

## Standing Order 31: Health and Wellbeing of Looked after Children

### Feasibility Report

#### ***Motion tabled by Huw Lewis –***

To propose that the National Assembly for Wales, acting under Standing order 31.2, supports in principle legislation to:

Amend the general medical services contract to require from GPs an annual health review for looked-after children. [NDM2837]

#### ***Amendment tabled by Jane Hutt -***

To propose that the National Assembly for Wales, acting under Standing order 31.2, supports in principle legislation to:

Ensure that all looked-after children have the right support to improve their health and wellbeing, which will include an annual health review. Regulations should be amended to strengthen local authorities' arrangements before placing a child to ensure that the necessary support services such as health and education are agreed prior to placement of the child. In addition, when placing a child, the new arrangements should include consideration being given to the distance from the child's parental home; to allow (where appropriate) looked after children to maintain valuable contact with their family and communities.

#### **Summary**

To report to National Assembly Members on the feasibility of making changes, through regulations and statutory guidance, to strengthen the arrangement local authorities and their partners must put in place to ensure that the child's health and wellbeing and educational needs are primary in the decision making process of a child's placement.

This feasibility report recommends strengthening the duties on local authorities and the health service in respect of placement and review arrangements and health and education provision for looked after children. It also recommends amendment to the responsible commissioner arrangements to require Local Health Boards (LHB) to resource health service provision (excluding that which would be the responsibility of Health Commission Wales) to follow the child where placements are made out of the local authority and LHB area. LHBs will also be required to have a list of all looked after children in their area, and the name of the designated professional/s who will be responsible for co-ordinating the health assessment and delivery of services. In addition , robust systems for tracking and monitoring would have to be in place.

## **1. Background**

1.1 In March members debated and voted in favour of a government amendment to a motion tabled by Huw Lewis to amend the general medical services contract to require from GPs an annual health review for looked-after children (NDM2837). The amendment sought to bring forward a wider range of measures to address the holistic needs of looked after children and improve their health and wellbeing.

## **2. Objective**

2.1 The objective is through legislation and statutory guidance to strengthen local authority arrangements for placing children and subsequent review of cases and to ensure that the child's health and wellbeing and educational needs are primary in any decisions made. The proposed changes will place a greater obligation on statutory partners in health and education to promote the health and wellbeing and education of looked after children. In developing the proposal, the overriding aim is to ensure that decisions are made on the basis of the 'best interests' of the child; that placements should be provided as close as possible to the child's home, unless considerations of risk or welfare override, and are co-ordinated between agencies and delivered by identified key workers.

## **3. Legislation**

3.1 From 1 September 2005, the Children Act 2004 imposes a general duty on a Children's Services Authority (CSA) to improve the wellbeing of children. A CSA in Wales includes a county or county borough council and would amongst others embrace the local education authority. Throughout this report a CSA is referred to as a local authority.

3.2 Building on the broad duties imposed by the Children Act 2004 (section 25,26,27, 28) and Children Act 1989 (section 22 and 27) in respect of local authorities and statutory partners' obligations to co-operate, it is intended to issue statutory guidance to specify functions local authorities and Local Health Boards must undertake in discharging their duties to improve the education and health and wellbeing of looked after children. In addition, sections 23, 26, 59, 60, 63 and 104 of the Children Act 1989 and s22, 48 and 118 of the Care Standards Act 2000 provide the powers to make regulations.

3.3 To meet the aims of the motion the intention is to use the above powers to amend:

- ◆ The Arrangements for Placement of Children (General) Regulations 1991
- ◆ The Children's Homes (Wales) Regulations 2002
- ◆ The Review of Children's Cases Regulations 1991.
- ◆ Fostering Services (Wales) Regulations 2003

3.4 The above regulations currently provide for matters that local authorities must take into account prior to and post placement of a child in respect of education and health provision. Proposed changes to the regulations will further strengthen these duties and bring greater accountability to local authorities in their corporate parenting role.

3.5 In addition, changes (through guidance) to the arrangements for funding health provision will ensure equity of responsibility for Local Health Boards (LHBs) to arrange and resource specialist services which are not the responsibility of Health Commission Wales (HCW), for example tier 2 and 3 Child & Adolescent Mental Health Services (CAMHS), to improve the health of LAC.

