



Government amendments to Children and Young Persons Bill – "Provision of accommodation and maintenance for children who are looked after by a local authority"

About CSDG:

The Children's Services Development Group (CSDG) is a policy group of six specialist children's education and care service providers. It consists of Cambian Group, Castlecare Group, Foster Care Associates, Hesley Group, Priory Education Services and SENAD Group. CSDG was formed in January 2007 to constructively inform the development of policy around services for children with complex and challenging behavioural problems and special educational needs.

CSDG's members provide a range of specialist education and care services to young people with Asperger's Syndrome, Autistic Spectrum Disorders, Behavioural, Emotional and Social Difficulties, specific learning difficulties and complex needs, including a significant proportion of looked-after children.

All of the members are committed to providing dedicated specialist care and support services to the highest regulatory standards. They also set a leading example for the training and development of their staff.

Government amendments – the 'placement duty':

The Government have tabled a new amendment to replace clauses 7-10 of the Children and Young Persons Bill. This amendment sets out Local Authorities' duty to accommodate children in care. In summary, the new amendment states that:

1. A looked after child should be placed either with a parent, someone who is not a parent but has parental responsibility, or someone who was awarded care of the child under a Residence Order prior to the Care Order being made.
2. This applies unless it is not 'consistent with the child's welfare', or 'reasonably practical'.
3. If that is the case, the child should be accommodated in a placement which is "in their opinion, the most appropriate placement available".
4. Placements are defined as one of the following types of accommodation:
 - A relative, friend or other individual connected to the child (who has been approved as a Local Authority foster parent);
 - A Local Authority foster parent (i.e. one who is not known to the child);
 - A children's home (registered under Part 2 of Care Standards Act 2000);
 - Another arrangement made as a result of a review of the child's case.
5. Local Authorities must balance a number of factors when deciding on a placement:
 - They must give preference to placements with family or friends;
 - The placement should be near their home;
 - It should not disrupt their education;
 - It should enable them to live with a sibling (if the sibling is also in care);
 - If the child is disabled, the accommodation provided must be suitable to the child's particular needs.
6. Local Authorities are also expected to make a placement that is within their own area – unless this is not reasonably practical.
7. Underpinning the entire placement decision process – Local Authorities are bound by their duties under Section 22 of the Children Act (1989) to safeguard and promote the welfare of children in their care.

Ministerial comments on out of authority placements:

CSDG has been reassured by statements from Ministers which emphasise the importance of specialist placements for children with complex needs. These have included:

- Kevin Brennan MP, Parliamentary Under Secretary of State for Children and Families – speaking at a CSDG Reception (9th October 2007) – responded to these concerns making clear that the Bill would not prevent access to specialist services for children with complex and acute needs: ***“I absolutely agree with you that the needs of each individual child must come first. We will ensure that out of authority restriction is not absolute, as we recognise that some young people will have needs that require them to be placed at a distance.”***
- During the Grand Committee (16 January 2008) Lord Adonis stated that there will always be children for whom an out of area placement is the most appropriate, in particular ***“children with needs that can only be met in very specialist placements or those who may need to be moved away from their home area for their own protection”***.

Our analysis:

It is clear that the Government’s intention has been to make the wording of the Bill more flexible and adaptable to the individual needs of each child, and to reflect the concerns raised by Peers during the Grand Committee. This is, of course, to be welcomed.

However, although the new wording is an improvement on the original text of the Bill, it is still open to variable interpretation at a local level. As such, the Bill still does not adequately protect the needs of children with complex and challenging behavioural problems. The ‘placemnting duty’ relies on the individual opinion of social workers to balance competing – and possibly contradictory factors - and to decide on a placement which they feel is ‘appropriate’.

Ambiguity in the new wording of the Bill may cause tensions in the placemnting process. For example, when placing a child who has complex needs social workers, and the Independent Reviewing Officer, will be expected to balance the individual needs of the child with the requirement to place within their local area, as far as is reasonably practical. This may mean that the individual needs of the child are not met because suitable services are not available within their Local Authority area and social workers have to balance conflicting factors when making a placemnting decision.

CSDG is concerned that in difficult or complex cases – such as for children who have challenging behavioural problems - there is a risk that this ambiguity will result in Local Authorities placing children in local accommodation that can not meet their needs, rather specialist placements that could provide a more appropriate service.

As is always the case when trying to influence the behaviour of local authorities, central Government can only provide a framework for local decision making – rather than explicit and binding instructions. Therefore, much depends on the guidance that will follow the Bill, and we urge Government to be as rigorous as possible in ensuring that children with complex and challenging educational and care needs will be provided with placements that are able to meet those needs and help them to achieve the best possible outcomes in terms of both their education and wellbeing.

Conclusion:

We call on parliamentarians to ensure that the Children and Young Person’s Bill includes a clear guarantee that children with acute and complex needs will be able to receive the most appropriate care placement – including in an out-of-area specialist setting where necessary. We would be delighted to arrange personal briefing meetings, and/or further details on the issues contained within this briefing on request.

For more information please visit: www.csdg.org.uk. Alternatively, please contact: Marc Woolfson – Administrative Secretariat, **Children’s Services Development Group** - 020 7222 9500 / marc.woolfson@dial.pipex.com.