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for Education

Children's Wellbeing and Schools Bill

**Non-Regulatory Impact Assessment:
Children's Social Care Measures**

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Mandate local authorities to offer ‘family group decision-making’

Policy overview

The purpose of children’s social care is to support children, young people and families to stay together, wherever possible, and thrive. Where it is not possible, it should protect children and young people from harm and provide care for those who need it so that they grow up safely and with love. Local governments are experiencing rising costs to deliver children’s social care. This is putting significant and unsustainable pressures on local, regional and national services. Last year, over £13 billion was spent on children’s services at a local authority level, which is a 4% rise on the previous year. Of this, the proportion of spending on looked-after children (children in the care of a local authority) represents 53% of the total spend. The rising spend on children who are in care has resulted in significant cuts to early prevention spending. We believe that our policy will prevent more children entering the care system.

Family group decision making (FGDM) is an umbrella term to describe family-led meetings that allow a family network to come together and make a plan in response to concerns about a child’s safety and wellbeing, working alongside professionals. These voluntary meetings help to ensure a family network is engaged and empowered throughout the decision-making process of a children’s social care journey, and can include identifying practical support for parents, while prioritising the wellbeing of the child. A family group conference (FGC) is a specific model of FGDM. Foundations (What Works Centre for Children and Families) used a randomised control trial to evaluate the impact of FGCs at the Pre-Proceedings stage which found that 67% accepted the offer of FGC at pre-proceedings, and that FGCs were effective at diverting children from entering care¹.

Existing statutory guidance, such as *Working together to safeguard children (2023)*² and the *Children’s social care: national framework (2023)*³, encourages local authorities (LAs) to consider FGDM meetings, such as FGCs, from the earliest point of a family’s involvement in children’s social care and repeat them, as considered appropriate, throughout the system. However, the *Independent review of children’s social care*⁴ reported that care proceedings too often commence without an FGDM meeting having taken place and that opportunities may have been missed in identifying family network members who could act as a support system to the parents to promote the wellbeing of the child or be considered as alternative care givers if the need arose. To ensure that a family-led alternative plan can be considered before an application is presented by the

¹ [Family Group Conferencing at pre-proceedings stage - Foundations](#)

² [Working together to safeguard children - GOV.UK \(www.gov.uk\)](#)

³ [Children's social care: national framework - GOV.UK \(www.gov.uk\)](#)

⁴ [Independent review of children’s social care - GOV.UK \(www.gov.uk\)](#)

local authority to the court, the Care Review recommended a new legal entitlement to FGDM before a case reaches court proceedings.

We are working towards mandating local authorities (LAs) to offer a family group decision-making (FGDM) meeting to all parents, or those with parental responsibility, of the child(ren) involved in cases which have reached pre-proceedings. If this offer is accepted by the parents, the LA must take action to fulfil the offer of an FGDM meeting.

The intention is that the legislation acts as a “gatekeeper” to care proceedings so that, notwithstanding any exceptional circumstances, a care order or supervision order application should not be made to the court without a family having been given the opportunity to make an alternative plan with their family network (this plan would be made during an FGDM meeting) to ensure the safety and wellbeing of the child(ren).

One possible outcome of FGDM is that potential carers for the child(ren) could be identified within the family network should they not be able to remain living safely with their parents.

We propose leaving flexibility in the legislation around the specific model of the FGDM meeting which LAs are legally required to offer. This is to ensure the legislation is ‘future proofed’ against any developments in the emerging evidence base and future policy changes. However, LAs should consider the evidence for the Family Group Conferencing (FGC) model.

Why is legislation needed?

We know many LAs already deliver FGDM at different stages. In a 2022 study⁵, 83 English LAs reported providing an FGC service. This represents 55% of all local authorities in England.

However, the number of FGCs held by LAs ranged from 5 to 800. We want legislation to ensure the same offer is provided consistently in all parts of the country at the vital stage of pre-proceedings.

The *Independent review of children’s social care*⁶ recommended a new legal entitlement to FGDM before a case reached the PLO stage. Evidence from a recent randomised control trial into the use of FGCs at pre-proceedings stage⁷ shows that this will reduce applications for court proceedings and divert children from entering the care system, improving outcomes for children and families, as well as creating significant savings to local government.

⁵ Cascade research (2022) - [CASCADE-Family-VOICE-survey-findings.pdf \(cascadewales.org\)](#)

⁶ [Independent review of children’s social care - GOV.UK \(www.gov.uk\)](#)

⁷ [Family Group Conferencing at pre-proceedings stage - Foundations](#)

Objectives

The overall aim of the policy is to divert children from care and therefore reduce the overall population of looked after children. Care experienced children often have poorer outcomes in education, health and employment⁸, and therefore diverting children out of care with FGDM meetings will be beneficial for them. A reduced population of children looked after would also generate savings for local government.

Our objective is to increase the number of families at pre-proceedings that receive the offer of FGDM. By mandating this consistent offer from LAs, we expect 67% families will accept the offer⁹ and therefore more families will have the opportunity to form a plan for the child before and potentially avoid care proceedings.

The aims of the FGDM meetings will be primarily to form a plan to keep the family together by using the strengths and resources of the family network. The family will continue to work alongside professionals. One outcome of the meeting may be that family network members are identified that could provide alternative care if it is in the best interest of the child to be separated from their parents.

The aim of this policy is for legislation to act as a “gateway” to care proceedings so that, notwithstanding any exceptional circumstances, a care or supervision order application cannot be made to the court without a family having been given the opportunity to make an alternative plan with their family network (this plan would be made during an FGDM meeting) to ensure the safety and wellbeing of the child(ren). The intention of this measure is not to prohibit the LA from proceeding with an application for a care order, but to ensure the offer is mandated at this vital stage of the system and offered consistently throughout England.

Viable policy options (including alternatives to legislation)

We considered the following options before concluding that primary legislation would be the preferred solution.

One option we considered is to strengthen guidance around the use of FGDM to ensure all families are offered FGDM at pre-proceedings and earlier in the process. Whilst statutory guidance already emphasises the importance of FGDM, we know that LAs do not offer it consistently to all families. Looking at all the evidence, *the independent care review of children’s social care* recommended legislation is the best way to mandate change to ensure a consistent family-led approach in the system.

Another option could be to ask judges to explore further what work has been done with the family and consider pushing cases back where it is clear that family work has not been exhausted. However, we believe this would put additional pressure on family courts

⁸ Sacker et al., (2021) - [Sacker_2021.pdf](#)

⁹ [Family Group Conferencing at pre-proceedings stage – Foundations](#)

where there are already existing delays and it would not bring about change for families for whom the plan is not to file for a care order (i.e. families earlier in the system).

Therefore, we decided to amend relevant court documentation to ensure greater visibility of work completed already with the family, such as FGDMs, for the court's consideration.

We understand that preventative activity within children's services is often reduced when LAs are under financial pressure. Creating a new legal duty for LAs to offer FGDM to all families would prioritise this intervention within LA budgets and ensuring families will continue to have access to this service even when LAs are under financial pressure.

We believe that primary legislation is the best way forward to ensure all families get the opportunity to be involved in FGDM.

What else?

We will be updating statutory guidance to reflect legislative changes and to continue to emphasise the benefits of offering FGDM at different stages throughout a family's journey with children's services. By amending guidance, we will encourage social workers to have a family-first, child-focused approach to all families engaging with social services.

Foundations (What Works Centre for Children and Families) are an organisation funded by the Department for Education and they run a programme of work to promote the evidence on FGCs. This started with their Randomised Control Trial study that provided the evidence for the use of FGCs at pre-proceedings, and Foundations are planning for more publications in the future. Their work aims to encourage local governments to adopt the FGC model.

Impact on external groups

This policy will have a positive impact on children on the edge of care (e.g. children with a Child Protection Plan, children with a Child in Need plan). With a greater emphasis on family networks and the use of FGDM earlier on in the system, we expect children at the edge of care to receive increased support from the wider family network. This has the potential to divert children from care and keep families together if that is in the best interest of the child.

Additionally, this policy benefits parents or those with parental responsibility of children on the edge of care. With an increased focus on FGDM and family networks, parents can draw on the support of their network to help meet the needs of their children. For example, 49% child protection plans are put in place due to neglect¹⁰. With increased support for the child from the family network, parents can also focus on taking steps to improve the family situation.

¹⁰ [Child protection plan statistics: England 2019-2023 \(nspcc.org.uk\)](https://www.nspcc.org.uk/what-we-do/our-research/child-protection-plan-statistics-england-2019-2023/)

This policy will have a positive impact on children for whom it is no longer possible to stay with their parents. Evidence from Foundations (What Works Centre for Children and Families) suggests the mandated offer of FGDM from the LA will see an estimated 67% families engaging in FGDM. During the FGDM meeting, potential alternative carers from within the family network that could provide a home for the child could be identified. This could increase the number of children who live with extended family in a kinship care arrangement and reduce the number of looked after children. Children in kinship care tend to have better educational, employment and health outcomes than looked after children¹¹, and therefore this policy could be beneficial to all children diverted from LA care as a result of FGDM.

FGDM has further potential to identify not only kinship carers, but other members of the family networks that could provide support to the kinship carers and the child. Therefore, this policy can help with the burden of care for new kinship carers, especially as kinship carers are more likely to be older, live in deprivation and have a disability¹².

There will be a negative impact on social workers initially. Increased emphasis on FGDM through legislation and statutory guidance may increase social worker workload as it would involve more family work throughout the process and an additional mandated offer of FGDM at pre-proceedings. However, although more work is required at the pre-proceedings stage, if the FGDM measure is successful (as suggested by the Foundations evidence), in the longer term there will be fewer looked after children. Additionally, the non-adversarial nature of FGDM means that relationships between the social workers and the family improve. Overall, we hope that in the future the impact will be neutral, if not positive, due to reduced workload. However, we recognise that the immediate effect on social workers may be negative.

There will be an additional burden on local authorities in the short term, but a positive impact in the long-term. On one hand, mandating the offer of FGDM may create more work initially as in some LAs they may need to set up, or expand, their FGDM service, including recruiting additional staff and updating systems, including digital, to meet the legislative requirement. Internal Department for Education analysis estimates that offering FGDM to all families at pre-proceedings -could divert 8,656 children out of care by 2030-2031, reducing burden and generating significant savings for local government. The estimated net cumulative savings to local government over 5 years is £554,400,000. Overall, this policy will have a positive impact once the benefits of FGDM are realised through lower numbers of looked after children.

As well as cost savings to local government, there are wider social benefits of this proposal, realised by reducing the number of looked after children, as long-term outcomes for care experienced children include lower education attainment, worse health

¹¹ The lifelong health and wellbeing trajectories of people who have been in care -

[The-lifelong-health-and-wellbeing-trajectories-of-people-who-have-been-in-care.pdf \(nuffieldfoundation.org\)](#)

¹² [Kinship care in England and Wales - Office for National Statistics \(ons.gov.uk\)](#)

and employment outcomes and more involvement with the criminal justice system. These wider social benefits have not been monetised.

This policy is anticipated to have a positive impact on schools by reducing the level of need of children. Increased FGDM will support children staying with their families and, if they cannot stay with their parents, facilitate support for the child to stay within the wider family network. In both cases, children are being diverted from care. This is positive for schools as these children are less likely to experience the negative educational, emotional and health outcomes that are common with children in the care system, and therefore they should require less support than if they entered care.

This policy is also anticipated to have a positive impact on courts. Impact evidence from the randomised control trial by Foundations¹³ has shown that when families were offered FGCs, children were less likely to have care proceedings issued compared to those who were not offered FGCs. A reduction in care and supervision order proceedings should alleviate some pressure on the courts and bring Public Law Outline closer to the recommended 26 weeks target, reducing the backlog of cases in family courts.¹⁴ There may be an increase in applications for Special Guardianship Orders or Child Arrangement Orders due to this measure, where FGDM identifies alternative carers for children who cannot remain with their parents. As this would apply to children who would otherwise be subject to care or supervision order proceedings, the impact is neutral. This measure could also foster positive relationships between judges and social workers. As the history of family work will be reported in court documents, the judges will have increased confidence that all practical attempts were made to divert the child from care by holding the FGDM meeting.

Intersectionality

It is important to highlight any intersectionality between stakeholders and protected characteristics. The Public Sector Equalities Duty requires Ministers to have a regard for the need to foster good relations between people who share a protected characteristic and those who do not. This Non-Regulatory Impact Assessment describes stakeholders that will be involved with the FGDM process in some way (e.g. local authorities, social workers, judges). The families that will be engaging with FGDM can sometimes have certain characteristics overrepresented. For example, while we do not have data on families at pre-proceedings, we understand that black children are more likely to be looked-after than children of other ethnicities¹⁵ Due to the family-led and co-operative approach of FGDM, we believe that there will be a positive impact on fostering good relations between people with protected characteristics and these key stakeholders involved in the children's social care system.

¹³ [Family Group Conferencing at pre-proceedings stage - Foundations](#)

¹⁴ [Family Court Statistics Quarterly: October to December 2023 - GOV.UK \(www.gov.uk\)](#)

¹⁵ What Works Centre, 2022 report - [Understanding Formal Kinship Care Arrangements in England \(whatworks-csc.org.uk\)](#)

For more details on overrepresented characteristics in this cohort, and the equalities impact on the people with certain protected characteristics, please refer to our Equalities Impact Assessment.

Strengthening the Role of Education in Multi-Agency Safeguarding – Arrangements (Inclusion of Childcare and Education Agencies in Local Safeguarding Arrangements)

Policy overview

Safeguarding partners have a joint and equal duty to work together to safeguard and promote the welfare of all children in their local area. As part of these arrangements, schools, colleges, early years and childcare, and alternative provision settings play a crucial role in protecting children from abuse, neglect and exploitation. Education was the second largest referrer of cases into children’s social care in 2023, making close to 129,000 referrals nationally. Teachers and early years professionals know their children best and spend a significant amount of time with children compared to other professionals with safeguarding responsibilities. We recognise that education settings are well placed to identify the need for early support for children and families. In 2023 we updated statutory guidance, Working Together to Safeguard Children, to clarify the roles and responsibilities of education settings in Multi-Agency Safeguarding Arrangements (MASAs). Currently, legislation outlines that safeguarding partners can name the local education settings they deem appropriate as relevant agencies in their arrangements¹⁶. However, this is implemented inconsistently nationally and can lead to some settings being left out of arrangements.

The intention of the legislation we are proposing in the Children’s Wellbeing bill is to enhance the role of education in MASAs to better protect children from abuse, neglect, and exploitation. We aim to build on existing legislation and recognise that the current system needs to change to ensure education is adequately represented both operationally and strategically.

