



House of Commons
Education Committee

**Residential Children's
Homes: Government
Response to the
Committee's Sixth
Report of Session
2013–14**

First Special Report of Session 2014–15

*Ordered by the House of Commons
to be printed 10 June 2014*

HC 305
Published on 16 June 2014
by authority of the House of Commons
London: The Stationery Office Limited
£5.00

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.

Current membership

Mr Graham Stuart MP (*Conservative, Beverley and Holderness*) (Chair)

Neil Carmichael MP (*Conservative, Stroud*)

Alex Cunningham MP (*Labour, Stockton North*)

Bill Esterson MP (*Labour, Sefton Central*)

Pat Glass MP (*Labour, North West Durham*)

Siobhain McDonagh MP (*Labour, Mitcham and Morden*)

Ian Mearns MP (*Labour, Gateshead*)

Caroline Nokes MP (*Conservative, Romsey and Southampton North*)

Mr Dominic Raab MP (*Conservative, Esher and Walton*)

Mr David Ward MP (*Liberal Democrat, Bradford East*)

Craig Whittaker MP (*Conservative, Calder Valley*)

Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/education-committee.

Committee staff

The current staff of the Committee are Dr Lynn Gardner (Clerk), Katy Stout (Second Clerk), Martin Smith (Committee Specialist), Claudia Sumner (Committee Specialist), Ameet Chudasama (Senior Committee Assistant), Michael Everett (Committee Assistant) and Hannah Pearce (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Education Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 1333; the Committee's email address is educom@parliament.uk

First Special Report

On 12 March 2014 we published our Sixth Report of Session 2013–14, *Residential Children's Homes*.¹ The Government response was received on 3 June 2014.

Government response

The Government is grateful to the Select Committee for their attentive and thorough scrutiny of the children's residential care reforms. The Government has accepted or partially accepted all of the Committee's recommendations.

Over the last year, the Government has worked with a range of partners to develop and consult on a range of regulatory changes designed to improve the safety and wellbeing of children in residential care. These regulations are now in force. This is a significant achievement and we welcome the Committee's endorsement of these reforms.

We share, however, the Committee's view that there is more for us to do. Challenges remain for all those concerned with the quality of residential care and other placements for looked after children. We must be ambitious for our most vulnerable children, and we intend to keep up the pace of reform.

We are determined to improve placement stability for all children in care and agree that it is crucial in improving children's outcomes, whatever their placement type. That is why we are taking action to improve the quality in both children's homes and foster care, and continue to fund evidence based programmes that can help to prevent placement breakdown.

We are also working with the sector to improve the skills, training and qualifications of the workforce so children's homes staff have the necessary knowledge and skills to provide much better support to very vulnerable children. We are carrying out a workforce census and a workforce research project to inform future development of new qualifications and a skills framework for children's homes staff.

For some young people, residential care will be the best option — but only if provided at the right time and with a clear purpose matched to their needs. Through the Children's Services Innovation Programme we want to encourage a positive, more integrated approach to the use of residential care. We have already awarded some seed grants through the programme and we are talking to local authorities and providers to help identify projects that could lead to significant and sustainable improvements in the quality of care available. Up to £30 million is available through the programme this year and considerably more next year.

We want children in children's homes to expect excellent, high-quality care that enables them to achieve their full potential. We are determined to move away from a regulation

¹ Education Committee, Sixth Report of Session 2013-14, *Residential Children's Homes*, HC 716

and inspection framework based on minimum standards to one based on new quality standards that will require homes to have high aspirations for the children in their care. We are working on these new standards with a wide group of stakeholders, including Ofsted and representatives of children's homes. We plan to consult on these later this year.

The Select Committee's recommendations have shaped our thinking in many of these areas, and we set out in full below how we intend to respond.

Response to recommendations

Department for Education 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)

The Government recognises the important role played by Select Committees, and the Department always wants to be as helpful as possible in handling requests for information from the Committee. It is also important that ministers and departments have the space and time to consider carefully responses to consultation. In this particular case, it was decided to consider the responses to the consultation before forwarding them to the Committee. We did not in any way intend to cause offence to the Committee.

We welcome the Committee's recommendation regarding a protocol and will give due consideration to how such a protocol might work.

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)

We are grateful for the Committee's acknowledgement of the progress the Government and partners have made on the children's home reform programme. We share the Committee's assessment that the changes will strengthen the welfare of children living in children's homes. Significant challenges remain, however, and the Committee has made an important contribution to shaping our future work.

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)

We recognise that placement instability is an issue for a small but significant group of looked after children, and welcome the Select Committee's recommendation. Placement instability is a particular issue for children in residential care, with around a quarter of children coming into a care home having experienced five or more previous placements.

