

Children and Social Work Bill

An amendment to ensure long-term foster care is given equal weight in permanence options

Amendment to Clause 8

- Insert into clause 8 subsection 3B *long-term foster care*, as defined by regulation 2(1) of the Care Planning, Placement and Case Review (England) Regulations 2010 (as amended) and as explained in The Children Act 1989 guidance and regulations Volume 2: Care Planning, Placement and Case Review (June 2015)

Clause 8 as it currently stands:

(8) In section 31 of the Children Act 1989 (care and supervision orders), for subsection (3B) substitute—
“(3B) For the purposes of subsection (3A), the permanence provisions of a section 31A plan are—

(a) such of the plan’s provisions setting out the long-term plan for the upbringing of the child concerned as provide for any of the following—

- (i) *the child to live with any parent of the child’s or with any other member of, or any friend of, the child’s family;*
- (ii) *adoption;*
- (iii) *long-term care not within sub-paragraph (i) or (ii).*

(b) such of the plan’s provisions as set out any of the following—

- (i) the impact on the child concerned of any harm that he or she suffered or was likely to suffer;
- (ii) the current and future needs of the child (including needs arising out of that impact);
- (iii) the way in which the long-term plan for the upbringing of the child would meet those current and future needs.”

The proposed amendment would amend (a)(i – iii) above as follows:

(a) such of the plan’s provisions setting out the long-term plan for the upbringing of the child concerned as provide for any of the following—

- (i) the child to live with any parent of the child’s or person with parental responsibility for the child, or with any other member of, or any friend of, the child’s family;**
- (ii) long-term foster care, whether with a connected person or other foster carer;**
- (iii) adoption, including by a foster carer**
- (iv) long-term care not within sub-paragraph (i), (ii) or (iii)**

Explanation

The Fostering Network welcomes the intention of this clause to look at the long term needs of the child and to develop a plan that will assess their current and future needs, and a permanence plan to

meet these needs, and that this clause will place these issues at the forefront of decision makers' minds when assessing the care plan. We want to ensure that all permanence options benefit from this clause. Therefore all options should be written explicitly into the Bill.

We believe that it is in the child's best interests to set out permanence options clearly and without prejudice to one another in the Bill. Clarity in the eventual law is essential to avoid some options, particularly adoption, being seen as more important than others in a 'hierarchy of care'.

There is a legal framework already in place. A legal definition for long-term foster care was introduced subsequent to the passing of the Children and Families Act 2014. The Care Planning and Fostering (Miscellaneous Amendments) (England) Regulations 2015 amended The Care Planning, Placement and Case Review (England) Regulations 2010 by providing, for the first time, a legal definition of long-term foster care and setting out the conditions which must be met. This step rightly strengthens the importance of foster care as a permanence option for children and young people in care. As the Government has placed long-term foster care on a legal footing the opportunity should be taken in this legislation to include it as a permanence option.

The Children Act 1989 guidance and regulations Volume 2: Care planning, Placement and Case Review (June 2015) includes reference to the range of options for permanence (paragraphs 2.3-2.6) and this could be used as a basis from which to amend Clause 8 subsection 3B to reflect the range of options for permanence that already exist in law, all of which can deliver good outcomes for individual children.

During the House of Lord's Committee Stage of the Bill the Government claimed that the amendment would duplicate wording in the Children Act 1989 section 22c which sets out how looked after children are to be accommodated by local authorities. The Fostering Network disagrees that this is a duplication because s.22C(6) of the Children Act 1989 does not mention long-term fostering, the term had no legal meaning prior to the Care Planning and Fostering (Miscellaneous Amendments) (England) Regulations 2015. Section 22C(6) only specifies the range of ways in which a looked after child may be cared for, including foster placements, it does not focus on permanence. As the Bill currently stands Clause 8 is inconsistent with the statutory guidance on permanence planning¹. However, this amendment would ensure all permanence options are recognised with equal status across all relevant primary and secondary legislation.

Currently three quarters of looked after children are fostered and therefore any change to improve the outcomes for children in care needs to focus on foster care.

For more information please contact:

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¹ The Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review 2010 para 2.4