



House of Commons  
Education Committee

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# Residential Children's Homes

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**Sixth Report of Session 2013–14**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
to be printed 5 March 2014*

## The Education Committee

The Education Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Education and its associated public bodies.

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## Summary

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In June 2013, the Government announced a set of proposals to reform the regulation of children's residential care in England. The Government is addressing the main challenges facing the sector and overall its reforms should noticeably strengthen the safety and welfare of children living in residential homes. However, we heard some concerns expressed about these reforms and, inevitably, our report concentrates on the areas of concern.

The Government needs to consider residential care in the context of the wider care system, rather than in isolation. This involves looking across the different types of care and the child's journey before, during and after care. Placement stability is a crucial factor in determining positive outcomes for children in residential care and the Government must address the factors that lead to placement instability and breakdown in a wider programme of reform.

A national strategy for care provision based on better assessments of need would benefit children in care and the sector more generally, as well as making the most efficient use of resources. The Government should work towards developing such a strategy.

The current package of reforms focuses on amending the rules and guidance governing children's residential care. The Government needs to ensure that the regulations and guidance that exist are properly implemented and enforced. The wellbeing of looked after children also depends on less tangible factors like the attitudes of care staff and the leadership and culture in children's homes.

Joined-up working between different organisations has an important role to play in improving outcomes for looked after children. One example is local authorities working together collaboratively in consortia to bring distant out-of-authority placements closer to home, where that meets the child's needs. Another is collaborative working between children's homes, local authorities and services in the areas where homes are located. We are concerned that only a minority of respondents to the consultation thought that the Government's proposals would improve collaboration between these organisations.

It is a matter of great concern to us that there are children's homes situated in areas where the risk to the safety of young people is increased considerably. The new area risk assessments are intended to assist in identifying where homes are in unsuitable or dangerous locations and preventing children being placed in such homes. Given the importance of this issue, we recommend that the Government closely monitors the impact of the new risk assessments and how they are used and reports back to this Committee within a year. The Government should be prepared to bring forward further reforms if the evidence indicates that current measures are not adequately addressing the problem.

We strongly endorse the view that, except where it is clearly in the interests of that individual child to move out of the area, local authorities should provide a placement as close as possible to the child's home and that they should have sufficient placements within their own area or that of their neighbouring authorities to fulfil this requirement. We will

closely scrutinise the next DfE data pack for an indication of whether the current reforms are having the desired effect in reducing the numbers of children given distant placements. We also recommend that the Government commissions a study of the impact of a rule prohibiting local authorities from placing a child more than 20 miles from home, unless there is a proven need to do so.

The reforms covering children's homes and the care planning and placement process could be strengthened in a number of ways. These include making provision for the welfare of the children affected when a children's home goes bankrupt and assessing the role that the planning system might play in ensuring that homes are located in safe areas. We also suggest further changes to help avoid the unnecessary criminalisation of looked after children and to provide children with a greater say on the selection of the care staff that look after them.

# 1 Introduction

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## Background

1. In June 2013, the Department for Education (DfE) published three consultation documents, seeking views on a package of proposals to reform the regulation of children's residential care in England.<sup>1</sup> The first consultation document, *Improving Safeguarding*, sought views on proposals to amend the Care Planning, Placement and Case Review (England) Regulations 2010 (the Care Planning Regulations).<sup>2</sup> The second consultation document, *Reforming Children's Homes Care*, sought views on proposals to amend the Children's Homes Regulations 2001 (the Children's Homes Regulations) and the Care Standards Act 2000 (Registration) (England) Regulations 2010 (the Registration Regulations).<sup>3</sup> The final consultation document sought views on a revised version of the *Statutory guidance on children who run away or go missing from home or care*.<sup>4</sup>

2. The Government presented these reforms as “a fundamental overhaul of children's residential care to tackle system-wide failings”.<sup>5</sup> Collectively, they were designed to ensure transparency in the residential children's homes market, improve quality in children's homes and increase the degree to which local authorities and children's homes are held accountable for the decisions they make.<sup>6</sup>

3. The Government's proposals were developed in the wake of the high profile case of child sexual exploitation in Rochdale and subsequent reports from a variety of sources. These included the inquiry by the Office of the Children's Commissioner into Child Sexual Exploitation in Gangs and Groups,<sup>7</sup> the inquiry by two All Party Parliamentary Groups (APPGs) into Children Who Go Missing from Care,<sup>8</sup> and the work of the Expert Group on the Quality of Children's Homes.<sup>9</sup>

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1 [“Better quality care for vulnerable children”](#), Department for Education press release, 25 June 2013.

2 Department for Education, [Improving safeguarding for looked-after children: consultation on changes to the Care Planning, Placement and Case Review \(England\) Regulations 2010](#), 25 June 2013. Hereafter, “Improving Safeguarding”.

3 Department for Education, [Reforming children's homes care: consultation on Changes to The Children's Homes Regulations 2001 \(as amended\) and The Care Standards Act 2000 \(Registration\) \(England\) Regulations 2010](#), 25 June 2013. Hereafter, “Reforming Children's Homes Care”.

4 Department for Education, [Statutory guidance on children who run away or go missing from home or care](#), 25 June 2013.

5 [“Better quality care for vulnerable children”](#), Department for Education press release, 25 June 2013.

6 *Ibid*

7 Office of the Children's Commissioner, [Briefing for the Rt Hon Michael Gove MP, on the emerging findings of the Office of the Children's Commissioner's Inquiry into Child Sexual Exploitation in Gangs and Groups, with a special focus on children in care](#), 3 July 2012.

8 APPG for Runaway and Missing Children and Adults and APPG for Looked After Children and Care Leavers, [Report from the Joint Inquiry into Children Who Go Missing from Care](#), 15 June 2012.

9 Expert Group on the Quality of Children's Homes, [Reform of Children's Residential Care](#), 19 December 2012. The report of the Expert Group, which also includes the recommendations of the Task and Finish Group on Out of Area Placements, was originally published on 23 April 2013.

4. On 3 January 2014, some months later than expected, the Government published its response to two of the three consultations: *Improving Safeguarding and Reforming Children's Homes Care*.<sup>10</sup> Its response to the *Consultation on the revised statutory guidance on children who run away or go missing from home or care* was published two weeks later.<sup>11</sup>

### **Establishment and progress of our Inquiry**

5. We announced our inquiry on 16 July 2013, with a call for written evidence to address the following points:

- whether the DfE's proposed reforms to the regulation of residential children's homes are appropriate and sufficient, and
- whether the reforms are likely to prove effective or further measures are needed.<sup>12</sup>

6. We received over 30 written submissions from a range of organisations and individuals, held three oral evidence sessions consisting of six witness panels, including the Minister, Edward Timpson MP, Parliamentary Under Secretary of State for Children and Families, and also visited Thanet in Kent as part of our evidence gathering. We are grateful to all our witnesses for providing such high quality evidence and to our hosts in Thanet. We would also like to thank our specialist advisers, Marion Davis CBE and Professor David Berridge OBE, for their assistance with this inquiry.<sup>13</sup>

### **DfE co-operation with Committee**

7. We are disappointed by the way in which the DfE has communicated with us during this inquiry. At the start, we requested copies of responses to the government consultations. This is a common practice where select committees are investigating an issue in parallel with a departmental consultation and is intended to ensure that the committee is fully informed on the subject. Following protracted discussions, the Minister wrote to us in October 2013, declining to make the responses available to us until after the Department had published its own formal response to them. In the event, we received the responses before the publication of the Government response to the consultation but too late for the views and information in them to be properly reflected in our inquiry.

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10 ["Councils told to stop housing vulnerable children miles away from home"](#), Department for Education press release, 3 January 2014.

11 ["Tougher rules to support missing children"](#), Department for Education press release, 17 January 2014.

12 ["MPs begin new inquiry on residential children's homes"](#), Commons Education Committee press release, 16 July 2013.

13 Marion Davis CBE declared interests as a former President and continuing Associate Member of the Association of Directors of Children's Services (ADCS); as a former member of the Munro review reference group, continuing to work with Professor Munro; as a Trustee of a charity, Children and Families Across Borders (CFAB); as part-time Independent Chair of their Local Safeguarding Children Board; and as a contributor to the Safeguarding Board Northern Ireland's Thematic Review of Child Sexual Exploitation in the Province. Professor David Berridge OBE, Professor of Child and Family Welfare, Centre for Family Policy and Child Welfare, University of Bristol, declared interests in the form of research with the Department for Education and as a member of the Corporate Parenting Panel of Bristol City Council Children and Young People's Services.