The aim of our legislative change is two-fold, to ensure that:

- Safeguarding partners automatically include all education and childcare settings in their multi-agency safeguarding arrangements
- These arrangements enable education and childcare settings to have representation at both the operational and strategic decision-making levels of these safeguarding arrangements

We want each local area to have a deep understanding of their specific safeguarding needs and to tailor their multi-agency response accordingly, ensuring that children and families receive the right support at the right time. These systemic reforms will strengthen

¹⁶ [Children Act 2004 \(legislation.gov.uk\)](https://legislation.gov.uk)

the role of education in MASAs. We also acknowledge the importance of ongoing review and learning to determine if these changes effectively address the issues or if further action is needed to ensure education's involvement in safeguarding arrangements.

Why is legislation needed?

In 2022, the Independent Care Review¹⁷ and the Child Safeguarding Review Panel's review into the deaths of Arthur Labinjo-Hughes and Star Hobson and Child Protection in England¹⁸ recommended that education become a statutory safeguarding partner, alongside local authorities, police and integrated care boards.

The intent behind this recommendation was to ensure that the contribution and voice of education was included when identifying priorities and support for children and families.

Reviews have also highlighted that schools often find they aren't made aware of the outcome of referrals to children's social care, leaving them unsure or unsupported to provide the support these children and families may need. Reports outline difficulties for social workers to be adequately involved in decisions about exclusions and attendance despite links to extra-familial harm. Recent joint targeted area inspection (JTAI) reports by multi-agency inspectorates (Ofsted, CQC and HMICFRS) evidence that insufficient involvement of education in MASAs resulted in missed opportunities to protect children from harm and promote their welfare. When there is guaranteed involvement of education in MASAs, education can feed into strategic decision making, and the information, learning, and training that education receives back will enable children and families to receive the support that they need at the right time.

Objectives

- Legislation needs to ensure consistent and effective join-up between children's social care, police, and health services with education. The aim of our legislative change is two-fold, to ensure that:
- Safeguarding partners include automatically all relevant agency education and childcare settings² in their safeguarding arrangements, and that
- These arrangements enable education and childcare settings to make representations at the operational and strategic decision-making levels of these safeguarding arrangements'

We believe that these changes will bring about:

- Better join-up between children's social care, police, and health services with education.

¹⁷ [Independent review of children's social care - final report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

¹⁸ [National review into the murders of Arthur Labinjo-Hughes and Star Hobson - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

- Improved understanding of the thresholds for referrals and intervention and the roles of each agency in supporting children and families.
- Effective information sharing agreements and practice.
- Placing the duty on the existing safeguarding partner is a clear signal that it is the responsibility of local leadership to recognise the crucial role education plays in their safeguarding arrangements and that it is the duty of safeguarding partners to assure themselves that they are doing this.

To facilitate implementation and support best practice, we plan to update relevant statutory guidance such as Working Together to Safeguard Children, including setting expectations of safeguarding partners and education settings around models we know are working in local areas that involve education effectively in their arrangements. We will draw on the evidence of what works from the Families First for Children pathfinder local areas and extensive work done with local areas on the implementation of statutory guidance. This legislation will enable consistency across all local areas in how education is brought into local safeguarding arrangements whatever the education landscape locally, so that families have access to more consistent levels of care and support and children are protected by more effective multi-agency working.

Viable policy options (including alternatives to legislation)

The Department is also testing how a ‘safeguarding partner for education’ could be delivered locally through the Families First for Children pathfinder local authorities. Some of the local areas have so far found that although there is a clear need for a strong role and local education settings in safeguarding arrangements, there is not necessarily a need for the associated duties attached to a safeguarding partner in law to achieve effective multi-agency working with education. However, the pathfinder local areas are continuing to test how a safeguarding partner for education could work in their local systems. Legislative models that would introduce a role for a safeguarding partner for education have unresolved aspects around the accountability and funding duties associated with safeguarding partners, which many of the pathfinder local authorities are also working through barriers on how to address this. Without a full public consultation, legislation for a safeguarding partner for education couldn’t progress as details on delivery are key to its successful implementation, particularly with complexities around accountability and funding for education. Many key stakeholders and an expert led stakeholder working group have given us feedback on this legislative option – whether they were in agreement with the need for a safeguarding partner or not, they all recognise that it would be complex to deliver and government would need to explore the deliverability of this in detail before any measures are introduced.

In light of the above, we have dismissed this option principally because it is felt that such a measure would:

- Burden education and childcare settings and their leaders to assume the wider statutory duties of lead safeguarding partners without sufficient evidence of how this would work practically, or how much it would cost.
- Requires the creating of a statutory body or the election of a representative tasked with discharging s.16E(1) of the Children Act 2004 duty to make safeguarding arrangements on behalf of education and childcare settings, complicating accountability in a system that primarily aims to protect children from harm and abuse.
- Would not recognise that education and childcare sectors are wary of taking on more administrative safeguarding-related duties when they are already stretched as a workforce.

What else?

Multi-Agency Child Protection Teams (MACPTs)

The government intends to create a new duty for local authorities to establish multi-agency child protection teams and require other named agencies to be part of this provision. These teams should include a core of dedicated, highly skilled, suitably qualified practitioners from local authority children's social care, police, health (paediatrics) and education working together within an integrated team to deliver specific child protection functions. Multi-agency child protection teams, based on the Child Safeguarding Practice Review Panel's recommendations, have been a key element of the Families First for Children Pathfinders.

Information Sharing

The government plans to make two legislative changes to start to deliver on this ambition. The first is to introduce provision to enable the specification of a single unique identifier and the second is to clarify when information must be shared for safeguarding and welfare purposes. For these changes to deliver on their ambition, it is crucial that education settings are part of those requirements.

Sharing information in a timely way can help identify and address risks to a child's safety and wellbeing. It enables practitioners to make informed decisions and provide timely interventions. Poor information sharing has been identified as an issue in reviews following the death of or serious injury to a child. A range of reports have highlighted¹⁹ that many agencies, especially outside the education sector, are not aware of crucial data, such as attendance records, which can impact children's well-being. Tackling information sharing will be a long-term endeavour working to overcome a range of barriers.

¹⁹ [Connecting the dots - the importance of sharing data on children and families | Children's Commissioner for England \(childrenscommissioner.gov.uk\)](https://www.childrenscommissioner.gov.uk) 28 November 2023

Families First for Children Pathfinder Programme

The ten Families First for Children Pathfinder local areas are testing key child protection and safeguarding reforms to gather evidence on how these reforms can be delivered in different local contexts. The pathfinder local areas are testing how to make education a safeguarding partner in their local area. As there is no legislation to currently support this role, their work to set up infrastructure and find representation to ensure that education is adequately involved, has informed how this legislation could be delivered.

Impact on external groups

Education settings (leaders, practitioners, DSLs from all types of education settings from early years and childcare settings to further education settings).

Education settings are likely to benefit from this legislation as it will support a more effective safeguarding system for professionals and children and families. Where education is well involved and well represented in MASAs, education-related issues are addressed in strategic decisions and information sharing improves, leading to more effective multi-agency safeguarding systems. We have also heard through multiple expert reviews of the child protection and safeguarding system that current arrangements do not go far enough to ensure that education has an effective and proportionate role. Reports describe inconsistent communication between education settings and children's social care, police, and health services, and a lack of strategic connections when making decisions. This means that crucial knowledge and insights of education settings are missed from decision making by safeguarding partnerships. We want each local area to have a deep understanding of their specific safeguarding needs and to tailor their multi-agency response accordingly, ensuring that children and families receive the right support at the right time.

Depending on how local areas already involve education settings, there may be work to set up new infrastructure. This might look like setting up an education focussed sub-group for the MASA, or repurposing and expanding membership to existing systems. It might be that education settings are already well involved and represented in the MASA, or that there will be new relationships formed to enable this. Some education leaders will have to engage with systems that they may not have previously been involved in to ensure their proper inclusion and representation to improve multi-agency safeguarding. This should be seen as part of their existing responsibilities to safeguard the children in their settings as participation in local multi-agency safeguarding arrangements is essential to this. Any additional time commitments will vary depending on local systems. It's not uncommon to have quarterly or termly safeguarding boards that may require attendance for some education leaders. Education settings and safeguarding partners will need to work together to ensure that the needs of education settings to be able to attend meetings and be involved are taken into account, for example considering term

time and out of term time attendance and involvement, meetings being held so that there is less disruption to teaching hours etc. Some local areas may decide to pay for the time of any representatives at partnership boards where they may be taking on extra roles. We don't expect this to be a necessary requirement for every education setting in a local area.

We know that some types of settings may need more support or work to be well involved and represented in MASAs. For example, we know that safeguarding contexts can depend on the age and setting a child attends, and that sectors like early years and childcare are often far more numerous than LA maintained schools or colleges in a local area. This means that safeguarding partnerships will need to understand who all their local education settings are to be able to adequately involve them in MASAs.

Children and young people

The impact on this group is likely to be positive as stronger involvement and representation of education in MASAs will mean that children and families will be more likely to receive the right help at the right time.

For example, better join-up between education and children's social care will help to increase the understanding of thresholds for referrals, what support is available if a referral doesn't meet a threshold including early help support and join up between various services, and strengthened involvement in key decisions about a child's life such as exclusions. Better join up between education, children's social care, police, and health services will also contribute to better information sharing practice and agreements, and better responses to serious incidents.

If education has a greater role and voice in MASAs, then they are more likely to be able to influence key decisions being made about crucial services and safeguarding systems in their area. For example, when local safeguarding partners make decisions about thresholds and training provision, having the voice of education in these decisions will help to communicate the best interests of the children who will be impacted by these services.

If education settings were to have a stronger role and voice in multi-agency safeguarding arrangements, this would cover all age groups included in education settings in The Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018²⁰.

²⁰ [The Child Safeguarding Practice Review and Relevant Agency \(England\) Regulations 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Safeguarding Partners: The LA/CSC, Health & Police

The impact on these groups is likely to be positive as a stronger involvement of education in MASAs will mean a more effective system of working between different agencies, enabling better decision making.

We have secured an additional £250m for the year 2025-26 to support rollout of family help and multi-agency child protection reforms, which includes funding for strengthening the role of education in multi-agency safeguarding arrangements.

There may be work related to setting up systems for stronger involvement of education in some local areas, and this will vary depending on the work that has already taken place since the update to statutory guidance Working Together 2023, where expectations on the roles and responsibilities of education were strengthened and clarified. We expect that the work involved for safeguarding partners (the LA, health and police) locally to fully include education settings in their MASAs will be for implementing systems. This may include work to map their local education settings, improve communications systems and expand or adapt existing boards and partnership infrastructure to enable the involvement and representation of education locally. It is unlikely that there will need to be an increase in the need for health or police staff to facilitate this directly as the local infrastructure that already exists should create an improved system for the involvement and representation of education for example through pre-existing business management administration support.

Partnerships funding should be equitable between the three safeguarding partner organisations, the LA, police, and health. The duty to ensure adequate representation and involvement of education will be placed on all three safeguarding partners for the LA, police, and health. Currently, education settings are able to contribute funding to MASAs in legislation, and this is usually for things like paid for services or training. There will be no new expectation that education settings must contribute funding, but local areas may want to explore this with education settings.

Multi-Agency Child Protection Teams

Policy overview

We intend to place a duty on safeguarding partners in England to establish and run one or more multi-agency child protection teams (MACPT) for the local area. This is a specific form of safeguarding arrangement and the purpose of the MACPT will be to provide support to the local authority in the discharge of its child protection duties under s47 of the Children Act 1989. Existing legislation requires relevant agencies to carry out safeguarding arrangements and this new legislation will build on that requiring relevant agencies to actively participate in establishing their role. Where notified to do so, relevant agencies will be required to enter into memorandums with the safeguarding partners. The purpose of the memorandum is to set out how the relevant agency will work with the safeguarding partners to facilitate the operation of the MACPT.

MACPTs will consist of a minimum core membership which will be set out in the primary legislation. This includes: a person with experience of education, a social worker, a healthcare professional and a police officer. MACPTs will be an integrated team of child protection experts delivering child protection activity, with specific details to be set out in regulations. Members of the teams will have sufficient knowledge and expertise to represent their agencies in supporting the local authority to discharge its child protection functions. The precise membership of MACPTs should be aligned with local demographics, needs, and patterns of harm including extra-familial harm. The local authority will therefore have the flexibility, dependent on local requirements, to add other individuals and agencies to the MACPT as it considers appropriate after consulting with the other safeguarding partners. Where the MACPT identifies that the expertise of a named relevant agency or agencies are required, the MACPT may request co-operation and put a memorandum in place to set out expectations of how the parties will work together to support the local authority to deliver its s47 duties.

We do not propose to make changes to individual agency duties under the primary legislation, and the local authority will remain as the lead and the decision maker in section 47 child protection activity. The new legislation will make much clearer the role of other agencies in co-operating and co-ordinating with the local authority to protect children and achieve improved outcomes.

Why is legislation needed?

Existing legislation and guidance (*Working Together to Safeguard Children 2023*²¹ and the *Children's Social Care National Framework 2023*²²) go some way in supporting

²¹ [Working together to safeguard children 2023: statutory guidance \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/115426/working-together-to-safeguard-children-2023-statutory-guidance.pdf)

²² [Children's social care national framework \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/115426/childrens-social-care-national-framework-2023.pdf)

current policy on multi-agency work in child protection but key duties are placed directly on the safeguarding partners (defined by s16E Children Act 2004, as being, in relation to any local area, the local authority, integrated care board and the chief of police for that area), with limited co-operation duties on other agencies and bodies. More is needed for each agency to understand its role and responsibilities in safeguarding and protecting children.

Current provisions address safeguarding partner roles at a strategic level for multi-agency working but do not sufficiently address the operational level – meaning commitments across agencies are inconsistent and do not support joint decision making or information sharing. This can lead to missed opportunities to protect children at an early point. Even in areas where partnership working is considered strong, the local authority is ultimately the key driver in responding, leading and funding child protection activity, and this can lead to an imbalance in the level of partnership delivery and cooperation.

Legislating for MACPTS will result in improved multi agency decision-making, engagement and co-operation in child protection.

Objectives

Our ambition is for a child protection system that is decisive, multi-agency with multidisciplinary skills, where practitioners have the expertise, experience, time and support to identify actual or likely significant harm quickly and take rapid and effective protective action. This will lead to stronger assessment and decision making, and more children protected at the right time. We want a child protection system where the rationale for decisions is clear and decisions focus on the needs and best interests of children, involving parents, family networks and others in a transparent and compassionate way.

