

CHILDREN'S WELLBEING AND SCHOOLS BILL

EUROPEAN CONVENTION ON HUMAN RIGHTS SUPPLEMENTARY MEMORANDUM

Introduction

1. This memorandum supplements the memorandums dated 17 December 2024, 19 March 2025, 12 January 2026 and 5 March 2026, which addressed issues under the European Convention on Human Rights ("ECHR") in relation to the Children's Wellbeing and Schools Bill.
2. This supplementary memorandum addresses the issues under the ECHR that arise in relation to Government amendments tabled on 19 March 2026 for Lords' Consideration of Commons' Amendments. It has been prepared by the Department for Education.

ECHR Analysis

Proposed new clause: sibling contact with children in care

3. The new clause amends section 34 of the Children Act 1989 to require local authorities to allow reasonable contact, provided it is consistent with the welfare of the child, between children in care and their siblings. This will put sibling relationships on a par with parental relationships in terms of duties on local authorities to allow contact.

Article 8

4. This amendment engages Article 8 as it concerns the contact that children in care may be afforded and facilitated by the local authority who has parental responsibility for the child by virtue of the care order, with their siblings.
5. There may be an interference with those rights in the event that a local authority determines it is not in the welfare interests of the child to allow contact with their sibling however this would be a justified and proportionate interference necessary to ensure that the child in care's welfare is protected.

Article 14

6. The amended duty on local authorities to allow reasonable contact between siblings only applies to children in the care of the local authority and only applies to contact between them and their siblings rather than any wider family members or friends of, or persons connected to, children in care. It may therefore engage Article 14 when taken together with Article 8 rights on the basis of other status where they are not in scope of the revised duty on the local authority to allow reasonable contact.
7. There are existing requirements in relation to local authorities ensuring contact between all looked after children (which would also include those children who are

looked after by virtue of being accommodated by the local authority, but who are not in the care of the local authority) and family and connected persons as far as reasonably practicable. These existing requirements therefore provide appropriate and proportionate protection for Article 8 rights of all those concerned.

Proposed new clause: Allergy safety policy for pupils at schools

8. The Department considers that the amendments concerning allergy safety in schools are compatible with the ECHR. The amendments strengthen protections for children's health and safety, support the State's positive obligations under Article 2, engage but do not infringe Article 8, and reflect proportionate and evidence-based measures consistent with safeguarding and educational responsibilities.
9. New section 100A of the Children and Families Act 2014 ('CFA 2014') places a statutory duty on the appropriate authority of every school within scope of section 100 to maintain, annually review, publicise and publish an allergy safety policy, having particular regard to statutory guidance relating to allergy management. Section 100A(3) allows the Secretary of State to make regulations regarding the matters to be covered by the allergy safety policy.
10. New section 100B enables the Secretary of State to make regulations imposing further duties on schools within scope of section 100 regarding allergy management, including requirements relating to emergency medication, identification and management of risks, training of staff, and recording/reporting of incidents.
11. Subsections (2) and (3), require the Secretary of State through regulations to impose corresponding allergy-related duties on non-maintained special schools and independent educational institutions.

Article 8

12. Article 8 is engaged because the measures concern the protection of children's health and wellbeing, including pupils with severe allergies and those at risk of anaphylaxis. Schools' arrangements for managing health risks may involve handling sensitive medical information and may influence children's day-to-day experiences at school.
13. Any interference is clearly justified, pursuing the legitimate aims of protecting health, protecting the rights and safety of others, and promoting children's effective participation in education. Allergy safety policies seek to prevent serious harm, including life-threatening reactions, and are necessary to safeguard pupils in school settings.
14. The duties under section 100A are modest, proportionate and procedural, requiring the adoption, review and publication of a school policy. Section 100A(3) and 100B, and new subsection (5ZA) of 342 of the Education Act 1996, and new subsection (3B) of 94 of the Education and Skills Act 2008 enable future regulations but do not

directly impose prescriptive requirements, any regulations would need to be drafted compatibly with Article 8 and must be proportionate to their aim.

15. Schools remain under existing obligations to act lawfully, and the interventions must be exercised reasonably and (for state sector schools) in accordance with existing statutory guidance. The enforcement framework under the Education Act 1996 (sections 496–497), and through the regulatory arrangements that apply to independent educational institutions and non-maintained special schools provides external oversight proportionate to the legitimate aims pursued.

Article 2

16. Article 2 is positively engaged by the amendment. Pupils with severe allergies face a risk of life-threatening anaphylaxis. The measures introduce mandatory policy frameworks, duties to review and publicise, and the ability to impose further requirements through regulations all of which will enhance the State's ability to protect life in schools.

17. The amendments therefore support the UK's positive obligations under Article 2.

Article 1 of Protocol 1

18. The measures do not regulate pupils' possessions directly. The policy duties may indirectly influence how medication (including emergency devices) is stored and accessed by schools, but these are routine and proportionate organisational requirements in the context of safeguarding health.

19. Any potential interference would be minimal, justified by the need to protect life and health, and consistent with long-established school powers relating to medical conditions management.

Safeguards

20. Appropriate safeguards are embedded:

- i. the section 100 CFA 2014 duties operate through statutory guidance, which schools must follow unless they have a cogent reason not to;
- ii. this guidance can be updated to reflect evolving clinical advice, ensuring policies remain evidence led and proportionate,
- iii. the Secretary of State's direction powers under sections 496–497 of the Education Act 1996 and the regulatory framework which applies to independent and non-maintained special schools provide oversight;
- iv. any regulations made under new section 100B and subsection 100A(3) of the CFA 2014, subsection 342(5ZA) of the Education Act 1996, and subsection 94(3B) of the Education and Skills Act 2008 must be compatible with the Convention and proportionate to their health protection-related aims; and
- v. State sector schools remain subject to public law duties and must act reasonably and compatibly with Convention rights.