#### **4. Consultation**

4.1 In developing these proposals we have consulted widely with representatives of stakeholders. Consultees include; the Welsh Local Government Association, the Association of Directors of Social Services (ADSS), Heads of Children's Services, the Association of Directors for Education Wales (ADEW), the Independent Children Homes Association, the Care Council for Wales, the Social Services and Care Standards Inspectorates for Wales and the Office of the Children's Commissioner for Wales. Given the implication of cross border issues we have consulted the Department for Education, Skills and Training (DfES). More detailed consultation will be required with DfES and Department of Health to agree more rigorous systems for cross border placements.

4.2 All stakeholders welcome the intentions of the motion and the proposed changes, in particular the need for greater clarification and equity of responsibility of health partners to improve outcomes for looked after children. However, this is tempered by concern about capacity in existing services such as CAMHS. There are some reservations in determining an appropriate measure that constitutes 'close to home' and what would be most effective, the local authority boundary or a distance threshold. However respondents are content that this would be subject to formal consultation, dependent on the Assembly's decision on the next stage of standing order 31 procedure.

#### **5. Evidence for Change**

5.1 Some 900<sup>1</sup> children are placed out of the local authority area, many far from the home area (281<sup>2</sup> outside Wales), often without adherence to statutory notification requirements or adequate care planning, and demands on the local health and education services can be significant. Local authorities' expenditure on LAC increased by 63.4% to £106.7m over the three years to 2004 alone. Half of this increase was in the cost of residential care, which accounts for only 7% of placements. A study in 2005<sup>3</sup> raised

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<sup>1</sup> Local Government Data Unit

<sup>2</sup> SSIW Audit of CIN 2005

<sup>3</sup> Review of the Purpose & Future Shape of Fostering & Residential Care Services for Children In Wales, 2005

concerns about health, education and welfare arrangements for children in residential placements and about value for money. The variable quality of care across children's homes was highlighted in the Care Standards Inspectorate Wales (CSIW)<sup>4</sup> 2005 annual report. Of a population of 263 looked after children in Powys and local study found that 135 (51%) were from outside the area, 100 from English authorities. This places onerous pressures on LHBs in meeting what are often complex health needs of these looked after children. The British Association of Social Workers (BASW) approved a motion condemning the placement of children many miles from their families, friends and communities and called for urgent action.<sup>5</sup>

5.2 For Looked after Children as a whole, the desired improvements in outcomes from social care, health and education interventions are not being achieved and there are significant deficiencies in support across agencies in some areas. Some 637 children are in placement under a spot purchase agreement and almost 1 in 10 looked after children experience placement disruption as a result of poor placement choice/and or matching.

5.3 A decision to place a child in local authority care is the most profound decision that the courts and local authorities will make. Research shows that once in care a child is likely to spend the rest of its childhood in the care system. Early planning and preparing for a child entering and ensuring robust processes are in place is critical to ensure that placements are based on the needs of the individual and not dependant on making use of what services are on offer. Positive experience of coming into care will enhance life experience and life chances for looked after children.<sup>6</sup>

5.4 Ensuring that children have an appropriate care plan and information for their needs in an emergency is more difficult, but none the less essential. We acknowledge that there will be circumstances where it is in the child's best interests to be placed some distance from the home, for example to keep a sibling group together, or to remove the child from risk factors associated with the family or community.. The provisions will recognise these exceptions, but safeguards will be in place to ensure, within a reasonable period, compliance with requirements to place the majority of children close to the home area.

## 6. Health

6.1 Looked After Children have greater health needs than their peers and despite existing legal provisions since 1991 to require a health assessment, they are less likely to receive adequate care. A study by Jackson et al (2000) found that in a comparison of 119 children looked after with 364 non-looked after population controls, the looked after group fared worse for routine dental care, immunisation status and health threatening behaviour.

