

Written evidence submitted by Dr Ray Jones, Emeritus Professor of Social Work, Kingston University and St George's, University of London (CSWB 59)

GENERAL COMMENTS

1. This Bill, introduced during the tenure of the previous Secretary of State for Education, has generated considerable opposition from a wide range of over 45 organisations concerned about the rights and welfare of children.
2. Organisations as varied as the NSPCC, Action for Children, Children England, CoramBAAF, Liberty, Association of Lawyers for Children, Magistrates Association, Royal College of Paediatrics and Child Health, Women's Aid, and organisations of young people such as the Care Leavers Association, have all expressed their concerns about the Bill. Their concerns are shared by the two previous Children's Commissioners for England.
3. It is also a Bill which has been drafted and introduced with no proper prior period of consultation. It might have been expected that it would have followed green and white papers as it seeks to amend and fundamentally change carefully drafted and considered statute, particularly the 1989 Children Act introduced following much research, legal consideration and the Cleveland Inquiry report, and the 2004 Children Act after Lord Laming's Inquiry following the death of Victoria Climbié.
4. It is also a Bill which is increasingly a patch work of government-introduced amendments and late submitted clauses without much coherence. It has the feel of draft legislation which was and is badly drafted. If it has any principles at all underlying its proposals they would seem to be that the Secretary of State should be allocated the individual power to (i) over-ride statute and (ii) to determine how those who have key roles in safeguarding children and helping children and families should be educated and registered. The proposal and intention to give executive power to the Secretary of State to override carefully debated and constructed Parliamentary statute inherent within the Bill is a fundamental change of principle compared to how previous legislation to protect children and promote their welfare has been structured and implemented.
5. Sections of the Bill which focus on children living away from their parents and families are less contentious and generally welcomed, although the question remains how will they be resourced? However, the emphasis on adoption and the lack of attention given to helping families care well for the children will further skew the children's social services system. One of the scandals looking back from 20 or so years' time will be the concern that the government was such a heavy promoter of forced adoptions at the same time that it cut back sharply on help for children within their families.

THE 'INNOVATION CLAUSES'

6. Ministers and civil servants have argued that a major intention of the Bill is to improve children's social services by encouraging innovation. They have also argued that current legislation is flawed because it prevents this innovation.
7. Further, they have argued that creating a greater market place for statutory children's services is a way to generate greater innovation. In 2014 the government, with the current minister for children, introduced two changes in statutory regulations to allow commercial, privately-owned and other organisations to be contracted to be given responsibility for statutory children in need assessments, child protection decision-making, initiating care proceedings to remove children from their families, and decisions about children in care should live and with whom they should live.
8. Despite statements to the contrary by the minister, major outsourcing companies and others, for example, can now set up subsidiaries to receive contracts to provide these crucial services and to have devolved to them the state's responsibilities for vulnerable children. Companies such as G4S, Serco, Virgin Care, Amey and Mouchel have all attended meetings with the Department for Education to consider how they can participate in delivering and shaping statutory children's social services and the government commissioned a report, only recently published, which considers how a market for these services might be created. Private companies such as KPMG, Deloitte, Morning Lane Associates, and Laing Buisson have been engaged by the Department for Education to consider how to develop and promote this market place and how to re-shape statutory children's social work.
9. If the government is now clear that it does not intend that profit-making companies or organisations should receive, through the parent company or subsidiaries, contracts to provide statutory children's social services such as children in need assessments, child protection assessments and decision making, initiating care proceedings, and decisions about children in care, it should amend the changes it introduced in 2014 to state:

“No profit-making company or organisation, or a subsidiary thereof which in full or part it owns or controls, is to provide, in whole or part, statutory children's social services, including assessments and decision-making about children in need, which also covers child protection assessments, decision-making, and the management of children in need and child protection plans; decisions to initiate care proceedings and the presentation of these proceedings; decision-making about the placement of looked after children; and assessments and decisions when to seek revocation of care and other family court orders”.

10. The 'innovation powers', if introduced would mean that the Secretary of State could determine that different statute applied from one local authority to another. Children and families living close by but across a local council boundary would have different rights and the councils would have differing statutory responsibilities. Courts would cover local authority areas where the law, as amended by the Secretary of State, was not uniform and consistent. It would generate a patch work quilt of piece-meal legislation.

BILLY AND JANE

11. The small number of examples which have been given and canvassed for the changes the Secretary of State might introduce illustrate how the statutory safeguards to protect children and promote their welfare might easily be unwound and eroded. The example below is based on actual proposals which have been aired as to the changes the Secretary of State might introduce if requested to do so by a local authority:

Billy is 13 years old. His sister, Jane, is aged 10. Both are the subjects of care orders which were made because of concerns about neglect and abuse. They are with foster carers but placed separately when initially there was no placement available that would keep them together. They would both like to be living together.