Ineffective multi-agency working is a key factor where child protection activity fails to keep children safe. Following a review of child protection practice in England, The Child Safeguarding Practice Review Panel (CSPRP) recommended introducing multi-agency child protection units in every local authority area to address this.

In July 2023, three local areas were funded through the Families First for Children Pathfinder to implement a new approach to family help and multi-agency child protection followed by an additional 7 areas in April 2024. In the ten pathfinder areas, multi-agency front-line child protection practitioners from the local authority, police and health and other relevant agencies are working together in a much more integrated way with day-to-day responsibility for protecting children from harm, alongside social workers with the highest levels of knowledge and skills in child protection work. We know that by working together, agencies are better able to accurately and quickly identify when children are

likely to experience, or are experiencing, significant harm and take decisive and skilled action to address this.

We expect the statutory safeguarding partners to review and monitor the effectiveness of multi-agency child protection teams through their multi-agency safeguarding arrangements (MASAs). These teams will be accountable to local multi-agency safeguarding arrangements through the mechanism of annual reporting.

The National Child Safeguarding Practice Review Panel also has a role in this through their oversight of MASAs and in reviewing local child safeguarding practice reviews. Safeguarding partners are inspected by their respective inspectorate bodies (Ofsted, the Care Quality Commission and HM Inspectorate of Constabulary, Fire and Rescue Services) and jointly through Joint Targeted Area Inspections (JTAs), therefore we do not propose to make any changes to accountability and monitoring.

Viable policy options (including alternatives to legislation)

We have explored three other options to strengthen multi-agency working in child protection:

- a. Amend section 47 of the Children Act 1989 to make it apply to police and health as well as the local authority
- b. Strengthen the requirements of Working Together 2023
- c. Maintain the status quo (no immediate change to legislation or guidance)

Option A would expand the specific existing child protection duty in section 47 to include multi-agency partners. Currently the section 47 duty applies to the relevant local authority and other local authorities, local housing authorities and NHS bodies are required to assist with the local authority's enquiries. No other multi-agency partners are listed as having duties to co-operate. Working Together statutory guidance sets out the child protection process including roles and responsibilities for Health, Police, Education and other agencies but there is no accountability mechanism or consequence if the agency does not engage. An amended duty would require all named agencies to assist the Local Authority in its section 47 enquiries in particular providing information and advice and would allow statutory guidance to say "must" assist.

This option has been ruled out as it would confuse the ultimate lead decision-making role and accountability for child protection enquiry and action that needs to remain with the local authority.

Option B would strengthen the Working Together statutory guidance setting out expectations for multi-agency child protection teams and functions. This option has not been pursued as requirements set out in Working Together would not be mandatory and therefore carries the risk that practice will not change or improve. There are limited

accountability mechanisms for this option beyond the inspection regime that already exists.

Option C would maintain the status quo and lead to no strengthening of multi-agency child protection. This will not improve outcomes for children, joint decision making or multi-agency accountability.

The legislation proposed builds on the model we are already testing in ten areas through the Families First for Children Pathfinders (FFCP). These areas are reporting improved commitment from partners with dedicated resource for specific roles within MACPTs and establishment of a shared practice framework, shared language, and training that all improve child protection decision making. Legislating will also increase the pace at which the reforms need to embed across the country giving clarity to local authorities and partner agencies about the requirements and creating national consistency within a framework that can flex to address local needs.

What else?

As part of the Children's Wellbeing Bill, the department is also planning enhance the role of education in MASAs to better protect children from abuse, neglect, and exploitation. It needs to ensure consistent and effective join-up between children's social care, police, and health services with education. We aim to build on existing legislation and recognise that the current system needs to change to ensure education is adequately represented both operationally and strategically. The aim of our legislative change is two-fold, to ensure that:

- Safeguarding partners automatically include all education and childcare settings in their multi-agency safeguarding arrangements
- These arrangements enable education and childcare settings to have representation at both the operational and strategic decision-making levels of these safeguarding arrangements

This will align with provisions for MACPTs in particular, in terms of accountability.

There will also be measures to improve data sharing between agencies to better safeguard and support children and families. This includes an information sharing duty that provides a clear legal basis to share information for the purposes of safeguarding and promotion of welfare and provision to enable the specification of a consistent identifier (also known as 'single unique identifier'). These measures align with provisions for MACPTs in terms of improvements to information sharing.

Impact on external groups

Local authorities

Numerous reviews, including those from the Child Safeguarding Practice Review Panel, have identified the need for improved multi-agency working with more robust critical thinking and challenge within and between agencies. The local authority will remain as the decision maker in section 47 child protection decisions. This measure supports local authorities, alongside safeguarding partners, to understand their collective responsibilities and set out clear accountability frameworks, utilising skills and expertise across agencies for effective child protection activity. MACPTs will be able to require engagement from other agencies that are essential for them to carry out their child protection duties. The impact on the local authority is likely to be positive as stronger multi agency working enables better decision making, joint and co-ordinated working, better intervention and support for children and their families and better outcomes.

Police, health and education

An amended duty would require all named agencies to form a multi-agency team to specifically assist the local authority in its section 47 child protection enquiries. Police, health and education agencies already have safeguarding responsibilities at a local strategic level, this new duty will clarify how agencies will work together at an operational level, bringing together child protection knowledge and skills to achieve better outcomes. Flexibility to allow police and health agencies to organise alongside local authorities based on their geographic footprints will support consistency and more effective working. The impact on police, education and health is likely to be a positive one as stronger multi agency working enables better decision making.

Children and young people

This measure will ensure access to a range of specialist expertise in relation to child protection and will have a positive effect on multi-agency child protection assessment, decision-making and service provision to improve the outcomes of children where there is a likelihood of or actual significant harm.

Our view is that MACPTs will strengthen the child protection system to:

- Address inconsistencies in child protection practices.
- Improve strategic oversight and join up across government and national agencies.

We expect that this will result in:

- Stronger approaches to information sharing and will improve consistency.
- Improvements for integrated working, shared identification of risk and proactive work around early intervention, prevention, and family help.

- Better join-up between children’s social care, police, and health services with education.
- Improved understanding of the roles of each agency in supporting children and families.
- Effective information sharing agreements and practice.

We plan to delay commencement of these provisions until 2027, so we can include specific expectations in regulations on the support to be given by the MACPT to the local authority in the discharge of its child protection duties. This approach will ensure the multi-agency child protection teams are informed by findings from the evaluation of the Families First for Children Pathfinder programme and give areas time to prepare for implementing changes. We will also use this time to engage extensively with all sectors we intend to be part of the multi-agency child protection teams.

Affordability/costing

We have secured an additional £250m for the year 2025-26 to support rollout of family help and multi-agency child protection reforms which includes funding for MACPTs across the country.

We are seeking a longer-term commencement of the duty to ensure that workforces have the time to prepare and transition to multi agency child protection teams. This later commencement will ensure that further funding is secured to support national rollout and workforce transitions.

Information Sharing Duty & Single Unique Identifier

Policy overview

The Labour manifesto made a commitment to these improvements:

“Sadly, too often we see families falling through the cracks of public services. Labour will improve data sharing across services, with a single unique identifier, to better support children and families”.

Sharing information in a timely way can help identify and address risks to a child’s safety and welfare and enable better provision of services to support their health and wellbeing. It enables practitioners to make informed decisions and provide timely interventions.

For too long poor information sharing has been identified as a contributory factor to serious child safeguarding incidents and the barriers to improving this are well documented, including in reviews following the death of, or serious injury to, a child. The Independent Review of Children’s Social Care and the Child Safeguarding Practice Review Panel report ‘Child Protection in England’ highlighted that barriers to information sharing need to be broken down, to improve outcomes for children and families.

Subsequent reports, including from the Children’s Commissioner for England, have also highlighted that many agencies, especially those outside the education sector, are not aware of crucial data, such as attendance records, which can provide evidence for the whole picture of a child’s wellbeing and health. A lack of effective data sharing at the right points can leave families feeling both unclear about what professionals know, and frustrated at having to repeat the same information multiple times. The knowledge gaps can make it harder for professionals to support families, and make it harder for families to navigate services and access the support they need.

Barriers to information sharing, as set out in Improving Multi-Agency Information Sharing (July 2023) and Children’s social care data and digital strategy (Dec 2023), include; a lack of clarity about the law and data sharing, systems & technology that are not joined up, poor leadership and culture that does not support practitioners to share information, and a lack of practitioner confidence in their role and the relevance of the information they hold.

We plan on tackling the perceived legislative and regulatory barriers practitioners tell us they face when sharing information. The Independent Review of Children’s Social Care outlined that whilst legislation and guidance allow for information to be shared for the purpose of safeguarding, practitioners perceive it as a barrier and find organisational information sharing agreements confusing.

As clearly reflected in the Information Commissioner's Office (ICO) 10 step guide to sharing information to safeguard children, it is currently lawful to share information

without consent in order to safeguard children. Data protection legislation (the Data Protection Act 2018 (the DPA 2018) and UK General Data Protection Regulation (UK GDPR)) does not prevent the sharing of information for the purposes of safeguarding children, when it is necessary, proportionate and justified to do so. However, agencies often only feel confident doing this where there are serious child protection concerns.

User research by the Department for Education, the Home Office and the Department of Health and Social Care published in Improving Multi-Agency Information Sharing confirmed this. Research found that practitioners were generally confident in sharing information when there was clear evidence of harm. However, where risk was unknown or unclear, practitioners felt much less confident in sharing information given the complex judgements required in making decisions under the public interest test, which can lead to overcaution.

To address this, we will introduce a new duty that provides absolute clarity on the legal basis to share information for the purposes of safeguarding and promoting the welfare of children. The new duty will ensure a focus on safeguarding and the promotion of welfare and provide the impetus for culture change around information sharing.

We seek to use the Children's Wellbeing and Schools Bill to:

- 1) Introduce a duty for particular agencies to share information for the purposes of safeguarding and promoting the welfare of children. This is intended to address the confusion over when information can be shared and help bring a culture change by strengthening the legal position.
- 2) Give the Secretary of State a power to: (a) specify a consistent identifier for children (otherwise referred to as a Single Unique Identifier (SUI)), and (b) designate which agencies are required to use the number for the purposes of safeguarding and promoting the welfare of children.

Why is legislation needed?

A duty that provides a clear legal basis for sharing information for the purposes of safeguarding and promoting the welfare of children will increase practitioners' confidence on when to share information below the significant harm threshold (s.47). This will provide practitioners with a clear lawful basis on which to provide information and alleviate worries that they are in breach of the data protection legislation.

This new duty would sit alongside and operate in line with existing information sharing legislation such as the DPA 2018, UK-GDPR, the Human Rights Act (1998) and the Digital Economy Act (2017).

Objectives

In line with the manifesto commitment, to improve data sharing across services, with a single unique identifier, to better support children and families.

- A clear duty across all agencies with a role in safeguarding and promoting the welfare of children that encourages information sharing, including outside of s47 enquiries, to improve professionals' understanding of the 'full picture' of a child and their family's situation and experiences. This will give professionals access to more relevant information on which to base their assessment of a child's needs and decisions regarding appropriate services that would safeguard and promote the welfare of the child.
- The power for SoS to establish a consistent identifier for children and specify the agencies required to use it by regulations. The impact of any such regulations made in the future regulations will be assessed at that time.

Each proposal outlined would be part of wider reforms to address the issue, however these are both important enablers that will support further effective policy development to address barriers to information sharing.

Viable policy options (including alternatives to legislation)

- Issue further guidance. A variety of statutory and non-statutory guidance with inconsistent definitions and interpretations of what information should be shared to safeguard children has exacerbated the current issue. This option would perpetuate this barrier to information sharing.
- Do nothing. This would perpetuate a system of ineffective information sharing where families 'fall through the cracks' partly due to incomplete information that could have been shared and considered when assessing their needs.

Neither of these policy options are realistically viable to tackle the problem. New legislation is the only option that carries enough weight to apply to multiple agencies and override some of the barriers that prevent information sharing due to inconsistent definitions, interpretations and, in some cases, contradictory regulatory guidance.

What else?

These proposals are part of wider reforms aiming to improve information sharing. Wider work to address this problem includes:

- Exploring optimal digital solutions for case management systems that currently do not sufficiently facilitate seamless multi agency information sharing.
- Specification of a consistent identifier for children will be delayed until conclusion of the SUI pilots that aim to better understand the impact of using a unique identifier and other operational requirements needed to implement it successfully.

- Multi-Agency Child Protection Teams (MACPTs). The government intends to create a new duty for local authorities to establish multi-agency child protection teams and require other named agencies to be part of this provision. These teams should include a core of dedicated, highly skilled, suitably qualified practitioners from local authority children’s social care, police, health (paediatrics) and education working together within an integrated team to deliver specific child protection functions. Multi-agency child protection teams, based on the Child Safeguarding Practice Review Panel’s recommendations, have been a key element of the Families First for Children Pathfinders.
- Strengthening the role of education in local safeguarding arrangements. The government intends to enhance the role of education in MASAs to better protect children from abuse, neglect, and exploitation. It needs to ensure consistent and effective join-up between children’s social care, police, and health services with education. We aim to build on existing legislation and recognise that the current system needs to change to ensure education is adequately represented both operationally and strategically. The aim of our legislative change is two-fold, to ensure that:
 - Safeguarding partners automatically include all education and childcare settings in their multi-agency safeguarding arrangements
 - These arrangements enable education and childcare settings to have representation at both the operational and strategic decision-making levels of these safeguarding arrangements
 - This measure will support better working relationships between education settings and local safeguarding partners which in turn will support better information sharing through shared culture and leadership

Impact on external groups

Information Sharing Duty

Professionals in routine contact with children across health, education and justice may be affected to varying degrees. The biggest change is likely to be behavioural, as there will be a need for a culture shift; as national policy and local arrangements adapt to the new duty, their operational activities will also change. While there may be some upfront increase in resource requirements due to additional sharing, we expect this will be offset by a reduction at other stages of multi-agency engagement activity due to the improved processes and data quality.

The actual impact the duty will have for any given group will depend on local arrangements and implementation model, which will not be prescribed by DfE at this stage. Practitioners working with the agencies in scope will have a single clear legal basis on which to share information for the purposes of safeguarding and promoting the welfare of children. This new consistency will consolidate understanding and enable strengthened information sharing practices that are more accurate, cost effective, and

support more seamless and collaborative working between agencies with a role in safeguarding and promoting the welfare of children. It may also reduce the amount of time practitioners take in seeking advice and support regarding information sharing – providing clarity that they are able to share.

