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# Children's Wellbeing and Schools Bill: Children's Commissioner's Written Evidence

January 2025

## Introduction

1. The Children's Commissioner welcomes the opportunity to submit written evidence to the Children's Wellbeing and Schools Bill Committee.
2. This evidence builds on oral evidence provided by the Children's Commissioner on 21 January, on a wider briefing on the Bill that was provided to the Committee and [published](#) on the Children's Commissioner's website, and on prior correspondence with the Committee. As well as on previously published research, in particular the [Big Ambition](#) survey which had responses from over 253,000 children and adults on their behalf.
3. The Children's Commissioner has a statutory independent role to protect and promote the rights of children in England, and children around the United Kingdom on issues reserved for the UK Parliament, in accordance with the United Nations Convention on the Rights of the Child. The role was initially established under the Children Act 2004 which gave the Commissioner responsibility for promoting awareness of the views and interests of children.
4. The Children's Commissioner believes the Bill, alongside wider reforms to funding, accountability mechanisms, and non-legislative reforms lay the foundations for change for all children and particularly the most vulnerable children. There are a number of areas of the Bill that the Commissioner thinks should be strengthened and on which she would like to see more detail.
5. The Commissioner is looking forward to working closely with the government on implementing the changes outlined in the Bill and ensuring that they work for all children.
6. The Commissioner is happy to provide further details on any of the areas raised in written evidence. Please contact [joe.lane@childrenscommissioner.org.uk](mailto:joe.lane@childrenscommissioner.org.uk).

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## Executive Summary

7. There are a number of measures that the Commissioner believes should be included in the Bill. She believes this is the right opportunity to give children the same protection from common assault as adults by removing the defence of 'reasonable punishment.' This would remove shades of grey that lead to children being harmed and make it harder for professionals to support parents.
8. A Consistent Identifier (Clause 4) has the capacity to be a transformational building block for children's services. Almost uniformly, failures of children's services involve the failure to share information.
9. The Commissioner welcomes measures to improve the process for depriving children of their liberty (Clause 10). This should ensure that any children's home able to accommodate a child deprived of their liberty safely should be enabled to.
10. Parents are responsible for their child's education and the Commissioner is fully supportive of parents' right to educate their children at home. She would like to see the provisions to safeguard children at risk (Clause 24) strengthened so that a parent would need a local authority's consent to remove their child from school if that child is receiving support from children's social care where there are concerns around abuse or neglect.
11. The Commissioner has long called for the introduction of a Children Not in School Register (Clause 25). She would like to see this measure strengthened so that parents educating their children at home receive more support. As a minimum that should include exam centre places.
12. Children have clearly told the Commissioner – through The Big Ask and The Big Ambition surveys - that when they go to a great school, they are more likely to appreciate their teachers, attend, and attain. The Commissioner wants to see a regulatory and accountability system (Clause 44) that ensures every child enjoys the benefits of a brilliant education. When children aren't getting that, whether it's an academy or a local authority school, there should be swift intervention to raise standards.

## Areas missing from the Bill

### Child friendly legislation

13. As the first piece of child-focussed legislation of this parliament, the Children's Commissioner would like to see a child-friendly version of this Bill published at the soonest opportunity. The Children's Commissioner's Office (CCO) would be able to assist that work.

### Equal protection from assault

14. The Bill proposes a number of improvements to how we safeguard children. The Children's Commissioner would like to see that strengthened by removing the defence of 'reasonable punishment' to charges of assault against a child - giving them the same protection as adults. The CCO has [published a more detailed briefing on the issue on its website](#).
15. Evidence from elsewhere, including Wales, shows that removal of this defence has not led to increased criminalisation of parents and carers. This change instead serves primarily as a deterrent for physical punishment of children, and provides much-needed clarity that physical assault of children is never acceptable.

## Part 1 – Children's Social Care

### Clause 2: Inclusion of childcare and education agencies in safeguarding arrangements

16. The office recommends that this clause is strengthened to make schools a fourth statutory safeguarding partner.
17. Schools and teachers are often the first point of contact for vulnerable children. In the office's [Big Summer Survey](#), 26% of children said that they would talk to a teacher for support with family life. Professionals from other services were less likely to be approached for support.<sup>1</sup>

### Clause 3: Multi-agency child protection teams for local authority areas

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18. Multi-agency safeguarding teams in all local areas will improve the consistency of support children receive when there are concerns about their welfare. That approach should be extended for children who are categorised as 'in need'.
  19. The office recommends that Clause 3 is amended to create a national threshold for section 17 - when a child is categorised as a 'child in need'.
  20. There are too many disparities in how children's social care is delivered between areas. The office's research has shown the huge differences in the ways children in need are supported.<sup>2</sup> Mandating multi-agency child protection teams is a step in the right direction. That should be strengthened by creating a national threshold for children in need.

#### Clause 4: Information sharing and consistent identifiers

21. CCO strongly welcomes that the Bill makes provision to enable the specification of a consistent identifier for children. This is an important first step towards ensuring children do not fall through the gaps between different services and data systems.

