

## Feature Article: Children & Young Persons Bill

### Introduction

The Bill had its first reading in the House of Lords on 14<sup>th</sup> November 2007. Explanatory Notes, published at the same time as the Bill (15<sup>th</sup> November), were prepared by the DCSF “to assist the reader in understanding the Bill and to inform debate.” While the Notes are not part of the Bill, they are written in vocabulary that is familiar to the social-care world and as such are a helpful guide through the legal language.

The next step in the progress of the Bill is its second reading in the Lords on 26<sup>th</sup> November.

The Bill and the Explanatory Notes are available at:

<http://services.parliament.uk/bills/2007-08/childrenandyoungpersonshl.html>

For the purposes of this *keynotes update*, NLCAS has prepared a summary of the provisions most relevant to older young people in and from care.

In general, we welcome the Bill, which includes most of what he had been led to expect. However, we are concerned at what is not in the Bill and what is left to regulations that ‘may’ be made. A surprising example of this concerns the failure to say explicitly in the Bill that the duty to visit children is extended to include those in youth custody, despite what the Explanatory Notes say. Rather, it has been left to the Secretary of State, or in the case of Wales, the Welsh Ministers, to say (or not say) in regulations who, in addition to looked-after children, the local authority must visit.

We are also puzzled and disappointed at the failure to keep the *Care Matters: Time for Change* commitment to put a duty on the local authority to secure sufficient and diverse provision of quality placements within the local area. In particular, we had hoped that this could include supported and other accommodation for care leavers.

We would also like to have seen added to the functions of the IRO monitoring the case of young people from care whenever they have a pathway plan. Approximately half of children in care leave the care system before they are 18, and as a result of this Bill some young people will continue to receive support up to the age of 25 or older. This is a missed opportunity to focus on transitional planning and support and to improve outcomes of young people from care.

An NLCAS policy briefing on the Bill will be available shortly on

[www.leavingcare.org](http://www.leavingcare.org)

## Summary of most relevant provisions

### Purpose

To reform the statutory framework for the care system by implementing the proposals in the White Paper that require primary legislation. The key legislation to be amended is the Children Act 1989.

### Territorial extent

England and Wales, except only England as to compliance notices for failing children's homes.

### Overview

1. Enables local authorities (LAs) to delegate their functions in relation to looked-after children to providers of social-work services, and, after the piloting stage, to enable regulation of such providers and to require them to be registered under the Care Standards Act (refers to social-care practices as outlined in Care Matters)
2. Prevents LAs' placing looked-after children outside their local authority unless provision consistent with their welfare is unavailable within the area (*Time for Change*, Care placements)
3. Requires LAs to place children in accommodation that is near a school where they are registered (*Time for Change*, Delivering a first class education)
4. Prevents LAs moving a looked-after child from a LA foster placement or appropriate children's home unless they have decided to do so in consequence of a statutory review (*Time for Change*, Care placements)
5. Amends LA duties in relation to the appointment of Independent Reviewing Officers (IROs); adds to IRO functions; provides the Secretary of State with the power to establish a national IRO agency independent of the LAs (*Time for Change*, The role of the practitioner)
6. Makes explicit the LA's duty to visit all looked-after children and extends the duty to those in youth custody and in long-term residential placements (*Time for Change*, Care placements)
7. Extends the LA's duty to appoint an independent person to visit, befriend and advise looked-after children (*Time for Change*, The role of the practitioner)
8. Places a duty on governing bodies of maintained schools to appoint a staff person to be responsible for promoting the educational achievement of looked-after registered pupils (*Time for Change*, Delivering a first class education)
9. Extends the LA duty to appoint a personal adviser (PA) and keep under review the pathway plan (PP) of former relevant young people who start or resume education or training after 21 and before 25 years of age to continue past age of 25 if as set out in the PP (*Time for Change*, Delivering a first class education)
10. Requires LAs to pay a bursary to former relevant young people in higher education (HE) (*Time for Change*, Delivering a first class education)

11. Makes provision for registration authorities to issue compliance notices to failing children's-homes providers (*Time for Change*, Next steps).