Single Unique Identifier

The 'SUI' aspect of new legislation enables the specification of a consistent identifier for children in the future. The agencies required to use any such number will also be designated in regulations. As this relates to a power only, there are no operational implications at this time and therefore we expect a neutral impact on all stakeholders at this time. We will continue to consider this when specifying a number and designating those who need to use it and will assess this when exercising this power.

Employment of Children

Policy overview

Part III of the Children and Young Persons Act 1933 (“the CYPA 1933”) sets out age limits and restrictions on the hours that children can work and the type of work which they can be employed to do. It also makes provision for local authorities to make byelaws in connection with child employment, including in relation to child employment permits.

Local authorities currently have the power to make byelaws under s18(2) of the CYPA 1933. Local authority byelaws may, to a limited extent, relax some restrictions in s18(1), prohibit the employment of a child in any specified occupation and make provision in relation to child employment permits.

We are looking to amend the CYPA 1933, in England only, to:

- Prohibit the employment for a child otherwise than in accordance with a permit. (This is already included in most, if not all, local authority byelaws.)
- Permit a child to work until 8pm. (This is rather than 7pm, but still in line with international obligations.)
- Remove the restriction on children only being allowed to work for two hours on a Sunday. (The overall number of hours a child can work in a week will however remain unchanged.)
- Permit a child to work for an hour before school. (This is already allowed under most local authority byelaws.)
- replace the power for English local authorities to make byelaws in relation to child employment with a power for the Secretary of State (SoS) to make regulations in relation to child employment in England. Regulations under this power may authorise the employment of 13-year-old children, make provision in relation to child employment permits (including the application process, what must be contained on a permit, revoking permits, or setting conditions and rights of appeal), and record keeping.

This will also end an anomaly where there is a power for the SoS to make regulations in relation to child performance but no power to make regulations in relation to child employment. This means that working children and performing children in England will be regulated in similar ways as the Secretary of State will be able to make regulations in relation to both child performance and child employment.

The measure will apply in England only.

Why is legislation needed?

Without this power we would need to seek primary legislation for every change to the regulation of child employment which could place children at risk and limit their opportunities.

Changes made on the face of the Bill, will allow for children and young people to work longer than two hours on a Sunday, treating a Sunday the same as a Saturday. This could allow more children and young people to take up more suitable and worthwhile employment as employers will be able to schedule them with more flexibility. The change to the Sunday working restrictions has been long called for to be changed by businesses, specifically in the leisure, hospitality, and tourism industries. The sports sector has also been calling for the restriction to be dropped so that ball assistants can be appropriately scheduled.

The power will then allow the SoS to make changes by making regulations, which could either restrict certain types of work which emerge that are unsuitable for children and young people to undertake, meaning that we can act fast in order to protect children and young people. It could also be used to allow certain work, that was once deemed unsuitable for children and young people but since the advancement of technology or safety standards, is now suitable for children and young people and could then allow for employment to be undertaken. This could also mean that we are able to move fast to allow work for children and young people and ensure that the work that they are able to do, is up to date with both societal and technological change.

Objectives

To allow the Secretary of State to have the power to make regulations on child employment in England to ensure consistency across England and keep pace with social and technological changes.

Viable policy options (including alternatives to legislation)

Whilst we considered alternative options (e.g. guidance or doing nothing) these options would not meet our policy aims.

What else?

N/A

Impact on external groups

There could be an impact on the following:

Children

With the potential that there could be more meaningful job opportunities available for children aged between 13 and 16 that are still of compulsory school age, there could be an impact on children and young people being able to take up employment.

The impact of introducing this clause could allow more children and young people to be able to work, this will have to be balanced with a child's right to education and their desires to take up hobbies, pursue interests, and to be a child. To ensure that children are not exploited by employers, restrictions on the types of employment they can do and the hours they can work will be set out in primary legislation, with further restrictions possible in regulations if it is considered necessary.

Local authorities in England

With the world of work being more easily accessible for children and young people there could be an increase in the number of child employment permits being applied for which will require processing by local authorities (LA).

This would be an indirect effect of this clause, as more employers might start to look at employing children and young people as it allows them to schedule them more productively, it might also mean that children and young people see a greater benefit of working and so actively seek out those employers that will employ them.

Data from the National Network for Children in Entertainment and Employment (NNCEE) suggests that it takes between one and three hours to process a child employment permit, with those employers that have never applied for a permit before requiring up to three hours due to checks and queries needing to be answered. However, there could be a saving insomuch as local authorities may not have to permit as many children to work on a Sunday. Currently children are only allowed to work up to two hours on a Sunday and so in some sectors, such as ball boys and girls in sport, multiple children are employed to work throughout the day to give the employer adequate cover. Increasing the number of hours a child or young person can work on a Sunday will mean that fewer children would be needed to give adequate cover and so there could be fewer permits to process in some sectors. Over time, however, and once local authorities become accustomed to potential new employers, the time taken to process permits would come down; it would also reduce once the jobs market for children and young people has settled after the change.

Employers

There could be an additional burden on employers who have never engaged with the child employment permit process and so they will need to understand and get to grips with it. There could however be a saving for those sectors that currently get permits for multiple children to work on a Sunday. This cost/burden could be offset by increased

turnover/profit that could be made by businesses now being able to fully meet demand and have a full rota of staff.

Charities and other third-party organisations

We would expect that these organisations will want to update any advice or guidance they already have on child employment, but the impact would be negligible as it is not complex or lengthy legislation.

Kinship Local Offer Requirement

Policy overview

In October 2024, we published new Kinship Care statutory guidance for local authorities, which sets out the support and services local authorities should provide to kinship families, including reaffirming the requirement to publish their local offer of support in a clear, accessible way.

The updated guidance aims to ensure the information local authorities have on supporting kinship families up to date and clear, whilst also recognising and addressing the unique challenges faced by kinship carers. It aims to ensure kinship carers have access to the necessary resources, legal advice, and financial assistance to provide stable and nurturing homes for the children in their care.

To improve compliance with the requirement to publish a kinship local offer, we have decided to include this requirement as a new measure in the Children and Wellbeing Bill. This will ensure a more consistent approach to providing information to kinship children and families and align it with other key measures in the Bill.

The Kinship Local Offer measure will legislate the requirement for local authorities to publish a kinship local offer. This offer will detail the support available to kinship carers, and children living in kinship care arrangements.

Objectives

Overall, this legislation is a significant step towards providing the necessary support and recognition for kinship families, ensuring that children can remain within their family networks and thrive in a stable, loving environment.

More specifically this legislation aims to ensure all local authorities in England have a clear and accessible published kinship local offer, ensuring kinship carers and potential kinship carers are aware of the support available to them based on the type of kinship arrangement they are in or may be about to agree to.

Viable policy options (including alternatives to legislation)

We also considered continuing to rely on the requirement in statutory guidance, but this has proven inadequate in meeting our objectives of improving the quality of kinship local offers and ensuring compliance with the duty. Despite being part of the guidance since 2011, only c.64% of local authorities in England have recently updated their kinship local offers.

What else?

We have recently appointed a National Kinship Care Ambassador, whose role will be to support local authorities in delivering support to the kinship families in their area.

Impact on external groups

Local authorities

The main impact will be on local authorities; however, we think it is a low impact as the requirement has been set out in statutory guidance since 2011. We will confirm our initial assumptions by carrying out a full burdens assessment.

Kinship Carers

We anticipate a positive impact on both current kinship carers and those considering taking on the role. By ensuring a consistent approach to clear and accessible information across all local authorities in England, we aim to improve understanding and awareness of what becoming a kinship carer may entail. This will also provide existing kinship carers with straightforward, accessible information on the support they are entitled to and how to access it through their local authority.

The measure is designed to equip kinship carers with comprehensive information about the support available to them, including financial assistance, legal advice, and access to other essential resources. Formalising the local offer in law ensures that kinship carers are fully informed about their rights and entitlements, helping them navigate the often complex legal and social services systems. This transparency will reduce barriers to obtaining help and ensure kinship carers receive the practical support they need. By embedding these changes in legislation, the government recognises the critical role kinship carers play and grants them greater societal and institutional acknowledgment.

Children in Kinship Care

By ensuring that kinship families have access to information about the available support, this policy will significantly enhance the well-being and stability of children who cannot live with their birth parents. These children will benefit from a clearer support system across key areas such as education, mental health, and overall well-being, enabling them to flourish in their care environment.

The legislation will also establish a consistent framework across all local authorities, ensuring that children in kinship care, regardless of their location, have access to a minimum standard of support, thereby reducing regional disparities and promoting equity in the care they receive.

Statutory provision of Virtual School Head role to Children in Need and Kinship Families

Policy overview

Local authorities already have specific statutory duties to **promote the educational achievements of looked-after children and previously looked-after children**. Local authorities are required to appoint an officer employed by the local authority, or by another local authority, to discharge this duty. The appointed person is known as a Virtual School Head (“VSH”) and is required to monitor and track the educational progress of the children looked after by the local authority as if they attended a single school.

Local authorities also already have a duty to **provide advice and information to those with parental responsibility for a “relevant child”**, designated teachers in maintained schools and academies and other appropriate persons, for the purpose of promoting the educational achievements of each “relevant child” educated in their area (regardless of where the child lives). Relevant children are defined for this purpose as children who are no longer looked after by a local authority as a result of an adoption order, a special guardianship order or child arrangements order, and children who appear to the local authority to have been adopted from state care outside England and Wales. Again, the local authority must appoint an officer to discharge this duty, and in practice it is the VSH who is appointed.

The department has published statutory guidance for local authorities on *Promoting the education of looked after children and previously looked after children* which explains the role of the VSH. For looked-after children the VSH acts as an educational advocate for the child, including monitoring the child’s progress. For previously looked-after children, the VSH promotes the educational achievements of the child, through the provision of advice and information to help the parent /carer to support them to advocate for the child as effectively as possible. In all cases, the VSH should ensure that there are effective arrangements in place to work with the range of professionals who play a role in supporting the education of the child and that there are appropriate arrangements in place to meet the training needs of those responsible for promoting the educational achievements of the child.

Over recent years the department has provided additional funding to local authorities to expand the role of the VSHs to include a strategic or leadership role in promoting the educational achievements of a wider group of children and to provide specific advice to certain kinship carers (on a non-statutory basis).

The Children in Need Review, published in 2019 found that 1.6 million children needed a social worker between 2012/13 and 2017/18, equivalent to 1 in 10 children. These children have worse educational outcomes at every stage and poorer outcomes persist even after social care involvement has ended. The review recognised the crucial role that VSHs have in helping schools/education settings and local authorities work together and made a commitment to explore whether the VSH role could be extended and adapted to support the cohort of children and young people with a social worker.

In June 2021 £16.6 million of new annual funding was announced to deliver the key recommendations of the Children in Need Review. This included offering financial support to local authorities to put in place a local champion for children in need. In practice this role is performed by the VSH. The role is a strategic leadership role and does not include working with individual children and their families directly, unlike the role of the VSH in relation to looked-after children or previously looked-after children.

In December 2023, £3.8 million of additional funding was announced to enable VSHs to provide information and advice to special guardians and kinship carers who have responsibility for children under a special guardianship order (SGO) or child arrangements order (CAO) without having first spent time in local authority care. Whilst children who grow up in kinship care have better outcomes than children who grow up in other types of non-parental care, their outcomes are still worse compared to children with no social worker involvement.

Non-statutory guidance on “Promoting the education of children with a social worker and children in kinship care arrangements: virtual school head role extension” has been published. This explains that VSHs should act as strategic leaders for children with a social worker and kinship children, and should provide advice and information, on request, to all kinship carers with SGOs and CAOs, irrespective of whether the child spent time in local authority care.

Once these new duties are conferred on local authorities the suite of guidance relating to the role of the VSH will be reviewed. The various guidance documents are likely to be amalgamated into a single document, but we do not envisage any substantive changes to the role of the VSH.

Kinship local offer

Children are best looked after within their families, with their parents playing a full part in their lives unless this is not safe for them. Where it is determined it is best for a child to be removed from their parents, kinship carers can provide stability and familiarity by allowing them to be raised in a familiar environment with people who are connected to them. Whilst children who grow up in kinship care often have better outcomes than children who grow up in other types of non-parental care, they do less well than their peers growing up with parents. We therefore want to champion, support and empower kinship families, and enable more children to grow up in kinship care where they cannot

stay at home. Kinship care reforms are a key pillar of the children social care reforms that are being taken forward in this Bill.

The aim of this measure is to improve the provision and access to information about services available to kinship families, so they know what to expect from their local authority and to ensure a parity of access to information across England. We therefore want to place a duty on local authorities to publish information about services in their area for children in kinship care and kinship carers, which will be known as a kinship local offer.

The Family and Friends Care Statutory Guidance requires local authorities to publish a policy setting out its approach towards promoting and supporting the needs of children living with family and friends' carers. Although the guidance sets an expectation for local authorities to issue a family and friends carer policy, there was no statutory requirement on them to publish this information, so it was uncertain if local authorities were complying with this duty or not and third-party analysis suggested that compliance was poor.

This Statutory Guidance is being replaced by the new Kinship Statutory Guidance which is expected to be published in October 2024. This will include a requirement that local authorities must publish a kinship local offer. This measure will underpin that requirement (though we note that it will not be in force before the guidance is published and that the Department will carry some legal risk until the measure is in force).

Objectives

We would like to confer a new strategic duty on local authorities in England to promote the educational achievements of the following cohorts:

- children in their area who are in need or subject to a child protection plan, and
- children in their area who are in kinship care.

This duty should be a strategic duty to promote the educational achievement of these two different cohorts of children. We will issue statutory guidance to local authorities which will set out the expected role of the VSH in relation to these cohorts and will include:

- raising awareness of the needs and disadvantages faced by children in these cohorts, including ensuring access to appropriate training for those working with these children;
- building and enhancing partnerships between education settings and local authorities to support all professionals working with these children to hold high aspirations for them;
- identifying the specific needs of these cohorts of children and looking for ways to improve the educational outcomes of these cohorts of children;
- promoting practice that supports attendance and engagement of these children in education;

- promoting practice that improves the educational attainment of these children, including working with education settings to strengthen how they address barriers to educational progress;
- providing information and advice, upon request, to all kinship carers with SGOs and CAOs, irrespective of whether their child spent time in local authority care

This duty should not require local authorities to:

- Work directly with individual children and their families, including monitoring the progress of individual children or providing academic or other interventions in relation to individual children;
- Review the educational provision made in its area for children and young people who have special educational needs or a disability (as we do not want to duplicate anything done to comply with requirements in the CFA 2014)

Viable policy options (including alternatives to legislation)

This policy is already being delivered by local authorities on a non-statutory basis and is an effective and critical service to improving educational outcomes for children in need and those in kinship arrangements. We could continue to support local authorities to make provisions for VSHs to support children in need and those in kinship arrangements on a non-statutory basis; however, this would risk some local authorities deprioritising the role given current budgetary and staffing pressures. This in turn would risk creating a postcode lottery of support for children with a social worker and children under kinship orders with different local authorities offering different levels of support dependent on their local circumstances.