#### Clauses 5 to 8: Support for children in care, leaving care or in kinship care and carers

22. The office supports these measures, including extending 'Staying Close', the role of Virtual School Heads, and requiring local authorities to publish a local offer for care leavers. Outside of the Bill, it is crucial that all government departments take the opportunity of the Ministerial Care Leavers Board to ensure all parts of the state give care leavers the support that a parent would give to their own child.

#### Clause 9: Regional Care Cooperatives

23. The office supports measures to improve the planning and provision of children's homes. Too many children in care are sent far away from home and face unacceptable levels of insecurity. Both the legislative provisions in the Bill and wider policy work are a step in the right direction. At the same time as rolling out Regional Care Cooperatives, the Commissioner will be urging improved accountability for poor providers, for local authorities placing children in inadequate or illegal placements, and pushing for other partners – particularly health – to play a greater role in providing homes for our most vulnerable children.

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## Clause 10: Use of accommodation for deprivation of liberty

24. Last year, the office was commissioned to carry out research with children by the Department for Education's Task and Finish Group: 'Improving cross-sector support for children with multiple needs in complex situations'. [This work](#) showed just how complex and varied the needs of children on Deprivation of Liberty orders (DoL) are. In addition, the office found that of 775 children living in unregistered placements on 1st September 2024, 31% were subject to a court-ordered DoL.
25. Clause 10 in the Bill would amend Section 25 of the Children Act 1989 to provide for the courts to be able to authorise the deprivation of a child's liberty in accommodation other than a secure children's home (referred to as "relevant accommodation"). The office greatly welcomes this reform but urges parliamentarians to seek further clarification on the type of accommodation this change would apply to.
26. The office has outstanding questions about what types of settings constitute 'relevant accommodation'. Specifically, about whether it would include any registered children's home that meets the standard of being able to deprive a child of their liberty, or whether it only apply to a specific type of new provision intended for this purpose.

## Clause 11 and 12: Powers of Her Majesty's Chief Inspector of Education, Children's Services and Skills (CIECSS)

27. The office welcomes the introduction of enforcement powers for Ofsted to issue civil penalties against providers of unregistered children's homes. However, given local authorities have duties to ensure there is sufficient accommodation for looked after children, local authorities need to be disincentivised from using unregistered homes through a strengthened Ofsted oversight regime within the inspection of local authority children's services. The office believes that a strengthened Ofsted oversight regime working in tandem with civil penalties would tackle the challenge of the use of unregistered homes from two key angles: that of the providers and of the local authorities.

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Clause 14: Power to limit profits of relevant providers

28. The office also welcomes the introduction of powers for the Secretary of State for Education to cap the level of profit as well as determine an acceptable level of profit that can be made from children's social care placements.

Clause 15: Power of Secretary of State to impose monetary penalties

29. The office welcomes the introduction of a power for Ofsted to issue an unlimited monetary penalty where companies fail to comply with an improvement plan aimed at addressing quality issues across subsidiary companies. While the acknowledgment of the need for incremental change to avoid instability within the placement market is welcome, the office is concerned about the lack of clarity around the timeframe for enforcing the cap.

## Part 2 – Schools

Clause 21: Free breakfast club provision

30. The office would support this measure being extended to every secondary school aged child and being free to every child who could not otherwise afford it. It believes this should be accompanied by automatic enrolment for free school meals. The office is also working with the Child Poverty Taskforce to look at further measures the government could introduce to poverty-proof schools.

Clause 22: Food and drink provided at academies

31. The office welcomes food standards for any provider of breakfast clubs to ensure the food children receive is healthy.

Clause 23: School uniform limits

32. The office welcomes these measures and would welcome further guidance on how schools can reduce the costs of branded items and expensive pieces of uniform, through programmes like uniform banks. These measures will be explored as part of the office's work with the Child Poverty Taskforce.

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**Clause 24: Local authority consent to withdraw**

33. The office welcomes these proposals but recommends that they are extended to include children known to social care under section 17 where there are concerns around abuse, neglect or harm, and also to children who have historically been known to child protection for those reasons.

**Clause 25: Children not in school register**

34. The office has called on consecutive governments to introduce such a register and welcomes this measure.
35. However, the offer of support must be enhanced to improve the life chances of children whose families feel like they have been forced into home education. Families in these circumstances have told the office that they struggle to afford the costs of exams and textbooks. The office recommends this clause is amended to include a duty for local authorities to provide textbooks and school equipment on loan and to support home educating families through the provision of exam centre places.
36. Further, while the Committee has voiced concern about the level of information collected, it is essential that enough information is collected to be the foundation of a Children Missing Education referral. At a minimum this would include the child's name, guardian's name, address and contact details.
37. While all the provisions around the register are welcome, they will not do enough to identify children not in school who have become 'missing from education'. The office would like to see the unique ID being used to identify and triage support to these children. However, in the interim, it recommends the Bill is amended to introduce a Children Missing Education data sharing agreement. This would put a duty on public services including Border Force, NHS, HMRC, police, council tax, and the voluntary sector to share information with Children Missing Education teams to locate children who are suspected to be missing education.