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<sup>4</sup> CSIW Annual Report

<sup>5</sup> BASW Annual General Meeting

<sup>6</sup> Sonia Jackson et al , Placement Stability & Choice , 2003

6.2 Through targeted objectives of the Children First programme since 1999 some improvements have been made, but outcomes remain poor: 25% of looked after children are not registered with a General Practitioner (GP), 55% are not registered with a dentist and 49%<sup>7</sup> have some mental disorder. Evidence shows that the appointment of nominated LAC nurses, and changes in practice to allow other health practitioners as well as General Medical Practitioners to undertake assessments, have improved the take up of health assessments and the willingness of children and young people to engage with a specialist LAC health professional and the health services.

## 7. Education

7.1 Many children coming into care are excluded from school. 40%<sup>8</sup> enter care between 10 and 15 years old and research shows that they are already disadvantaged. Educational outcomes remain unacceptably low, especially so for children placed in residential homes. A number of measures are targeted at improving education including the introduction of Personal Education Plans (PEPs) and the appointment of LAC education co-ordinators. Evidence<sup>9</sup> shows the co-ordinators are having a positive impact in securing access to schools, brokering packages of additional education support for the child and supporting foster carers. Continuity in education and contact with family and friends is also imperative to the child's development, capacity to learn and sense of wellbeing. To maintain stability of education, a specific performance measure has been agreed with local authorities, however research shows that placing close to home will provide best outcome on all fronts.

## 8. Options

8.1 In developing the proposals a number of options have been considered. The proposals outlined suggest changes to strengthen the placement, health and education arrangements. They also seek to bring greater equity of responsibility for health partners in developing, resourcing and delivering of health services for looked after children. Measures will also aim to drive up the quality of care and support for placements in Children's Homes through investment in staff and managers to produce a positive care culture. The changes also seek to preserve positive developments in services, by placing requirements for there to be nominated practitioners in health and education, where evidence shows improvements in outcomes for looked after children since their establishment.

8.2 The changes proposed must be considered in the context of wider measures taken by the Welsh Assembly Government to improve outcomes for looked after children and a commitment to develop prevention strategies to allow early intervention to reduce the numbers of children coming into care.

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<sup>7</sup> The Mental Health of young people looked after by local authorities in Wales." The Office of National Statistics 2004.

<sup>8</sup> Local Data Unit

<sup>9</sup> Analysis of Children First Management Action Plans (1999-2004)- Cardiff University College of Medicine and Keele University

These are being addressed in a number of ways. The establishment of the Children's Commissioning Support Resource (CCSR) will improve placement finding and enhance commissioning skills. The Welsh Local Government Association Social Services Improvement Agency will support performance improvement by local authorities as will tighter performance monitoring and inspection of regulated services. The specific grant through the RAISE (Raising Attainment and Individual Standards in Education) scheme will with target action to support education improvements for LAC. Later this summer I will publish our strategy for social service over the next decade, with a renewed commitment to deliver better public services to respond to societal changes and the Making the Connections (MtC) agenda. Future services will be predicated on addressing need at an early stage to prevent the need for later intensive interventions.

8.3 The changes I propose to bring forward under the motion are outlined below:

- ◆ Local authorities wishing to place a child outside their area must first consult a panel of key people with responsibility for the child's welfare. The panel will be required to consider if the placement is appropriate and in the child's best interest. The panel must consider prescribed conditions such as special education or health needs. In particular, guidance will emphasis that local authorities and health partners must take account into the need for CAMHS.
- ◆ Any decision to place a child outside the area must be approved by the Head of Children's Service and recorded on the child's care plan. An anonymised report must also be made available (quarterly) to the senior people within the Cabinet and the service. and local authorities will be required to use the CCSR database when placing a child.
- ◆ It is proposed to specify by regulations, minimum standards of qualification for staff and management in children's homes. Children's homes must register with the Care Standards Inspectorate for Wales, and when the proposed changes take effect, no children's home will be able to register unless the staff meet the required standards. A transitional period will be necessary to allow currently registered homes to achieve compliance. Since the Children Act 1989 only allows a local authority or voluntary organisation to place a child in a registered children's home, the changes would have the further effect of ensuring as far as possible, that no child in Wales could be placed in a home where staff qualifications were below standard. Guidance can also require pre-placement checks with CSIW on the registration status of a home. In the longer term we will seek to regulate the workforce in children homes and make registration with the Care Council for Wales mandatory. Registered children's homes will also be required to appoint a designated person to collaborate with the child's social worker and with the designated nurse and education co-ordinator to ensure that the child's plan is being adhered to and to promote the child's health and education.