Failure to make the role statutory would also risk disempowering the impact and seniority that VSHs have for this cohort. We have seen through the extension of the role for looked-after children and previously looked-after children that since the VSH role became statutory they now have the seniority within their local authorities to affect the outcomes of these children and young people.

Making the role statutory for these cohorts would also give VSHs and their local authorities the longer-term assurance regarding the future of the role, including from a financial basis. We know that many local authorities are under considerable pressure, with several having issued Section 114 notices since 2018 as a result of financial pressures such as rising social care costs, inflation and reductions in funding. Making the VSH role statutory would therefore provide additional assurances, given some local authorities could potentially de-prioritise any non-statutory roles to help meet these challenges.

Impact on external groups

It is anticipated that the extension of the VSH role to include children with a social worker and those in kinship care on a statutory basis will have several impacts on various external stakeholders:

Local authorities

- **Increased resources:** Local authorities will need to allocate more resources and staff to support the extended VSH role, ensuring the promotion of the educational achievement of all children with a social worker and those in kinship care. We recognise the financial impact this will have on local authorities and have paid grant funding of £16.6 million per year to enable them to meet their non-statutory duty towards children with a social worker since the role came into effect in 2021, and have paid a further £3.8 million since September 2024, since the extension of the role to kinship children. We will continue to review this funding to ensure that local authorities receive sufficient funding to enable them to meet these duties.
- **Enhanced collaboration:** It is anticipated that schools will benefit from VSH support through the provision of strategic oversight, ensuring a more holistic approach to the child's wellbeing, combining education and social care support.

Kinship carers and families

- **Access to VSH support:** The VSH extension to kinship children will mean that kinship carers will have better access to, and understanding of educational resources and support available, helping them to provide a stable and supportive environment for the children in their care.
- **Empowerment:** Kinship carers will be more empowered to engage with education establishments and to advocate for the needs of the children in their care as a result of the enhanced offer of support available to them.

Schools and other education establishments

- **Enhanced support for disadvantaged children and young people:** Schools will benefit from the continued strategic oversight of the cohort for these children. The evaluation of Phase Two of the extension of the role to children with a social worker²³ highlighted a number of specific benefits to schools and it is anticipated that these will continue to be realised and enhanced if the role becomes statutory. These include:
 - **Improved collection and use of data:** A substantial majority of VSHs now have access to data on the attendance, persistent absence, and

²³ [Evaluation of the extension of virtual school heads' duties to children with a social worker \(publishing.service.gov.uk\)](#)

suspension or permanent exclusion of children with a social worker. The evaluation has shown that attendance data are now available to almost 70% of VSHs, with over 50% declaring their data to be of high quality. This improved data has facilitated the identification of children most at risk of not being in school, which has enabled earlier intervention to address this.

- **Increased schools' understanding of the cohorts' needs:** Almost every VSH (97.6%) offers a wide range of training to schools and education establishments, with a particular focus on relational practices, improving joint working, and addressing the need to improve attendance. Further, an increasing number of VSHs are providing training aimed at addressing challenging behaviour and awareness of care experience by focusing on relational approaches and in supporting children's emotional health and wellbeing. This has had clear qualitative impacts on the awareness of the needs of the cohort; for example, the evaluation highlighted one region demonstrated through a survey of schools that 86% of schools were aware of both newly developed guidance and the Ever 6 CWSW cohort, with 62% having disseminated this information throughout the school to staff.
- **More inclusive practice in schools:** 80.2% of VSHs surveyed reported to being on the way to achieving this outcome, with greater inclusion demonstrated by increased attendance, or suspension or permanent exclusion. Nearly two-thirds of VSHs (63.5%) perceived increased attendance and approximately one third reported decreases in suspensions (35.7%) and permanent exclusions (30%).

These represent some of the key impacts from the interim evaluation of the VSH extension to children with a social worker. We will monitor the impact through the continued evaluation and against the longer-term anticipated outcomes from the Theory of Change, which are anticipated to be evidenced by the end of 2024/25. These include:

- Improved attainment
- Improved attendance
- Reduction in NEET
- Reduced suspensions and permanent exclusions
- Improved wellbeing and resilience

Staying Close

Policy overview

Many care leavers do not feel equipped to deal with the challenges of living independently and they do not always have strong support networks and families that other young people rely upon to help them with the transition to independent living. Care leavers are more likely than their peers to report feeling lonely or isolated. Care leavers are overrepresented in homelessness data²⁴ almost 40% of care leavers aged 19-21 are not in education, employment, or training (NEET)²⁵ and care leavers experience higher rates of poor mental health and well-being²⁶.

The Department for Education currently operates a grant funding scheme known as Staying Close which began as a pilot in 2018 with 8 initiatives and has now expanded to 47 local authorities.

Evaluation of the initial 8 pilot sites concluded that the programme had a significant impact on increasing outcomes for care leavers including an increase in sustained tenancies, increased placement stability, a reduction of young people not in education, employment, or training (NEET), and a significant increase in health and well-being.

The current Staying Close grant funded programme gives local authorities the flexibility to determine what should be offered depending on the needs and circumstances of the young person and the facilities and resources available to the local authority, and may include:

- Support to find and maintain safe and stable accommodation
- Life skills training
- Support to access education and/or employment.
- Support to access clinical and other services
- Support to access counselling/ therapeutic support
- Providing an identified trusted support worker for each care leaver

Why is legislation needed?

While the Children Act 1989 requires pathway plans in relation to former relevant children to be kept under regular review until age 21, there is a gap in support nationally for young

²⁴ [Statutory homelessness in England: financial year 2023-24 - GOV.UK](https://www.gov.uk/government/statistics/statutory-homelessness-in-england-financial-year-2023-24) and <https://explore-education-statistics.service.gov.uk/find-statistics/children-looked-after-in-england-including-adoptions/2023#dataBlock-290c71d3-feac-4faa-bfda-21dabdfb198a-tables>

²⁵ [Children looked after in England including adoptions, Reporting year 2024 - Explore education statistics - GOV.UK](https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoptions-reporting-year-2024)

²⁶ [Research \(published by Barnardo's in 2017\)](#) shows 46% of care leavers have been identified with a mental health concern, but 65% were not receiving help from statutory mental health services; care experienced adults are at [four to five times greater risk](#) of a suicide attempt than their peers; and adults who were in residential care as children are [between 3 and 4 times more likely](#) to report their health as 'not good' compared with 'good'.

people leaving residential homes and other forms of accommodation. These young people often find themselves in independent accommodation without support and often find themselves isolated and unable to manage with the challenges that independent adult life brings.

Objectives

The new duties will replace the current staying close grant funded scheme and will require each local authority to consider whether former relevant children (up to age 25) require the following support and if it is the local authority's view that their welfare requires it, to offer that support:

- to find and keep suitable accommodation; and
- to access services relating to health and wellbeing, relationships, education and training, employment and participating in society.

Support means the provision of advice, information, and representation. The aim is to help develop confidence and skills for independent living so that young people can feel positive about their future and opportunities as a result of the support they receive. The new clause makes clear that these duties are in addition to those already required under the act.

Staying Close aims to improve support to young people leaving care so they will:

- experience a better supported transition to adulthood,
- improved outcomes in accommodation stability, wellbeing, EET, strong relationships and support network and independent living skills

This should then have a subsequent decrease in cost pressures on wider public services.

Viable policy options (including alternatives to legislation)

Policy options we have explored are:

Do nothing: This would leave a significant gap in provision for care leavers who require continued support as they move to independence from a care placement. There would be an inevitable inconsistency in where support was available, as it would be dependent on LAs proactively choosing to set up the support offer and would be unlikely to become nationally available without a duty in place.

Fund the expansion on available LAs offering Staying Close but not make a duty:

While this option would allow for a further expansion and availability of the service to care leavers nationally it would not allow for it to become a requirement of all LAs to offer to the programme and therefore there could be a risk of gaps in provision that a statutory

duty would prevent. A duty also allows intervention into LAs services where they are not fulfilling their expectations.

What else?

The Department for Education currently funds 47 LAs and 3 private providers to deliver the existing grant funded staying close programme. We are not aware of any other Staying Close programmes operating outside these funded sites.

LAs have various duties to Care Leavers up to the age of 25 including, in some cases accommodation – however they do not currently consistently offer a package of support for all former relevant children (under 25)

Impact on external groups

Local authorities – positive impact (with funding)

Local authorities will be required to provide staying close support to all former relevant children (up to age 25) where their welfare requires it. Fulfilling this duty may require organisation of a team to run the programme and staff to work with the young people.

It is the department's intended approach to fund LAs in their preparation of this duty. This will be based upon the formula and costs used with previous LAs so we are comfortable we will be providing enough funding for the impact to have minimal negative impact on the LAs. It is our intention this funding will continue when the statutory duty comes into force – akin to national funding we continue to provide for the Staying Put Duty.

In the long term, investment in Staying Close support is likely to save LAs funding on crisis housing (for those presenting as homeless), and associated support services. Care leavers experience a significantly higher rate of adverse outcomes compared to the general population. By providing support to find and keep suitable accommodation and to access services, these duties will improve these outcomes both in the short and long-run.

These cost savings will mainly come from reductions in the costs of homelessness, unemployment and mental health needs. Through consistent support and developed life skills, young people are more equipped to live independently, manage budgets successfully leading to fewer tenancy breakdowns and young people aren't making themselves 'intentionally homeless.'

Housing providers – no impact

We do not believe there will be any impact on housing providers. Care leavers will continue, as they do now, to source accommodation from what is available in the local areas. Providers of housing in LAs will vary. Care leavers may access via the LA (social

housing or specialist housing), some will fine housing associations and some will be private landlords. We do not hold data on where care leavers are most likely to find accommodation, but providers will not be impacted by this measure as it will not change any forms of tenancy agreements. As Staying Close aids long term tenancies and stable accommodation, this will be a benefit to providers who will see a decline in rent arrears and the need for evictions etc.

Care leavers – positive Impact

Staying Close aims to improve support to young people leaving care so they experience a better supported transition to adulthood, and have improved outcomes in accommodation stability, wellbeing, EET, strong relationships and support network and independent living skills, with a subsequent decreased cost pressure on wider public services. Any decrease in the number of care leavers becoming homeless or experiencing mental health issues, and any increase in the number of care leavers that move into employment, education, or training, will have a significant positive impact on this group of young people.

Evaluation of the initial pilots of the existing grant funded staying close scheme showed that in the pilot areas there were clear improvements in outcomes including: a 20% improvement in mental health outcomes, a 13% reduction in the number of young people who were NEET and a 21% reduction in anti-social behaviour.

The independent evaluations also found that the existing grant funded Staying Close scheme supported young people to develop and build the skills needed to prepare for independent living. Feedback showed that young people's life skills had improved after six months of participating in the project and that young people felt happier in themselves, had better stability in their accommodation and there was increased participation in activities, whether education, employment or wider activities.

Local offer for care leavers

Policy overview

Many care leavers report experiencing a 'cliff-edge' when they leave care. They report not feeling equipped to deal with the challenges of living independently and, as a result, many care leavers get into debt and arrears and lose their tenancies.

While LA teams are encouraged in guidance to work together to achieve a common aim of transition planning and providing appropriate support, this is not happening consistently.

As requirements change around care leavers and housing – including new expectations on intentional homelessness set out in the Homelessness Code of Guidance and expectations for LAs to provide Staying Close support to former relevant children– the need for a clearly communicated LA-wide plan becomes even more important.

Housing and concerns with accommodation rank as one of the highest worries for care leavers, and for professionals trying to support them.

Expert reviews have shown that many care leavers face barriers to securing and maintaining affordable housing. An unacceptable number of young people end up in crisis and experiencing homelessness shortly after leaving care. Homelessness amongst care leavers aged 18-20 has increased by 54% since 2018/19²⁷.

We therefore plan to require local authorities to publish the arrangements it has in place to support and assist care leavers in their transition to adulthood and independent living. This must include information about the authority's arrangements for anticipating the future needs of care leavers for accommodation, co-operating with the local housing authorities in its area and providing assistance to eligible care leavers who are at risk of homelessness.

Why is legislation needed?

Whilst housing and children's services departments are encouraged in guidance (Part 7 of The Children Act 1989 guidance and regulations Volume 3: planning transition to adulthood for care leavers) to work together to achieve the common aim of planning and providing appropriate accommodation and support for care leavers, this is not happening consistently in practice.

Evidence indicates that intervention is required here. For example:

²⁷ [Homelessness statistics - GOV.UK](#)

- In 2022/23, 10% of care leavers aged 18-20 and 8% of those aged 21+ were owed a homelessness duty. There has been a 33% increase in numbers of care leavers aged 18-20 owed a duty since 2018/19, meaning that the number of homeless care leavers has increased at twice the rate of the general population.
- Children and young people who are care experienced are significantly more likely to have poor mental health. Many care experienced children and young people have lived through adverse and traumatic experiences such as abuse and neglect and have grown up in complex circumstances. These experiences can have lasting consequences. For looked after children (LAC), the largest primary reason for being taken into care is abuse or neglect, identified for 65% of the cohort.
- Many care leavers do not feel equipped to deal with the challenges of living independently and they do not always have strong support networks and families that other young people rely upon to help them with the transition to independent living.

Objectives

We want to require each local authority to publish plans that includes information about the authority's arrangements for:

- enabling it to anticipate the future needs of care leavers in respect of accommodation and other services related to health and well-being; relationships; education and training; employment; accommodation; participation in society
- co-operating with local housing authorities in their area in assisting former relevant children aged under 25 to find and keep suitable accommodation.
- providing assistance to former relevant children aged under 25 who are at risk of homelessness (including information about the authority's arrangements for early intervention to prevent former relevant children aged under 25 from becoming homeless), or leaving prison, a young offender institution or a secure training centre to find and keep suitable accommodation.
- assisting former relevant children aged under 25 to access services related to health and well-being; relationships; education and training; employment; accommodation; participation in society.

Viable policy options (including alternatives to legislation)

Do nothing: This would leave care leavers in the position they are in now, where, in the worst-case scenarios, post-care accommodation moves are unplanned and chaotic.

Promote publishing plans use though a soft communications approach: While this might highlight and encourage the creation of LA plans across housing and children's services, it is unlikely to have the national impact we would like to seek.