8. In addition, the Minister submitted his written evidence to us only in mid-December, very shortly before the House rose for Christmas recess. This gave us very little time to examine his evidence prior to his appearance before us at the beginning of January. This is poor practice and we are keen to avoid a repetition of this in the future.

***9. We regret the failure of the Department for Education to provide us with the responses received to its consultations in good time without good reason. We recommend that a clear protocol be established for the provision of such responses in future.***

## Government's reform programme

10. The Government's responses to the consultation suggest that it will be taking forward the majority of its proposals on regulatory reform without substantial change. Only two of the proposals from the June 2013 consultations have been dropped altogether and, in both cases, we accept that there were valid reasons for doing so. The Government decided that "The proposal to require managers to have level 5 qualification before being appointed would not be feasible, given that this qualification needs to be completed while in a management role".<sup>14</sup> In addition, it found that "The proposal for authorities to quality assure providers' proposed Regulation 33 visits schemes did not gain support as providers felt that this function was already carried out through inspection".<sup>15</sup>

11. Many witnesses described the proposals as a positive step in the right direction, and welcomed the Government's reforms, whilst emphasising that they should be seen as the beginning rather than the end of a process of change. For example, the Children's Society said, "We believe that the proposed changes are positive but further steps are needed to ensure that the reforms meet the needs of vulnerable children and are implemented effectively".<sup>16</sup> Dr Maggie Atkinson, the Children's Commissioner for England, told us that

a goodly number of things that are coming forward in the reforms were at least in part due to the work that we did in our accelerated report at the request of the Secretary of State in July 2012 [...] We feel that in the 18 months that have followed, particularly with the release of the amended regulations over the Christmas period, there has been an important and positive start. But there is a great deal more to do.<sup>17</sup>

12. The Government has recognised the importance of further, and more far-reaching, reform. In written evidence, the Minister explained that "The Regulatory Changes [...] are important measures which will improve the operation of the existing system. However, it is the Government's view, shared by Ofsted, that more fundamental change is needed".<sup>18</sup> The Minister set out the Government's longer term plans to: reform the regulatory and inspection framework governing residential children's homes; raise the skill, knowledge

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14 Department for Education ([RCH 30](#)), para 14.

15 Department for Education ([RCH 30](#)), para 14.

16 The Children's Society ([RCH 19](#)), para 1.4

17 Q 204

18 Department for Education ([RCH 30](#)), para 15.



and qualification levels of the staff and managers of homes; and improve the functioning of the market for residential children's home services.<sup>19</sup>

**13. We welcome the Government's reforms to the residential care rules and its plans for a wider programme of change. We believe that the Government is addressing the main challenges facing the sector and that its proposals should noticeably strengthen the safeguarding and welfare of children in residential care.**

14. During our inquiry we heard some concerns about aspects of the Government's reforms and, inevitably, our report concentrates on these areas of concern.

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<sup>19</sup> Department for Education ([RCH 30](#)), para 15-30.

## 2 Government's reforms in context

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### Residential care as part of the wider care system

15. One of the messages from the evidence we received was the importance of looking at residential care within the overall context of provision for looked after children, and not as a discrete entity. Witnesses highlighted the importance of keeping the focus of these reforms on the needs of the child and remembering that a residential placement was just one of a range of different care options that might be suitable for a particular child at a particular time. Likewise, the effectiveness of residential care was strongly bound up with the way in which children entered care in the first place as well as their experiences whilst in care, including fostering, and their transition to life after care.

16. The NSPCC's view was that "we must ensure we do not look at residential care in isolation and look at the wider issues in our care system to ensure the needs of Looked After Children are fully addressed".<sup>20</sup> In a joint submission, the Children's Services Development Group (CSDG) and Independent Children's Homes Association (ICHA) said:

We welcome the intention of the changes, but are concerned that the narrow focus will not be effective in protecting children and young people. All children should have safe, effective care whether in fostering, kinship care or children's homes, and whether placed in- or out-of-area.<sup>21</sup>

17. Iryna Pona from The Children's Society told us that, in order for the Government's reforms to be successful:

they need to be part of a more comprehensive, wider reform of the care system looking at how the child finds the care system from the very beginning, how placement decisions are made, quality of care, learning process and all the way through to the moment the child leaves the care system and what support they get there.<sup>22</sup>

18. Kamran Abassi, Service Development Director of Advanced Childcare, said, "It is a whole system of reform that is needed. If we can do an early assessment on people when they are younger and put in place the right interventions earlier, it should avoid the cost to the young person and to the state at a later stage".<sup>23</sup> Andrew Webb, President of the Association of Directors of Children's Services (ADCS), agreed. Focusing on adolescent care provision, he said:

Nationally we spend an awful lot of money on not making much progress. If [adolescents who enter care] end up back at home at 16, what could we have

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20 NSPCC ([RCH 10](#)), para 3

21 CSDG and ICHA ([RCH 5](#)), p.1

22 Q 92

23 Q 146

done differently to prevent them from coming into care at 14, is the question. How do we align our community resources—police, health, social care, education—more effectively to prevent the need for them coming to care in the first place?<sup>24</sup>

19. As the ADCS outlined in its Position Statement, *What is Care For?*,<sup>25</sup> there is a strong case for exploring new, imaginative approaches to providing care for those children and young people whose needs are not being met by the current system. This might include early intervention and community based approaches to care. Finding ways of keeping children and young people at home safely is important for increasing stability and preventing the disruption caused by short periods of care.<sup>26</sup>

### Placement stability

20. Reports published by Ofsted and the DfE in 2013 both highlighted the need to improve placement stability for looked after children. Ofsted's 8 February 2013 thematic inspection report on missing children revealed that "placement instability was a feature of at least a third of the 30 tracked cases where the children were looked after".<sup>27</sup> It found that "going missing contributed to [placement] instability as carers struggled to cope with the regular running away" and that "In turn, placement moves sometimes led to an increase in the frequency of missing incidents". The September 2013 Children's Homes Data Pack published by the DfE showed that more than one quarter of children in children's homes had at least five previous placements over their care history, and that only 20% of placements in children's homes lasted longer than a year.<sup>28</sup>

21. In oral evidence, Iryna Pona from The Children's Society warned that:

If the needs of the child are not the central part of the care planning for that particular child [...] [and if the] views and wishes of the child are not taken into account, it is very likely that the placement will lead to breakdown and there will be another breakdown after another breakdown. In the end that is very expensive".<sup>29</sup>

22. Jane Booth, Independent Chair of the Rochdale Borough Safeguarding Children Board, expressed a similar view. She said that "if the children in those [external] placements are not well matched, which often seems to be the case, then that can increase

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24 Q 147

25 ADCS, [ADCS Position Statement: What is Care For?](#), 23 October 2012.

26 [Directors of Children's Services put forward proposals for reform of the care system](#), ADCS press release, 23 October 2012.

27 Ofsted, [Missing children](#), 8 February 2013, p.6 The report published by Ofsted was not restricted to children in residential homes; the figures quoted include children looked after in other types of care settings too.

28 Department for Education, [Children's Homes Data Pack](#), 13 September 2013, pp.8-9.

29 Q 91

the risks they face rather than reduce them”.<sup>30</sup> For Northern Care, a residential childcare provider:

Continuity and appropriateness of placement is the only answer to better outcomes and this is proved again and again where we do have young people placed for optimum lengths of time where relationships can build and affect positive changes to young people’s life chances.<sup>31</sup>

23. Luke Rodgers, a young person with experience of care, told us that if there was one thing that could be done to improve the situation for young people in residential care “it is down to that placement meeting the needs of that young person and, prior to that, making sure that the match is correct”.<sup>32</sup> Luke Rodgers also gave us insight into the way in which a high turnover of care workers increases instability for the children being cared for and can undermine their sense of belonging: “In terms of staff turnover, there was a lot of instability [...] there was a lot of drugs and crime in that area [...] I suppose, if I’m looking back, as a child searching for a sense of belonging it is very easy to fall into that”.<sup>33</sup>

***24. Placement stability is a crucial factor in determining positive outcomes for children in care. We accept that young people living in residential placements can be a particularly troubled and challenging group. However, we recommend that the Government supplements its proposals for regulatory reform with a wider programme of reform to improve placement stability. This should incorporate changes to the care planning system and assessment processes to ensure that each individual placement matches the needs of each individual child and that a series of short-term moves is avoided. It should also improve the mechanisms for ensuring that the views and wishes of children in care are both heard and acted upon.*** We discuss the importance of listening to children in the next chapter.

