



Your Family, Your Voice
An Alliance Of Families And
Practitioners Working Together
To Transform The System



Children & Social Worker Bill 2016

Report Stage: House of Lords

Briefing by the Your Family, Your Voice Alliance focusing on young parents who are care leavers

Prepared by
Family Rights Group on behalf of Your Family, Your Voice Alliance

Endorsed by
Agenda – Alliance for Women & Girls at Risk
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1. Introduction

- 1.1 This briefing is prepared by Family Rights Group on behalf of the Your Family, Your Voice Alliance.
- 1.2 Your Family, Your Voice is an Alliance of families whose children have been subject to statutory state intervention – and practitioners and organisations working with them. This includes families whose children have been excluded from school, subject to child protection processes, the youth justice or the care system, or sectioned under the Mental Health Act. The Alliance aims to influence how such families are perceived and portrayed in the media and wider society; to work in collaboration with families to influence law, policy and practice in our child welfare, child mental health, youth justice and education systems; and enable families to have a voice in policy and decision making. Find out more about the Alliance at www.frg.org.uk/involving-families/your-family,-your-voice¹
- 1.3 Family Rights Group is the national charity that works with parents in England and Wales whose children are in need, at risk or are in the care system and with members of the wider family who are raising children unable to remain at home. We advise parents, grandparents, other relatives and friends about their rights and options when social workers or courts make decisions about their children’s welfare. We campaign for families to have their voice heard, be treated fairly and get help early to prevent problems escalating. We champion family group conferences and other policies and practices that keep children safe within their family network.
- 1.4 This briefing on the Children and Social Work Bill focuses on young parents who are care leavers, who are particularly at risk of their children being permanently removed from them to

¹ We are grateful to Lankelly Chase for funding the work of the Alliance and to the Paul Hamlyn Foundation and The Tudor Trust for funding Family Rights Group’s Young Parents Project.

care or adoption. Some of the amendments we propose would also assist other vulnerable parents and children. In particular we consider ways that the Children and Social Work Bill could be amended, in order to:

- improve the chances of care leavers, who are also young parents, being able to safely care for their children by making it an explicit requirement that there is an assessment of the needs of any young parent/pregnant young person who is a care leaver and that they are provided with advice, assistance and support;
- Ensure that all parents have access to independent legal advice where it is proposed their child is placed under foster for adoption with potential adopters who have been approved as foster carers; and
- Enable any parent whose child has been permanently removed to get therapeutic support and counselling to help them deal with their difficulties and grief and to avoid cycles of recurrent pregnancies and repeat removals of children.

2. Care leavers: the background

2.1 Child protection enquiries are increasing and the numbers of looked after children continues to rise. As at 31 March 2016 there were 70,440 looked after children in England², the highest figure recorded since 1985. The number of children who have been looked after at some point during the year (2015/16) exceeded 100,000 for the first time. With the number of new care proceedings per annum now at record levels and continuing to rise, the President of the Family Division Sir James Munby, the most senior family court Judge in England & Wales, has stated that the care system is facing a 'clear and imminent crisis' and has asked what steps can be taken now.³

2.2 Looked after children are typically in care as a result of parental mental ill health, disability, imprisonment, substance misuse, domestic violence or bereavement or because parents are absent. Most have suffered abuse or neglect. Their separation from their parents or other members of their family network, alongside the trauma or tragedy that they have suffered, can have a significant and lasting impact on these children's mental health and emotional well-being - 37% of looked after children and care leavers were assessed as having a score for emotional well-being that gives cause for concern.⁴ Research has identified that 50% of

² Department for Education (2016) Children Looked After in England including adoption: 2015 to 2016 Available at: <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2015-to-2016>

³ The 15th View from the President's Chamber. Available at: <https://www.judiciary.gov.uk/wp-content/uploads/2014/08/pfd-view-15-care-cases-looming-crisis.pdf>

⁴ Children looked after in England including adoption: 2014 to 2015, National tables: SFR34/2015, Tab I5a, Department for Education, October 2015; www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2014-to-2015.

sibling groups in care are split up.⁵ When siblings enter the care system, the decision whether to place them together or separately is of vital importance and has significant lifelong consequences. A fifth of children aged 13 years old or over have three or more placements in a year.⁶

