

NYAS (National Youth Advocacy Service) Evidence Submission to Children's Wellbeing and Schools Bill: Call for Evidence

Executive Summary

NYAS welcomes the Children's Wellbeing and Schools Bill, and we are pleased to see the UK Government has committed to improving the experiences and outcomes of care-experienced children and young people. However, we fundamentally do not think the measures in Part 1 of the Bill go far enough to address the complexity and magnitude of the long-developing crisis in children's social care.

Our evidence identifies three key issues which we believe are missing from the Bill and strongly urge Committee members to consider these during their scrutiny:

1. Opt-out Model of Independent Advocacy Services
2. Extending the Entitlement of Independent Visitors
3. Supporting Care Leavers in the Private Rented Sector

We also raise probing questions about the new single unique identifier system, Regional Care Cooperatives and the profit cap. And we underline our support for amendments to repeal the reasonable punishment defence, and to enforce implementation of the IICSA recommendations.

About NYAS

NYAS is a leading children's rights charity providing advocacy, support services and independent legal representation to over 10,000 care-experienced children and young people across England and Wales every year. Guided by Article 12 of the United Nations Convention on the Rights of the Child (UNCRC), we influence and campaign to ensure that every child and young person can safely and freely express their views, wishes and feelings in all matters affecting them.

The delivery of children's services has become one of the biggest budgetary issues facing local authorities, with current funding levels unable to meet demand.¹ More children are entering the care system than ever before, with the number of children being cared for by a local authority projected to **rise to 100,000** by 2025.² In a Policy Summary, the Department for Education (DfE) describes that the Bill will 'put in place a package of support to drive high and rising standards throughout our care systems so that every child can achieve and thrive'. In its current form, NYAS does not believe the Bill will be enough to achieve this aim for all children living in the care system.

The Independent Review of Children's Social Care (2022) made **over 80** recommendations to UK Government on what must be done to truly – systemically - transform children's social care in England. We are concerned that the Bill does not appear to have fully encapsulated these recommendations and ultimately, we believe it will not deliver the transformative change urgently needed if every child living in care is to stay safe, achieve and thrive throughout their childhood.

1. Opt-out Model of Independent Advocacy

Advocacy gives care-experienced children and young people a voice in decisions being made about them, their lives and their futures, in line with Article 12 of the UNCRC. Making sure all children and

¹ [Children's Social Care - County Councils Network](#)

² [Children in care in England could hit almost 100,000 by 2025 - BBC News](#)

young people, but particularly those in vulnerable situations, have an opportunity to have their voices heard is a fundamental pillar of robust and effective safeguarding.

Current legislation sets out that care-experienced children and young people have a statutory entitlement to advocacy services, which the local authority have a duty to make arrangements for. However, there is currently no duty on local authorities to actively inform children and young people about this entitlement. This means that quite often care-experienced children and young people are unaware of their rights to access an advocate whilst growing up in care, and in some cases, care leavers have told us they have been turned away from local authorities when trying to access advocacy. Ultimately, when children and young people are not aware of advocacy, they are prevented from having their voices heard and rights upheld. Data from NYAS' helpline during the 2022-2023 financial year highlights this:

For children aged 11 and under who received issue-based advocacy from NYAS:

- Only **25%** of children knew what their rights were before accessing advocacy, compared to **87%** of children knew what their rights were after accessing advocacy
- Only **26%** of children knew what was happening to them before advocacy, compared to **80%** knew what was happening to them after accessing advocacy.

For young people aged 12+ who received issue-based advocacy from NYAS:

- Only **35%** of young people knew what their rights were before accessing advocacy, compared to **77%** of children knew what their rights were after accessing advocacy.
- Only **40%** of children and young people knew what was happening to them before advocacy, compared to **80%** of children knew what was happening after accessing advocacy.

“It can feel like you have to ‘fight’ for an advocate. It feels because the process was difficult and not straightforward that having an advocate was something I weren’t meant to have. Therefore, having one instantly helps this feel meaningful and like it matters”
Young person on accessing an advocate³

The Independent Review of Children’s Social Care called for the implementation of an ‘opt-out’ legal right to advocacy for all children in care’.⁴ An opt-out legal right to advocacy would remove many of the barriers facing children and young people wishing to access advocacy services by automatically connecting them with an advocate as soon as they become eligible for one. The previous UK Government committed to implementing an ‘opt-out’ model in response to the Care Review,⁵ but this was never legislated on nor included in their ‘Revisions to the National Standards and Statutory Guidance for the Provision of Children’s and Young People’s Advocacy Services’ in 2023.⁶

“My advocate did the unthinkable. They got my voice heard. They were understanding of my situations and non-judgemental.”