## National strategy and positive use of residential children’s homes

25. During our inquiry, witnesses suggested that the Government’s package of reforms represented a missed opportunity to stand back and take a wider, more strategic approach to the care system. The British Association of Social Workers (BASW) doubted “that the approach outlined in the three consultation documents is necessarily coherent enough to produce the kind of change we would like to see for this group of children in the care population”.<sup>34</sup> It highlighted the importance of going back to basics and considering the role that children’s homes should be performing:

If we are going to devise an effective strategy in England about residential children’s homes then surely the first question needs to be what is their

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30 Q 89

31 Northern Care ([RCH 21](#)), para 16.

32 Q 202

33 Q 219

34 British Association of Social Workers (BASW) ([RCH 12](#)), para 6

purpose? Are they merely a placement of last resort to hold young people until they are old enough to leave care?<sup>35</sup>

26. Northern Care considered that

Whilst residential care is seen as a last resort for the young people, as is so often the case in the current climate, the expectations of real progress and real long term positive outcomes are often completely compromised. It is so often just too late to be able to work in a meaningful way with a young person who has been subject to multiple placement breakdowns leading to difficulties in maintaining relationships and trust.<sup>36</sup>

27. The Independent Children's Homes Association (ICHA) stated that, whilst it supported the Government's proposed changes in principle, those changes did "not represent the necessary comprehensive change of children's services that will result in a positive use of children's homes", and it "fear[ed] that the damaging sequential and hierarchical 'last resort' use of residential child care could continue".<sup>37</sup> It added that:

The focus on immediate concerns obstructs progress towards a cohesive national strategy for residential child care that stretches from identification, assessment, planning and placement to evaluation that would deliver the 'most appropriate placement' for every child.<sup>38</sup>

28. Revolution Consulting, a children's services consultancy, held a similar view. It emphasised the crucial role that needs assessments should play, not just in matching individual children to particular placements, but in planning provision at a more strategic level:

There would appear to be some worthwhile regulation and systems enhancements being proposed [...] It is our view however that a wider perspective is needed [...] The current marketplace of children's homes services has evolved without strategic vision related to need at a national, regional or even sometimes at a local level.<sup>39</sup>

29. The Minister seemed reluctant to engage in a debate about the future strategy for residential children's homes. In oral evidence, he said: "What I [...] do not want to do is prescribe what I think children's homes should look like in the future, apart from improving the quality of outcomes".<sup>40</sup>

30. Dr Maggie Atkinson gave us a powerful example of the vital contribution that care in residential children's homes can make:

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35 British Association of Social Workers (BASW) (RCH 12), para 6.

36 Northern Care (RCH 21), para 6

37 Independent Children's Homes Association (ICHA) (RCH 11), paras 2 and 3.

38 Independent Children's Homes Association (ICHA) (RCH 11), para 8.

39 Revolution Consulting (RCH 3), p.2

40 Q 234

There are some terrific residential homes. I had a 15-year old in one in a big county outside this great city some time ago. He said, ‘You have to understand: I came into care when I was 14 and a half and this place saved my life. I don’t know where I would be otherwise, but it makes me go to school, it makes me get up, it makes me interact with people, it makes me behave and it cares [...] It is really important that I am here, because I would probably be dead if I weren’t’. That is an important thing for us to hold on to.<sup>41</sup>

**31. We recommend that the Government develops a national strategy for care provision, with residential care reconsidered within that context, informed by assessments of need at local, regional and national level. This should also aim to re-position residential care as a positive choice for the right children and young people in the right circumstances.**

32. During our inquiry the Government announced that it would raise the leaving age for children in foster care to 21. There are arguments that this change should also apply to children in residential care. We will examine this in our forthcoming inquiry into 16+ care options and the Government should not lose sight of this aspiration.

## The limits of regulatory change

33. The Government’s reform proposals focus on changing the rules and guidance governing residential care, but witnesses pointed out that many of the changes that were needed to improve outcomes for looked after children went beyond regulation. The Local Government Association said that “while regulatory change can have some positive impact, it can only achieve so much; there are a wider set of issues that must also be considered”.<sup>42</sup> For Revolution Consulting: “It’s not [...] always about changes in regulation and guidance, it’s about making sure the people dealing with the children day in day out are empowered and motivated to look after those children to the best of their abilities at all times”.<sup>43</sup> The National Association of Independent Schools and Non-Maintained Special Schools (NASS) said:

We feel that regulations can be valuable in setting ‘absolutes’ which must be followed. However, they are crude instruments in effecting long-lasting cultural change, which we believe is necessary to effect real and lasting changes. Change in the residential child care system will not occur through regulation alone and specifically not regulation which largely focuses on the responsibilities of homes themselves.<sup>44</sup>

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41 Q 214

42 Local Government Association ([RCH 14](#)), para 1

43 Revolution Consulting ([RCH 3](#)), p.7

44 National Association of Independent Schools and Non-Maintained Special Schools ([RCH 4](#)), para 2.

### **Culture and leadership**

34. The importance of culture and leadership in securing good outcomes for children in residential care was emphasised by Kamran Abassi of Advanced Childcare:

The very key [area] for me, which is probably underplayed, is the role of effective leadership and management at a children's home level. They are absolutely critical. I have been a homes manager myself [...] The role they play in setting the culture, value, nurture, ambition and holding other stakeholders accountable, where they are failing young people, is absolutely pivotal.<sup>45</sup>

35. Richard Servian from the British Association of Social Workers (BASW) said: "To us, representing social workers, one of the most important issues is understanding the culture of a home. That is very much one of the issues that we try to look at when making placements".<sup>46</sup> The NSPCC said that, given the complexity of the challenge that looking after children in residential care represents:

we believe that the proposed changes do not do enough to address the weaknesses in culture and leadership in children's residential care that have been highlighted by the likes of the Oxford, Derby and Rochdale care home scandals.<sup>47</sup>

36. Tom Rahilly, Head of Strategy and Development for Looked After Children at the NSPCC, expanded on this in oral evidence:

There were shocking examples in the Oxford case [...] of the attitudes of some staff towards children in their care and of their understanding of what was happening in those children's lives, and even where they were understanding what was happening, thinking that in some way those children had responsibility for that behaviour and it was acceptable to some level. That comes back to [...] The training and understanding of the workforce<sup>48</sup>

***37. The culture and leadership of children's homes is an area which deserves much greater attention. The Government has put together a working group to help generate proposals for the training and development of the children's homes workforce by summer 2014. We recommend that, as part of this exercise, the working group considers the best ways of ensuring that staff and managers have the skills and outlook necessary to create a culture which promotes the safety and welfare of children living in residential homes.***

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45 Q 146

46 Q 14

47 NSPCC ([RCH 10](#)), para 3.

48 Q 12

### **Compliance with existing regulations and guidance**

38. Although regulation and guidance represent only part of the solution to the issues encountered in children's residential care, it is important to ensure that the rules and guidance that exist are properly implemented and that compliance with them can be effectively monitored.

39. Poor compliance by local authorities with the rules on inter-authority notification was explicitly recognised in the Government's *Improving Safeguarding* consultation:

We are aware that notification processes are not always followed. Even where notification systems work well, there will always be delay between a child being placed and an area authority being notified.<sup>49</sup>

40. This is a matter of concern given the number of children placed at a distance from their home area. The Government's response was to amend the Care Planning Regulations and The Children's Homes Regulations to require placing authorities<sup>50</sup> to consult with area authorities<sup>51</sup> prior to placement and to require children's homes to notify the area authority whenever a child was admitted to, or discharged from, the home.<sup>52</sup> In evidence to us, Thanet District Council sought reassurance from Government:

That there are systems in place to enforce these regulations because although host authorit[ies] are meant to be notified of [looked after children] placements this has been lacking within the District; we would like there to be a reassurance that this is fully monitored and what the repercussions are for those that do not abide by this duty.<sup>53</sup>

41. Kent County Council told us that, whilst it was supportive of the proposal to place notification duties on children's homes, it had:

some misgivings that the requirements would fail to achieve the intended outcomes if they are not backed by some kind of sanction to address persistent failure to provide timely notification to the receiving authority.<sup>54</sup>

42. Roger Morgan, the Children's Rights Director, told us that "the test of a change is the extent to which it is implemented and happens [...] we know that there are quite a lot of expectations and requirements set out in regulations where the implementation still falls

49 Department for Education, [Improving safeguarding for looked-after children: changes to the Care Planning, Placement and Case Review \(England\) Regulations 2001](#), 25 June 2013, para 1.3

50 A placing authority is a local authority that is placing a child that it is responsible for into a placement such as a residential children's home. In this context, it usually refers to an authority that seeks to place a child into an "out of authority placement". This is a placement in a care setting based outside the geographical boundaries of the authority legally responsible for the care of the child.