- 2.3 Those leaving care are also significantly more likely to be unemployed or not in education, training or employment (NEET): of the 26,340 former care leavers aged 19, 20 or 21 recorded at 31 March 2016, 40% were NEET as compared to 14% of all 19 to 21 year olds.⁷ The standard of the provision that is made for care leavers by local authorities has only been the subject of specified inspection by Ofsted since 2013. As at 31 March 2016, the experience and progress of care leavers in 63% of English local authorities inspected was judged as requiring improvement or inadequate.⁸
- 2.4 Legislative changes in 2014⁹ provide a mechanism by which young people who had reached the age of 18 years (and thus who had ceased to be looked after) could 'stay put' in the home of their foster carer(s) until the age of 21. We welcome the government's commitment set out in Keep on Caring, to introduce an analogous provision, 'Staying Close', for young people who are leaving residential care.¹⁰ However, Ofsted have highlighted concerns that 'Staying put' opportunities are not yet consistently robust and nearly a quarter of local authorities should do more to provide such opportunities for care leavers. A significant majority of 19 to 21 year old care leavers do not live with a parent or carer, in contrast to the majority of all young people in that age group who do.¹¹

⁵ Ashley C & Roth D (2015) What happens to siblings in the care system? Available at: <http://www.frg.org.uk/images/PDFS/siblings-in-care-final-report-january-2015.pdf>

⁶ Department for Education (2014) Rethinking support for adolescents on the edge of care Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342052/Rethinking_support_for_adolescents.pdf

⁷ Department for Education (2016) Children looked after in England (including adoption and care leavers) year ending 31 March 2016.

⁸ Ofsted (2016) Annual Report

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534008/Ofsted_social_care_annual_report_2016.pdf

⁹ The Children and Families Act 2014 inserted section 23CZA into the Children Act 1989

¹⁰ DfE (2016) Keep on Caring: Supporting Young People from Care to Independence. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/535899/Care-Leaver-Strategy.pdf

¹¹ 16% of care leavers aged 19 to 21 in England in 2015 lived with a parent or carer compared to 60% of all young people of that age group). Source: Ofsted (2016) Annual Report

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534008/Ofsted_social_care_annual_report_2016.pdf

3. Care leavers who are parents or expectant parents: context

- 3.1 Care leavers are particularly vulnerable to early pregnancy, early parenthood and losing a child to the care system.¹² Evidence from the Centre for Social Justice in 2015 based upon data provided by 93 local authorities, revealed that 22% of female care leavers became teenage mothers; this is three times the national average.¹³ The same report identified that 1 in 10 care leavers aged 16-21 years old have had a child taken into care.¹⁴
- 3.2 Recent research led by Professor Broadhurst based on national records from the Children and Family Court Advisory and Support Service (Cafcass) from 2007-2014 examined cases relating to 43,541 birth mothers involved in care proceedings. The study estimates that around a quarter of these mothers (24%) who had a child subject to care proceedings, will have sequential care proceedings about another of their children. The study found that young women aged 16-19 years were most at risk of experiencing repeat proceedings – with almost 1 in every 3 women in this age group estimated to reappear.¹⁵ Provisional results from the study's further in depth analysis of 999 court files concerning applications for 1476 children, indicate that more than 6 out of 10 mothers who had children sequentially removed were teenagers when they had their first child. Of those mothers, 40% were in care or had been looked after in the care system for some of their own childhood.
- 3.3 Family Rights Group launched a report on 22 June 2016 as part of its Young Parents Project which has focussed upon young parents (up to the age of 30 years) whose children are, or have been, involved with children's services. The report includes interviews with young parents whose children have been removed and with practitioners working within the child welfare system. The report sets out the context in which increasing numbers of children in England are subject to child protection enquiries, are at risk of removal or are in the care system¹⁶. The report identifies that recent family justice reforms involve speedier decisions

¹² For example: Knight, A., Chase, E & Aggleton, P. (2006a) Teenage pregnancy among young people in and leaving care: messages and implications for foster care. *Adoption and Fostering*, 30 (1), pp.58-99; Knight, A., Chase, E & Aggleton, P. (2006b) 'Someone of your own to love': experiences of being looked after as influences on teenage pregnancy. *Children and Society*, 20, pp. 391-403; Craine, N. et al. (2014) elevated teen conception risk amongst looked after children; a national audit. *Public health*, 128 (7), pp. 668-670.

¹³ Centre for Social Justice (January 2015) [Finding Their Feet, Equipping care leavers to reach their potential](http://www.centreforsocialjustice.org.uk/publications/finding-their-feet) Available at: <http://www.centreforsocialjustice.org.uk/publications/finding-their-feet>

¹⁴ Centre for Social Justice (January 2015) [Finding Their Feet, Equipping care leavers to reach their potential](http://www.centreforsocialjustice.org.uk/publications/finding-their-feet). Based on Freedom of Information Requests by Centre for Social Justice in August 2014, to which 108 of 119 local authorities were able to give data.

