and thoughtful and has had that experience.

For so many young people, early trauma means it takes them longer to do what many of our own children might do. Give them the time to make mistakes and then to realise they need to come back and ask for help. If I remember the story correctly, a young man who was a foster child of a social worker, Kate Cairns, was, as the age of 19 or 20, in prison and addicted to very nasty substances. He was a very difficult person to deal with and yet, 10 years later, at the age of 30 he had his own family, was employed and was providing for his children. Given time, he changed.

Let me give more detail on this amendment. Most people continue to receive love, advice and, perhaps, financial assistance from their parents into their adult lives and the average age for a young person leaving home is 26. However, young people in the care system are often thrust into instant adulthood at just 16 and, like most 16 year-olds, they tend not to have the life skills to be able to cope independently at this age. Of course, they often find adult life especially hard due to the traumatic childhoods they have endured. So young people leaving the care system are disproportionately more likely to end up getting involved in crime and drug abuse and very often struggle to achieve good qualifications. Our failure to help this group of people, for whom we have a clear responsibility, leads not only to personal tragedy but to great cost to society.

At present, young people leaving the care system are designated personal advisers and have pathway plans drawn up for them. These help to smooth their journey to adulthood but, at present, are only available until they are 21 unless they are in education or training. Young people who are not in training or education also need support. I recommend that personal advisers be made available to young people up to the age of 25, whether or not they are in education or training. These young people need that kind of support

even more. This would ensure that vulnerable young people leaving the care system receive the ongoing support and advice that other young people receive from their parents and take for granted. I look forward to the Minister's response.

Lord Northbourne: My Lords, I am not going to make a speech but I strongly support the noble Baroness, Lady Young. The more I learn about and think about disadvantaged young people, the more I realise that the question they are always asking themselves is, "Who am I?". Their second question is "Am I a person who could succeed?". Some of your Lordships may remember the two Ofsted reports about schools which were outstandingly successful although the children were from very disadvantaged backgrounds. The three principal things those schools had in common were: outstanding leadership, very committed staff and, thirdly, every child believing that they could succeed.

Baroness Stedman-Scott: My Lords, I beg to move Amendment 45, which has three parts.

The Countess of Mar: My Lords, I am sorry to interrupt the noble Baroness, but may I suggest that she does not move it at this stage but speaks to it and that she does not move her amendment when it is called? She does not withdraw it at this stage either?

Baroness Stedman-Scott: Thank you. This is the first time I have done this. Forgive me, I will start again.

I will speak to Amendment 45, which has three parts. It seeks to ensure that children leaving care have the best possible support into adulthood. I strongly support the points made by the noble Earl, Lord Listowel. If every young person had a personal adviser to take them on their journey from youth to adulthood, our hearts would sing. Indeed, as I said to the Minister on a visit last week, we would think we had died and gone to heaven because of the difference we could make to their lives.

I strongly support Amendment 38, tabled by the noble Earl, Lord Listowel, to allow young people to remain in foster care until the age of 21. This amendment is vital as it gives looked-after young people stability into adulthood and allows them to keep the relationship they have built up with their foster carer over many years. The more support they have, the better the outcome and the more hope for their future.

However, I also worry that this measure cannot provide an answer for all looked-after children, particularly the most vulnerable. For this reason, I have tabled three supplementary amendments. These are probing amendments intended to question inconsistencies in our current policy towards children leaving care.

I declare an interest as the chief executive of Tomorrow's People. Day after day, young people who have not made that transition come to us. We have to try to rebuild their lives, put them back together and get them on the right path. The cost of this is extensive, whereas if we spent the money earlier it would be better for them and for the country.

14 Oct 2013 : Column GC160

I shall speak, first, to Amendment 45A. This would guarantee to young people who make an early exit from care at 16 or 17 the ability to return to a foster or residential care placement if their return home or move into independent living breaks down. At present, the door closes behind care leavers when they exit care early, allowing no recognition that this may be a mistake. It is crucial that we give young care leavers the safety net that all other young people enjoy.

