Children's Wellbeing & Schools Bill
Coram briefing for Lord Second Reading, 1 May 2025

Coram is the first and longest continuing children's charity and a group of specialist organisations dedicated to the legal and practice support of the rights and welfare of children.

This briefing is informed by our direct work in legal advice and advocacy services, care planning and placement, personal, social, health and economic education across 2800 schools and extensive research conducted with young people.

Coram welcomes the provisions in the Children's Welling & Schools Bill. Included in this briefing are **questions about the scope and implementation of some of these measures, key missed opportunities** and **several challenges to the way provisions have been drafted.**

KEY ISSUES

- **Babies and infants are missing from this Bill.** Whilst this Bill focuses on the care and education systems and contains 'children's wellbeing' in its title, it does very little to address baby and infant wellbeing and the need for the youngest to be treated equally. This Bill, as drafted, is a missed opportunity to address issues including special educational needs and priority admission, free school meals, discrepancies in care, and a need for child voice at an earlier stage in a child's development.

- **Corporate parenting provisions are welcome, but the immigration exemption is not.** We support the inclusion of corporate parenting provisions in this Bill. However, the exemption in the new duties for the exercise of immigration, asylum and nationality functions seriously damages the coherence of the provisions.

- **Can this Bill stem the flow of children excluded from school?** Many of the provisions relating to schools in Part Two of the Bill could, if applied correctly or broadened slightly, do something to address school exclusions figures that are contributing increasing levels of learning loss in the UK. However, these measures will not meet the needs of children who have been or are at risk of exclusion, their families, or their schools, without greater attention on both the causes and the mechanisms of exclusion.

- **A Bill about children's wellbeing must bring an end to the common law defence of physical punishment of a child.** Smacking is already banned in Scotland and Wales. More than 30 years after the UK's adoption of the UN Convention on the Rights of the Child, it is high time that corporal punishment is prohibited in law and eliminated in practice in every setting and every part of the UK.

PART ONE: CHILDREN'S SOCIAL CARE

Clause 1: Family group decision-making (FGDM)

Coram supports the promotion of a 'family first' decision-making culture through the proposed legal duty on local authorities to offer FGDM to parents of children at pre-proceedings stage where a child might be issued a care or supervision order. In many local authorities this will already be considered standard practice but this duty will help to ensure greater consistency of practice across all local authorities and therefore greater consistency of services. It is important to note, however, that FGDM will not necessarily divert children from care. There has been increasing growth in kinship foster placements, which now represent 19% of all active fostering households according to the latest available figures. As we learned through the large-scale evaluation of the Family Group Conference model, to achieve the best outcomes for children children's services will need proper investment and professional support, including voluntary sector support.

Key questions:

- **What impact will this have on timescales?** Timescales are acknowledged to be of critical importance in family law. Statutory guidance must make clear that nothing in the FGDM requirement or the Provisions of the Bill should slow down processes or delay solutions for babies and children.

- **Will guidance be sufficiently flexible?** Many local authorities will offer family group decision making support prior to pre-proceedings currently. It is important that the new duty introduced by this bill does not take away earlier opportunities to bring the family network together when Children's Services are involved.

- **Will the provisions benefit international families?** Coram supports calls for FGDM to be extended to situations where a child is being reunited with family and it is important that when the statutory guidance is updated and additional practice guidance is produced, it makes clear how children with family members abroad can equally benefit from FGDM.

Clause 2: The role of education in safeguarding

The Bill is designed to "*protect children at risk of abuse, stopping vulnerable children falling through cracks in services*". Schools and educational settings have a key role in safeguarding: they are the arm of the state that sees children every day unlike the police, local authorities or health. Coram, like the Local Government Association and others, is surprised that education is not being made a statutory safeguarding partner in line with recommendations from the Independent Review of Children's Social Care and other reviews. We do not consider this change to be essential since it is effective relationships and in local systems which are vital, and Under Article 4 of the European Convention on Human Rights schools owe a protective duty towards children at risk of abuse. However, the proper recognition and formalisation of the safeguarding role played by schools in local arrangements would benefit many groups of children.