We feel that legislative change is required to ensure that LAs set out their plans for supporting and assisting care leavers in their transition to adulthood and independent living so that care leavers can make informed choices and significantly reduce the risk of homelessness.

What else?

The Government supports a number of programmes for care leavers to support them with safe and stable accommodation, including Staying Put (to stay in foster care placement) and Staying Close (support for those leaving residential care) and Rough Sleeping Advisors for care leavers.

Statutory guidance will need to be amended to support LAs with the delivery of this change.

We will work collaboratively with the Ministry of Housing Communities and Local Government (MHCLG) on the guidance as it will be closely interlinked with Housing Teams in LAs. MHCLG will seek to update their code of guidance alongside our guidance. We have already strengthened expectations that LAs should have a joint protocol in place through recent updates to the Homelessness Code of Guidance.

Impact on external groups

Local authorities – positive impact

We believe this to be a low risk of being seen as a new burden. As all LAs should have these plans in place already, the firming up of these expectations will only significantly impact those who do not have any measures in place as they will need to create those plans. It may require some additional governance to ensure joined up decision making but this should be managed by their current governance routes and have no additional resource implications.

In turn, we believe that better communication and link up between LA teams will lead to better understanding of care leaver needs, better understanding of existing LA housing stock (and other services) and a potential reduction in homelessness associated costs.

The current new burden assessment, which included a small informal consultation with LAs matches these findings. MHCLG share our views on the level of risk.

Care leavers – positive impact

This will have a positive impact on care leavers who often say turning 18 is a 'cliff edge' with support significantly reducing. With this change a young person who is turning 18 and leaving a care placement will have a clear idea of what support and options are open to them.

Housing providers – no impact

We do not believe there will be any impact on housing providers. Care leavers will continue, as they do now, to source accommodation from what is available in the local areas. Providers of housing in LAs will vary. Care leavers may access via the LA (social housing or specialist housing), some will find housing associations, and some will be private landlords. We do not hold data on where care leavers are most likely to find accommodation, but providers will not be impacted by this measure as it will not change any forms of tenancy agreements. Better joint LA working and identification of available, suitable properties for care leavers in their area should aid long term tenancies and stable accommodation. This will be a benefit to providers who will see a decline in rent arrears and the need for evictions etc.

Workforce – positive impact

This should aid all workforce connected to care leavers have a clearer understanding of the processes required to ensure care leavers are being given the appropriate support when moving on from a care placement. It will stop confusion and potentially save time and money by not following the incorrect pathways to access support and accommodation.

Improve quality of care: Use of accommodation for depriving liberty

Policy overview

The number of children deprived of their liberty via the high court inherent jurisdiction has increased nationally from around 100 in 2017/18, to over 1300 in 2022/23. Most of these children have multiple needs, many resulting from complex on-going trauma and the 'system' is now failing to meet these needs. The lack of a joined-up approach across children's social care, health, education and youth justice has led to exceptionally high whole system costs, and poor long-term outcomes for these children.

Section 25 of the Children Act (CA) 1989 currently gives the power to allow a child to be placed or kept in accommodation provided for the purpose of restricting liberty (Secure Children's Homes) providing specific criteria are met. A core feature of Secure Children's Homes (SCH) is to prevent a child from absconding or causing harm to his/herself or others. Increasingly SCH managers are finding that children are presenting with a level of complexity that means they cannot always meet their needs. Highly therapeutic accommodation designed for a child would have as its primary purpose the care and/or treatment of the child, as opposed to prevention of absconding or harm, and so could not be used to deprive a child of their liberty via section 25 of the CA 1989. With both this understanding, and a lack of sufficiency in the Secure Care Homes (SCH) estate, Local Authorities are increasingly turning to the inherent jurisdiction of the high court to apply for a Deprivation of Liberty Order (DOLO) to help keep children safe. The inherent jurisdiction should be only a last resort measure. Its routine use is therefore problematic and reflective of a lack of provision and appropriate statutory mechanism designed to meet all the needs of a small but growing cohort of children looked after by local authorities. Research by Nuffield Family Justice Observatory has found that 53.8% of children in their study were placed in unregistered provision at some point while subject to a DOLO. This is due to market insufficiency: local authorities do not have access to the right type of placement, with the right model of care, and with the right workforce to meet children's needs. Unregistered accommodation lacks any regulatory approval, and is often of unclear quality, offering low or no therapeutic input for children.

Our measure will expand section 25 of the Children Act to provide a statutory framework to authorise the deprivation of liberty of children in placements designed with the primary purpose of providing treatment and care, where a deprivation of liberty could be sustained to keep the child safe but where this is not the primary purpose of the accommodation., . This will allow children with complex needs who may need to be deprived of their liberty to maintain or re-introduce links back to the wider community, whilst reviewing or scaling restrictive measures depending on the presenting needs of the children and young people. This will go along with capital investment in this type of provision and a range of other measures to increase sufficiency and commissioning of

appropriate placements for children with complex needs who require a deprivation of liberty.

Why is legislation needed?

Without legislation, placements in these forms of provision would continue to require a DOLO via the High Court's inherent jurisdiction. As these placements would have no clear statutory framework, there would be no opportunity to develop clear and specific requirements for the provision, for example within Ofsted regulation, and a continued conflict of rights when children with and without deprivations of liberty orders are held in the same settings. The legislation will provide clear criteria for when a deprivation of liberty is appropriate and afford children appropriate safeguards and minimum review points to ensure no child is deprived of their liberty for longer than they need to.

DOLOs via the High Court's inherent jurisdiction are a last resort option and do not offer the safeguards that a statutory scheme would through mandated regular review points and a clear legal framework. Legislation would both increase the safeguards for children and return High Court DOLOs back to their intended purpose.

Objectives

The policy objectives are to:

- 1) Increase high-quality provision for looked after children with complex needs which maintain their links with the community and are a space for care and therapeutic input.
- 2) Reduce the usage of DOLOs, which should be used as a last resort rather than as a norm
- 3) Provide a framework of clear rights and safeguards for children subject to a deprivation of liberty including clear criteria for access, mandatory review points, and parity in access to legal aid to those placed in secure children's homes.

Viable policy options (including alternatives to legislation)

The following options have been considered:

Option 1: Do nothing – maintain the status quo. Children with complex needs will continue to be placed under DOLOs into unregistered children's homes of poor quality and high cost, delivering poor outcomes for this cohort. This option would not meet objectives 1-3.

Option 2: Invest in growing suitable placements but rely on existing Inherent Jurisdiction of the High Court to legalise the deprivation of liberty within these placements. With a lack of clear statutory framework for these types of placement and enabling forms of

provision, we believe the sector would be more hesitant to invest in building appropriate provision, and so we would not see the development and expansion of provision which we view as necessary and beneficial to children with complex needs. Additionally, reliance on DOLOs via the High Court's inherent jurisdiction would continue. This is a costly avenue and does not provide the same level of safeguards for children's rights as would be ensured under a statutory framework. This option would not meet objectives 2 and 3 and would not be fully effective in meeting option 1.

Option 3: Secondary legislative changes using s.25(7) of the Children Act to expand the criteria on which a child can be deprived of their liberty under s.25. We believe this would not be sufficient as our proposal is facilitating a different type of provision to be able to deprive a child of their liberty, rather than defining a cohort through a criteria change.

Option 4 (proposed option): Primary legislation change to s.25 of the Children Act (1989) to allow for children to be deprived of their liberty under s.25 in accommodation providing care and/or treatment. This will go along with investment in this provision and a range of other measures to increase sufficiency in appropriate placements for children with complex needs who require a deprivation of liberty.

Option 4 is the preferred option as it meets all the policy objectives set out above with appropriate parliamentary scrutiny.

What else?

Alongside legislation, the government is proposing a widescale package of activity to build sufficiency and quality of placement in this proposed provision. This includes investment of £60m to create 200 additional open children's homes placements for children in this cohort, which will increase capacity in the market and ensure that the system is able to provide a safe home for these extremely vulnerable children. To further increase our understanding of the issues around designing, commissioning and delivering suitable provision for these children, we are also commissioning independent research which will look at how the system works, how it impacts on children and young people and how we could do things differently to achieve better outcomes for children and young people. We will draw from the findings of this research, which we plan to publish, to develop and pilot evidence-based models of commissioning safe, therapeutic care that delivers integrated, consistent, and collaborative practices for these children and young people, alongside other guidance and resources that are informed by evidence, existing good practice, and by what children, young people and parents/carers say they want and would find helpful.

Impact on key groups

Children with complex needs who require a deprivation of liberty

Nuffield FJO research²⁸ found three distinct cohorts of children currently receive Deprivation of Liberty Orders via the High Court:

- Children with multiple, complex needs, recognised to be a response to complex and ongoing trauma;
- Children with learning and physical disabilities needing support/supervision;
- Children experiencing or at risk of external or extrafamilial risk factors such as sexual or criminal exploitation

Our work is focusing on addressing the needs of children with multiple, complex needs, recognised to be a response to complex and ongoing trauma, as it is the biggest group, and they often “fall through the cracks” in the system in terms of treatment and responsibility. The impact of our policy measure on this group will be a clearer framework to understand their rights within, and greater safeguards, including regularised review points of the deprivation of liberty. Alongside this, with the delivery of the wider policy, these children will benefit from placements better suited to their needs and that maintain their community ties, long term pathway planning which ensures they are in the right placement for their needs at the right time, and a skilled workforce which is best suited to support them. Overall, this will deliver better outcomes for these children.

Parents and guardians

Parents and guardians of children in this cohort will also benefit from a clearer, statutory, system as above.

Local authorities

LAs will benefit from lower costs when seeking to deprive a child of their liberty. With the establishment of a statutory scheme LAs will no longer be reliant on taking these cases to the High Court to rule via inherent jurisdiction – a costly action both in court fees and in a higher burden on legal representatives. We do not have quantifiable estimates for these, but our understanding is that costs will be considerably lower for both through use of a statutory scheme.

A survey of councils by the Local Government Association²⁹ showed that the number of children’s social care placements costing £10,000 or more per week has risen in from approximately 120 placements in 2018/19 to over 1,500 in 2022/23. The highest cost placement was £63,000 a week and for most councils the highest cost is between £9,600

²⁸ [Children subject to deprivation of liberty orders \(nuffieldfjo.org.uk\)](https://nuffieldfjo.org.uk) p.20

²⁹ [High-cost children’s social care placements survey | Local Government Association](#)

and £32,500. Over nine in 10 (93%) councils highlighted children needing help with increasingly complex needs, including mental health needs or exhibiting challenging behaviours, as a factor. As we drive forward activity to increase commissioning and placement planning capability within LAs, we expect placement costs to decrease as LA reliance on “spot purchasing” (purchasing outside of contract for short term need) or unregistered provision decreases.

Providers of children’s homes

Secure: There are 13 Secure Children’s Homes (SCHs) within England, 12 of which are LA-run and one which is run by a charity. As a result of our wider policy, there should be less pressure on SCHs. This is because some who are currently placed in or on the waiting list for SCHs would be diverted to this new form of provision where it is appropriate for their needs. Given the overwhelming pressure on sufficiency in SCH currently which in 2022 had 50 children waiting for each SCH place³⁰, we do not expect this decrease in pressure to have an adverse impact on the ability to run these provisions, or leave placements within SCHs underutilised. This is in some situations SCHs will remain the most appropriate placement for children with complex needs, and this cohort is just one cohort currently placed within SCHs. We expect this policy to have a positive impact on SCHs, and those who require a placement in a SCH, as placement availability within SCHs will increase and waiting lists should decrease. However, we do not have quantifiable data on the exact impact.

Open: Registered Open Children’s Homes (a Children’s Home which is not a SCH) are mostly independently operated, with the CSC Children’s Social Care market study³¹ finding that 83% of (registered) Children’s Homes were independent as opposed to LA-operated. In some current situations, children under a d DOLO are placed in registered Open Children’s Homes due to a lack of appropriate placement within a SCH, either because no bed is available or the SCH cannot meet the child’s needs. We do not have quantifiable numbers on how many children are placed this way currently. This approach of placing a child under a DOLO within a registered Open Children’s Home creates a complex situation legally for registered Open Children’s Homes to ensure that in depriving one child of liberty, they do not indirectly deprive others accommodated in the home without such an order. In creating specialist forms of provision following on from the proposed legal change, which would be purpose built to be able to step up and step down restrictions as needed, this legal risk would lessen. There will be additional opportunities for some experienced providers of registered Open Children’s Homes, as we expect that they will be well placed to provide this form of provision that can meet the needs of children who may need to be deprived of liberty to keep them safe.

³⁰ [Main findings: children’s social care in England 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106444/main-findings-childrens-social-care-in-england-2022.pdf)

³¹ [Final report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/106444/final-report-childrens-social-care-in-england-2022.pdf)

Unregistered: At present we understand that children on DOLOs are often placed in “unregistered” placements. These will very likely meet the definition of a Children’s Home under the Care Standards Act 2000, but are not registered with Ofsted and are therefore operating unlawfully. This is supported by Nuffield FJO research which found in a sampling of cases that 52.8% of deprivation of liberty applications were for unregistered placements³². We believe that our measure and wider policy actions will create more legal, appropriate placements for children in need of deprivation. As such, usage of unregistered provision will decrease. Unregistered placements are operating unlawfully, without Ofsted registration and regular inspection and, and with unclear quality or therapeutic benefit, therefore the reduction in the use of unregistered placements would have a positive impact on children’s outcomes.

³² [Children subject to deprivation of liberty orders \(nuffieldfjo.org.uk\)](https://www.nuffieldfjo.org.uk) pg.24

Strengthening Ofsted's enforcement powers – to issue monetary penalties for offences committed under the Care Standards Act 2000

Policy overview

Children in residential settings are some of the most vulnerable in the country and need high quality care and support that they can trust to be in their best interests and meet their needs. This is why it is a legal requirement for children's homes and other children's social care settings and agencies to register with Ofsted, as per the Care Standards Act 2000 (CSA); it means the managers are checked, the places children live are inspected to ensure they are suitable, children are safe, and where there are failings, those responsible can be held to account.

Despite it being a local authority's duty to ensure that they have sufficient, registered places for children to live, there has been a worrying trend in the rise of the use of unregistered provision – most notably in children's homes and supported accommodation, but Ofsted have also seen it in independent fostering agencies and residential family centres. Often these settings are wholly inappropriate places for vulnerable children to live in, and sometimes children are living there for extended periods of time. In 2023-24 Ofsted opened cases on 1,109 potentially unregistered settings and found that 887 (87%) should have been registered (compared to 370 in 2022-23). It is highly likely there are more unregistered settings operating than Ofsted have received intelligence about, but at a minimum this shows that nearly 1000 children were placed in unregistered settings in 2023/24 alone.