51 An area authority is the local authority for the area in which a looked after child is placed.

52 The Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013 (SI 2013/3239), rr 7 and 18. See in particular new regulation 11(2)(d) of the Care Planning Regulations and new regulation 12B of the Children's Homes Regulations.

53 Thanet District Council ([RCH 9](#)), p.2

54 Kent County Council ([RCH 8](#)), para 3.3



quite short of 100%”.<sup>55</sup> Commenting on the rules and regulations governing care planning, Dr Morgan said:

care planning needs to be improved. That is entirely an implementation issue. The regulations are fine, but [...] over a third [of children in children’s homes] [...] do not even know that they have got a care plan. Of those who have care plans and know what is in them, 81% told us they thought their care plans were being fully implemented in their placements, which leaves the other 19% to worry about.<sup>56</sup>

43. There also appears to be a problem in relation to pathway planning.<sup>57</sup> In April 2013, the All Party Parliamentary Group (APPG) for Looked After Children and Care Leavers launched an inquiry into the rights and entitlements of children and care leavers. The Entitlements Inquiry found that only 50% of care leavers said they had a pathway plan, and that 12% of young people knew that they should have a pathway plan but said that they did not get one.<sup>58</sup>

44. Similarly, we heard of a failure to implement the guidance on return interviews, which are conversations undertaken by trained professionals with a young person following a running away episode.<sup>59</sup> Iryna Pona from The Children’s Society told us:

We have done a review of the provision of return interviews. An interesting thing we found out was that the current guidance on missing children can be misinterpreted. Some local authorities did not consider return interviews to be something they should be offering to children and young people.<sup>60</sup>

45. The Children’s Society’s September 2013 report, *Here to Listen?*, found that “although provision of return interviews for young runaways is a requirement under the statutory guidance and there are examples of good practice, evidence shows that their provision remains inconsistent and patchy across local areas”.<sup>61</sup> Superintendent Laurence Taylor of Sussex Police told us that

the challenge is with it being in guidance and what is mandated within that. There are always capacity issues but that return interview is absolutely critical as part of the investigation into some of the possible underlying risk factors

55 Q 2

56 Q 11

57 A pathway plan is a plan that sets out the activities and support for any looked after young person planning to move to independent living. The pathway plan builds on, and replaces the care plan, and young people are eligible for one from the age of 16.

58 APPG for Looked After Children and Care Leavers, [The Entitlements Inquiry: Report with recommendations](#), November 2013, p.11

59 A return interview “aims to establish what has caused the young person to run away, what experiences and individuals the young person encountered while away and what could help resolve the issues that the child identifies” (The Children’s Society, *Here to Listen? Return Interviews Provision for Young Runaways*, 2 September 2013, p.1)

60 Q 122

61 The Children’s Society, [Here to Listen? Return Interviews Provision for Young Runaways](#), 2 September 2013, p.1

[of children going missing]. There needs to be a way of ensuring that takes place.<sup>62</sup>

46. The Government's recently revised *Statutory guidance on children who run away or go missing from home or care* makes it clear that "When a child is found, they must be offered an independent return interview".<sup>63</sup> Whilst we welcome the increased clarity in the revised statutory guidance on authorities' duties to offer return interviews, we recognise that placing this duty in guidance might not be sufficient to ensure that it happens.

47. Ofsted drew our attention to the potential problems that it faced in trying to ensure that children's homes complied with relevant statutory guidance, through the example of the *Children Act 1989 Guidance and Regulations Volume 5: Children's Homes*.<sup>64</sup> It told us that this guidance was "only applicable to local authorities and local authority children's homes" and that it can "only make recommendations against this guidance and has no power to take any action if a home fails to take these recommendations into account".<sup>65</sup>

**48. Changing the residential care rules will only improve outcomes for children in care if those rules are effectively implemented. The Government's longer term plans to reform the regulatory and inspection framework must address the compliance issues raised in evidence to this inquiry, including the provision of return interviews.**

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62 Q 122

63 Department for Education, [Statutory guidance on children who run away or go missing from home or care](#), 17 January 2014, para 31.

64 Department for Education, [Children Act 1989 Guidance and Regulations Volume 5: Children's Homes](#), March 2011. An updated version of this guidance was published in [October 2013](#).

65 Ofsted ([RCH 13](#)), para 77.

## 3 Provision, placements and the voice of the child

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### Children's homes

#### *Collaboration between homes and other agencies*

49. The proposals contained in the Government's *Reforming Children's Homes Care* consultation, were designed to "improve collaboration and partnership between children's homes and services in their local communities so that there are effective safeguards in place for the vulnerable group of children relying on residential care".<sup>66</sup> It is noteworthy that only a minority of consultation respondents (46%) felt that these proposals would improve collaboration.<sup>67</sup> When we put this to the Minister, he said:

First of all, I agree that greater collaboration is not only good practice but is essential in helping to reform the market in which children's homes find themselves. But we have to remember that these proposals through regulatory change are only part of the overall picture [...] By using both the changing inspection framework and the greater emphasis on quality and outcomes, as well as working with the sector, particularly with local authorities, through the data pack, I think that gives a much better prospect of collaboration in the future.<sup>68</sup>

***50. Whilst the Government appears confident that its reform programme will encourage providers, authorities and other services to work together more closely, a significant number of those on the frontline are more sceptical about this. We recommend that the Government monitors very closely the effects that its reforms are having on collaboration between children's homes and other agencies.***

#### *The planning system*

51. The location of children's homes was an important theme running through our inquiry and the Government's June 2013 proposals. The Data Pack, published by the DfE in September 2013, confirmed that children's homes are disproportionately located in certain areas of the England. The North West, West Midlands and South East accounted for the highest proportion of homes (25%, 17% and 13% respectively), whilst the North

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66 Department for Education, [Reforming children's homes care: consultation on changes to The Children's Homes Regulations 2001 \(as amended\) and The Care Standards Act 2000 \(Registration\) \(England\) Regulations 2010](#), 25 June 2013, para 1.1

67 Department for Education, [Consultation on reforming children's homes care: consultation on changes to The Children's Homes Regulations 2001 \(as amended\) and The Care Standards Act 2000 \(Registration\) \(England\) Regulations 2010: Government response](#), 3 January 2013, pp.30 and 45.

68 Q 227

East and London accounted for the lowest proportion (5% and 6% respectively).<sup>69</sup> In written evidence, Thanet District Council said:

Thanet has the highest proportion of [looked after children] in Kent, and almost a third of these children are from out of the county [...] vulnerable children are often placed in what should be classed as high risk areas due to high numbers of ex-offenders (including registered sex offenders), people with mental health issues and vulnerable children that have had previous criminal involvement themselves.<sup>70</sup>

52. During our visit to Margate in November 2013, we were shown a multi-layered risk map by the Margate Task Force (MTF).<sup>71</sup> This graphically demonstrated the way in which children's homes are located in close proximity to numerous other risks such as: drug crime, registered sex offenders and prison releases.

53. Given these problems, we very much welcome the Government's reforms to introduce area risk assessments for both new and existing residential children's homes. However, we think that there is scope to do more. On 11 July 2013, Ann Coffey MP led an Adjournment Debate on planning guidance for children's homes. She said:

I shall focus on planning legislation in my speech because it is the final piece of the jigsaw on children's homes and tackling child sexual exploitation. I also want to explore how we can marry the Department for Education's new and admirable proposals to stop children's homes springing up in the wrong areas with the fact that existing planning laws do not specify that that is a material planning consideration.<sup>72</sup>

54. Ms Coffey called for, amongst other things, "planning guidance on when it would be appropriate to refuse planning permission [for a children's home]".<sup>73</sup> Whilst visiting Margate, we heard calls for the planning system to be used to ensure that children's homes are not set up in unsuitable locations. In written evidence Ofsted told us that "the planning authority should have a role in disclosing the homes that are already located in the area and deciding the viability of applications for new provision in the same area".<sup>74</sup>

55. We have identified three potential areas where the planning system might interface with residential children's homes. These are:

- preventing new homes from being set up in unsuitable locations;

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69 Department for Education, [Children's Homes Data Pack](#), 13 September 2013, p.37

70 Thanet District Council ([RCH 9](#)), p.2

71 The Margate Task Force is a multi-agency team which works to improve life in Margate. It brings together officers from 14 different agencies and organisations that are co-located within the offices of Thanet District Council.

72 HC Deb, 11 July 2013, Col 652

73 HC Deb, 11 July 2013, col 654.

74 Ofsted ([RCH 13](#)), para 51.

- preventing unsuitable facilities, such as bail hostels, from being set up in the vicinity of homes that have already been established, and
- controlling the conversion of dwelling houses previously used for other purposes into residential children's homes.