Their local authority has asked that it **no longer be required to have independent reviewing officers** chairing their children in care reviews (indeed the **requirement to have six monthly reviews for all children in care has been set aside by the Secretary of State for this local authority**), listening to their views and, when necessary, speaking on their behalf and challenging the council. For Billy, **his social worker is employed by the private fostering agency**. She is also the social worker for the foster carers. **Jane is placed with foster carers within a different agency and has no allocated social worker at all as the foster carers are seen as able and adequate alone to oversee Jane's care.**

The **local authority asked that it not be required to allocate its own social workers to children in care of independent fostering agencies** arguing that this would be less intrusive into the lives of the foster children and foster carers (and more efficient).

No one now gives much consideration to Billy and Jane being siblings who whilst being neglected and at risk of abuse in their family home looked out for each other. Billy feels that he cannot share his concerns with his social worker, who is employed by the private foster care agency and seen as more for the foster carers, and Jane is without a social worker and does not feel she has anyone with whom she can share her worries about her foster carers' behaviour.

The foster care agency has also through the application of local authorities with whom it works **discarded its fostering panel**. It was argued that this would speed up the recruitment of foster carers who were in short supply. Foster carers are now considered and approved by the agency manager without the assessment, scrutiny and advice of a fostering panel, and the manager is also accountable for the financial performance and turn-over of the agency with a target to expand its business.

None of this has been a concern for Billy and Jane's local authority. It has **been given permission not to have a director of children's services and no longer has to have a named lead councillor for children's services**, requirements which had been introduced by the 2004 Children Act following the Laming inquiry's recommendation that there should be clear local authority political and senior management accountability for children's social services.

As a part of reducing management costs the local authority's children's services are now integrated into a Department of Place and People led by a director with an occupational background in waste management. Waste management is outsourced from the council and managed through a contract for which the director has contract responsibility. Contracting out services, and contract management, has become his expertise, and this includes contracting out what were the council's foster care services. The council has also cut back on the number of children's social workers as it seeks to stay within a shrinking budget and it lacks the workforce capacity to allocate to its own social workers all children in its care. No councillor now has contact with – or much interest in or knowledge about - the children formally in the council's care.

REASONS TO BE CONCERNED

12. All of the changes noted above ... the removal of independent reviewing officers <http://www.communitycare.co.uk/2016/10/07/government-plans-pose-threat-to-independent-reviewing-officer-role/>; not having a requirement that there should be a local authority social worker allocated for all children in care and removing the requirement to have six monthly children in care reviews <https://www.theguardian.com/social-care-network/2016/jul/18/children-and-social-work-bill-workforce-services> ; the ending of foster care panels http://corambaaf.org.uk/webfm_send/4517 ; the abolition of the statutory requirement to have a director of children's services and a lead councillor for children http://www.solace.org.uk/knowledge/reports_guides/Reclaiming-childrens-services-may14.pdf ... have all been given as examples of statutory requirements which could be set aside <http://www.article39.org.uk/news/2016/06/15/government-names-first-three-safeguards-to-be-exempt/> and which the Secretary of State might be asked

and might agree. Each on its own might be seen to be of some concern, as noted in several of the references above. In aggregate they present a scenario where step-by-step and decision-by-decision children like Billy and Jane could quickly find that the considered measures introduced through legislation to seek to ensure the safety and welfare of children have been eroded and abandoned. No longer would there be the checks and balances introduced by statute – often after concerns about terrible abuse - to seek to ensure the safety and welfare of children. Children from other areas of the country might, however, still have (some of) these protections even if placed with the same foster carers. It would all be confused, inconsistent, and increasingly incoherent.

13. This is why giving the power to the Secretary of State to unwind and unravel statute decision-by-decision and local authority-by-local authority is so concerning. And all the examples above of decisions being canvassed to allow ‘innovation’ are about cutting out and stopping current statutory requirements. They are not about resourcing and doing something new and additional.

14. It is also not necessary. As noted by the Association of Directors of Children’s Services local authorities across the country are already innovative and creative <http://adcs.org.uk/workforce/article/clause-29-in-the-children-and-social-work-bill>. Indeed within existing legislation the Department for Education has been and is awarding over £200m through its ‘Innovation Fund’, initiated in October 2013, to support this innovation. Innovation by local authorities includes introducing **new practice models** (e.g. Signs of Safety and systemic family therapy, both championed by the DfE); **new organisational arrangements** (e.g. the ‘Hackney Reclaiming Social Work’ model, also championed from within the DfE, but also integrating adult services’ mental health, drug and alcohol, and domestic violence workers into children and families’ social services teams and introducing new multi-professional teams to address child sexual exploitation); **new occupational roles** (such as administrative personal assistants working alongside three or four social workers); and **new working and performance processes** (such as changing data collation, and how referrals are received and triaged through, for example, multi-agency safeguarding hubs).