We have a programme of work in place to improve permanence planning and long-term stability for those children that will remain in care and for those returning home to their families. The issues that lead to placement instability are complex. Our approach is to address these issues systematically by considering what the data tells us, how the statutory framework can be strengthened and identifying and sharing good practice based on evidence and research. Improving permanency is fundamentally a matter of better matching of placement to the needs of the child. As discussed in the response to Recommendation 4, this is a key element of the work we are exploring through the Innovation Programme to encourage more efficient commissioning models.

The Improving Permanence data pack², published in September 2013, highlighted large numbers of placement moves, including 240 children who moved 10 or more times during the year. We are undertaking further analysis of the data to help us gain a better understanding of the reasons for these moves. We plan to do some detailed case work with local authorities to understand what leads to placement moves — for example, how many of the recorded moves are as a result of children being moved from independent fostering provision to in-house carers. We hope to expand the data provided by local authorities to include detail about the reasons children move placements.

The Improving Permanence consultation, published in September 2013, sought views on a range of proposals to strengthen the team around the looked after child, improve the status, security and stability of long-term foster care, and to strengthen the requirements for returning children home from care. The proposals support robust assessments, and planning and ongoing support to ensure stability for looked after children and those returning home from care. The response to the consultation was largely positive and we will be publishing a Government response in the summer.

The Department continues to support the development, piloting and implementation of a range of evidence-based interventions with more than 70 local authorities. These are specialist interventions for looked after children, children on the edge of care or custody, and their families. The aim is to provide carers – including parents, adopters, foster and kinship carers, and residential childcare workers – with the skills, knowledge

² Improving Permanence data pack (Department for Education, 2013)
<https://www.gov.uk/government/publications/improving-permanence-for-looked-after-children-data-pack>

and confidence they need to address the troubled and challenging behaviours, and therefore support greater placement stability. These interventions (Multisystemic Therapy (MST) and Multi-Treatment for Foster Carers (MTFC)) are mostly targeted to adolescents with challenging behaviours who would otherwise end up in residential care after a string of unsuccessful placements.

We continue to invest in evidence-based interventions. We are funding the development of Multisystemic Therapy — Family Integrated Transitions (MST-FIT) to support young people transitioning home from care or to other long-term arrangements from any care setting.

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)

The Government agrees with the views expressed by witnesses to the inquiry that the recent regulatory reforms, while a significant step forward, do not represent the full and final response to the challenge of ensuring the highest standards of care for our most vulnerable children. As the report notes, there is a range of issues around the manner in which the needs of these children are assessed and the placements commissioned.

The Government remains of the view expressed by the Parliamentary Under Secretary of State for Children and Families in his evidence to the Committee, that there should be no attempt to define at a national level what homes should look like. Our role is to create the conditions in which quality provision – residential or otherwise – will thrive. Similarly, we believe there are significant challenges in realising the aim of the Committee's recommendation for a national planning exercise informed by local and regional assessments of need. LGA/OPM research³ highlighted the difficulties local authorities face in predicting demand for placements, and any national attempt to undertake such an exercise would have to be based on the work of local authorities, and would likely see these difficulties aggregate.

We believe it is best to work on an approach to improve commissioning practice in adolescent care. Indeed this is a central part of the Innovation Programme. In particular, we are encouraging local authorities to trial regional or sub-national approaches to commissioning for placements, with a single body acting as commissioner on behalf of the other members. Support is available for local authorities who wish to trial this approach.

³ Action research into the more effective strategic commissioning of children's residential care homes: Final report to the Local Government Association (OPM, July 2013) www.opm.co.uk/wp-content/uploads/2014/01/Action-research-into-the-more-effective-strategic-commissioning-of-children%E2%80%99s-residential-care-homes-final-report.pdf

The Innovation Programme will also particularly consider other proposals to improve the residential care market, and to ensure a more positive role for residential care. Further detail can be found in our paper “Rethinking Support for Adolescents”:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/304684/Rethinking_support_for_adolescents.pdf

Children's homes should not be a placement of last resort, and we agree with the Committee that the time is right to highlight the positive contribution that residential care can and does make. In a recent article, the Chief Executive Officer of the Independent Children's Homes Association (ICHA) argued that:

An agreed set of Values and Principles can act to align, contain and connect, signaling a new direction and vision for Residential Child Care being seen a positive provision for young people; children's homes as they need to be and can be⁴

We agree, and the introduction of new quality standards for children's homes provides an opportunity to achieve this. We will consult on draft standards later this year, and as part of this we will consult on new 'principles for residential care' based on those proposed by the ICHA and Institute of Education (IoE) in the above article. These principles might be incorporated in the document that succeeds the current National Minimum Standards. This should help to realise the Committee's recommendation that residential care be re-positioned as a positive choice in the right circumstances.