¹⁵ Broadhurst, K. et al. (2015) [Connecting Events in Time to Identify a Hidden Population: Birth Mothers and Their Children in Recurrent Care Proceedings in England](http://bjsw.oxfordjournals.org/content/early/2015/12/14/bjsw.bcv130.full.pdf+html). *British Journal of Social Work* (2015) 1–20. Available at: <http://bjsw.oxfordjournals.org/content/early/2015/12/14/bjsw.bcv130.full.pdf+html>.

¹⁶ As at 31 March 2015, 160,150 section 47 child protection enquiries were initiated – an increase of 12% on 2014; 71,140 initial child protection conferences were carried out, an almost 10% increase on the previous year in [Characteristics of child in need: 2014 to 2015](#), DfE. In April 2016, Cafcass received a total of 1,221 applications under

being made, which reduces the time young parents have to demonstrate before the court that they have addressed social workers' concerns. Young parents are further hindered by a dearth of timely, effective support.¹⁷

3.4 Like most parents who are subject to the child protection system, young parents often feel lost, angry and scared. However, many young parents, particularly care leavers, also have additional multiple challenges:

- They are more likely to have babies, who are potentially adoptable and are therefore more likely to be placed in a foster for adoption placement;
- Many are alienated by prior negative experiences of state services in their childhoods, making it hard for them to engage with professionals. Yet it is well established that a working relationship between parents and social workers is key to keeping children at risk safely at home. A lack of parental co-operation is frequently the trigger for local authorities issuing care proceedings;
- Young parents often feel judged by their youth and background, rather than by their parenting abilities. This is particularly the case for care leavers who often feel that being in care is itself held against them;
- Previous childhood experiences (including suffering abuse, being in care, mental health problems, exclusion from school and/or involvement in youth justice) may adversely impact on their resilience, their resources, their family and community support networks, and their ability to deal with both the challenges of transition into adulthood (e.g. housing, education, employment and relationships) and of being a parent;
- Young parents who are care leavers also identify that even where support has been provided to them in their capacity as young people leaving care, such support often ignores their roles as parents or assist them in safely raising and keeping their child.

3.5 One of the themes that emerged from Family Rights Group's research is that young parents often have less developed support networks as compared to older parents¹⁸ and those who are care leavers are likely to have fewer established familial support systems in place as they

section 31 Children Act 1989, a 28% increase compared to those received in April 2015. See Cafcass Demand Statistics, April 2016.

¹⁷ For example, nearly a quarter of referrals in 2014/15 to refuges were turned down because of lack of space <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/domestic-abuse-services>

¹⁸ Lynch, C. (2016) Young parents involvement in the child welfare system. Family Rights Group <http://www.frg.org.uk/involving-families/our-projects/young-parents-project>

move into adulthood.¹⁹ The Care Inquiry (2013), conducted by 8 voluntary organisations concluded that the greatest failing of the care system, and associated child welfare procedures, is that it too often breaks, rather than builds, relationships for children in care. In 2013, at the age of 22 years, 50% of adults in the UK still lived with their parents. In contrast, young people leaving care often lack the networks that other young people depend upon for educational support, economic opportunities, emotional stability and a home. A rising number of the 40% of 26,340 former care leavers aged 19, 20, 21 who were not in employment, education or training (NEET) were NEET owing to pregnancy or parenting.²⁰

3.6 Many young parents under the age of 25 who are care leavers are entirely reliant on welfare benefits and tax credits to support themselves and their child(ren). Under Universal Credit, the government has introduced different rates of standard allowance for single claimants (regardless of whether they are a parent), depending on whether the claimant is aged under or over 25. As a consequence young, lone parents under the age of 25 years receive a lower rate of standard allowances of Universal Credit (some £65 per month or £780 per year less) than they receive under the system of Income Support and Job Seekers Allowance.

3.7 The resulting risk of severe financial hardship and debt upon young parents is particularly acute for those who are care leavers who are already very vulnerable. It can place young care leaving parents at risk of having to move home away from the formal support networks and services which are an integral part of their own Pathway Plans as well as the plans in place to support them in caring safely for their child/ren. This could deny these parents the chance to provide consistent and stable care for their children and in turn risk children being denied the chance of being raised by their parent, thus impacting on the child and the parent's right to respect for family life. It risks further increasing the already high numbers of children in care, which would not be in children's best interests and would lead to a considerable greater cost to the Government.²¹

4. Amendments 1, 2, 3 and 4: looked after children and care leavers who are young parents

4.1 The Children and Social Work Bill is an opportunity for the Government to provide a clearer framework of support for children in the care system and for care leavers. Whilst we

¹⁹ Which echoes wider research, for example Courtney, M, & Dworsky, A. (2006) Early outcomes for young adults transitioning from out-of-home care in the USA. *Child and Family Social Work*,(3), pp. 209-219.

²⁰ Department for Education (2016) *Children looked after in England (including adoption and care leavers) year ending 31 March 2016*.