CONSIDERATION AND CONSULTATION

15. The ‘Innovation Clauses’ in the Bill should be withdrawn and subject to appropriate consideration and consultation through a proper public, including professional, consultation process. The new Secretary of State deserves the opportunity to reflect, and where necessary revise, rather than pushing ahead with such widely opposed and such potentially harmful draft legislation which she has inherited.

THE NEW CLAUSE 10

- 16.** There has been even less consultation and scrutiny of the new late-added Clause 10 only now interjected by the government into the Bill. It proposes that the Secretary of State for Education be given the executive power “(a) to determine and publish improvement standards for social workers in England and (b) carry out assessments of whether people meet improvement standards (in this section “improvement standard” means a professional standard the attainment of which demonstrates particular expertise or specialisation)”. Presumably this – as stated – applies to social workers working in adult social (and health) services as well as those employed within children’s social services, although the all the executive power is allocated to the Secretary of State for Education and excludes the Secretary of State for Health.
- 17.** Consultation and scrutiny of the implications of the new Clause 10 should include the potential impact on recruitment and retention within the statutory children’s social work workforce at a time of increasing concern about workforce numbers/ capacity and continuity. The proposals have the potential to discourage social workers from entering or remaining within this workforce as it places them at risk and jeopardy of a further assessment in addition to the (i) the assessment and potential to fail within their social work degree (which includes 50% of practice placements and even more for Frontline and Step Up students); (ii) the assessment and potential to fail their assessed and supported year in employment; (iii) their continuing assessment by their agency employer about their competence in their role; plus (iv) the requirement to meet registration standards.
- 18.** For new and existing social workers they may feel and find it is safer to move to other areas of social work where their employment is less vulnerable rather than submitting themselves to the KPMG-designed examination procedures – which would sensibly require revision time for very stretched, stressed and busy workers on, for example, relevant legislation and practice time on preparing responses to the case scenarios and questions – and a confidence and willingness to submit themselves to role-play observation and assessment – albeit some of these assessment processes may now be amended following a recent study of their negative and inconsistent impact.
- 19.** The late inclusion of a new Clause 10 in the Bill also gives no regard to the profession's and Education Select Committee’s concern that attention should be given to a national post-qualifying framework of career-long learning and development. The profession-developed and Social Work Reform Board and Task Force-championed Professional Capabilities Framework, however, provides the possible competencies for a PQ framework. It is being undermined by recent government initiatives, including the children’s social work Knowledge and Skills Statement.
- 20.** Clause 10 could also deter and limit social workers from building a longer-term practice career which allows movement between roles and service areas. As such, it

will do nothing to encourage social workers to shape a career which encourages them to continue as social work practitioners. It is divisive and likely to be debilitating.

- 21.** The children and families social work Key Skills Statement and assessment process, developed by and for the DfE, will only be relevant and applied to social workers carrying out statutory functions within statutory local authority – or outsourced - children’s social services, and that these are the only social workers who will be required to submit themselves for this pass-fail assessment. Social workers, for example, undertaking or contributing to parenting or contact assessments within an independent sector children’s centre, or social workers within independent sector fostering and adoption agencies will presumably not be required to be assessed by Clause 10. Who and who is not to be required to submit to this national assessment opens up a whole hornets nest of what are seen as relevant roles and employment to be captured within Clause 10.
- 22.** Clause 10 also undermines the role of employers to assess and determine who they employ. It has the major implication that they may not have enough social workers to fulfil their agency responsibilities.
- 23.** And of particular concern is that the assessment process developed for the government has been found to result in a quite different assessment of a social worker than the assessment undertaken by managers who day-by-day observe the social worker at work; it has disadvantaged more experienced and older social workers (who are an increasingly necessary but reducing resource); and been skewed against social workers with a minority ethnic and cultural heritage (who are also much needed to meet the needs of diverse communities) https://consult.education.gov.uk/social-work-reform-unit/naas-consultation/supporting_documents/NAAS_EIA_WEB201216.pdf .
- 24.** It is not that the creation of a national assessment process is inherently wrong, although it should be developed by and with the social work profession. A national framework has the potential to contribute to the promotion of enhancing quality and performance.
- 25.** However, it also introduces the threat of unintended consequences of undermining the children’s social work workforce at a time when there is already a national shortage of experienced workers, high worker turn-over, increasing levels of vacancies, a growing dependence on newly-qualifying workers with less experience and confidence, and a growing use of transitory and temporary agency social workers. None of this makes for a more stable, confident and competent workforce, of adequate size and capacity, which is necessary if good and safe social work services for children and families are to be delivered.

26. Again, there should be proper and wide consultation and consideration (which is not adequately delivered by the remote short and restricted on-line consultation processes apparently currently favoured by Department for Education). It should include discussion and debate informed by green and white papers before such a major change as proposed by the new Clause 10 is introduced. The consultation needs to identify and minimise the unintended consequences which within a short timescale may seriously undermine and denude the children's social work workforce.

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