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)

We welcome this recommendation, and agree — as Ofsted found in Outstanding Children's Homes (2011)⁵ — that effective, hands-on leadership is essential. Leadership and 'creating the right culture' are issues that are central to one of the working groups working closely with the Department on training and development needs of the children's homes workforce. Furthermore, as part of our research programme, we are conducting case studies, which include interviews with children's homes staff and managers to gather their views on how to move forward. In developing proposals, we will build on the recommendations in the Narey report for social work, and set out agreed knowledge, skill and — crucially — behaviours for those working in and managing residential care.

⁴ www.huffingtonpost.co.uk/jonathan-stanley/values-and-principles-rol-b-5116813.html

⁵ Outstanding Children's Homes (2011): www.ofsted.gov.uk/resources/outstanding-childrens-homes

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)

The Government agrees that revisions to regulations are not in themselves sufficient to ensure real change and improvement. Implementation is also crucial.

Ofsted has a key role to play as the inspectorate for both children's homes and local authorities. Ofsted's recent thematic inspection of the effectiveness of local authorities in discharging their responsibilities to looked after children who live away from their home community highlighted areas where practice must be improved. Similarly, the Department's data packs have brought greater transparency to local authority decision-making in this area, which will help to drive improvement.

The Committee's report cites the difficulty highlighted by Ofsted in ensuring compliance by children's homes with relevant guidance. The Children Act 1989 guidance only applies to local authorities and local authority homes. More generally, we recognised that the regulatory framework for children's homes, and the standards underpinning Ofsted inspection, were in need of an overhaul. The Children and Families Act 2014 put beyond doubt the relationship between children's homes regulations and standards. These measures, together with our plans to introduce new quality standards, will ensure that the regulatory framework underpinning inspection is clear and coherent.

Furthermore, in introducing quality standards for children's homes, we will work with the sector to consider how best the standards should address the quality of the home's partnership working. Capturing partnership in the standard would ensure that homes are held to account for their work with others; it might also empower homes to demand the necessary support from stakeholders. Any concerns with local authority performance that are uncovered as a result of children's homes could then feed into the relevant children's services inspection. We will continue to work with Ofsted on these issues.

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)

We accept that more effective protection for children, and improvements in the quality of residential care, will not be achieved without stronger partnership and collaboration

between homes and services in the areas where they are located. As mentioned above, the new quality standards may well have a role to play in facilitating this collaboration.

We are also keen to support collaboration through the Innovation Programme. We have discussed proposals with a number of local authorities and providers who are considering developing such approaches and we have particularly expressed an interest in funding collaborative models where children's homes provide a 'hub' of specialist services to other settings.

As we take forward our wider programme of children's homes' reform and develop future quality standards for children's homes, we will be continuing to work very closely with Ofsted, children's homes providers and local authorities. This engagement, alongside analysis of Ofsted's inspection activity, will provide the opportunity to continually assess the extent to which our reforms are encouraging the development of the constructive local relationships essential to achieving long-lasting change in the support provided for children in residential care.

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 those 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)

The Government shares the Committee's concern that some children's homes are located in unsafe and unsuitable areas.

To ensure consistent national implementation of location assessment, we have developed a comprehensive location assessment process with stakeholders. This specifies that in carrying out location assessments, providers of new or existing homes should contact local authority children's services, the police (the Head of Public Protection for each force) and probation providers. This should enable informed decisions to be made about the benefits and disadvantages to children of a home being located in a particular community.

In making its recommendations, the Committee's report sets out fairly and thoroughly the potential complexities and issues that would arise from an attempt to use the

planning system to tackle concerns around the location of children's homes and other establishments in the vicinity of children's homes.

The location assessment process considers a broader range of issues than those that would be covered by a planning application, such as how children living in homes will be able to access services in the local community such as schools, secondary health services and leisure and cultural activities. Importantly, managers of children's homes must review the home's location assessment annually. This recognises that the characteristics of an area may change over time. It will be essential for providers of homes to take the initiative in developing a strategy, in partnership with children's placing authorities and local police and child protection services, for managing any risks identified during the location assessment process.

The Minister for Planning and the Parliamentary Under Secretary of State for Children and Families agree that they will ensure that local planning authorities are informed about the new 'location assessment' process for children's homes. When planning guidance is next revised, in 2015, it will include information about the location assessment process for children's homes. Where homes apply for planning permission, consideration of the provider's location assessment may be a material factor in determining the application. We also agree to keep under review the impact of the location assessments and report to the Committee within a year.