²¹ National Audit Office (2014) *Children in Care* reports that the cost of one child being in an independent foster care placement for a year is £40,000. Available at: <https://www.nao.org.uk/report/children-in-care/>

welcome Clauses 1-8 of the Bill, we support the briefing by the Alliance for Children in Care and Care Leavers which emphasises that there should be an entitlement to support for all care leavers up to the age of 25. This should include:

- The Government underpinning the Local Offer with a duty on local authorities to assess the needs of local care leavers and provide services that are sufficient to meet those needs;
- The Government providing additional funding to ensure that all young people who have been in care (not just those who presently qualify for ‘Staying Put’) can access an appropriate, local authority funded accommodation placement until the age of 21;
- Local authorities being under a duty to ensure all care leavers up to 25 years old can access appropriate accommodation. The Government should also ensure that care leavers remain a *priority housing need* until their 25th birthday.

4.2 As highlighted by the Education Committee in 2014, extending support to such young people ‘should be considered an investment, which will lead to better outcomes for the individuals in question and for society as a whole’.²² Models such as the No Wrong Door approach provide a potential template for the delivery of post-18 support and foster carer support for children who are in residential care. Your Family, Your Voice calls upon the government to build upon the ‘Staying Put’ framework to make sure that all young people who have been in care can access appropriate accommodation.

4.3 Despite their extreme vulnerability, the particular needs and circumstances of young parents who are looked after children or care leavers and whose children are subject to child protection enquiries, are not currently sufficiently identified, recognised or addressed within care planning regulations and guidance.

4.4 Clause 3 of the Bill provides that any young person who is a former relevant child should be able to receive advice and support from the relevant local authority upon request. Amendments 1 and 2 will ensure that this advice and support will include advice and support in respect of any needs that young person may have as a young parent. Amendment 3 is a detailed provision that will establish a duty on local authorities to ensure that advice, assistance and support is offered to all looked after children and care leavers who are young parents and that this advice and support is appropriately reflected within the young person’s Pathway Plan. Amendment 4 will further create a duty upon local authorities to ensure that the advice, assistance and support, as well as the plan itself, is coordinated with any assessment in respect of the young person’s child or any service that is being provided to their child.

²² Education Committee (9 July 2014) Second Report Into independence, not out of care: 16 plus care options.

- 4.5 Together therefore these amendments will help to ensure that the assessments of any young parent's needs and the Pathway Plans formulated for them are robust and effective in maximising the chances of them keeping their child.²³ It will help ensure that important information is not overlooked when plans for such young people are made by expressly identifying the critical sources of information which should be drawn upon in formulating plans to keep the young parent's child safely in their care. This includes the information within the young parents' own Pathway Plan; the views of the young parent; the views of those professionals who know the young parent best (for example fosters carer, former social workers, a current personal adviser, key workers, advocates or support workers from external agencies) as well as those individuals who make up the young parents' informal support network including members of their kinship network. Finally, these amendments will help to ensure that the available information and the plans for the young person and for their child are coherent and coordinated.
- 4.6 Whilst the government has suggested that existing statutory guidance makes some reference to young people who are young parents, this suite of amendments will clearly and comprehensively recognise and respond to the additional vulnerabilities of this group of care leavers in way which is not presently provided for in primary or secondary legislation.

Amendment 1 (Amendment 61A at Committee Stage)

Page 4, line 18, after "needs," insert "including his or her needs as a young parent where applicable,"

Amendment 2 (Amendment 71A at Committee Stage)

Page 4, line 31, at end insert-

"(9) In this section "young parent" includes-

- (a) an expectant parent;
- (b) a parent who has their child or children in their care; and
- (c) a parent who has had a child removed to kinship care, local authority care or adoption."

²³ A Pathway Plan is a plan which local authorities must make to plan for a care leavers health and development, education, training and employment, contact with family and managing money. Pathway Plans continue until a care leaver reached 21, or 25 if the care leaver is in education or training. Local authorities have a duty to prepare pathway plans for different categories of looked after children and care leavers including eligible children, relevant children and former relevant children.

Amendment 3 (Amendment 98AA at Committee Stage)

Insert the following new Clause—

“Pathway plans for looked after children and care leavers who are young parents

(1) After section 23E of the Children Act 1989 insert—

“23F Pathway plans for looked after children and care leavers who are young parents

(1) This section applies in the case of any looked after child or care leaver who is—

- (a) an eligible child entitled to have a pathway plan prepared pursuant to paragraph 19B(4) of Schedule 2;
- (b) a relevant child entitled to have a pathway plan prepared pursuant to section 23B(3)(b); or
- (c) a former relevant child entitled to have a pathway plan reviewed pursuant to section 23C(3)(b).