56. We recognise that this is a complicated area and that the advantages of using the planning system to control the establishment and location of children's homes must be weighed against the need to avoid distorting the market and blocking new entrants. We also recognise that the Expert Group on the Quality of Children's Homes previously expressed "mixed views [...] about the feasibility of using either planning regulations or local licensing to support the safe location of children's homes".<sup>75</sup>

57. Notwithstanding these concerns, we believe that it would be premature to rule out use of the planning system in some capacity to control the location of homes or the environments in which they are located. We appreciate the Minister's confirmation that he "remain[s] open minded about whether the planning system does have a contribution to make to resolving some of the vexed issues resulting from the very uneven distribution of children's homes".<sup>76</sup>

***58. We recommend that the Government carries out a review of the planning system to assess the potential role that it might play in ensuring that children's homes are located in safe and suitable areas.***

***59. It is a matter of great concern to us that there are children's homes situated in areas where the risk to the safety of young people is increased considerably. The new area risk assessments are intended to assist in identifying where homes are in unsuitable or dangerous locations and preventing children being placed in such homes. Given the importance of this issue, we recommend that the Government closely monitors the impact of the new risk assessments and how they are used and reports back to this Committee within a year. The Government should be prepared to bring forward further reforms if the evidence indicates that current measures are not adequately addressing the problem.***

### **Closure and receivership**

60. The collapse of the Darlington-based care home operator Southern Cross in 2011, and the concerns that this caused for the elderly residents affected, raised questions about whether a similar event could occur in the residential children's homes sector. Revolution Consulting argued that

Monitoring of private sector companies on a national or regional level must be carried out to avoid future Southern Cross style situations. The public

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75 Expert Group on the Quality of Children's Homes, [Reform of Children's Residential Care](#), 19 December 2012, p.79

76 Department for Education supplementary [\(RCH 31\)](#), p.2

sector needs to enhance its commercial and financial know how to understand the role of investors such as private equity and banks.<sup>77</sup>

61. Andrew Webb of the ADCS said that, whilst he did not have an ideological concern about the involvement of private equity in children's homes:

My concern would be if we moved into the market dominance that we saw with Southern Cross in the adult sector and if an organisation with so many vulnerable lives in their hands goes bust then it has a massive impact. Equally, some of the residential establishments that give me the most concern are those single ownership [providers] with insufficient working capital.<sup>78</sup>

62. At present, the market is characterised by a large number of very small providers. 507 providers owned the 1,718 children's homes in England on the Ofsted register as at 31 March 2013. Of these providers, 227 (45%) owned just one home, and a further 97 (19%) owned two homes. 69% of providers in the private and voluntary sector owned either one or two homes.<sup>79</sup> In oral evidence, Jonathan Stanley, Chief Executive of the Independent Children's Homes Association (ICHA) said:

We know that the majority of the sector is solo and small providers. They are not able to roll with the financial climate that we have got at the moment. One of the messages is that we really do have a sector that is standing on the edge of a cliff at the moment financially. How we sustain it and get it back from the cliff is really important.<sup>80</sup>

63. The Children's Rights Director, Roger Morgan, argued that the Children's Homes Regulations did not adequately provide for the receiver, liquidator or trustee to take into account the welfare of the children staying in a home that has to close. He said:

I have a concern about when a private sector home closes. At the moment, the legislation immediately switches into financial issues of receivership, etc., and that does not carry with it an equivalent duty—alongside any fiduciary duties—to continue the welfare and support the appropriate further placement of the individual children that that home is still caring for once it goes into receivership.<sup>81</sup>

64. In supplementary evidence, Dr Morgan described a number of specific problems, which we paraphrase below:

- The Children's Homes Regulations empower a receiver, liquidator or trustee to appoint a manager for the home if there is no continuing registered manager, but do not

77 Revolution Consulting ([RCH 3](#)), p.8

78 Q 185

79 Department for Education, [Children's Homes Data Pack](#), 13 September 2013, pp. 15 and 43.

80 Q 58

81 Q 44

require the appointed manager to have the same duties in relation to the welfare of the children in the home that a registered manager does;

- The Children's Homes Regulations do not impose on the receiver, liquidator or trustee the same duties towards the safety and welfare of the children in the home that would apply to another person or organisation taking over as provider of the home;
- In relation to their future plans for the home, there is no specific provision requiring the receiver, liquidator or trustee to act in a way that protects the welfare of any children that remain in the home and supports the appropriate onward placement of those children, if that conflicts with the usual financial duties of receivers, liquidators and trustees;
- There is no duty on the receiver, liquidator or trustee to co-operate with the placing authorities and the local area authority in their work to secure the appropriate onward placement of any children who must leave the home.<sup>82</sup>

65. When we put these issues to the Minister, he assured us

I do want to look at this to ensure that we have got it right ... we are revising the children's homes regulations as part of bringing in the quality standards, rather than having minimum standards. As part of that, I am happy to revisit that issue.<sup>83</sup>

66. This was subsequently confirmed in supplementary evidence where the Minister stated that he would "consider amending what is now Regulation 39 of the current regulations to place a duty on a receiver to have regard to the welfare of children placed in a bankrupt children's home".<sup>84</sup>

**67. We welcome the Minister's willingness to consider placing a duty on a receiver to have regard to the welfare of children placed in a bankrupt children's home. We expect the DfE to set out a course of action in its response to this report.**

### ***Over-criminalisation of young people in care***

68. In written evidence, the Youth Justice Board (YJB) and the Office of the Children's Commissioner (OCC) both pointed out that the Government's proposed reforms did not address the issue of over-criminalising young people in care for minor offences committed in residential children's homes. The YJB described to us its concern "that police and courts do not have sufficient flexibility in charging and sentencing decisions for minor offences committed by looked after children".<sup>85</sup> The OCC drew attention to the issues raised in a March 2013 report on youth justice from the Commons' Justice Committee. That Committee found that it was "completely disproportionate for police

82 Roger Morgan supplementary [\[RCH 22\]](#), pp.2-3

83 Q 265

84 Department for Education supplementary [\[RCH 31\]](#), p.4

85 Youth Justice Board [\[RCH 16\]](#), para 12



officers to be called to a children's home to investigate trivial incidents [...] it puts already vulnerable children at greater risk of being drawn into the criminal justice system and is, moreover a waste of police resources".<sup>86</sup>

69. Superintendent Laurence Taylor told us that

Interestingly [...] there is a protocol linked to the National Crime Recording Standards about how crime can be dealt with in schools. Notifiable offences can be dealt with by the school. There is good information sharing with schools officers and local links with the police services. It is about providing that information, about understanding incidents that take place without criminalising young people [...] I would very much support a similar process for residential care homes where those protocols are developed: the conversation takes place with the police service prior to the crime being formally recorded, and then looking at what is the most appropriate disposal and response to that child and young person.<sup>87</sup>

70. When we put this suggestion to the Minister, he said, "I am not sure that it is something that I can prescribe centrally, but certainly it is something I would encourage".<sup>88</sup> We think that the Government could do more to encourage the development of a national protocol to avoid the unnecessary criminalisation of looked after children. Superintendent Taylor told us that such a protocol had already been developed in the south east of England and that there was an ambition to roll this out into a national protocol "because looked after children, regardless of where they are in the country, should receive the same consistent level of service and the same boundaries in whatever care home".<sup>89</sup>

***71. We recommend that the Government works with the Association of Chief Police Officers (ACPO) to develop a national protocol for residential children's homes that follows the protocol for schools whereby school managers and staff, rather than the police, are given responsibility for dealing with behavioural incidents involving children on a school site in the first instance.***

## Out-of-authority placements and commissioning

### ***Distant out-of-authority placements and the "sufficiency duty"***

72. An out-of-authority (or out of area) placement is a care setting for a looked after child which is based outside the boundaries of the local authority legally responsible for the child. Reports have suggested that vulnerable children placed out-of-authority, and especially those placed a long way from their responsible authority, may be particularly

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<sup>86</sup> House of Commons Justice Committee, Fourth Report of Session 2012-13, [Youth Justice](#), HC 339, para 16.

<sup>87</sup> Q 88

<sup>88</sup> Q 287

<sup>89</sup> Q 94



susceptible to “pull factors” that lead them to run away from their care home.<sup>90</sup> Equally, there is a risk that children in distant placements are “out of sight, out of mind”. In other words, they become unknown to the safeguarding services in the area where they are placed and also deprived of sufficient oversight and support from their responsible authority.<sup>91</sup>

73. Recognising the important role that suitable, local accommodation can play in producing good outcomes for looked after children, the Children Act 1989 (as amended) places a duty on local authorities to take steps to secure, so far as reasonably practicable, sufficient accommodation for children in care within their local area.<sup>92</sup> This is known as the “sufficiency duty” and should ensure the right mix of placement types to meet local needs. Better planning for, and commissioning of, placements should enhance the likelihood that children are placed in residential care as a positive choice, rather than as they are sometimes perceived, as a “placement of last resort”.