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)

The Government agrees with the Committee that children's welfare must be paramount in cases where a home goes bankrupt. We welcome the Committee's proposal and will consider how best to ensure that in such circumstances the receiver has regard to the welfare of children living in the home. We will consult on amendments designed to achieve this as part of our consultation on quality standards later this year. We aim to have these new provisions in place by April 2015.

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)

Ministers across Government agree that every effort should be made to avoid looked after children being drawn unnecessarily into the youth justice system. Where the police come into contact with looked after children, who may have committed an offence, they have a range of powers enabling them to exercise discretion about the necessary

response. Approaches such as community resolution may allow them to resolve the situation without children being charged over relatively trivial incidents. As the police already have discretion about how they should deal with incidents involving looked after children, we do not agree that national prescription, in the form of a protocol, represents the best means of responding to this important issue.

We support existing initiatives designed to improve practice; for example, the innovative work developed in the south east region, noted in the Committee's report, to prevent children in care being unnecessarily criminalised.

The Government will look closely at local approaches and will consider how best to ensure effective practice is spread across the country. The Parliamentary Under Secretary of State for Children and Families and the Minister of State for Crime Prevention will write jointly to ask the College of Policing to look at what best practice exists on this issue and consider whether any further guidance is necessary.

Finally, from April 2014 amendments to the Children's Homes Regulations require the 'registered person' for each home to monitor and report to Ofsted on how the home encourages positive behaviour, including whether children in the home have been charged with an offence. Encouraging children to develop constructive relationships with others, and helping them take responsibility for their behaviour will be part of the new Quality Standards.

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)

The Government agrees with the Committee, and the law is clear, that a child should be placed within their local area when this option is in the best interests of the child. Most children will benefit from a placement close to home, but the needs of some children mean that a distant placement will be the right option for them. This may be to meet a specific therapeutic need or to move them away from an environment which is not conducive to their physical or mental wellbeing.

While the Government understands the Committee's concerns, we do not believe that conducting a separate study on the implications of a 20-mile radius cap, in isolation from other factors, would help to resolve the core issues affecting the quality of local

authority placement commissioning and social work support. The decision to place a child must remain based on their needs at that time irrespective of where that placement is. The solution we and the sector continue to work towards is ensuring sufficient local provision to accommodate the needs of the children in care.

We have already changed regulations so that the Director of Children's Services must approve distant placements, and should do so only if satisfied that this is in an individual child's interests. We plan to publish shortly revisions to statutory guidance outlining the factors that the local authority will have to take into account in assessing whether a placement is 'distant', including placements being over 20 miles away. To address issues of sufficient local provision, we are encouraging bids through the Innovation Programme to establish different models of local commissioning to expand access to provision.

We will continue to monitor the impact of regulatory changes, and the 2014 children's homes data pack will include an analysis of out of area placements. We must caution though that this will not necessarily reflect the impact of recent policy, because of the time between the changes and the date of the data collection. We will also continue to monitor out of area placements as standard in the statistical first release.

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)

The Government agrees with the Committee that more should be done to encourage the creation of commissioning consortia, particularly those who look across the range of support that children and young people in care need throughout their time in care. We are working through the Innovation Programme to encourage proposals for different commissioning models and commissioning consortia to effectively meet the diverse needs of young people in care. We need to find innovative ways to improve and re-design service delivery to achieve higher-quality, improved outcomes and better value for money.

The care system is currently caught between two competing priorities: to provide an immediate place of safety; and to develop a long-term plan based on individual needs. The Innovation Programme should help develop creative proposals to managing these priorities, and improve outcomes for young people. We are particularly keen to look at models of commissioning pathways through care, rather than individual placements. We have already received some encouraging bids in these important areas.

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)

We welcome the Committee's support for children helping to select their care workers, and agree with the views expressed by Roger Morgan and Maggie Atkinson around the importance of recruiting staff who have qualities that enable them to genuinely listen to children. However, we do not believe that pilots are necessary given that this practice is already widespread amongst local authorities and providers, and it seems to us that the case for such involvement is broadly accepted, even if it does not necessarily take place in every instance.

In considering the Committee's recommendation, we sought information from the seven largest providers of independent children's homes, on the extent of participation by children in the recruitment of their care workers. All but one involved children in selecting their care workers. Three providers reported that children were involved in the recruitment process for every care worker appointment, and another reported that children were involved in 80% of appointments.

Rather than establish pilots to test the merits of involvement, we think the case is sufficiently well made to be part of the new Quality Standards that will underpin Ofsted inspections. These could set out that selection processes should, where possible and appropriate, involve children in a meaningful way. Ofsted has been closely involved in the development of the Quality Standards, and is committed, as is the Government, to a strong emphasis on listening to children's views, wishes and feelings — not only in the selection of care workers, but in all aspects of the home's practice. We will consult on this as part of the overall work to introduce Quality Standards.