(2) Where a looked after child or care leaver to whom this section applies is also a parent, a pathway plan must—

- (a) identify the advice, assistance and support to be offered to assist the looked after child or care leaver as a young parent, and
- (b) set out how the advice, assistance and support is to be or, is being, coordinated with—
 - (i) any assessment in respect of the young parent’s child being carried out by a local authority, and
 - (ii) any service provision for the young parent’s child provided by a local authority.

(3) For the purposes of this section, “assessments” and “provision” include—

- (a) assessments, plans and support provided for under statutory guidance including Early Help Assessments, pre-birth assessments and any assessments or support in relation to a pre-proceedings process;
- (b) assessments, plans and support provided under section 17 of the Children Act 1989 (provision of services for children in need, their families and others);
- (c) accommodation provided under section 20 of the Children Act 1989 (provision of accommodation for children); and
- (d) investigation under section 47 of the Children Act 1989 and any resultant child protection plan.

(4) For the purposes of this section “coordination” includes—

- (a) formal information sharing in writing and through meetings between relevant professionals including—
 - (i) personal advisers;

- (ii) current or previous social workers for the looked after child or care leaver;
 - (iii) where the looked after child or care leaver is a young parent, any social worker for the looked after child or care leaver's child; and
 - (iv) any foster carer, residential key worker or other relevant professional involved with the looked after child or care leaver;
- (b) the pathway plan being informed by any assessment, plans or support in respect of the looked after child or care leaver's child; and
- (c) information in, or proposed to be in, the pathway plan being drawn upon to inform assessment, planning or support in respect of the looked after child or care leaver's child.
- (5) In this section "young parent" means a looked after child or care leaver falling within the ambit of section 23F(1) who is—
- (a) an expectant parent;
 - (b) a parent who has their child or children in their care; or
 - (c) a parent who has had a child removed to kinship care, local authority care or adoption.””

Amendment 4 (Amendment 98AB at Committee Stage)

Insert the following new Clause—

“Assessment of needs

(1) The Care Leavers (England) Regulations 2010 are amended as follows.

(2) In regulation 5 (assessment of needs)—

(a) after paragraph (4)(a)(vi) insert—

“(vii) if the child is a parent, the child's needs as a young parent,”;

(b) after paragraph (4)(b)(x) insert—

“(xi) any foster carer, residential key worker or other relevant professional who previously cared for or supported the child, and”;

(c) after paragraph (5)(a)(i) insert—

“(ia) if the former relevant child is a young parent, the former relevant child's needs as a young parent, and”;

(d) after paragraph (5)(b) insert—

(c) where the former relevant child is a young parent, ensure that the assessment is coordinated with any assessment being progressed in respect of the former relevant child's child, and any provision made further to that assessment;

(e) after paragraph (6)(c) insert—

“(d) “young parent” means —

(i) an expectant parent;

(ii) a parent who has their child or children in their care; or

(iii) a parent who has had a child removed to kinship care, local authority care or adoption.”

(3) In regulation 8(1)(d) after “plan” insert “including its coordination with any assessment, provision or care plan in respect of a child of the relevant or former relevant child, where the relevant or former relevant child is a young parent.”

(4) In regulation 9(2)(a)(support and accommodation) after “disability,” insert “and where applicable, their needs as a young parent,”

(5) In regulation 9(3) after “Schedule 2” insert “and to the support in place relating to the relevant child being a young parent.”

(6) In Schedule 1 (matters to be dealt with in the pathway plan and review), after paragraph 10 insert—

“11 Details of the child’s needs as a young parent and how the pathway plan is to be coordinated with any assessment being progressed in respect of the child’s child, and any provision made further to that assessment.

(7) In Schedule 2 (matters to be considered in determining the suitability of accommodation)—

(a) in paragraph 1(e) after “support,” insert “including any support in place, or to be put in place, for the relevant child as a young parent, whether that support is detailed in the relevant child’s pathway plan or within any assessments or plans in respect of the relevant child’s child or unborn child,”.

(b) after paragraph 1(g), insert—

“(h) whether the relevant child is a young parent.””

5. Amendments 5, 6 and 7: Supporting the educational achievement of children returning home from care

Amendment 5 (Amendment 80A at Committee Stage)

Page 6, line 10, at end insert-

“(d) returning home to the care of a parent.”

Amendment 6 (Amendment 81A at Committee Stage)

Clause 5 Maintained schools: staff member for previously looked after pupils

Page 6, line 41, at end insert-

“(d) returning home to the care of a parent.”

Amendment 7 (Amendment 84A at Committee Stage)

Page 8, line 7, at end insert-

“(c) was looked after by a local authority but has ceased to be so looked after as a result of returning home to the care of a parent.”