I am aware that under the Children Act 1989 local authorities must already accommodate any 16 or 17 year-old who is homeless. However, at present the law does not require that the accommodation has a supported element. This means that if a young person leaves care at 16, returns to their birth family and the placement breaks down, as an estimated 50% of returns home do, there will be no entitlement to return to foster or residential care. Similarly, if a young person decides to move into independent living and struggles

to live alone and manage a tenancy, he or she is likely to be given a place in a hostel or a new flat when what is really needed is a more supported option.

Young people who leave care at 16 and 17 are extremely vulnerable. They are the most likely to have incomplete education, be unemployed, have unstable housing and experience drug and alcohol misuse. I know that the law has previously recognised this fact as the Children and Young Persons Act 2008 states that children should not leave care before 18 unless they are deemed ready by an independent reviewing officer. The logic of this is that if a child is under 18 and not ready to live independently we must continue to support them. For children who have left care and shown that they are not ready to live independently, the same logic must apply. It is not unreasonable that we should try to guarantee these very vulnerable young care leavers the chance to return to a supportive environment.

The second amendment I shall speak to is Amendment 45B. This aims to question how we treat children leaving residential care. Amendment 38, tabled by the noble Earl, Lord Listowel, would extend foster care to 21. While this has received national funding for pilots, had explicit backing from the Children's Minister and is already in some stage of implementation at local authority level, there has been no mention of what happens to the roughly 2,500 children who exit residential care every year. This is a very vulnerable group of young people with challenging needs. For example, 62% of young people in children's homes have "clinically significant" mental health difficulties, and 74% of young people in children's homes have been reported to be violent or aggressive in the past six months. These young people are the most likely to struggle to sustain a tenancy and live independently yet they are also the most likely to make an early move to independent living. Currently, more than half—56%—of children in residential care leave care at 16 or 17 and the remainder will leave on their 18th birthday.

On moving to independent living, they lose both the supported environment and the relationships that they have built up with their carers. It is crucial that we

offer children in residential care the same opportunities that children in foster care have to remain supported until 21.

5.30 pm

I understand that there are barriers to extending residential care—primarily the cost of such provision. When I am doing my work at Tomorrow's People, people come up with many ideas and the first thing that other people say is, "Oh, we can't afford it". If we talked about that before we talked about the solution, we would never do anything. The Minister knows that I am absolutely sure that there are more innovative funding models to enable that provision to be put in place. I stand ready to do anything I can to make that happen because the costs of abandoning these young people are likely to be far higher. This is a probing amendment motivated by a pressing problem. We wish to hear the Government's views on how we can support children leaving residential care.

Finally, I shall speak to Amendment 45C. This amendment would ensure that local authorities provide all care leavers with the resources to stay in a new foster, residential or semi-independent placement until 21 if they wish to do so. It is aimed at care leavers who are not able to stay in a former foster or residential placement but still wish or need to be supported. Although remaining in a former care placement is likely to be the ideal option for many looked-after young people as it preserves existing relationships with carers, this is not always possible. Rather than forcing young people who are unable to remain in their current placement into independent living, the opportunity of a supportive placement should still be offered.

The new supportive placement could be a semi-independent placement, such as supported lodgings or university-style accommodation. On some occasions, it could be a new placement in residential or foster care. What is important is that we find the right options for all care leavers. Whether it is remaining in a former placement or finding them something new, none should be left unsupported.

I appreciate your Lordships' willingness to consider these amendments in the context of the Bill so that we can extend the logic of the noble Earl's amendment on remaining in foster care, as I stated at the outset. To sum up, these are our most vulnerable children whom we cannot allow to fall through the loopholes of provision.

Baroness Hamwee: Perhaps I may briefly put on record my support for the amendments, in particular for that of the noble Baroness, Lady Young. It struck me, listening to those who spoke in support of it, that we are talking about not casual interest but real need on the part of the children and young people concerned. It is important to understand that.

Baroness Howarth of Breckland: Perhaps I may say something briefly, going back to the amendment of the noble Baroness, Lady Young of Hornsey. What has happened to good recording? In the distant past when the Data Protection Act came into being, I was involved in writing some of the guidance—it is such a

long time ago that I do not think I have a copy of it or any reference to it—about how data should be made available and where we should redact the information that should be kept separate. Good recording demanded that there were separate parts to the record which were absolutely clear and identified, so that if there was an appeal, someone could look at the separate parts of the record.