### **Organisation**

The Bill is organised into five parts, and Parts 1 and 2 are the most relevant to older young people in and from care. *Part 1* deals with arrangements for the provision of social-work services; *Part 2* principally amends Part 3 of the Children Act 1989, including LA duties in arranging accommodation for looked-after children; the IRO service; visiting; education and training; PAs; and enforcement of care standards. There is a Glossary of Terms in Annex A to the Explanatory Notes.

### **Content of relevant clauses**

1. ***Clauses 1-6: delivery of social-work services to children & young people*** : includes services to care leavers; excludes services of IROs, who will help assure the quality of the provider's services; provider cannot be a local authority; functions of providers must be carried out by or under supervision of registered social workers; piloting for up to five years in a number of LAs, but only if pilots successful and the power extended to all LAs will providers be regulated under the Care Standards Act .
2. ***Clauses 7-28: functions in relation to children & young people:***
  - Accommodation***
    - Clause 7: Duty to place children voluntarily accommodated with relatives, etc., as a general rule and a child so placed will remain looked after.
    - Clause 8: Duty to place children in accommodation in their local authority area, unless inconsistent with their welfare; accommodation to be near their home; siblings to be placed together.
    - Clause 9: Duty to place child near their school; circumstances must be exceptional to justify a care placement not near their school for children in Years 10 or 11.
    - Clause 10: Review of cases: LA considering changing a child's accommodation from a LA foster home or children's home must have a statutory review before deciding.
  - Independent Reviewing Officers***
    - Clause 11: For each looked-after child the LA must appoint a named IRO, to provide continuity in overview and to allow the IRO to develop a relationship with the child; prescribed description of IROs; added IRO functions, including monitoring the LA's performance of its functions in relation to the child's case, as opposed to the current monitoring just in respect of the review; new regulation- and guidance-making power re IROs; duty on LA to cooperate with the IRO and to enable IROs to perform their functions; power of IRO to refer case to CAFCASS if the IRO 'considers it appropriate to do so' (replaces 'breach of Human Rights Act' criterion).
    - Clause 12: Provides the Secretary of State with the power to establish a national IRO service or transfer the IRO's functions

to CAFCASS. The intention is for this to be done if the changes the present Bill makes to the statutory framework are not effective in making significant improvements to outcomes for looked-after children.

- Clause 13: Duty on LAs to ensure looked-after children are visited and appropriate advice, support and assistance provided, and by regulation this duty may be extended to other groups of children.

### **Visiting**

- Clause 14: Duty on LA to appoint an Independent Visitor extended to include all looked-after children for whom the appointment would be in their interests.
- Clauses 15 & 16: Duty on the responsible authority to visit children placed for three or more months by a health body or a local education authority.

### **Education & Training**

- Clause 17: Duty on governing body of 'maintained school' to designate a staff member to have responsibility for promoting the educational achievement of registered pupils who are looked-after children and also who are 'relevant' or 'former relevant' young people. Regulations may specify the qualifications and/or experience the person is required to have.
- Clause 18: Adds to LA duties to 'former relevant' young people a requirement to provide those of them who go on to HE with a fixed sum, the amount of which will be set in regulations. The fixed sum is in addition to assistance provided under sec. 23C(4) and is exempt from income tax.
- Clause 19: Extends duty of LA to provide a PA to include a former relevant young person who is pursuing or intending to pursue education or training and to whom the LA would not otherwise owe a duty because they are over 21 and have completed or abandoned the programme set out in their original PP. LA must also carry out an assessment, prepare a PP, and provide such assistance as required. The duty continues as long as the young person pursues the agreed programme, even if beyond their 25<sup>th</sup> birthday.
- Clause 20: With respect to qualifying young people, regulations that may be made to require LAs to provide PAs to young people up to the age of 24 may now be made in respect to young people up to the age of 25; and the LA power to give assistance to qualifying young people who were looked after by a local authority is extended to apply to young people under 25 (in connection with education and training).

### ***Enforcement of care standards***

- Clauses 22-25 amend the Care Standards Act 2000 to confer additional powers on the registration authority in relation to standards in children's social-care settings, including children's homes. The Chief Inspector/Welsh Ministers may serve a 'compliance notice' where the setting is not meeting required standards; may prevent new admissions; and must notify all LAs in England and Wales when certain enforcement action is taken.