Key questions:

- **Do these provisions do enough to safeguard children at risk of criminal exploitation?**
- **Will these provisions have a positive impact on escalating school exclusions?** Often in Coram's work on school exclusions, we see decisions to permanently exclude children at high risk of exploitation taken through a solely behaviour lens without safeguarding being considered, so a renewed focus may help.

Clause 4: Information-sharing and unique identifiers

Coram supports the use of a consistent identifier when processing information about a child for safeguarding and promotion of welfare purposes. To safeguard children, better local information sharing is crucial. The introduction of a duty to share information at section 16L of the Children Act 2004 is a positive step, but practitioners still need better information and guidance in order to be properly empowered to know when to share data and what data should be shared.

However, this is also a policy which could one day have unintended consequences. The policy intention is that designated practitioners will be able to use the new information sharing duty as a clear legal basis to both disclose and request information about a child for the purposes of *"safeguarding and promotion of welfare"*. We understand that the policy intention is not, at present, to increase data collection about children. However, the drafting of this clause (at 16LB) is insufficiently detailed on this point.

In the current drafting, safeguards are in place to limit the application of the duty to share information to instances (1) relating to '*safeguarding or promoting the welfare of children*', (2) within the legal framework for data protection, (3) where it would not be '*more detrimental*' to a child not to share, and (4) where the duty to share '*does not breach any obligation of confidence owed by the designated person*'. However, nothing in the drafting limits this government or a future government from undertaking centralised collection of the data shared.

The detail of this measure is to be laid out in secondary legislation and subsequent guidance, which means that proper Parliamentary scrutiny will not be made possible. This clause would be significantly stronger were it to include on the face of the Bill a limitation on the uses of data, including by centralised government, to only such purposes as would be in a child's best interest. This would go some way to future-proofing a measure which may lead to greater centralised data collection about vulnerable children down the line. Some children, including children on the edges of the criminal justice system and children of non-British parents, have more need of protection from their information being used for purposes other than safeguarding and the promotion of their wellbeing.

Measures Coram would support to ensure proportionality and respect for children's rights in the roll-out of the SUI include:

1. Clear information-sharing structures and guidance, including specific examples of when it would <u>not</u> be appropriate to share data;

2. A firm commitment – ideally on the face of this Bill – that access to and use of any SUI-related database, if built, should only ever be for purposes that are in a child's best interests.

Key questions:

- **In practical terms, will a new number be introduced or will an existing one be repurposed?** If, as has been proposed, an NHS number is used in England, how would this work for children who are adopted? Current adoption legislation requires that all adopted patients are given a new NHS number, and that all previous medical information relating to the patient is put into a newly created medical record (**NHS England**). How the single unique identifier will work for children who are adopted therefore needs careful thought in relation to implementation

- **What guarantee can the Minister give that any future concentration of data will only ever be used in the best interests of the child?** Beyond its primary safeguarding purpose, access to and use of this data should only ever be where it is in a child's best interests.

- **Will all children's data be protected equally?** Although data protection legislation and principles, properly underpinning these provisions, will protect most children, the UK's implementation of GDPR has an exemption for immigration enforcement purposes. We are concerned, therefore, about the way in which the SUIs of children subject to immigration control may be used or misused.

Clause 7: staying close support for care leavers

While we support the introduction of 'staying close' provisions for care leavers, the Bill includes significant discretion on the part of local authorities in applying them, including that should only be offered '*where an authority assesses such support is required*'. It is important that support provided under staying close provisions does not dilute the existing roles and responsibilities of personal advisers (PAs). Evidence from our Bright Spots surveys shows that PAs are a critical source of emotional and practical support for many care leavers. Care leavers reported higher levels of trust and greater stability of workers compared with children in care. PAs were among the most mentioned group providing care leavers emotional support, second only to friends. Staying close must mean what is close for the individual.

This Bill, including the drafting of the staying close provisions, fails to sufficiently address the disparities care leavers face. For example, A National Voice, the national children in care council, found that despite changes following the care review where the Department for Education announced that the Setting Up Home Allowance / Leaving Care Grant would be increased across the board to £3,000, in some authorities this has not yet been implemented for all. Our research has also shown huge disparities in relation to the appreciation of levels of disability and long-term health conditions amongst care leavers.