74. Evidence suggests that the sufficiency duty is being disregarded. The DfE’s Children Homes Data Pack of September 2013 showed that, of the 4,890 children living in children’s homes in England on 31 March 2012, 46% were living in homes out of their local authority area, and nearly one third (30%) were living more than 20 miles from home. Moreover, 16 local authorities placed all of their children outside their own local authority area. The DfE acknowledged that the use of out-of-authority placements and distant placements “may be in the interests of the child; but they may also increase risk”.<sup>93</sup>

75. Claire Dorer, Chief Executive of The National Association of Independent Schools and Non-Maintained Special Schools (NASS), described a need to “make the sufficiency duty have more teeth”.<sup>94</sup> In oral evidence, the Minister commented on the “huge vacuum of provision in London” and the fact that “Many of those children from London boroughs are finding themselves on the south-east coast”.<sup>95</sup>

76. Under the DfE’s reforms, a decision made by a local authority to place a child “at a distance” must be approved by the authority’s Director of Children’s Services (DCS), following consultation with the local authority in which the child is to be placed. The term “at a distance” is defined as “outside the area of the responsible authority and not within the area of any adjoining local authority”.<sup>96</sup> In oral evidence, the Minister told us that evidence of disregard of the sufficiency duty “is why we are not only making the changes

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90 See, for example, APPG for Looked After Children and Care Leavers, [Report from the Joint Inquiry into Children Who Go Missing from Care](#), 15 June 2012, para 45

91 Department for Education, [Explanatory Memorandum to the Children’s Homes and Looked After Children \(Miscellaneous Amendments\) \(England\) Regulations 2013](#) (SI 2013/3239), para 7.3

92 Section 22G of the Children Act 1989.

93 Department for Education, [Children’s Homes Data Pack](#), 13 September 2013, p.2

94 Q 83

95 Q 271

96 The Children’s Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013 (SI 2013/3239), r18.

we are in relation to the legislation and regulation in the area, but since November we have moved to a much tougher inspection regime on local authorities”.

77. We welcome the Government’s attempts to ensure that a decision by an authority to place a child at a distance represents an appropriate response to that child’s needs. However, we are concerned that a more robust approach is likely to be required. In its consultation, *Improving Safeguarding*, the Government asked whether “distance” for the purposes of these regulations “Should [...] be based on mileage from the child’s home address (20/25+ miles); travelling time or on some other formula”.<sup>97</sup>

78. We can see the attraction of adopting a rule which prohibits the placement of children more than 20 miles from home unless there is a proven need to do so. Such a rule would be relatively transparent and simple to enforce and could provide just the sort of shock that the system needs. On the other hand, it would also be a blunt instrument. Some placements are made at a distance from the child’s home because of the very specialist provision that some children with complex needs require, and which cannot realistically be available in every local authority area.

79. Witnesses cautioned us against a simplistic response to the problems associated with out-of-authority placements. The Independent Children’s Homes Association (ICHA) pointed out that “some children may need local placements, and others more distant ones [...] The evidence is clear that local placement, as a universal rule, is the wrong conclusion”.<sup>98</sup> ECPAT UK said that:

Trafficked children are at a huge risk of going missing from local authority care, most within days of coming to the notice of authorities [...] A decision to accommodate a child outside of the area where they were exploited can be an important step in attempting to reduce the chance of the child being re-trafficked and/or going missing.<sup>99</sup>

80. The Local Government Association said that “introducing a more stringent ‘rule’ that councils could not place children more than an arbitrary distance away would be unworkable and could potentially act against the best interests of children”.<sup>100</sup> In addition, a 20 mile rule would have very different implications for local authorities covering sparsely populated rural areas to those covering urban settings. For these reasons we conclude that further research is needed on the costs and benefits of adopting a 20 mile rule before an informed decision can be taken on this matter.

***81. We strongly endorse the view that, except where it is clearly in the interests of that individual child to move out of the area, local authorities should provide a placement as close as possible to the child’s home and that they should have sufficient placements***

97 Department for Education, [Improving safeguarding for looked-after children: changes to the Care Planning, Placement and Case Review \(England\) Regulations 2001](#), 25 June 2013, consultation question 3.

98 ICHA ([RCH 11](#)), para 31

99 ECPAT UK ([RCH 2](#)), para 8.

100 Local Government Association ([RCH 26](#)), p.2

*within their own area or that of their neighbouring authorities (see further below) to fulfil this requirement. We will closely scrutinise the next DfE Data Pack for an indication of whether the current reforms are having the desired effect in reducing the numbers of children given distant placements.*

82. *To go further, we recommend that the Government commissions a study, assessing the impact of a rule prohibiting local authorities from placing a child more than 20 miles from home, unless there is a proven need to do so.*

### **Commissioning consortia**

83. One way of helping local authorities to meet the sufficiency duty is through the creation of commissioning consortia. Commissioning consortia are partnerships of local authorities working together collaboratively to improve outcomes for vulnerable children and young people and achieve value for money. Such an approach can enable authorities to achieve the scale necessary to commission expensive, specialist placements locally and thereby reduce the number of distant out-of-authority placements.

84. In December 2012, the Expert Group on the Quality of Children's Homes recommended that "the creation of effective commissioning consortia should be encouraged so that LAs can develop joint commissioning strategies that maximise economies of scale across regional areas". It said, "These commissioning strategies should also take account of local health structures, to ensure strategic planning of all health and care services across the local area".<sup>101</sup>

85. In written evidence, the Local Government Association (LGA) said:

There needs to be a better balance of provision in order to meet the needs of children across the country. Councils have a key role in making this happen, through more effective commissioning, working with each other and providers to shape the market.<sup>102</sup>

86. The Office of the Children's Commissioner told us that "Joint Commissioning would assist where costly specialist resources are needed. Support for such commissioning approaches will assist in enabling children's placements to be led by their need, not by availability".<sup>103</sup>

87. We encountered a range of views about the extent to which authorities were already making use of collaborative commissioning approaches. Jane Booth, the Independent Chair of Rochdale Borough Safeguarding Children Board, told us:

Increasingly [local authorities] are getting there. Certainly in Greater Manchester there are plans going ahead now to look at mutual commissioning. There are agreements about supporting young people who

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101 Expert Group on the Quality of Children's Homes, [Reform of Children's Residential Care](#), 19 December 2012, p.47

102 Local Government Association ([RCH 14](#)), para 2.

103 Office of the Children's Commissioner ([RCH 15](#)), p.3-4

are in placements within the Greater Manchester footprint of 10 local authorities in a better way. Everybody acknowledges that some young people's needs are so specific that not every authority will provide for that immediate need, but it has to be commissioned nearby.<sup>104</sup>

88. Tim Parlow, Senior LAC/SEN Category Manager at the North London Strategic Alliance (NLSA), described the work he was doing, "which is to do a strategic needs assessment across a sub-region and say, 'if we are all purchasing small numbers of a particular type of care then let us see what we can do to bring that closer to home'".<sup>105</sup> He said:

We are starting to work together effectively. I realise that that is patchy across the country. I can only speak of great experience in my area of north London, where we have a group of five London boroughs that are committed to working together to look at this issue.<sup>106</sup>

89. When we asked Jonathan Stanley of the ICHA how common he thought commissioning consortia were, he said:

There are some, but the issue is more about the consortia, how they operate and whether they are really concerned with the maximisation of care and welfare or, really, with the reduction of costs [...] we are still some way away from getting an offer of care, education and health all working together.<sup>107</sup>

90. Providing they are structured in the right way, there is evidence that commissioning consortia can offer a valuable way of helping local authorities meet their sufficiency duties, quality assure and shape the market, and meet the needs of the children that they are responsible for. Witnesses told us that the Government could do more to encourage the creation of commissioning consortia by making resource available on a "spend to save" basis and by publishing best practice. Tim Parlow from the NLSA said:

I would very much welcome the idea of resource being made available on a spend-to-save basis, because it takes a leap of faith. Particularly when we talk about London and residential homes, the idea of investing in new provision is very problematic. One of our concerns about the [Government's reform] proposals is that we totally recognise that out-of-area placements are not always the right thing, but we are also very cautious that we know that if you suddenly said, 'You cannot place outside your local authority', that would be very problematic for us in this area.<sup>108</sup>

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104 Q 102

105 Q 157

106 Q 163

107 Q 80

108 Q 180

**91. The Government should do more to encourage the creation of commissioning consortia, particularly consortia that take account of local health structures as recommended by the Expert Group.**