“My advocate has helped me to find the light when it has been dark, and I look forward to us working together to build me a better future.”
Young people working with NYAS advocates

³ [Children and young people's views on England's care review](#)

⁴ [Independent review of children's social care - final report](#)

⁵ [Children's social care stable homes built on love consultation](#)

⁶ [Revisions to the National Standards and Statutory Guidance for the Provision of Children's and Young People's Advocacy Services - Department for Education - Citizen Space](#)

Fourteen months on from this consultation, the UK Government is no further forward in reforming advocacy services in England. The outcomes of the consultation have not been released, an opt-out model has not been implemented, and the National Standards and Statutory Guidance for the Provision of Children’s and Young People’s Advocacy Services have now not been updated in **over 20 years**.

The Bill is an opportunity for UK Government to truly show their commitments to safeguarding children and young people by empowering their right to have their views, wishes and feelings heard.

We are committed to calling for:

- An opt-out statutory right to independent advocacy for all eligible children and young people in England.
- Clarity from Department of Education regarding the outcomes, timetable and implementation of the long overdue National Standards and Statutory Guidance for the Provision of Children’s and Young People’s Advocacy Services.

2. Opt-out Right to Independent Visitors Until the Age of 25

Independent Visitors (IV) are an opportunity for care-experienced children and young people to build a positive and long-lasting friendship with a trusted volunteer. Often, IVs are the only professional in a care-experienced child or young person’s life who is not paid to spend time with them. Though it is a statutory right for care-experienced children and young people to be allocated an IV where it appears to be in their best interest under Section 23ZB of The Children Act 1989⁷, children are often unaware of this right, so they cannot benefit from this service. Data from NYAS and Coram in 2022 highlighted that **one third** of care-experienced children and young people had never heard about IVs.⁸ Overall, IV matches in England are concerningly low. Data from the National Independent Visitor Network (NIVN) showed that in 2022:

- Only **2,650** children up to the age of 18 were matched with an IV, representing just **3.3%** of the total population of children looked after.
- **1,327** children were on a waiting list for an IV and **over four fifths** of local authorities had a waiting list for an IV, demonstrating that demand for IV services exceeds the number of available volunteers.⁹

“I would have liked an Independent Visitor; they sound like people who would be there for me and not answer to my social worker.”

Young person on accessing an Independent Visitor¹⁰

It will surely always be in a child’s best interests to have a friend alongside them during their time in care, so IV matches should be far higher than data suggests. Creating an ‘opt-out’ right to an IV would ensure far more care-experienced children and young people are aware of IV services and can make their own decision whether they wish to take up the offer or not. In response to the Care Review, the previous Government committed to ‘increasing the accessibility and take-up of the Independent

⁷ [Children Act 1989](#)

⁸ [Children and young people’s views on England’s care review](#)

⁹ [NIVN-Data-Report-2022.pdf](#)

¹⁰ [Children and young people’s views on England’s care review](#)

Visitors' to ensure that 'every care-experienced child and young person will feel they have strong, loving relationships in place' by 2027, however this commitment was never accompanied by policy changes.¹¹

"I'm so glad I have an Independent Visitor; it has been the only stable thing in my life recently. I can trust her, and I can always talk to her if I need to."

Young Person matched with a NYAS Independent Visitor

The provisions under Section 23ZB also mean that care leavers aged 18-25 do not have a statutory entitlement to an IV. This means that if a child is matched with an IV before their 18th birthday, there is no guarantee that they will be able to continue this match once turning 18. NIVN showed that **76** local authorities continued to match **386** care leavers with IVs in 2022, however ultimately, practice is not consistent and many care leavers will lose their matches once turning 18. This is yet another relationship 'ending' for care leavers as they enter adulthood. The transition out of care is extremely isolating and difficult for care leavers, so it is vital they have strong and trusting relationships during this time. IVs can be that strong and trusting relationship, acting as a protective factor during an otherwise challenging transition, but without an opt-out right, there is no guaranteed access to these protective relationships.

The Bill is an opportunity to reform IV services and make sure all care-experienced children, young people and care leavers have at least one trusted 'voluntary' relationship in their life. We are strongly calling for:

- A Government commitment on the face of this Bill (or assurance in regulation and guidance) to significantly expand and extend the right to an independent visitor through an opt-out right until the age of 25 for all care-experienced children, young people and care leavers.