Key questions:

- **Will the government develop a clear national offer for care leavers?** While the duty to publish a local offer for care leavers already exists, this has shown the extent to which young people face a postcode lottery. Greater consistency and transparency are badly needed. The development of a clear national offer to all care leavers would address this.

- **Will the DfE ensure that all local authorities have increased the Setting Up Home Allowance / Leaving Care Grant to the agreed level**, as asked for by A National Voice, the national children in care council?

Clauses 8 to 9: Care leavers not to be regarded as becoming homeless intentionally

Coram supports efforts to formalise ongoing work by local authorities to ensure that no care leaver is regarded as becoming intentionally homeless. The most recent annual statistics from the Ministry of Housing, Communities and Local Government show over 4,000 young care leavers aged 18-20 were homeless during 2023-24. This is an alarming increase of 54% in the last five years. We hope that this measure will go some way to reversing this trend. However, to exempt care leavers from being found to be intentionally homeless due to, for example, leaving their accommodation or falling into rent arrears, local authorities must also have regard to care leavers' vulnerability and the lack of parental support and stability that would ordinarily be provided to young people. They must also ensure that the support and accommodation provided to the young person actually meets their needs.

Key questions:

- **How will assessments change in practice?** The government needs to ensure housing authorities work jointly with children's services to avoid intentional homelessness decisions for care leavers. Any assessment must involve the young person themselves, their PA and other relevant people in the young person's life.

- **How will the government monitor implementation of this clause?** We would expect to see a decrease in the number of homeless care leavers recorded in national data. Beyond this, however, it will be important to understand how this clause has impacted local authority decision-making more widely.

Clause 10: Regional care cooperatives and care sufficiency

Coram recognises the intent of the regional care co-operatives but it is vital that the same mistakes as were made in adoption regionalisation are not repeated since the structural reforms have neither increased the number of adopters available nor improved the timeliness of the process.

In addition, potential impacts on market sufficiency across statutory, voluntary and private sectors need to be very carefully considered to ensure children's placement options are strengthened in a mixed economy across the continuum of care in kinship, fostering, residential and adoption, and not diminished by structural reform or from withdrawal of the private sector from provision. This includes taking a considered approach to implementation of profit capping and investment in not-for-profit provision.

Key questions:

- **What will be done to prevent children's views and feelings being lost in the process of regionalisation?** Regionalisation risks distancing decision-making from participatory structures that allow children and young people's voices to be heard locally.

- **Will the Government restore the adoption register, and consider a similar approach for fostering?** The adoption register ensured that all children could access an independent service to find the placement they needed with a national gateway and requiring registration of both children and approved adopters, enabling and requiring all types of agencies to be considered. This prevented sequential decision-making on the basis of budgets rather than timeliness.

Clause 11: Deprivation of Liberty

When a child is in a secure setting, there is a robust framework for reviewing the suitability of arrangements for deprivation of liberty including through the appointment of Independent Persons. Where DOLS orders are used in other accommodation arrangements the same safeguards may not be there. We support additional safeguards including, as recommended by the Children's Commissioner, a record in the looked after child census including the type of setting, and the length of and reasons for restrictions. In line with the Children's Commissioner and the Hesley group report, we also strongly recommend that independent advocacy be provided for all children where a deprivation of liberty order is being considered or is in place.

Clause 19: Use of agency workers for children's social care work

Changes in social workers are a key concern for children and young people. In 2023, our survey Bright Spots found that only about a third of young people (35%) in care had had the same social worker during the calendar year. Such changes are linked to lower levels of trust in workers of all kinds. Children and young people tell us that they dislike having to repeat their stories and build relationships only to see them ended frequently, and at short notice.

Although use of agency staff has become more closely regulated following the implementation of statutory guidance for local authorities on the use of agency child and family social workers in October 2024, the problem is far from solved.

Key questions:

- **What focus on recruitment and retention of social workers and on improved continuity for children and young people are planned to sit alongside new provisions around agency use?** Agency staff are generally only needed where services are unable to recruit and retain permanent staff. New management approaches are needed which recognise that changes in social worker are not only driven by agency use.