Whilst Ofsted already has some enforcement powers to tackle unregistered settings, it is clear that their powers to prosecute, which can include a prison sentence of up to 6 months, has failed to operate as an effective deterrent (this is likely given that Ofsted have only brought one case to court (ongoing) given the resource intensive, costly and lengthy nature of prosecution and court proceedings). We are therefore strengthening Ofsted's enforcement powers so they can issue a monetary penalty against providers of unregistered settings. These are an alternative to criminal prosecution and will allow Ofsted to act at pace to tackle more unregistered settings, in a proportionate way.

To ensure Ofsted is able to act proportionately and with clarity – the CSA contains further offence provisions (sections 22A, 24-28 and 29) which will be subject to the new monetary penalties regime. This is logical and brings consistency as Ofsted also has the power to prosecute for these other offence provisions. However, unregistered settings are the driver of strengthening this power.

(Ofsted will also be able to issue a monetary penalty to some parent undertakings for non-compliance of requirements as will be set out in the Children's Wellbeing Bill. The monetary penalty clauses in the Bill also give Secretary of State powers to issues

monetary penalties for non-compliance with finance oversight and profit cap requirements. These measures are subject to full regulatory impact assessments).

Why is legislation needed?

Current legislation allows Ofsted to prosecute those who do not register their services. This is a resource intensive process and can take a very long time (minimum 18 months) – and to date Ofsted have not prosecuted (one case in currently ongoing) any providers of unregistered settings.

There has been a significant increase in the number of unregistered children's homes Ofsted have been made aware of over the years. From April 2023 to March 2024, Ofsted were aware of just over 1,000 unregistered children's homes, an increase of 12% from the previous year (just over 900). Giving Ofsted the option of either prosecution or monetary penalty will allow them to act swiftly and proportionately against these providers.

Objectives

The overall aim of this policy and legislation is to:

- Act as a deterrent to those who wish to set up and run children's social care settings or services without legal oversight.
- Be a "middle step" for Ofsted between no action and prosecution, allowing Ofsted to act proportionately and efficiently.
- Ensure accountability of all services and settings delivering children's social care, in line with legislation and standards.

Viable policy options (including alternatives to legislation)

In developing the policy, other options were considered:

- **Keep the current legislation (do nothing):** It is clear that the current legislation and processes are doing nothing to stem the increased use of unregistered settings or agencies.
- **Enhance local oversight on the use of unregistered:** As with placing a child outside the authorities boundary, we considered making the use of unregistered settings a director of children's services (DCS) level decision (in conjunction with our preferred option of Ofsted being able to issue civil penalties). Whilst we do not want to legitimise the use of such placements, we understand that in some crisis/emergency cases they are used as a short-term solution. A DCS decision would likely ensure that this is always the case (and therefore not used for longer-term placements). However, we believe that in most cases, the DCS is already aware of all the unregistered placements in their area.

- **Work with Ofsted to strengthen the local authority inspection framework against the use of unregistered provision and introduce mandatory reporting of their use:** When Ofsted inspect a local authority's children's services, they do so against the Inspecting local authority children's services (ILACS) framework. This already includes information on the use of unregistered placements.

Ofsted could strengthen the ILACS in this area; however, the potential consequences of this would be a significant cost to the DfE (and therefore the taxpayer), as DfE intervene in poor performing local authorities to improve services; and it does not meet the policy aims of providers being accountable for the services they are providing – and ultimately ensuring children are not at risk of harm. Ofsted would also need to consider, and potentially apply a necessity test (i.e. could a negative judgement be given to a local authority that *had* to use an unregistered setting out of necessity). Further, there is/has been no evidence to suggest local authority inspection outcomes would have an impact on the use of unregistered – this is driven by the current shape of the residential market.

A related, further option could be to place a duty on authorities to report the use of unregistered settings to Ofsted when they use the placement. There are a number of issues with this – Ofsted would still only be able to use their enforcement powers against the providers by inspecting, investigating and then prosecuting the provider. Children would still be at risk of being placed in poor quality and non-inspected provision until they were made aware its' existence.

For the reasons outlined, we do not believe a local authority based approach to tackling the increasing numbers of unregistered providers is appropriate.

- **Issue a fixed penalty notice (FPN) to those running unregistered provision to discharge criminal liability:** We do not believe this would be an effective deterrent as a recipient of an FPN can state that he or she is not guilty, and invite the matter to be tested by prosecution in the normal way. There would be nothing to stop those wishing not to register to reject the fine and test Ofsted's resolve to prosecute them instead – which we know is both time and resource intensive and could be too slow if Ofsted have concerns about children's safety and accommodation. We therefore concluded that a monetary penalty would be a better option than a FPN, given it allows Ofsted to retain the option of prosecution, whilst still needing to meet the burden and standard of proof test, required for any fixed penalty

What else?

We understand from engagement with LAs and the sector, that this issue is due to a lack of sufficiency in the sector for the most complex of children social care cases. As well as proposed reform to increase the number of children being in family settings (kinship/fostering), the DfE are also:

- Match funding projects for local authorities to setup new children's homes and placements - totalling more than £400m over 3 years which will create more than 550 places.
- The creation of 2 Regional Commissioning Cooperatives (RCC) pathfinders, aiming to coordinate the purchasing of children's homes places. The evidence from this will inform the development of RCC nationally.

Impact on external groups

The stakeholder groups that could be impacted by this legislation:

- Local authority children's services (Directors of Children Services)
- All types of children's homes and children's social care providers
- Care experienced children and young people

Stakeholders have raised that some providers could increase the costs of placements to absorb the cost of any penalty, or leave the market if Ofsted had the power to issue monetary penalties. This in turn may either increase costs to LAs by providers increasing their fees or potentially exacerbate the sufficiency issues in the market. However, there is no evidence to support this position (unregistered settings are illegal, and if they are providing a good service, they should register with Ofsted).

Ultimately, local authorities are required by law to place children in registered settings and providers who are carrying on or managing a setting that provides care and accommodation for children without registering with Ofsted are committing an offence. Whilst there may be an impact on these groups, this practice should not be happening, and we believe new enforcement powers will allow Ofsted to better tackle the use of unregistered settings in a proportionate, effective and efficient manner.

This policy change will ensure that children and young people have a more positive experience in care settings – as all/more settings will be subject to Ofsted inspection and therefore providers held to account for poor quality care where it exists. It also means that settings will have to comply with wider regulation around health and safety, staffing and be suitable for children to live in. There is a risk that for some children who are in unregistered settings currently, the policy will result in them having to move to a different setting. Whilst we recognise that placement changes can be unsettling, we think that children's needs are better met in a stable, registered setting.

Strengthen CSC regulation: Agency Workforce

Policy overview

Research by Kantar published in 2020 on behalf of DfE estimated the ‘agency premium’ – the additional cost of employing an agency social worker – as approximately 53% of the average social worker salary³³.

We know the use of agency social workers in children's social care is increasing. There were 7,200 agency social workers in post on 30 September 2023, the highest since the data series started in 2017 and representing an increase of 6.1% from 2022. Four in five agency social workers (80.1%) were covering vacancies in 2023³⁴.

‘[The independent review of children’s social care: final report](#)’ was published in May 2022. The review made a number of recommendations related to the child and family social worker workforce and included recommendations around the engagement of agency social work resource which the review described as “costly and works against providing stable professional relationships for children and families”.³⁵

On 2 February 2023, in response to the review and recent recommendations from the Competition Markets Authority and National Safeguarding Review Panel, the previous government published ‘[Stable Homes, Built on Love: Implementation strategy](#)’ setting out six pillars of reform. Pillar 5 outlined the previous government’s commitment to creating ‘a more sustainable workforce model that can provide greater stability, improved quality assurance and reduce costs.’

This will enable us to take action without delay, alongside the implementation strategy the previous government consulted separately on. This introduced statutory guidance on the use of agency social workers in local authority children’s social care (CSC) under Section 7 of the Local Authority Social Services Act 1970 (LASSA) in [2023](#) and again in [2024](#) on the content of draft statutory guidance.

The statutory guidance³⁶ sets out rules concerning local authorities’ use of agency social workers in CSC – they do not cover any other area of the CSC workforce. It was intended that the statutory guidance would be published in April 2024 but, due to the general

³³ National assessment and accreditation system (NAAS): delivery evaluation of phases 1 and 2 (2020) https://assets.publishing.service.gov.uk/media/5f5e26598fa8f559e32b4cdd/NAAS_delivery_evaluation_of_phases_1_and_2.pdf

³⁴ Children's social work workforce, Reporting year 2023 - <https://explore-education-statistics.service.gov.uk/find-statistics/children-s-social-work-workforce/2023>

³⁵ MacAlister, J. (2022). *The independent review of children’s social care: executive summary*. <https://childrensocialcare.independent-review.uk/wp-content/uploads/2022/05/Executive-summary.pdf>

³⁶ Statutory guidance: Child and family social workers: agency rules https://assets.publishing.service.gov.uk/media/66e1738bcaa02d92e72c8d45/Agency_rules_statutory_guidance_for_local_authorities.pdf

election and change in government, this was delayed. It was published on 12 September 2024 and came into effect on 31 October 2024.

Although we have only consulted on introducing statutory guidance that would be limited to child and family social workers practicing in local authority children's social care, we know that the principles of creating a stable workforce to support lasting relationships between children and families and those who support them do not stop at social workers. The updated '[Working Together to Safeguard Children \(2023\)](#)' statutory guidance confirms that a range of lead practitioners can carry out section 17 work with children and families. New regulations and accompanying statutory guidance should not create perverse incentives for employment businesses to focus on the wider workforce. In the responses to the 'Child and Family Social Worker Workforce' Consultation in 2023, we heard some concerns that limiting the agency rules to only child and family social workers may result in unintended consequences. Feedback highlighted potential risks of social workers choosing to move out of local authority children's social care, should agency assignments become less prevalent or desirable, or that the scope of the rules could lead to agency growth in other parts of the children's social care workforce not subject to the same regulatory framework. Therefore, the regulation making power and guidance provision should allow the Secretary of State to regulate a wider range of workers in children's social care.

There are also similar recruitment and retention issues within children's homes, for both managers and staff, which impacts on the availability of placements, the quality of provision and can result in higher placement costs. [Ofsted have reported](#) that qualified staff move to agencies for higher pay. The [children's home workforce census](#) provides evidence of current agency use. From a response rate of 29%, 68% of the children's homes who responded to the census said they had not used any agency staff in the last 4 weeks. A third (32%) said they had employed agency staff in the last 4 weeks, most commonly between 1 to 4 agency staff. Concerns have been raised by [Ofsted](#) and the [Howard League](#) about the use of agency staff impacting consistency of care. DfE is providing capital funding to support local authorities to open new provision, potentially increasing their market share which may entice more agencies to move into this market. There is merit, therefore, in leaving the scope of the regulation power broad enough to include this part of the local authority children's social care workforce at a future point should further policy work identify the need.

We have explored the merit in extending the scope of the regulations beyond those working directly with children and families within local authorities' children's social care. Although key stakeholders (Association of Directors of Children's Service and Local Government Association) have expressed a desire for other professionals to be included, having held discussions on the rationale, we think the problems in other workforces are not the same as those experienced in local authority children's social care. We do not therefore think the regulation or guidance powers should apply to social workers in local authority adult services, educational psychologists, paediatric psychologists, speech and

language therapists, occupational health workers or other related health or education professionals.

Why is legislation needed?

Although the use of agency workers can be helpful in allowing local authorities to manage fluctuations in demand in their children's social care services, it is costly and evidence from Ofsted indicates that higher levels of agency workers and workforce instability can negatively impact on both the quality of social work support provided to children and families and the care provided to looked after children in residential settings.

There is currently no statutory power under which we could make regulations on the use of agency workers in local authority children's services and there is no statutory provision that specifies who local authorities must employ and how they should do so. Therefore, this legislation will confer power on the Secretary of State to make new regulations and issue guidance prescribing how local authorities procure and engage individuals supplied to them by an employment business either directly to the local authority or via another party to conduct children's social care ("CSC") functions on their behalf.

The aim of such regulations is not to prohibit the use of agency workers in children's social care. Rather it is to alleviate significant affordability and stability challenges, with provisions relating to local authority oversight and accountability for direct work with children and families, pay and labour costs, and quality assurance provisions such as pre-employment checks and minimum experience needed.

Objectives

The Department's aim is to create a more sustainable workforce in children's social care by creating the circumstances which allow local authorities to invest more resource in developing and maintaining the permanent workforce, improving outcomes of children and families. Regulating the use of temporary workers within local authority children's social care services will also improve the stability and quality of the temporary workforce and support workers to build quality relationships with children and families that can lead to better outcomes for vulnerable children.

What else?

In addition to the statutory guidance on agency social workers which we have published, we are introducing a new quarterly data collection under section 83 of the Children Act 1989 and section 251(1)(b) of the Apprenticeships, Skills, Children and Learning Act 2009.

The quarterly collection of data will provide a consistent evidence base of agency use and costs in relation to social workers, to support local authorities with workforce planning and bolster the development of regional and national workforce strategies. It will

allow for greater transparency and collaborative working at a local, regional, and national level and will enable the development and/or adjustment of regionally determined price caps. It will also allow the Department for Education to monitor compliance with the current statutory guidance and any subsequent regulations to enable the development and implementation of support and/or enforcement measures

Viable policy options (including alternatives to legislation)

Option	Pros	Cons
Do nothing	<ul style="list-style-type: none"> • Allows local authorities to continue to use local or regional systems in place to use agency staff to respond to local recruitment issues. 	<ul style="list-style-type: none"> • Fails to act on specific recommendations in care review. • Lack of consistency between regional memorandums of understanding inhibit effective local/regional management of this issue. • Costs likely to continue to rise, further restricting local authorities' ability to invest in permanent workforce and stabilise the CSC system. • Quality assurance issues inconsistently addressed.
Introduce statutory guidance using LASSA for SW only	<ul style="list-style-type: none"> • Provides clarity for workers, agencies, Managed Service Providers (MSPs), and local authorities of what is expected in relation to social workers. • Provides greater consistency across the SW workforce in local authority CSC. • Strong support from stakeholders across the sector demonstrated through consultation. 	<ul style="list-style-type: none"> • Allows recruitment practices that are not conducive with relationship-based practice in the wider workforce. • May create perverse incentives for employment businesses to focus on wider workforce. • Local authorities (LAs) able to depart from guidance if exceptional circumstances arise.