## Listening to children

92. The importance of listening to children's views was frequently raised in evidence to the Committee. As with many other areas, witnesses generally considered that, whilst progress was being made in this area, more should be done. The Children's Commissioner for England, Dr Maggie Atkinson, said:

If you look at the nations whose practice we most admire in [residential care] [...] the staff in those settings are trained properly to listen, properly to engage [...] It is about trust—people you can speak to; people you can believe in; people who will understand your situation and work as a professional [...] The work we did in 2012, which [...] has been part of the development that is still in train, leads me to believe that what we now have is the start.<sup>109</sup>

93. A number of witnesses drew our attention to the important role that listening to children had, both in preventing looked after children from running away, and in responding to them if they did run away or go missing. Describing the findings of independent statutory consultations to ascertain the views of children and young people in care, Roger Morgan said:

The three ways of reducing the rate of children running away are: listening properly and seriously to children's concerns about their lives or placements, taking action to sort out concerns or complaints rapidly [...] and if and when children return from running, asking them their reasons for running and sorting out any concerns that led the child to run away.<sup>110</sup>

94. The NSPCC referred us to its 2012 report on children who go missing from care, which “showed that many young people ran away from care because they were frustrated with authority figures who had power over them and did not seem to be able to see things from their point of view”.<sup>111</sup> The Children's Society said, “We [...] strongly believe that to effectively safeguard and protect children in care local authorities must ensure that children's views and experiences are central to child protection responses”.<sup>112</sup>

95. Responding to a question about whether the voice of young people in care is heard strongly enough, Luke Rodgers said: “I have found from my experiences in care that my voice was and wasn't heard [...] it [comes] down to many factors, including where I was at that space in my life [...] as well as the attitudes of the people working with me”.<sup>113</sup> He told

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109 Q 204

110 Roger Morgan ([RCH 6](#)), p.10

111 NSPCC ([RCH 10](#)), para 16

112 The Children's Society ([RCH 19](#)) para 6.1

113 Q 192

us that, for the most part, he found the attitudes of the care staff towards him unhelpful, but one member of staff made a real difference:

On this woman, I can only tell you how I feel about her. She just gave me some warmth and genuinely cared. She listened to me and would sit and do things and spend time with me. She would want to watch a programme on television that I would want to watch. It was very simple things. Much of the time I explain it by saying that simple acts of kindness for a child in care are few and far between. They never happen [...] If just one person in a home [...] performs a kind act for a child in care, watches a film with them, cooks their favourite meal or just really listens to what they want, it just fills you with warmth.

96. This highlights the important role that personal qualities play, alongside training, qualifications and experience, in making good residential care staff. When we asked Adam John Wood, a young person with experience of care, for his thoughts on whether qualifications or human qualities were more important attributes in care staff he said: “It is more down to personality than actual qualifications. You want people you can get along with and trust”.<sup>114</sup>

97. These sentiments were echoed by Roger Morgan who thought that:

Some of the issues that apply to making a children’s home a good children’s home or not [...] are the less tangible things that you cannot really regulate for very easily: the quality of staff and the personality of staff [...] You can change the training requirements for them but there are at least two other factors—perhaps three. One is experience and the quality of that experience. Another is personality. Is the member of staff the sort of person who can gain trust from children? [...] The other is the skill of being a good communicator and a good person at developing relationships. That is not the same thing as qualifications. A qualification is part of that matrix.<sup>115</sup>

98. One measure that might increase the extent to which children in care are listened to, and the number of staff that children feel they can relate to, could be to involve children and young people in the selection of residential care workers. When we asked Luke Rodgers whether he thought this idea should be implemented, he said:

Absolutely. However, I think it must be the right type of young people. Things such as this can turn into [a] tokenistic gesture—just grabbing a young person to be involved in an interview. It is something that we do with the universities, which is done very well, and our selection of young people, care leavers and other service users is very careful.<sup>116</sup>

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114 Q 194

115 Q 1 and Q2

116 Q 212

*99. Many of our witnesses emphasised that, alongside formal qualifications, personality, interpersonal skills and experience are important factors in making for good residential care workers. We agree that if children in care played a greater role in selecting care workers, they would be more likely to find staff that they could relate to. We recommend that the Government works with local authorities and children's homes providers to set up pilots where children in care are given a greater role in selecting their care workers.*

## 4 Conclusion

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100. Our inquiry suggests that the Government's January 2014 reforms are a welcome step in the right direction towards improving the safety and welfare of children in residential homes. However, as the Government has acknowledged, further change is needed and we hope that our report has provided a useful indication of some of the issues that still need to be addressed.

101. Some of these issues will not be resolved simply by changing the rules and guidance. Changing the culture in children's homes, and encouraging collaborative working by authorities and other agencies, is not simply a question of amending the rule book. Non-regulatory solutions are also required, and when regulations are made, they need to be properly implemented and enforced. The changes introduced by the Government must form part of a national strategy for care provision, encompassing residential care as well as other types of care, and informed by assessments of need.

102. It is vital to remember that these policies and regulations serve some of the most vulnerable children in society. The Children's Commissioner for England, Dr Maggie Atkinson, reminded us that children in residential care "are our children; they are the children of the state".<sup>117</sup> Residential care can be a force for good in the lives of these children. It is the responsibility of all to ensure that it reaches the highest possible standards to help and protect children and young people in need. We trust that the Government will keep this principle at the heart of its reforms.



# Conclusions and recommendations

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## Introduction

### *DfE co-operation with Committee*

1. *We regret the failure of the Department for Education to provide us with the responses received to its consultations in good time without good reason. We recommend that a clear protocol be established for the provision of such responses in future. (Paragraph 9)*

### *Government's reform programme*

2. *We welcome the Government's reforms to the residential care rules and its plans for a wider programme of change. We believe that the Government is addressing the main challenges facing the sector and that its proposals should noticeably strengthen the safeguarding and welfare of children in residential care. (Paragraph 13)*

### *Government's reforms in context*

#### *Placement stability*

3. *Placement stability is a crucial factor in determining positive outcomes for children in care. We accept that young people living in residential placements can be a particularly troubled and challenging group. However, we recommend that the Government supplements its proposals for regulatory reform with a wider programme of reform to improve placement stability. This should incorporate changes to the care planning system and assessment processes to ensure that each individual placement matches the needs of each individual child and that a series of short-term moves is avoided. It should also improve the mechanisms for ensuring that the views and wishes of children in care are both heard and acted upon. (Paragraph 24)*

### *National strategy and positive use of residential children's homes*

4. *We recommend that the Government develops a national strategy for care provision, with residential care reconsidered within that context, informed by assessments of need at local, regional and national level. This should also aim to re-position residential care as a positive choice for the right children and young people in the right circumstances. (Paragraph 31)*

### *Culture and leadership*

5. *The culture and leadership of children's homes is an area which deserves much greater attention. The Government has put together a working group to help generate proposals for the training and development of the children's homes workforce by summer 2014. We recommend that, as part of this exercise, the working group considers the best ways of ensuring that staff and managers have the skills and outlook*

*necessary to create a culture which promotes the safety and welfare of children living in residential homes. (Paragraph 37)*

### **Compliance with existing regulations and guidance**

6. Changing the residential care rules will only improve outcomes for children in care if those rules are effectively implemented. The Government's longer term plans to reform the regulatory and inspection framework must address the compliance issues raised in evidence to this inquiry, including the provision of return interviews. (Paragraph 48)

### **Provision, placements and the voice of the child**

#### **Children's homes**

##### **Collaboration between homes and other agencies**

7. *Whilst the Government appears confident that its reform programme will encourage providers, authorities and other services to work together more closely, a significant number of those on the frontline are more sceptical about this. We recommend that the Government monitors very closely the effects that its reforms are having on collaboration between children's homes and other agencies. (Paragraph 50)*

##### **The planning system**

8. *We recommend that the Government carries out a review of the planning system to assess the potential role that it might play in ensuring that children's homes are located in safe and suitable areas. (Paragraph 58)*
9. *It is a matter of great concern to us that there are children's homes situated in areas where the risk to the safety of young people is increased considerably. The new area risk assessments are intended to assist in identifying where homes are in unsuitable or dangerous locations and preventing children being placed in such homes. Given the importance of this issue, we recommend that the Government closely monitors the impact of the new risk assessments and how they are used and reports back to this Committee within a year. The Government should be prepared to bring forward further reforms if the evidence indicates that current measures are not adequately addressing the problem. (Paragraph 59)*