Clauses 21 to 25: Corporate parenting

We support the inclusion of corporate parenting provisions in this Bill. Care leavers support these measures, and we know through our long-term programmatic research programme Bright Spots that it is often non-local government state authorities that present obstacles to care leavers building their lives after care. However, the exemption in the new duties for the exercise of immigration, asylum and nationality functions seriously damages the coherence of the provisions, sets a dangerous new precedent for children's rights legislation and is not needed.

Key questions:

- **Why should immigration enforcement trump the wellbeing of children?** Is it not possible to have a functioning system of immigration enforcement and treat children as children? The provisions simply ask different parts of the state to 'be alert to' children's wellbeing, and Clause 21(2)(a) states that they only apply where it *'is consistent with the proper exercise of its functions'* and *'is reasonably practicable.'* Immigration enforcement is, as such, already protected and does not require an additional exemption, just as is every other government function such as law and order.

- **Which organisations will the provisions apply to?** Many public bodies, such as the police, are missing from the draft Schedule, but we understand that some may be willing to adopt the provisions on an interim voluntary basis. More transparency on this is needed.

- **What guidance and support will be given to public bodies?** There is a wealth of evidence about children's wellbeing, and evidence based on the views of children and young people should be prioritised in rolling out these measures. This is something organisations will need support to do.

PART TWO: SCHOOLS

Clause 27: Free breakfast club provision in primary schools in England

Coram welcomes the new universal primary school breakfast club initiative included in the bill as an approach to reducing the impact of poverty. Coram supports free school meals (FSM) in primary school as well as for students in secondary school from families on Universal Credit as an ambition for the future.

However, there is no equivalent in early years. Government funding for the early years entitlements is for provision of hours only. There is no equivalent of FSM in early years for children funded under the disadvantaged 2-year-old entitlement or the universal 3–4-year-old entitlement, most of whom are the same cohort of children who will be eligible for FSM once at school. This is a clear disparity between early years policy and schools policy. It can create a barrier to take-up of early education for low-income families and should be equalised across age groups.

We believe that expanding the provision of free breakfast and lunch to early years will support the achievement of the government's goal for 75% of children to reach a good level of development by the time they start school.

Key question:

- **Will the government consider the expansion of free school meals provision to early years provision, in order to end the disparity between early years and schools poverty?** This would remove a key barrier to take-up of early education for low-income families, and would address issues of inequality earlier in a child's life.

Clauses 30 to 35: Children not in school

Coram supports the range of provisions for children not in school as critical protections to a child's right to education and to safeguarding.

The issues that stem from a child's lost learning are well-documented, including most recently by IPPR and The Difference, and we support the finding that lost learning compounds disadvantage. Although this measure is intended to allow local authorities to better track children who are home-educated, for many families, 'elective' home education is not truly a choice. Many children who have been excluded or at risk of exclusion become 'children not in school', and children with complex or additional needs are more likely to be removed or excluded from mainstream education. We know that:

1. **Children with special educational needs and disabilities are slightly more likely to be home educated**. This may be because it feels like the only option available to parents in the context of risk to the child – from their anxiety, self-harm or bullying – or because appropriate and sufficient school places are not available or, commonly, not being resourced. (DfE statistical return: elective home education)

2. **Children attending pupil referral units (PRUs) have been found to be much more likely to be taken out of school for home education** compared to others. Children are often sent to PRUs if they have been excluded from mainstream school or are at risk of exclusion.(Children's Commissioner research submitted to 2018 Education Committee inquiry on home education)

3. **Many children in alternate provision, including PRUs, do not receive equivalent full-time education**. The poor quality of some alternative provision is also well-documented. This may be a factor for many children in alternate provision being taken out of school.

4. **Parents are sometimes pressured by the threat of permanent exclusion to withdraw their child from the school's register**, despite the fact that this is unlawful. We see this in our school exclusions legal clinic, and advise families on their rights when they are faced with this troubling ultimatum (Coram school exclusions hub guidance pages)

5. Although local authorities have a legal duty to arrange suitable full-time education for an excluded child beginning no later than the sixth school day of the exclusion, we know from practice that **some children wait for months or, in exceptional circumstances, even years for a new education placement after exclusion and with no effective alternative provision.**

Safeguarding children out of school must mean focusing on children who have already been failed by the system. Lengthy waits for new education provision after exclusion, coercive withdrawal of children from school for home education and children who are in and out of PRUs are practices which put already vulnerable children at considerable risk of exploitation. Provisions for children not in school must be made to work to the benefit of these children; a register of children not in school is therefore welcome as a key accountability measure for local authorities and schools.