What has happened, I ask the Minister and local authorities, to personal story books? What has happened to the need to keep packs of photographs, which used to happen when I was in children's departments and, early on, in social services? What has happened to those good social workers who shared their recording? I shared my recording with those people I was working with, so they had a copy—unless there was a child protection issue which could not be shared. Therefore you asked other people involved for their permission at the time to share information.

Some of those principles of recording have been lost over time. Perhaps Ofsted could look at the principles of recording these days. I am not saying that it is a simple issue. It is not; I understand how complex it is; but I think that some of the basic principles have been lost. If we returned to some of those, the issue would not be a forward issue. Clearly we have an issue going back for those people who find themselves unable to access records. I have seen records which are so redacted that they are unintelligible. I have had to go through them as an information officer. I felt so strongly about the professional issue that I wanted to intervene briefly.

Baroness Howe of Idlicote: My Lords, I congratulate the noble Baroness, Lady Young, on her brilliant exposition of her amendment and the reasons behind it. Others have said better than I can how impressed they were with it.

However, I also want to congratulate the noble Baroness, Lady Stedman-Scott, because her amendments are all very important. I hope, too, that if they are put to the vote they will receive the support that the amendment of the noble Baroness, Lady Young, obviously will get. I hope very much that they are supported.

The Earl of Listowel: My Lords, I omitted to comment on the amendments of the noble Baroness, Lady Stedman-Scott. I support her welcome amendments. Of course, children in residential care are among the most vulnerable. Unfortunately, the way it works is that there tends to be a placement in foster care and, if that does not work out, then it is in residential care several broken placements down the line. So the ones with the most complex needs are often in residential care and they need the most support.

I welcome what the noble Baroness has said. There is an issue about price and other issues around it. One solution offered by Jonathan Stanley, a former chief executive of the National Centre for Excellence in Residential Child Care, is to pair up young people in residential care with foster carers so that—one can do a staying-put—one can ensure that there is a seamless move from a residential setting to a foster setting for at least some of these young people to the age of 21.

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Norfolk is a very good exemplar of break-home practice. There they have supported housing right by the children's home so that there is little movement for the children and they can feel in touch with the staff in their old setting. The noble Baroness has made some extremely important points and I look forward to hearing the Minister's reply to her concerns.

Baroness Benjamin: My Lords, I support the amendment of the noble Baroness, Lady Young. I would like to draw the Committee's attention to the case of a young man I know who was brought up in care for many years. For the first 49 years of his life he kept wondering who he was and where he came from. This affected his relationship with his children—when he eventually had children—and with his wife, who had to deal with his depression. He had a loss of confidence, did not believe in himself and did not feel

worthy. After much searching he eventually found out who he was and it completely changed his outlook on life. It changed his mental well-being. He got a better understanding of who he was and started to accept his situation in life. That is why I believe that it is an abuse if we deny any young person information which can help them come to terms with their identity, culture and background if they wish to do so.

Baroness Jones of Whitchurch (Lab): My Lords, we have had a good debate and I do not intend to talk at any length. However, I wish to make a few quick points.

First, obviously, I welcome and endorse the points made by the noble Baroness, Lady Young. She made an eloquent speech last week about the importance of identity and she has raised the issue in a helpful way today in a different but complementary context. It is no doubt important for children as they are growing up and becoming fully rounded adults to know about their history. It is their history and it is their right to have access to it. We all accept that point.

The second point to make is that we have talked about children and young people leaving care but very often adults can be well into middle age before they really begin to question their identity and want to search for that information. That provides a particular challenge for the people who keep the data because we are talking about keeping it for a very long time. Nevertheless, it is still people's right to have access to it.

To pick up on a point made last week by the noble Baroness, Lady Hamwee, about people in care who had been bereaved, having lost their parents, one would have hoped that somehow or other we could have lined up all these rights to information and brought them together. We are talking here about the same sorts of issues coming up in a number of different contexts. I would have hoped that somewhere in the midst of all that would be a universal right to that information and that we could address it in that way rather than in a piecemeal way.