Option	Pros	Cons
<p>Update existing statutory guidance to include wider CSC workforce</p>	<ul style="list-style-type: none"> • Provides clarity for workers, agencies, Managed Service Providers (MSPs), and LAs of what is expected. • Provides greater consistency across the CSC workforce. • Avoids perverse incentives for employment businesses to focus on other CSC workforces. 	<ul style="list-style-type: none"> • LAs able to depart from guidance if exceptional circumstances arise. • Risk of legal challenge as local authorities' employment and management of temporary workers is not explicitly defined as a 'social services function'.
<p>Introduce regulations and bespoke guidance power for SW only</p>	<ul style="list-style-type: none"> • Provides certainty for workers, agencies, MSPs, and LAs of what is expected in relation to social workers. • Increases compliance: LAs cannot depart from regulations and Ofsted would look at compliance during inspections. 	<ul style="list-style-type: none"> • Direct work with children is not just done by social workers, so focusing on registered social workers alone potentially limits the benefits of workforce cost reduction for local authorities. • Allows recruitment practices that are not conducive with relationship-based practice in the wider workforce. • May create perverse incentives for employment businesses to move into wider workforce. • Creates further 'split in SW profession' - does not address similar issues in adult social worker workforce.

Option	Pros	Cons
Introduce regulations and bespoke guidance power for LA CSC workforce	<ul style="list-style-type: none"> • Provides certainty for workers, agencies, MSPs, and LAs of what is expected. • Provides greater consistency across the CSC workforce. • Avoids perverse incentives for employment businesses to focus on other CSC workforces. • Direct work with children is not just done by social workers, therefore applying the regulations to all those in LA CSC who carry out direct work with children benefits reduces costs and improves relationship-based practice across the system. • Increases compliance: LAs cannot depart from regulations and Ofsted would look at compliance during inspections. 	<ul style="list-style-type: none"> • Creates further 'split in SW profession' - does not address similar issues in adult social worker workforce.

Impact on external groups

Group	Impact
Agency workers in local authority CSC	<ul style="list-style-type: none"> • Some workers likely to be nudged to move from temporary work back into permanent local authority employment. • Those who wish to continue to work via an employment business can still do so.

Group	Impact
Directly employed workers in local authority CSC	<ul style="list-style-type: none"> • Some workers may be discouraged from leaving direct local authority employment. • Those who wish to leave direct employment with a LA to work via an employment business can still do so.
Local authorities	<ul style="list-style-type: none"> • Reduction in the temporary workforce reduces the 'agency premium' paid by LAs, allowing re-investment in permanent workforce. • Improved collaboration between LAs on recruitment and retention across CSC workforces. • Able to maintain appropriate oversight and management of all direct work with children and families carried out by temporary workers, whatever the model of deployment, to ensure practice reflects the interests of children and families.
Employment businesses	<ul style="list-style-type: none"> • Able to continue to supply temporary workers into LA CSC where it is the best resourcing option for local authorities. • Likely to see reduction in temporary workers due to restrictions on who and how they can be supplied to LA CSC e.g. unable to supply newly qualified social workers.
Children and families in receipt of support/ services from LA CSC	<ul style="list-style-type: none"> • Likely to reduce changes and/or abrupt departures of temporary social workers, family support workers or residential care workers. • Children and families more likely to receive consistent support from temporary workers, in line with LAs' practice models used by permanent staff.

Protection for 16-17-year-olds from ill-treatment or wilful neglect

Policy overview

There is currently a gap in the legal framework which means it is not possible to prosecute individuals for the low level abuse (ill treatment or wilful neglect) of 16-17 year olds in:

- a children's home in England as defined in section 1 of the Care Standards Act 2000 (CSA)
- a residential family centre in England as defined by section 4 of that Act
- accommodation provided at an establishment in respect of which requirements under Part 2 of the Care Standards Act 2000 are applied by virtue of regulations under section 42 of that Act (power to extend application of Part 2 of that Act)
- youth detention accommodation in England as defined by section 248(1) of the Sentencing Act 2020.

The Children and Young Persons Act 1933 (the 1933 Act) protects those under 16 from cruelty by those 16 or over who have responsibility for them. The Criminal Justice and Courts Act 2015 (the 2015 Act) protects against ill-treatment or wilful neglect by care workers that provide health care for an adult or child or social care for an adult. Only those over 18 are protected from offences committed during the provision of social care. We seek to provide protection for 16-17 years old through primary legislation, using the Children and Wellbeing Bill as a vehicle for this.

In November 2018, a police investigation was launched at a Kisimul Group children's home into allegations of ill treatment against children by staff (children's homes workers) who were providing "children's social care". The reports outline safeguarding concerns found in the children's home. Ofsted wrote to the CPS and DfE outlining their concerns that there was a gap in the 2015 Act for 16- and 17-year-olds in children's "social care" who were victims of wilful neglect/abuse by children's homes workers caring for them. This meant staff at the Kisimul children's homes could not be convicted despite there being evidence of them having carried out abuses against children in their care.

In August 2024 the department was sent correspondence from solicitors acting for a child and alleging cruelty in a Residential Special School (RSS) dually registered as a children's home. The police carried out an investigation and concluded that, as the institution in question was a school, no healthcare was being provided to the child and was therefore outside the scope of section 21 of the 2015 Act. This is a very recent example this amendment aims to remedy.

Objectives

We seek to provide protection for 16-17-years-old from low level abuse (ill treatment or wilful neglect) who are accommodated in:

- a children's home in England as defined in section 1 of the Care Standards Act 2000 (CSA)
- a residential family centre in England as defined by section 4 of that Act
- accommodation provided at an establishment in respect of which requirements under Part 2 of the Care Standards Act 2000 are applied by virtue of regulations under section 42 of that Act (power to extend application of Part 2 of that Act);
- youth detention accommodation in England as defined by section 248(1) of the Sentencing Act 2020

We want to create a system that treats both adults and children the same and protect recipients of social care equally regardless of age. This would mean that abuse or neglect carried out against those aged 16 or over could be prosecuted against.

Viable policy options (including alternatives to legislation)

We have considered the following policy options:

Option 1: do nothing - We do not believe that this is a viable option. The Kisimul case highlighted this legislative gap, which meant that prosecution could not be pursued because of the ages of the children, despite there being evidence of low level abuse towards the children. Had the children been under-16 or over-18 then criminal action could have been taken. Our position is that no cohort of children should be treated differently due to their age. If this continues it could amount to age discrimination.

Option 2: Legislative change to the 2015 Act. This would create a system that treats both adults and children the same and would protect both sectors equally regardless of age. By amending the Act to provide protection for 16-17-year-olds, we can avoid any conflict with the 1933 Act.

Option 3: Legislative change to the 1933 Act. This option may cause less confusion in the sector as it would extend the protection of offences to children under-18. However, this Act has been on the statute book for a long time and it would be difficult to unpick, and given the scope of this legislation it might lead to unintended consequences.

The preferred option is Option 2 as this will best meet the policy objectives set out above.

What else?

No further action is being explored, as this is a change that needs to be implemented via primary legislation.

Impact on external groups

16-17-year-olds

This change will have a positive impact on 16-17-year-olds who will now be protected from low level abuse (ill treatment or wilful neglect). They will be treated the same as adults and children under 16, with equal protections regardless of age.

Children's services

The key groups affected by the change would be those providing children's services including children's social care (children's residential care, and social work), services for children with disabilities (which may or may not be described as health services).

This proposed change will not have a direct impact on the day-to-day work for workers and it will not materially change the care they provide to children.

There could be a slight negative impact on recruitment and retention carers in a sector that is already struggling to retain and recruit care workers, as it could be perceived by some of criminalising workers.

However, we believe the risk to 16-17-year-olds from potential abuse far outweighs the risk to recruitment and retention.

Young detention accommodation

The key groups affected by the change would be those providing care to children in Youth Detention Accommodation (Young Offender Institutions, Secure Training Centre's, Secure School', Secure Children's Home's). This proposed change will not have a direct impact on the day-to-day work for workers and it will not materially change the care they provide to children. There could be a slight negative impact on recruitment and retention, as it could be perceived by some of criminalising workers. However, we believe the risk to 16-17-year-olds from potential abuse, and the protection an amendment affords far outweighs the risk to recruitment and retention.

Regional Co-operation Arrangements (Regional Care Co-operatives) (RCCs)

Policy overview

Regional Care Co-operatives (RCCs) are a policy response to the increasing number of children in care in England and the cost of their placement. As of 31st of March 2024, there were 83,630 looked after children in England. By comparison, as of 31 March 2010, the number of looked after children in England was 65,550. The cost of placements for looked after children has increased significantly over recent years, and local authority spending for such placements increased 126% between 2009/10 and 2022/23 (from £3.1 billion to £7 billion), far outstripping the 30% increase in looked after children over the same period.

The Independent review of Children Social Care ("[Care Review](#)") and the Competitions and Markets Authority ("[CMA](#)") study highlighted that there are not enough places of sufficient quality for children in care in England. Too many children live far from home or have to move repeatedly because local authorities (LAs) cannot find appropriate accommodation for them. Smaller LAs also struggle to forecast future requirements and commission placements effectively, particularly for children with complex needs and disabilities. Both reports recommended that certain local authority functions for accommodating looked after children should be carried out on a regional basis.

In November 2024, the government published a policy paper on children's social care, "[Keeping children safe, helping families thrive](#)". This explained the government's plans for a regional approach to planning and commissioning children's care by setting up RCCs. We are currently working with two regions, Greater Manchester and the South East, to set up pathfinders (pilots) that will test the delivery of this regional approach under current legislation. The pathfinders will bring together partners from children's social care, health, and youth justice to deliver the following set of minimum requirements:

- Carrying out regional data analysis and forecasting future needs of homes for children in care, in partnership with health and justice.
- Developing and publishing a regional sufficiency strategy, setting out current provision and action to fill gaps.
- Market shaping, working as one customer with providers to address local needs, improve value for money and commission the care places required from external providers.
- Recruiting foster carers through a regional recruitment support hub and improving the support offer to both new and existing foster carers.
- Developing new regional provision where gaps have been identified. The Department is providing up to £5m capital funding per pathfinder to support this, and RCC members will be expected to pool sums of their own funding alongside.

- Creating the leadership and governance arrangements necessary to allow the RCC to make swift decisions and invest sums of money over the long term.

The legislation builds on our learning from setting up the pathfinders. In particular, the definition of local authorities' strategic accommodation functions included in the legislation is based on the minimum requirements for the two pathfinders.

Many local authorities are interested in greater regional working. Three-quarters of local authorities were part of regional bids to be one of the first RCC pathfinders. The government's policy intention is to work with local authorities and partners to set up further RCCs. However, the problems in the children's social care market are significant and RCCs are one of the steps the government is taking to address them. Therefore, as a last resort, the proposed legislation would give the Secretary of State the power to direct local authorities to establish an RCC.

The measure gives flexibility around how Regional Care Co-operatives could be set up, either as joint arrangements between the local authorities or as a corporate body. This will enable the Regional Care Co-operative to respond to local areas' preferred ways of working and build on any existing regional arrangements.

Objectives

We expect RCCs to gain economies of scale and harness the collective buying power of individual local authorities. They will facilitate greater collaboration with relevant partners to improve services for looked after children. Furthermore, RCCs will develop expertise in areas such as data analysis and forecasting, as well as targeted marketing, training, and support for foster carers. Working collectively with improved specialist capacities should allow for greater innovation so that local areas are better able to deliver services for children in care.

Viable policy options (including alternatives to legislation)

RCCs can be established without new primary legislation, as evidenced by our two pathfinders in Greater Manchester and the South East. However, as noted above, the problems in the children's social care market are significant. The CMA noted that local authorities have previously formed voluntary commissioning frameworks but these have not been sufficient to address the current problems. One of the key aims of RCCs is to reduce the number of bodies that are commissioning care places for looked after children – ultimately RCCs would need to be established nationwide for this to be achieved. Therefore, as a last resort, this measure would give the Secretary of State the power to direct local authorities to establish an RCC. There is no other viable alternative to our current approach that would result in a successful national roll out of regionalising the care system.

What else?

Alongside the RCCs programme, we are also working with areas to improve their local and regional capacity for commissioning, forecasting, and market shaping activities. This programme will support areas in forecasting their future placement needs more accurately, and better understand the overall number of children likely to come into the care system and the different types of placements they might need. The programme is working primarily with RCC pathfinders in the first instance to spread identified good practice and put RCCs on a firm footing to be as effective as possible in these areas of practice. The programme will also support local authorities more widely through seminars and online learning materials so all areas can improve their ways of working.

Furthermore, we are pursuing reforms to: increase transparency in the market; diversify the mix of providers; directly intervene where excessive profit is made; and further regulate the market via a new financial oversight scheme to monitor the financial risk of 'difficult to replace' providers to improve market stability.

Impact on external groups

Looked after children

A key measure of success for RCCs will be whether they lead to improved quality of care for looked after children through having a better range of places available to meet children's needs. This includes more children being placed close to home, more children placed in foster care rather than residential homes when this better meets their needs, and better availability of specialist placements for children with the most complex lives. We will evaluate the impact of RCCs, including the impact on the quality of children's care, and will publish our findings in regular reports.

Local authorities

In addition to improving the quality of children's care, we expect RCCs to reduce the costs of children's care and save local authorities' money by better and more collective procurement and commissioning. In addition, RCCs could also enable local authorities to establish more in-house provision. We will evaluate the impact of RCCs including estimated savings and publish our findings in regular reports. There will be an initial cost of approximately £1.5 million per region to set up an RCC. Where the Secretary of State has directed local authorities to set up an RCC, the government would expect to fund these costs. In addition, there will be ongoing running costs for the RCC. Since RCCs will be carrying out existing local authority functions on behalf of the local authorities in its region, we expect those local authorities collectively to meet the RCC running costs.

Placement providers

RCCs will be responsible for analysing the future accommodation needs of children in care. They will help local and regional providers of children's care understand future market needs and shape their provision accordingly. By operating on a larger scale than individual local authorities, RCCs could use tools such as block-booking places in a children's home, reducing the financial risks for providers and enabling them to offer places at lower costs. At the same time, the RCCs are seeking to drive down excessive profits, which would impact negatively on some providers.

Local health and youth justice partners

There is already a legal requirement for local authorities to promote co-operation with relevant partners, including health and youth justice, in relation to improving children's well-being. The proposed legislation does not include further measures on co-operation between services but it is our policy intention (as set out in "Keeping Children Safe, Helping Families Thrive") that Regional Care Co-operatives will collaborate with other services to improve children's outcomes.

Regional Care Co-operatives will create opportunities for joint working between children's social care, health and youth justice services in areas such as data sharing, joint commissioning of children's care and governance.



Department
for Education

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