Key question:

- **Do the children not in school provisions meet the needs of children who have been excluded from or coerced out of mainstream education?** Children with special educational needs, disabilities, complex additional needs and who have been excluded from school also have a right to education, but that right is all too often denied. Greater transparency and accountability is needed, and these measures could go some way to providing that if it provides a platform for accountability for fulfilling the right to education.

Clause 46: School teachers' qualifications and induction

Coram supports clause 46 of the Bill, requiring new teachers in academies and free schools to have, or be in the process of achieving, qualitied teacher status and to go through statutory induction processes.

However, we call for a similar strengthening of qualification standards in the early years workforce, the majority of which is provided by the private, voluntary and independent sector which has lower qualification requirements than maintained nurseries, which make up only a minority of provision.

Clause 48: Academy schools: educational provision for improving behaviour

At present, legislation (Section 29A Education Act 2002) directs that the governing body of a maintained school in England may require any registered pupil to *"attend at any place outside the school premises for the purpose of receiving educational provision which is intended to improve the behaviour of the pupil."*

Academies, by contrast, can have the power to direct pupils off-site for the improvement of behaviour if their funding agreement and/or articles of association make clear that they comply with the above legislation. The legal frameworks around off-site direction are insufficiently clear for parents. The regularisation of the legal framework for academy school powers to improve pupil

behaviour using off-site direction, so that all schools are subject to the same statutory requirements, will benefit parents and pupils alike. The legal framework is critical in ensuring that pupils are safeguarded in the process of an off-site direction being implemented. Even with this framework in place, however, we see off-site direction being misused, and often in cases where a child has unmet SEND needs and/or is at risk of exclusion.

The misuse of off-site direction and managed moves in both maintained and academy schools

In Coram's school exclusions clinic, we see grievous misuse of off-site direction in both academy and maintained schools. This includes cases when a parent has fought their child's exclusion from school and it seems likely that the parent will win at tribunal, and in response the school cancels the exclusions process and moves a child off-site through off-site direction. This loophole means that children are effectively being excluded from school even though the legal processes available were likely to come down in favour of the exclusion being unlawful. The curtailment of the exclusions process also means that statutory protections, such as the right of appeal, that accompany a formal exclusion are not triggered. There is no appeal right for off-site direction, and parental consent is not required.

Managed moves, by contrast, are voluntary agreements between two schools, the child, and their parents/carers, and so do require parental consent. They are intended to facilitate a temporary or permanent transfer of a pupil to another school or to alternate provision. However, in our exclusions clinic and through the Child Law Advice Service (CLAS) run by Coram Children's Legal Centre, we also see the misuse of this process. There is little transparency about how and why managed moves are used by schools, and a lack of over-arching guidance on when their use is appropriate and when it might not be. Filling this gap would be straightforward and highly impactful, and should be a priority.

Key questions:

- **Will the government use this opportunity to strengthen the transparency and fairness of the off-site direction process?** The introduction of an appeals process, or an extension of the use of Independent Review Panels as used in exclusions cases, would make the process less likely to be misused. A parental consent provision would, similarly, increase fairness.

- **Will the government commit to producing overarching guidance on the use of managed moves, and publishing data alongside data on exclusions?** We see high numbers of cases where a child is subject to a managed move which a parent considers to be coercive, and high numbers of children with undiagnosed SEND facing managed moves. More data is needed to understand the extent to which this is a problem, and better guidance is needed for both schools and families.