### **Closure and receivership**

10. We welcome the Minister's willingness to consider placing a duty on a receiver to have regard to the welfare of children placed in a bankrupt children's home. We expect the DfE to set out a course of action in its response to this report. (Paragraph 67)

### **Over-criminalisation of young people in care**

11. *We recommend that the Government works with the Association of Chief Police Officers (ACPO) to develop a national protocol for residential children's homes that follows the protocol for schools whereby school managers and staff, rather than the police, are given responsibility for dealing with behavioural incidents involving children on a school site in the first instance.* (Paragraph 71)

### **Out-of-authority placements and commissioning**

#### ***Distant out-of-authority placements and the "sufficiency duty"***

12. *We strongly endorse the view that, except where it is clearly in the interests of that individual child to move out of the area, local authorities should provide a placement as close as possible to the child's home and that they should have sufficient placements within their own area or that of their neighbouring authorities to fulfil this requirement. We will closely scrutinise the next DfE Data Pack for an indication of whether the current reforms are having the desired effect in reducing the numbers of children given distant placements.* (Paragraph 81)
13. *To go further, we recommend that the Government commissions a study, assessing the impact of a rule prohibiting local authorities from placing a child more than 20 miles from home, unless there is a proven need to do so.* (Paragraph 82)

### **Commissioning consortia**

14. The Government should do more to encourage the creation of commissioning consortia, particularly consortia that take account of local health structures as recommended by the Expert Group. (Paragraph 91)

### **Listening to children**

15. *Many of our witnesses emphasised that, alongside formal qualifications, personality, interpersonal skills and experience are important factors in making for good residential care workers. We agree that if children in care played a greater role in selecting care workers, they would be more likely to find staff that they could relate to. We recommend that the Government works with local authorities and children's homes providers to set up pilots where children in care are given a greater role in selecting their care workers.* (Paragraph 99)

# Formal Minutes

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**Wednesday 5 March 2014**

Members present:

Mr Graham Stuart, in the Chair

Neil Carmichael  
Alex Cunningham  
Pat Glass  
Siobhain McDonagh

Ian Mearns  
Mr Dominic Raab  
Mr David Ward  
Craig Whittaker

Draft Report (*Residential Children's Homes*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 102 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Sixth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 11 March at 10.30 am

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the Committee's inquiry page at [www.parliament.uk/educom](http://www.parliament.uk/educom)

### Wednesday 6 November 2013

*Question number*

**Dr Roger Morgan**, Children's Rights Director, Office of the Children's Rights Director, **Richard Servian**, member, British Association of Social Workers, and **Tom Rahilly**, Head of Strategy and Development for Looked After Children, NSPCC;

[Q1-44](#)

**Councillor Robert Light**, Deputy Chair, Local Government Association, **Jonathan Stanley**, Chief Executive Officer, Independent Children's Homes Association, **Lisa Pascoe**, Senior Her Majesty's Inspector, Ofsted, and **Claire Dorer**, Chief Executive Officer, National Association of Independent Schools and Non-Maintained Special Schools

[Q45-84](#)

### Tuesday 27 November 2013

**Superintendent Laurence Taylor**, Sussex Police, **Chief Constable Patrick Geenty**, Wiltshire Police, Association of Chief Police Officers lead on missing people, **Jane Booth**, Independent Chair, Rochdale Borough Safeguarding Children Board, and **Iryna Pona**, Policy Adviser, Children's Society;

[Q85-141](#)

**Kamran Abassi**, Service Development Director, Advanced Childcare, **Andrew Webb**, President, Association of Directors of Children's Services and Corporate Director, Services for People, Stockport Council, and **Tim Parlow**, Senior LAC/SEN Category Manager, North London Strategic Alliance

[Q142-191](#)

### Wednesday 8 January 2014

**Dr Maggie Atkinson**, Children's Commissioner for England, **Luke Rodgers**, and **Adam John Wood**, Care leavers;

[Q192-225](#)

**Edward Timpson MP**, Parliamentary Under-Secretary of State, Department for Education

[Q226-289](#)

## Published written evidence

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The following written evidence was received and can be viewed on the Committee's inquiry web page at [www.parliament.uk/educom](http://www.parliament.uk/educom). RCH numbers are generated by the evidence processing system and so may not be complete.

1	PJL Healthcare Limited	<a href="#">(RCH 01)</a>
2	ECPAT UK	<a href="#">(RCH 02)</a>
3	Revolution Consulting	<a href="#">(RCH 03)</a>
4	NASS	<a href="#">(RCH 04)</a> , <a href="#">(RCH 28)</a>
5	CSDG And ICHA	<a href="#">(RCH 05)</a>
6	Dr Roger Morgan	<a href="#">(RCH 06)</a> , <a href="#">(RCH 22)</a>
7	Children's Services Development Group (CSDG)	<a href="#">(RCH 07)</a>
8	Kent County Council	<a href="#">(RCH 08)</a>
9	NSPCC	<a href="#">(RCH 10)</a>
10	Independent Children's Homes Association (ICHA)	<a href="#">(RCH 11)</a>
11	The British Association of Social Workers (BASW)	<a href="#">(RCH 12)</a> , <a href="#">(RCH 20)</a>
12	Ofsted	<a href="#">(RCH 13)</a> , <a href="#">(RCH 23)</a>
13	Local Government Association	<a href="#">(RCH 14)</a> , <a href="#">(RCH 26)</a>
14	Office Of The Children's Commissioner	<a href="#">(RCH 15)</a>
15	Youth Justice Board For England and Wales	<a href="#">(RCH 16)</a>
16	The Children's Society	<a href="#">(RCH 19)</a> , <a href="#">(RCH 29)</a>
17	Northern Care	<a href="#">(RCH 21)</a>
18	North London Strategic Alliance (NLSA)	<a href="#">(RCH 24)</a>
19	Department For Education	<a href="#">(RCH 30)</a> , <a href="#">(RCH 31)</a>

# List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the Committee's website at [www.parliament.uk/educom](http://www.parliament.uk/educom).

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

## Session 2010-12

First Special Report	Young people not in education, employment or training: Government Response to the Children, Schools and Families Committee's Eighth Report of Session 2009-10	HC 416
Second Special Report	The Early Years Single Funding Formula: Government Response to the Seventh Report from the Children, Schools and Families Committee, Session 2009-10	HC 524
Third Special Report	Transforming Education Outside the Classroom: Responses from the Government and Ofsted to the Sixth Report of the Children, Schools and Families Committee, Session 2009-10	HC 525
Fourth Special Report	Sure Start Children's Centres: Government Response to the Fifth Report from the Children, Schools and Families Committee, Session 2009-10	HC 768
First Report	Behaviour and Discipline in Schools	HC 516-I and -II (HC 1316)
Second Report	The role and performance of Ofsted	HC 570-I and II (HC 1317)
Fifth Special Report	Looked-after Children: Further Government Response to the Third Report from the Children, Schools and Families Committee, Session 2008-09	HC 924
Third Report	Services for young people	HC 744-I and-II (HC 1501)
Fourth Report	Participation by 16-19 year olds in education and training	HC 850-I and-II (HC 1572)
Fifth Report	The English Baccalaureate	HC 851 (HC 1577)
Sixth Report	Services for young people: Government Response to the Committee's Third Report of Session 2010-12	HC 1501 (HC 1736)
Seventh Report	Appointment of HM Chief Inspector, Ofsted	HC 1607-I
Eighth Report	Chief Regulator of Qualifications and Examinations	HC 1764-I and -II
Ninth Report	Great teachers: attracting, training and retaining the best	HC 1515-I (HC 524, Session 2012-13)

**Session 2012-13**

First Report	The administration of examinations for 15–19 year olds in England	HC 141-I (HC 679)
Second Report	Appointment of Chair, Social Mobility and Child Poverty Commission	HC 461-I
Third Report	Governance and leadership of the Department for Education	HC 700 (HC 919)
Fourth Report	Children first: the child protection system in England	HC 137-I (HC 993)
Fifth Report	Support for Home Education	HC 559-I (HC 1013)
Sixth Report	Pre-legislative scrutiny: Special Educational Needs	HC 631-I
Seventh Report	Careers guidance for young people: The impact of the new duty on schools	HC 632-I (HC 1078)
Eighth Report	From GCSEs to EBCs: the Government's proposals for reform	HC 808-I (HC 1116)

**Session 2013–14**

First Report	2012 GCSE English results	HC 204 (HC 662)
Second Report	The Role of School Governing Bodies	HC 365 (HC 661)
Third Report	School sport following London 2012: No more political football	HC 364 (HC 723)
Fourth Report	School Partnerships and Cooperation	HC 269 (HC 999)
Fifth Report	Foundation Years: Sure Start children's centres	HC 364