**Clause 26: School Attendance Order**

38. The office strongly believes that, for the vast majority of children, school is a critical positive and protective factor in their lives. It supports the requirement for local authorities to issue a School Attendance Order to return a child to school if they are not in school, and social services taking action under section 47.

39. As per Clause 24, the office would like to see that extended to Children in Need under section 17 – where there are specific concerns around abuse, neglect or harm.

#### Clause 39: Teacher misconduct

40. The office welcomes these measures and would call for them to be extended to cover teaching staff working in unregistered alternative provision settings. Children educated in these settings are some of our most vulnerable, the majority of children have some form of special educational needs, and many have had a disrupted experience of education. However, Ofsted's Big Listen stated that they had found unregistered providers being run by people with criminal backgrounds, some who may be grooming children for gangs. It is essential that children in these settings are as safe as children in mainstream classrooms.

#### Clause 40: School teachers' qualifications and induction

41. Children have told me that they trust their teachers and want a brilliant education. The Commissioner supports the aim of ensuring every child is in a school with highly qualified teachers, the Commissioner also notes that in some instances it is helpful for schools to bring in people with practical experience of trades to teach vocational subjects. In these instances, it may not be feasible to secure a qualified teacher status. Children's responses to The Big Ambition were clear that they want greater access to vocational routes and subjects which give them practical skills and lead to brilliant careers - with that in mind the office recommends this Clause is amended to create an exception for vocational teachers – where the school supports them to work towards a relevant qualification - or to introduce a streamlined qualification for staff in these instances.

#### Clause 41: National Curriculum

42. The office looks forward to seeing the detail which emerges from the Curriculum and Assessment Review. Children are very clear that they want a broad and inspiring curriculum. To deliver that, in some instances, it will be necessary to deviate from the National Curriculum. For instance, to support children who have had a disrupted education or for whom a different curriculum would help them to engage in education. Children in alternative provision settings, in special schools or with a history of poor attendance may need such accommodations. This Clause should be amended to enable



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leaders to deviate from the National Curriculum when they believe it would be in the best interests of the child.

43. Any deviation from the National Curriculum should be closely monitored by Ofsted to ensure that all children are able to access the most ambitious education for that child.

#### Clause 42: Educational provision for improving behaviour

44. The office welcomes this consistency for the use of school exclusions and alternative provision across all school types. The use of alternative provision has changed significantly since the last guidance was published in 2013. The Commissioner recommends that the government updates this guidance with clear direction about how to commission effectively and how to use alternative provision as early outreach, to support children to reengage with education.

#### Clause 44: Repeal of duty to make an Academy Order

45. The office's ambition is for England to be the best place in the world to grow up. On the basis of what children told us in The Big Ask and The Big Ambition, this must include children having access to the very best schools and colleges – enshrining their right to education. The Big Ambition showed that children in schools with higher Ofsted ratings were more likely to say they enjoyed going to school or college.
46. On this basis, the office is clear that where a school is failing it is in children's best interests to intervene quickly and decisively. Childhood is short and every day spent in a school that doesn't meet a child's needs, support them to thrive or engage and attain, is a day too long. It welcomes the clear intention from the Secretary of State since the Bill was published to continue to structurally intervene where a school is in special measures. The office will respond to the consultation on accountability reform.
47. In addition, it is positive to see plans for schools to get more intensive support where they require improvement, or require significant improvement. The office will look in detail at the proposals both from the Department for Education and Ofsted to ensure those interventions work for children.
48. The office will continue to encourage an evidence-based approach to policy relating to children, including school improvement, especially for schools that require significant improvement, so that no child spends time in a failing school, be that an academy or maintained school.

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Clauses 45 and 46: Teachers pay and conditions

49. Children are very clear that teachers are the professionals they trust the most. Teachers should be highly valued, and brilliant teachers should be brilliantly paid. The office welcomes measures to ensure that there is a clear pay floor that teacher pay should never fall under, and is pleased that schools will retain the ability to reward teachers and to recognise excellence.

Clause 47: Cooperation between schools and local authorities

50. The office welcomes this measure. It has heard about the challenges that occur in a system where local authorities and academies do not need to cooperate in the placement of vulnerable children through in-year admissions.

51. The office recommends that this Clause is strengthened by requiring schools to prioritise children with additional needs in their admissions (such as children who are looked after and children with SEND). It also recommends that this Clause is amended to include an upper limit for the maximum length of time for the admissions process to ensure that children who are out of school are given timely access to a suitable school place.

Clause 48: Powers to direct

52. The office welcomes this Clause. Local authorities have told the office about the challenges they face in sourcing a suitable school place for children missing education. These powers will enable local authorities to find suitable settings for vulnerable children who are off-rolled and fall through the gaps in our school system.

53. This will speed up the admissions for the most vulnerable children and ensure that children are missing education for the least possible time. This is a necessary Clause to promote inclusion across the school system.