Clause 54: Power to direct admission: extension to Academies

The extension of a local authority's power to direct schools to admit children to include academy schools is a welcome addition to this Bill. At present, academies are independent from the local authority and each acts as its own admissions authority. At the same time, we see that many vulnerable children are out of school for long periods. This includes many looked after children and children who have been excluded from other education provision, many of whom face considerable delays in admissions and long periods out of school. Although local authorities can ask the Secretary of State for Education (SoS) to intervene in cases where an academy refuses admission to a particular child, this power is little used and causes additional delays for the child. From Coram's advice work and through our school exclusions clinic we regularly see children with unmet special educational needs waiting for months or even years for education provision following exclusions. This could be due to their needs being undiagnosed and unmet, to local authorities failing to provide placements in line with EHCP requirements, or to failing to give priority to SEND children in nursery provision.

Key questions:

- **Will the DfE measure the outcome of this provision for specific groups of children, including children who have been previously excluded and children who are looked after?**

WHAT IS MISSING FROM THE BILL

Corporal punishment

Coram believes that a Bill about children's wellbeing should include an abolishment of the common law defence of reasonable punishment in relation to corporal punishment of a child in England, as was put forward at Committee Stage in the House of Commons by the Education Select Committee chair. Physical punishment is not only ineffective. It is instead linked to poorer mental health, substance misuse, antisocial behaviour, and slower cognitive development. Smacking was banned in Scotland in 2020 and Wales in 2022. Amending this Bill would bring England and Northern Ireland into line with the protection from physical punishment already provided to children in those jurisdictions. More than 30 years after the adoption of the Convention on the Rights of the Child, prohibiting corporal punishment in law and eliminating it in practice in every setting and every part of the UK must be an urgent priority.

Priority admission should begin at nursery

Coram calls for the bill to address the discrepancy in admission experience between early years and schools. Priority admission is given to children with an EHCP and LAC (and previously LAC) children at all maintained schools, who make up the vast majority (93%) of provision. In early years this duty only applies to nursery classes in schools, who make up just 17% of all providers, with the majority of provision delivered by the private voluntary and independent sector to whom this duty does not

apply, regardless of whether a child's place is funded by the government entitlement. This leaves children with the most to gain from early education at the mercy of a postcode lottery and at risk of missing out on their entitlement. **We recommend that the duty for priority admission to these children be expanded to all registered early years settings, as a condition of receiving government funding.**

Advocacy

Children's advocacy involves representing and amplifying children's voices, particularly those in care or receiving social services, to ensure their rights and needs are met. It is crucial because it ensures provision of accurate information on entitlements, empowers children to express their views, safeguards their interests, and promotes their well-being, leading to better outcomes in their lives.

There is an urgent need to publish the children's advocacy standards and local authority guidance and to ensure its sufficiency and consistency for those young people in need of support who are in crisis. Coram also recommends extending the scope of advocacy as it exists in s. 26A CA1989 so that advocacy is available for 16 and 17 year-olds presenting as homeless or in unregulated accommodation and for children excluded from school.

Joint statutory guidance from the DfE and MHCLG already states that homeless children should 'have access to independent advocacy and support to assist them in weighing up the advantages and disadvantages and coming to a balanced decision and understanding and navigating the housing system'. Yet, recent research by the Coram Institute for children 'The Door is Still Closed' found that all too many are not offered advocacy or information on their rights and entitlements and are not treated as children in need of care and protection. Embedding the right to advocacy in legislation would provide important safeguards and ensure homeless children do have someone to stand by their side, can make informed choices and are kept safe and cared for.

It is also essential that care planning guidance is applied to ensure that nationality status issues of children and young people in the care system are prioritised and addressed with access to legal information and advice.

Wellbeing measurement

It is important that a bill entitled 'wellbeing' is measured according to its impact on wellbeing. We at Coram are practised in how children's wellbeing can be measured in a child-centred way and are part of a coalition of organisations calling for a universal wellbeing measurement.

Measuring what children say makes their lives good can help focus services on what helps children flourish and drive investment where it will make the most difference. It can help us understand the impact of the work we do and where it can be improved. In our Bright Spots research we have found that having a voice improves children's wellbeing. Being included in decision making is associated with high wellbeing and correlated with greater optimism about the future.

Will the government provide details on how it plans to evaluate its progress on key elements of the Bill, and whether it has considered tools such as national wellbeing measurement to provide a clearer picture of the factors affecting young people's mental health and wellbeing?