- 5.1 Children who are, or who have been in care are one of the poorest performing groups in terms of educational outcomes. Research²⁴ has been conducted using information from the National Pupil Database and data about Looked After Children in England to examine what factors may underpin or limit the educational progress of this group of children. Importantly, the findings examined the situation of children who, at the end of Key Stage 4, were not looked after but who were Children In Need. These children were found to be more likely to have special educational needs, poor attendance, more exclusions and to have progressively poorer relative attainment as they went through school as compared to the children who were in care. More recently published data shows that as at 31 March 2016 whilst looked after children were twice as likely as all children to be permanently excluded, this rate continues to be less than the rate for all Children In Need.²⁵ Accordingly, it is important that children who have previously been in care and return home and who may be children in need are properly supported to succeed at school. Further, children who have moved into the care system and back out of it will have experienced changes of placement and may well have had to change schools too. The study found that around 16% of children who have been in care on a short term basis will change secondary school; 9% of children who are in need but not in care will experience a change of secondary school. The study cited previous research²⁶ that has suggested that placement changes and school changes are both associated with poorer educational outcomes.
- 5.2 We recognise that Clause 4 of the Bill includes provisions to promote the educational achievement of children who have ceased to be in care as a result of a special guardianship order, child arrangements order or being adopted. However, the Bill does not include those children who have been in care and have returned home within the scope of those provisions. Amendment 5 will ensure that advice and information is available to promote the

²⁴ Sebba, J, Berridge, D, Luke, N., Bell, K., Strand, S., Thomas, S., Sinclair, I., & Higgins, A. (2015) The Educational Progress of Looked After Children in England: Linking Care and Educational Data. Nuffield.

²⁵ Department for Education (2016) Outcomes for children looked after by local authorities in England, 31 March 2015. Available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509965/SFR11_2016_SFRTText.pdf.

²⁶ E.g. Conger, D. & Rebeck, A. (2001) How children's foster care experiences affect their education. New York City: Vera Institute for Justice.

educational achievement of children who have returned home from care in the same way that Clause 4, as originally drafted, provides that it is to be available to other groups of children previously in care. Amendment 6 will ensure that the requirement to appoint a designated member of staff within a maintained school with responsibility for promoting their educational achievement of children previously looked after, applies in respect of those children who returned home to the care of a parent. Amendment 7 will ensure that that same duty applies to children who have returned home from care and who attend an Academy.

6. Amendment 8: Improving sibling contact for children in care

Amendment 8 (Amendment 91 at Committee Stage)

Insert the following new Clause—

“Sibling contact for looked after children

(1) In section 34(1) of the Children Act 1989, after paragraph (d) insert—

“(e) his siblings (whether of the whole or half blood).”

(2) In paragraph 15 of Schedule 2 to the Children Act 1989, after paragraph (c)

insert—

“(d) his siblings (whether of the whole or half blood).”

- 6.1 Children in state care are vulnerable to being separated from their siblings. Whilst the law requires local authorities to allow a looked after child reasonable contact with their parents²⁷, it does not extend to allowing a looked after child reasonable contact with their siblings. The aim of this amendment is to extend the duty to siblings.
- 6.2 A report by Family Rights Group found that half of all sibling groups in local authority care were split up and that those living in residential care were particularly unlikely to be living with their brothers or sisters.²⁸
- 6.3 A body of recent research highlights the importance of sibling relationship for children in care. One study found that 86% of all children in care thought it important to keep siblings together in care and over three quarters thought that councils should help children and young people to keep in touch with their brothers and sisters.²⁹ A survey by Siblings Together found that

²⁷ Section 34 (1) Children Act 1989

²⁸ Ashley, C. and Roth, D. (2015) What happens to siblings in the care system?
<http://www.frg.org.uk/images/PDFS/siblings-in-care-final-report-january-2015.pdf>

²⁹ Morgan, R (2009) Keeping in touch: A report of children’s experience by the Children’s Rights Director for England
Ofsted

the majority of respondents thought that having a brother or sister helped prepare them better for life whilst 75% said that having a sibling helped them make friends with other people more easily; and 71% said it helped them in their adult relationships.³⁰

- 6.4 Government guidance recognises that maintaining contact with siblings is reported by children to be one of their highest priorities and acknowledges the value of sibling contact for continuity, stability, promoting self-esteem and a sense of identify at a time of change/unfamiliarity.³¹ It emphasises the importance of sibling contact where children cannot be placed together.³² However, despite guidance being in place, a recent report by the Centre for Social Justice highlights that, ‘one of our greatest concerns is that the bonds between siblings in care, which can lead to greatly valued lifelong relationships, are being broken’.³³ Guidance is not a substitution for a clear duty upon local authorities, enshrined in primary legislation, to allow reasonable contact between siblings.