3. Support for Care Leavers in the Private Rented Sector

The average age for young people to move out of their family home and begin independent living in the UK is 24 years old. For care leavers, they are expected to make this transition at 18 years old and often, it is extremely challenging for these young people to find somewhere safe, secure and stable to live. Homelessness is therefore a very real and immediate threat for care leavers. **1 in 3** care leavers will experience homelessness within the first two years of leaving care, and around **a quarter** of all individuals who experience homelessness have also experienced the care system.¹²

The private rented sector plays an increasing role in accommodating people who have left care, with around **1 in 3** care leavers living in rented accommodation.¹³ However, care leavers have told NYAS that they have found it difficult to find landlords willing to rent to them because of their status as a care leaver, or because they do not have a guarantor or access to a rent deposit. Despite corporate parenting duties, there is currently no legal duty on councils to act as a guarantor or provide a rent deposit to young people who grew up in local authority care.

"When you're a care leaver everybody wants a guarantor, regardless of how good your credit history is."

¹¹ [Children's social care stable homes built on love consultation](#)

¹² [Care Leavers and Homelessness.pdf](#)

¹³ [renters-rights bill-second-reading-hoc-briefing.pdf](#)

Care leaver working with NYAS

NYAS sent out Freedom of Information Requests to **152** councils in England in 2024 regarding what support they offer care leavers wishing to access private rented accommodation.¹⁴ We received **113** responses in total:

- **42% (48) of councils** will act as a guarantor for care leavers wishing to access private rented accommodation.
- **60% of these councils** have an eligibility criteria that a care leaver will need to meet to access this scheme.
- **77% (87) of councils** will provide care leavers with a rent deposit when they are wishing to rent privately let accommodation.
- **75% of these councils** have an eligibility criteria that a care leaver will need to meet to access this deposit.
- For care leavers who live 'out of area', **39% (44) of councils** will still act as a guarantor and offer a rent deposit access private rented accommodation, **4% (5)** will only offer a guarantor scheme, **27% (31)** only offer rent deposits and **27% (30)** offer neither.

While there is some good practice happening, the provision of this support is not equally or readily available to all care leavers across England. Even at local level, access to guarantor or rent deposit schemes is often qualified by criteria for eligibility which creates even more barriers for care leavers. Some of these criteria include:

- Only if the care leaver is enrolled in university
- Evidence of skills such as independent living, budgeting, problem solving
- Engaging regularly with professionals and Pathway Planning
- No significant debt
- Needs assessment shows they are motivated
- Completed a Gold Skills Course
- Evidence of maintaining a previous accommodation with no issues

“Acceptance is not automatic; you have to apply, and you have to be able to show that you are good at managing your money, you have made a budget and can, afford the place you want to rent.”

Local Authority in England explaining how care leavers can access the council's guarantor scheme.

Additionally, even where councils do offer to be a guarantor, some landlords and lettings agents are reported as refusing to accept an 'organisational' guarantor, insisting that a guarantor must be a named individual person.

We believe an opportunity has been missed in the Children's Wellbeing and School's Bill to ensure that housing and the prevention of homeless for care leavers are specified as a key element of the council's care leavers' responsibilities. And more broadly we feel this reflects the disappointing lack of

¹⁴ [Housing FOI Briefing - Oct 24](#)

provision in the Bill to ensure that housing authorities and providers are included among all the state bodies and public services needed to make real the collective corporate parenting duty they should share towards every child for whom 'The State' has become parent.

The Department for Education's 'Keeping Children Safe, Helping Families Thrive' Policy Statement restated the Government's plans to extend corporate parenting responsibilities to government departments and relevant public bodies. Though this was welcomed, we share concerns that these legislative changes have not yet been included in the Children's Wellbeing and School's Bill.

NYAS wants to see:

- Specification of guarantorship and rent deposits as part of a council's duties to care leavers.
- Government clarity on plans to extend corporate parenting duties within this Bill.

Evidence on existing measures in the Bill

NYAS has welcomed other clauses within Part 1 of the Bill and wishes to offer comment on questions that two of them raise.

Clause 4: The Consistent (Unique) Identifier

NYAS recognises the importance of improved information sharing between and across statutory agencies, to improve child protection efforts and coordinating statutory services in ways that might prevent children and family members having to retell essential, and sometimes distressing, information about themselves to multiple agencies, repeatedly. We also appreciate the caveats offered in this Bill, essentially recognising that any automatic or blanket sharing of all information by all agencies could be detrimental to a child's rights, safety and welfare, their willingness to approach services, or to disclose their needs and concerns in the first place.

