

Children and Social Work Bill

NCB briefing for second reading in the House of Lords

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Working with children,
for children

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Summary

The National Children's Bureau (NCB) is a leading research and development charity working to improve the lives of children and young people, especially for the most vulnerable.

During the passage of the Bill, we seek to support members of the Lords to secure clarity regarding the government's case for measures that will weaken the entitlements of children and families under children's social care legislation. We will also be seeking amendments to extend the reach of the new corporate parenting principles so they apply to health commissioners, in light of the poor physical, mental and emotional health of children in care and care leavers.

NCB endorses the second reading briefings of the Alliance for Children in Care and Care Leavers and the Special Education Consortium.

Suspending children's entitlements under children's social care law: the case is still to be made

Clause 15 of the Bill gives the Secretary of State an enabling power to exempt a local authority from a requirement under children's social care legislation, or to modify the way in which such legislation is imposed on that authority – with the stated aim of allowing authorities to test new ways of working. These arrangements can be put in place for up to three years, with the potential to extend for a further up to three years (cl.16).

While we recognise the value of supporting local authorities to innovate in order to achieve better outcomes for children, NCB has serious concerns about the introduction of measures which could weaken the entitlements of children and families. We believe that government has not made a clear enough case for the need to relax legislation to support innovation. In addition, we do not believe that the government has set out sufficient safeguards to ensure the approach poses no threat to the entitlements and well-being of children.

NCB calls on government to publish evidence of the need for these enabling powers. In addition, we will be seeking amendments and assurances regarding the safeguards surrounding the new powers, if they are taken forward, particularly in relation to:

- an individual child's right to bring a case against their local authority or to request a service that would be provided by law if the child lived in another local authority area where legislation had not been relaxed
- reporting to Parliament before extending arrangements by a further three years

- stronger arrangements for Parliamentary approval of regulations made under cl.15
- including representatives of services users among those that local authorities must consult (under cl.17) before making an application
- requiring government to demonstrate in each case how the application is intended to deliver better outcomes for children, and to publish advice received under cl.17 from the Children's Commissioner, Ofsted and others.

Questions for the Minister:

- **Can the Minister tell the House why such a broad power that could weaken the entitlements of children and families under social care legislation is necessary for enabling service innovation?**
- **Can the Minister provide examples of specific children's social care provisions that local authorities are seeking to have relaxed or modified, and outline how many and which local authorities have approached the Department for Education about relaxing legislation to enable innovation?**
- **Can the Minister clarify how the proposed measures would affect a child, parent or carer's ability to seek redress if they are not receiving services to which they would otherwise be entitled?**

The new corporate parenting principles should apply to commissioners of physical and mental health services for looked after children and care leavers

Clause 1 of the Bill introduces a set of principles to which all local authorities must have regard when carrying out their functions in relation to children in care and care leavers. NCB welcomes the introduction of these corporate parenting principles, which should help to ensure that when making decisions about local services and children and young people's care, local authorities have their children's best interests, health and well-being, wishes and feelings and aspirations at the forefront of their minds.

However, NCB believes the corporate parenting principles should be extended to health commissioners, reflecting the vital role these bodies play in shaping experiences and outcomes of looked after children and care leavers. Looked after children are more likely than their peers to have poor physical, mental and emotional healthⁱ – for example looked after children in England are four times more likely than the average child to have an emotional or mental health problemⁱⁱ. As identified in the Education Select Committee's recent inquiry, health services are often not organised in a way that ensures looked after children can access them when required, and there is evidence of targeted support being de-commissioned due to financial pressuresⁱⁱⁱ.

During the passage of the Bill, the Alliance for Children in Care and Care Leavers, supported by NCB, will seek amendments to extend the corporate parenting principles to clinical commissioning groups and NHS England. We will also be seeking to amend the Bill to require that all clinical commissioning groups appoint a lead clinician to coordinate support for looked after children and care leavers' mental health, building on the existing role of 'designated doctor'.

Questions for the Minister:

- **Can the Minister clarify why the corporate parenting principles only apply to local authorities, despite the key role of health commissioners in shaping the experiences of, and services for, children in care and care leavers?**
- **Will the Minister consider the introduction of a duty on clinical commissioning groups to appoint a lead clinician with responsibility for looked after children and care leavers' mental health, building on the existing role of 'designated doctor'?**

There is a need to ensure clarity of entitlement for disabled children in care and care leavers and those with special education needs

Over 60 per cent of looked after children have a special educational need (SEN), four times the rate among all children (15 per cent)^{iv}. A number of the elements of the Children and Social Work Bill reflect measures contained in the Children and Families Act 2014 relating to services for children with SEN and/or disabilities, in particular the introduction of a set of principles governing local authority decision-making and the requirement that local authorities produce a 'local offer'.

NCB – as host to the Council for Disabled Children and Special Education Consortium – would welcome clarity from government regarding the intended interaction between the new Bill and the Children and Families Act, in light of the fact that a large proportion of looked after children and care leavers will be covered by both pieces of legislation.

Questions for the Minister:

- **Can the Minister clarify what consideration has been given to the interaction between the new Bill and measures in the Children and Families Act 2014?**
- **In particular, can the Minister clarify whether his Department will provide guidance to local authorities on the relationship between the proposed local offer for care leavers (cl.2) and the existing local offer for children and young people who have special education needs or a disability?**

ⁱ Meltzer et al (2002), *The mental health of young people looked after by local authorities in England*, ONS, cited from Department for Children Schools and Families (2009) *Statutory Guidance on Promoting the Health and Well-being of Looked After Children*, p12

ⁱⁱ National Institute for Clinical Excellence (2010) *Public Health Guidance: Looked-after children and young people*

ⁱⁱⁱ House of Commons Education Select Committee (2016) *Mental health and well-being of looked-after children: Fourth Report of Session 2015–16*

^{iv} Department for Education (2015) *Outcomes for children looked after by local authorities in England*, 31st March 2015. London: DfE.