- ◆ The responsible commissioner arrangements will be amended for specialist health services (e.g tier 2 and 3 CAMHS and other complex health needs not provided by HCW ) for looked after children placed out of their authority area. Changes will require the LHB in the area of the placing local authority to be responsible for funding the child's treatment identified within the care plan. This will ensure equity of distribution of burden of cost and will not disadvantage LHBs who have developed specialist services. Moreover, it will ensure that those children with the highest level of need will benefit from a funded service and will reduce conflict and delays between agencies in agreeing packages of care.
- ◆ A requirement for local authorities and LHBs in discharging their duties of co-operation to nominate ,designated persons, who must be suitable professionals (nurse / teacher), to co-ordinate the health and education service across agencies and to support looked after children to achieve.
- ◆ Enhancements to existing provision for health assessments to extend the undertaking of initial assessments to include a registered nurse acting under supervision of the Registered General Medical Practitioner (RGMP) and to require more frequent assessment if the child's welfare requires it. LHB will be required to have a list of all looked after children in their area and the name of the designated health professional/s, and to have systems in place to ensure robust tracking and monitoring of health assessments. In addition, health partners will be required to ensure that looked after children from outside the LA/LHB area are registered with a General Practitioner (GP) and have robust process for furnishing notifications and transfer of health records. New duties will require greater monitoring of compliance by the LHB and by the local authorities' Independent Reviewing Officers as part of their review of care plans, to minimise drift and challenge poor practice. Arrangements will also be strengthened to ensure that when the child leaves care the health and education needs are met.
- ◆ Parallel provisions in respect of nominated designated people will apply to education services in the tracking of education records and monitoring of the PEP .

8.4 Whilst these arrangements will lead to improvements for children who are leaving care through greater stability and better health and education outcomes, further consideration will be given in the development of this work to the arrangements for care leavers.

## **9. Recommendation**

9.1 Members are invited to consider the proposals outlined in the feasibility report and will have the opportunity to discuss detailed proposals at a plenary debate on **7 June 2006**. In line with the terms of standing order 31 procedure I have consulted Huw Lewis (sponsor of the initial motion) on the proposals set out in this report. We believe in striving for improved outcomes for our

looked after children we must tackle the wider determinants of health and wellbeing. The proposed measures are wide ranging and necessary to achieve the improvements we want to see. They will also address some of the perverse incentives that currently exist in resourcing expensive health costs for children placed from other areas.

9.2 In developing regulations and statutory guidance lawyers with officials and key stakeholders will consider the most efficient method to bring forward changes that meet the aims but are also workable and achievable within law and practice.

**To propose that the National Assembly for Wales, acting under Standing Order 31**

- ◆ **Welcomes the proposal set out in the motion tabled by Huw Lewis [NDM2837] and debated and amended in plenary on 15 March 2006 .**

***To propose that the National Assembly for Wales, acting under Standing Order 31.2:***

***Supports in principle legislation to ensure that all looked after children have the right support to improve their health and well being, which will include an annual health review. Regulations should be amended to strengthen local authorities' arrangements before placing a child to ensure that the necessary support services such as health and education are agreed prior to placement of the child. In addition, when placing a child, the new arrangements should include consideration being given to the distance from the child's parental home, to allow (where appropriate) looked after children to maintain valuable contact with their family and communities.***

- ◆ **Notes the approach recommended in the feasibility report laid in Table Office and e-mailed to Assembly Members on 31 May 2006 , and the intention to develop secondary legislation and statutory guidance to give effect to it.**
- ◆ **Recommends the National Assembly for Wales proceeds with the proposal**

## **10. Financial Implications**

10.1 We believe the changes will be cost neutral or marginal and may be offset by savings from wider development to improve efficiency, placement intelligence and commissioning through the CCSR and Improvement Agency at WLGA. Changes will seek to protect designated posts currently funded by local authorities and health partners. Others seek to regulate best practice where there is evidence of efficacy. There may be some costs to support the independent children homes sector to train staff and managers to meet the prescribed occupational standards over a phased period. Formal consultation will consider costs to effect the changes.