As an advocacy provider, we are keen to probe on whether independent advocates for children would be required or expected routinely to use the single unique identifier in their case records, and/or routinely to contribute case information to a child's single data record. Independent advocacy is a statutory function under the Children Act, usually commissioned (or in some cases provided) by the children's social care department of the local authority. There is a risk that the confidentiality that is so important for advocacy relationships to work well for the child could be damaged if advocacy services are swept up into the consistent identifier system.

Advocates *could* be seen (or assumed) to fall within the definition – under Clause 16LB (11) - of those who are 'designated persons' for using the consistent identifier. Equally, some LA's could, in practice, seek to pass on requirements to use the unique identifier in contracted services' terms and conditions (including, but perhaps not only, advocacy services). Given the nature of the matters a child may be approaching their advocate about, however (namely, their rights to explore and assert their wishes and feelings in social care assessments, meetings and decisions about them; to seek better care and support; to challenge their care plans; or to complain about their standard of care), it is vital that children can trust that their relationship with their independent advocate (and case records about it) will *definitely not* become automatically known to their local authority by being recorded and tracked through the consistent identifier system.

#Clause 11, 12, 13, 14, 15 and 16 Regional Care Cooperatives and the Profit Cap

NYAS is not a care provider either in England or in Wales, but our commitment to children and young people in both nations means that we do share well-evidenced and widespread concerns about the current operation of ‘care markets’ in both nations, and the many ways in which children and young people are being failed and harmed by current arrangements. While understanding the rationales for both reform agendas, we take no particular organisational view about whether the English policy objective (to keep, but to curb profit-making by care companies) or the Welsh policy objective (to work towards the elimination of profit-making from all care provision) is preferable. These are, quite rightly, objectives to be determined by politically accountable leaders.

We advocate on a daily basis for children and young people who experience their care as ranging from excellent to awful, in many different types of provider organisation (whether public, charitable or private sector). Our very real priority is that market reforms must not become an end in themselves or a diversion of attention from the needs and realities children face today. Market reform will only improve children’s lives in and beyond care if it results in more, diverse, high quality care options in every community, to ensure that there are meaningful choices for each child to be cared for close to home, school, friends and their community networks. Such reforms must also ensure that children and young people have a meaningful say in those choices.

In relation to the Bill’s provisions for Regional Care Cooperatives, and the innovation of a ‘profit cap’ in England, we are unclear and concerned to understand:

- How RCCs would be led and informed by children and young people’s real experiences and views about the care services being commissioned through them?
- How RCC’s would rapidly or significantly improve the availability, sufficiency and quality of care in every community under their jurisdiction, for the children who so urgently need a better system than they currently face?
- How the profit cap (essentially a sanction-by-fine system) would in practice deliver any real or rapid reinvestment of funds to be spent on the children who need it (as claimed by the Secretary of State in relation to the profit cap at Second Reading)?
- How English market reforms would interact with parallel but different market reforms in Wales, especially in regard to:
 - A) care providers who currently operate in both nations; and,
 - B) children and young people being placed in care settings in England from home LAs in Wales (and vice versa)?

Support for tabled amendments at time of writing

We wish to also share with the Bill Committee how strongly we support the case for certain tabled amendments already published at the time of making this submission, that would significantly strengthen the safeguarding ambitions of the Bill.

NC10 - The availability of a statutory ‘reasonable punishment’ defence for a parent assaulting their child is archaic, creating mixed messages and a legal veil for legitimising abuse, when there should be clarity that deliberately hurting a child is *always* unacceptable. This must end, and the defence should have been repealed long ago.

NC1 - The diligent work of the Independent Inquiry into Child Sexual Abuse, and the courage of all the thousands of survivors of childhood abuse who shared their experiences through it, deserve concerted action, and we support amendments that seek to require the implementation of its recommendations, and strong accountability to parliament for doing so.

Conclusion

In this submission NYAS has focussed on aspects of the care system that we are most directly involved in delivering, and the implications of selected measures, and omissions, in the Bill as it stands for children, young people and the dedicated people they need by their side, during and beyond their time in care. As a children's rights organisation that collaborates extensively with our fellow children's charities, we are committed to push for much wider, even more robust and ambitious reforms of the care system for children than the Bill yet offers, and we will be keen to discuss and work further with Ministers, officials and all parliamentarians who share that aim.

For questions and further information please contact NYAS' Policy team (Kathy Evans and Phoebe White) at policy@nyas.net