7. Amendment 9: access to free, independent legal advice for parents in foster for adoption cases

Amendment 9 (Amendment 91A at Committee Stage)

Insert the following new Clause-

“Legal aid for parents whose children are in voluntary accommodation and are to be placed in foster for adoption placement

After regulation 5(1)(e) of the Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013, insert –

“(ea) family help (lower) in any matter described in paragraph 1(1)(b) (care, supervision and protection of children) or paragraph 1(1)(i) (placement orders, recovery orders or adoption orders) of Part 1 of Schedule 1 to the Act to the extent that the matter concerns a placement to be made or contemplated to be made under section 22C(9B)(c) of the Children Act 1989 (placement with a local authority foster parent who has been approved as a prospective adopter), where

³⁰ Siblings Together (2015) Torn Apart Available at: <http://siblingstogether.co.uk/wp-content/uploads/2015/12/Torn-Apart.pdf>

³¹ Department for Education (2015) Children Act 1989 Guidance Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441643/Children_Act_Guidance_2015.pdf

³² Department for Education (2014) Looked After Children: Contact with Siblings, Update to The Children Act 1989 guidance and regulations volume 2: care planning, placement and case review

³³ Centre for Social Justice (January 2015) Finding Their Feet, Equipping care leavers to reach their potential Available at: <http://www.centreforsocialjustice.org.uk/publications/finding-their-feet>

the child is being accommodated under section 20 of that Act, and the individual to whom the family help (lower) may be provided is—

(i) the parent of a child, or the person with parental responsibility for a child within the meaning of the Children Act 1989 in respect of whom a local authority has given notice of a placement or contemplated placement under s22C subsection (9B)(c) of that Act; or

(ii) in the case of an unborn child in respect of whom a local authority has given notice of a placement or contemplated placement under section 22C(9B)(c) of the Children Act 1989, the person who, following the birth of the child—

(aa) will be the parent of the child; and

(bb) will have parental responsibility for the child within the meaning of the Children Act 1989;”.

7.1 Section 20 Children Act 1989 provides a mechanism by which a child can be received into the care of a local authority with the consent of a parent. Parents do not have a right to free legal advice and representation prior to agreeing to the voluntary accommodation of their child (unless the local authority has initiated or is planning care proceedings). Without such independent legal advice, there is serious concern as to whether some parents are giving informed consent. This is particularly worrying in respect of younger parents who are vulnerable to losing their children to the care system and may lack other established sources of support including advice.

7.2 Provisions in the Children and Families Act 2014³⁴ mean that children, who are looked after either under a care order or under Section 20 of the Children Act 1989 with the voluntary agreement of their parents, can be placed with potential adopters (who are approved as foster carers). This is known as Foster for Adoption. In the case of children who are looked after under Section 20, they may be placed in a Foster for Adoption placement without the parents (or their family network) having had a right to independent legal advice. If there has been no proceedings, there will have been no court oversight of the process nor any court decision that the child should be permanently removed from their parents. Once the child is

³⁴ Sub-sections 22C(9A)-(9C) of the Children Act 1989

living with the potential adopter, it is much harder for the parent or the wider family to get the child into their care, because of the status quo argument that aims to minimise disruption for the child.³⁵ A freedom of information survey of English local authorities in Summer 2015 found that within less than a year of the new provision being in place, at least 58 children who were voluntarily accommodated had been placed with a potential adopter in a foster for adoption placement.

- 7.3 Whilst foster for adoption continues to be used in respect of voluntarily accommodated children, Amendment 9 aims to ensure that parents of any child for whom the foster for adoption placement is proposed, are entitled to non-means and non-merits tested public funding on par with that available to persons with parental responsibility during the pre-care proceedings process.³⁶ Ensuring that legal advice is available is in keeping with the Judgment issued by Sir James Munby in a Court of Appeal Case³⁷ (Re N) in which he addresses the ‘misuse and abuse of Section 20.’

8. Amendment 10: Post-removal support for parents

Amendment 10 (Amendment 99A at Committee Stage)

Insert the following new Clause-

“Post-removal counselling for parents and legal guardians

After section 19 of the Children Act insert-

“19A Post-removal counselling for parents and legal guardians

Where a child is permanently removed from the care of a birth parent or a child’s guardian further to the powers under section 31 of the Children Act 1989 (care and supervision orders), a local authority must, so far as is reasonably practicable, provide a counselling service and commission therapeutic support for the parent or guardian of the child in order to help them to keep any future children.””

³⁵ See also See also Re W (A child) 2016 EWCA Civ 793 where the Court of Appeal recently ruled that where child had already been placed with prospective adopters (under a placement order) it was right to consider both the relationship between the child and the prospective adopters, and the impact of moving the child, when considering competing applications from grandparents (for a special guardianship order) and the prospective adopters (for an adoption order).