Thirdly, I was alarmed to hear noble Lords today talking about data being lost, or indeed being dumped on a doorstep. There is a real issue here concerning the

security of the information. It is rather alarming, and I absolutely agree with the noble Baroness, Lady Howarth. What has happened to all those accurate expectations of privacy and security and of records being kept properly? You cannot help but wonder whether there is going to be a scandal at some point with all this stuff coming to light, having been left on a rubbish dump somewhere. I do not think that anybody here has a sense of reassurance that this information is being kept securely in a proper place. Perhaps the noble Lord could address that and say what the requirements are for keeping the information secure.

I should just like to add my support for the amendment. The noble Baroness has raised a very important point, as have the noble Earl, Lord Listowel, and the noble Baroness,

Lady Stedman-Scott. In particular, I hope that we will get a chance to debate the whole question of staying in foster care until the age of 21. I know that my noble friend Lady Hughes will respond in more detail on that but I want to pick up one point which the noble Baroness touched on concerning the distinction between foster care and residential care. Clearly, there is a distinction and we have to be careful not just to lump the two issues together. There is a difference for young people leaving residential care, which is, after all, still formally an institutional provision. What those young people really need is a phased transition to independence, rather than just the requirement to stay on until they are 21. They need help over a period of time to find their feet and to find independence. Therefore, while the noble Baroness raised absolutely valid points, I think that we need to separate them out and make slightly separate provision for them. I know that we will debate this in more detail when we come to Amendment 38. Apart from that, we have had a very good debate and I thank noble Lords.

Lord Nash: My Lords, so far as concerns accessing information for looked-after children and care leavers, I share the convictions of the noble Baronesses, Lady Young, Lady Massey and Lady Jones, the noble Earl, Lord Listowel, the noble Lord, Lord Northbourne, and my noble friends Lady Hamwee and Lady Benjamin that all young people should be able to access their records. However, we believe that this is a matter of practice rather than legislation. As the Committee will hear, our regulations on this are clear.

Regulations require the local authority to open a case record in respect of each looked-after child. So, for example, a child seeking information referring to them that is held within a foster carer's records could make a subject access request to see that information. Care leavers are entitled to access their records, regardless of whether they were in foster care or a children's home.

Our transitions guidance states that local authorities must assure themselves that agencies which contribute to the young person's pathway plan understand their responsibility to make arrangements for secure storage of documents containing personal information about care leavers. Local authorities have a duty to retain records for 75 years from the birth of a child. Under the Data Protection Act 1998, people who were looked

after have a right of access to personal information held by their responsible local authority, fostering service et cetera.

5.45 pm

The new Ofsted framework, which comes in from November, says that:

"Care leavers are provided with information … about their legal entitlements such as access to their records",

and Ofsted will look at the quality of the records. We share noble Lords' concerns that all young people should have access to their records but we do not consider further legislation as the most effective way to achieve this. I have asked my officials to meet the noble Baroness, Lady Young, and the Care Leavers' Association to look at how we can improve current local authority practice in this area—including in relation to the state of the record-keeping, which the noble Baroness, Lady Howarth, and the noble Baroness herself referred to—and to report back to the Children's Minister and me.

I turn to the amendment tabled by the noble Earl, Lord Listowel, on providing welfare support for care leavers. The Government are committed to ensuring that care leavers receive the best platform to make their way in life but we do not think that extending Section 23C of the Children Act is the way to improve existing practice. Statutory guidance on care leavers already sets a clear expectation that local authorities continue to stay in touch and support their care leavers until age 21, and beyond if they are in education or training. Local authorities should respond to requests by assessing the young person's needs and preparing a pathway plan.

We intend to strengthen statutory guidance to make it absolutely clear that local authorities should ensure that all their care leavers—whether or not they have indicated a wish to return to education—are aware of their entitlement to a personal adviser up to age 25, if they wish to engage in education. That guidance will make it clear that even where a care leaver has problems that are a barrier to their currently returning to education, and which may mean that they will not be able to return to it for quite some time, they should still get the support they need to overcome these problems.