³⁶ Also referred to as the ‘pre-proceedings’ or Public Law Outline (PLO) process.

³⁷ Re N (Children: Adoption : Jurisdiction) 2015.

- 8.1 This amendment aims to ensure that appropriate counselling and therapeutic support is offered to any young parent whose child is permanently removed. We are proposing that a new legal duty should be placed upon local authorities to provide or commission post-removal therapeutic support and counselling to all parents who have experienced the removal of a child including those whose children are removed to state care and subject to a care order, or those removed to a kinship care arrangement, including under a Special Guardianship order.
- 8.2 Many parents who have a child permanently removed from their care do not receive the support and therapy to bring about changes to help them to deal with their loss and enable them to keep future children. Many young mothers are unable to gain access to the psychological therapies that were recommended for them in assessments carried out during care proceedings. Following the removal of a child the risk of parents suffering further trauma and difficulties is high. This amendment would help any parent whose child is permanently removed to deal with their difficulties and their grief, to access the therapeutic support that they need and thereby help avoid cycles of repeat pregnancy and removals.
- 8.3 Provisional results from detailed file analysis led by Professor Broadhurst (see page 5 of this briefing for further details of this research) indicate that of 354 mothers who had recurrent care proceedings, approximately 65% had their mental health issues mentioned in their first set of proceedings; 75% had domestic abuse experiences mentioned in their first set of proceedings; and approximately 90% had experienced some form of neglect or abuse (emotional, physical sexual) in their childhood. Findings from work that Claire Mason conducted as part of that same study, included in-depth interviews with 72 mothers who had experienced recurrent care proceedings. The research expresses serious concern that mothers who have had a child removed from their care by the courts are unlikely to get the psychological therapies often recommended within proceedings, or the support to help in dealing with the impact of compulsory removal of their child.³⁸
- 8.4 Findings from Family Rights Groups research with young parents whose children are, or have been, involved with children's services revealed that young parents too often feel abandoned by support services and the child welfare system and that they often feel alone and abandoned after the conclusion of court proceedings and the removal of their child. At that time young parents can feel uncertain about how to move forward and experience further trauma and abuse in the wake of their sadness and isolation. The findings highlighted the

³⁸ Broadhurst, K and Mason, C (2015). Mothers experiencing recurrent removal of children –presentation at Your Family, Your Voice Event on 2nd December 2015. Interview participants were accessed via local authorities and care leavers are still often known to local authorities.

absence of specialist therapeutic support for young parents both before and after they become parents and that this situation heightens the risk of young parents facing the removal of a child and entering a cycle of recurrent removal of their children.³⁹

- 8.5 Where a removed child is adopted, the Adoption Agency Regulations, paragraph 14 requires adoption agencies (including local authorities) to provide a counselling service to a parent or guardian of the child in relation to the adoption. This does not include a requirement to provide therapeutic support and no such requirements apply to those whose children are in long term foster care or cared for by family members under a special guardianship order. Whilst there are some small scale programmes in specific localities that aim to provide therapeutic support to parents who have had a child removed⁴⁰, these are not available nationwide and are not underpinned by any statutory duty upon local authorities to offer support. Most young vulnerable parents who have lost a child are therefore left unsupported emotionally and are not assisted to parent in the future. The President of the Family Division has recognised the importance of the work that these small programmes are doing, and the potential for considerable costs savings as a result⁴¹. The new duty set out in this amendment would ensure that all parents who have lost a child have the opportunity of receiving therapeutic care which will help them avoid repeat removals, and has the potential to significantly reduce the number of new care proceedings as a result.
- 8.6 Further, for these young parents to whom the local authority owes a duty of care as a corporate parent Your Family, Your Voice supports the proposal by the Alliance for Children in Care and Care Leavers that the corporate parenting principles set out in Clause 1 should be extended to apply also to health including the Clinical Commissions Groups and NHS England. This would encourage agencies to work in partnership with local authorities to take responsibility for the needs of these young parents, particularly in respect of their specialist counselling/therapeutic needs. The measure would serve to prioritise the mental health needs of these young people at three crucial junctures: in a pre-birth period; following the birth of a child; as well as in the event of removal of their child, so that they are best placed to succeed in being a parent and keeping their child safely with them.

³⁹ See Lynch, C. (2016) Young Parents Involvement in the Child Welfare System. Family Rights Group. Available at: <http://www.frg.org.uk/involving-families/our-projects/young-parents-project>

⁴⁰ For example, the Breaking the Cycle programme, the Pause Programme and the Drugs and Alcohol Court early support initiative.

⁴¹ See footnote 3 above.