Several amendments have been put down by my noble friend Lady Stedman-Scott about the importance of care leavers having the ability to stay on in their placements until age 21, whether that is in residential care, in supported placements or with their former foster carers. I agree that this can be particularly important for those remaining in education. We want local authorities to provide all young people with a menu of options to choose from. The Minister for Children and Families wrote to all directors of children's services last October, urging them to ensure that young people are always placed in safe and suitable accommodation that meets the individual needs of care leavers.

The Committee may be aware that the revised Ofsted inspection framework which comes into practice in November this year has a specific focus on the quality of leaving care services. This will include an assessment of their accommodation. Being able to stay in placements beyond 18 is mentioned within one of the grade

descriptions for the care leavers' judgment. I am pleased to inform your Lordships that the department is also funding Catch22 to deliver a project on improving support to care leavers from children's homes—

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): My Lords, I apologise to the Minister but a Division has been called in the Chamber, so the Committee will adjourn for 10 minutes and resume not before 5.58 pm.

5.48 pm

Sitting suspended for a Division in the House.

6.01 pm

Lord Nash: My Lords, I am pleased to inform noble Lords that the department is also funding Catch22 to deliver a project on improving support to care leavers from children's homes, including looking at how providers can offer an environment in which young people from children's homes can benefit from staying put-type arrangements.

On the question of 16 and 17 year-old care leavers returning to care, the statutory framework states:

"Local authorities should use joint protocols to ensure that: there is flexibility to enable young people to return to more supported accommodation if they are not coping with independent living … Provision and partnerships should be developed in such a way as to permit young people to move to other accommodation in a crisis, including returning to more supportive accommodation if appropriate".

We are also planning to change the law so that directors of children's services sign off decisions for 16 and 17 year-olds leaving care. We think that such a move will ensure that young people leave care when they are fully ready. We believe, therefore, that we do not need to impose new duties on local authorities, but need to ensure that all local authorities use good practice. Again, the new Ofsted inspection framework will lead to support for care leavers being given more scrutiny. I hope that the course of action that I have outlined will reassure the noble Baronesses, Lady Young and Lady Massey, the noble Earl, Lord Listowel, and my noble friend Lady Stedman-Scott. I urge that the amendment be withdrawn.

Lord Northbourne: My Lords, the noble Lord has said many times that local authorities should do this, that and the other, but we all know that some local authorities are under tremendous pressure and have difficulty in finding adequate social workers as they do not have enough money. Some of us were wondering whether the Government have sanctions to ensure that local authorities do it. What provisions are there for ensuring that it happens? I believe that Ofsted has to report on it but I am not sure.

Lord Nash: If the local authority has a poor Ofsted inspection on this matter, we can and will intervene. There is a specific section on care leavers.

Lord Northbourne: I thank the Minister.

Baroness Young of Hornsey: My Lords, I start by thanking the Minister for his response and for his offer for me to meet with officials to discuss this issue further. There is still a case to answer here. In the brief life of this Committee, we have heard time and time again that there is a huge amount of inconsistency across different local authorities and that there is a disconnect between practice and what already exists, so we are not getting the impact. My noble friend Lady Howarth talked about initiatives in record-keeping but that is not happening in a consistent way and this still needs to be addressed.

We have a whole suite of amendments relating to looked-after children. Like my noble friend, Lord Listowel, I am very pleased that the Government are taking seriously the need to address the needs of this particularly vulnerable group. However, those needs do not stop the moment you leave care. Although the noble Lord referred on a number of occasions in his summing up to children, we are actually talking about post-care adults who still have needs, vulnerabilities and difficulties and who still have to come to terms with their difficult experiences.

I thank my noble friend Lord Listowel and the noble Baroness, Lady Massey, for their support. I can clarify for the noble Baroness, Lady Jones of Whitchurch, a point about the doorstep incident. I was not very clear because I was desperately trying to summarise what I wanted to say. What actually happened was that the social worker brought the box around and handed it over to the person who was hoping for her notes and records but who just got this box with a load of papers in it in no particular order. There was no understanding that this was a difficult situation to handle: the social worker was off again in her car straight away. It was not just a box of papers dumped on the doorstep but, having said that, the whole issue of redaction is one that I would like to explore with the Minister and officials. Having said all that, I beg leave to withdraw.

Amendment 33 withdrawn.