

Gavin Williamson CBE MP
Secretary of State for Education
Department for Education
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

17th April 2020

Dear Secretary of State,

RE: Coronavirus (COVID-19): guidance for local authorities on children's social care

As organisations promoting and protecting the rights of children, young people and families, we are extremely concerned that new coronavirus guidance for local authorities on children's social care, published 3rd April, gives inaccurate information about the legal protections and help available at this extremely difficult time.

We of course recognise the unprecedented challenges which local authorities are facing as a consequence of COVID-19, and welcome the announcement of £1.6 billion for local authorities to meet the extra demand and costs arising from the crisis, including costs in children's social care, as well as the £750 million which is being made available to frontline charities. We appreciate that even this vital funding cannot take away the extreme pressures and risks which local authority and voluntary sector staff are facing at this incredibly difficult time. However, we are alarmed that this new guidance suggests that local authority statutory duties can be dispensed with, when there have been no changes to legislation to allow this. In doing so, the guidance risks unlawfully removing vital, hard-won statutory safeguards.

In a section titled 'Principles', in relation to family support and the welfare and protection of children, the guidance makes a sweeping statement that: "We know that local authorities and local safeguarding partners will want to continue to meet their statutory duties as far as they can, but there will be times in the current circumstances when this is not possible". The Coronavirus Act 2020 has made only very limited changes to the law relating to family support and the welfare and protection of children, so we would ask that this part of the guidance is amended to specifically refer to those duties which are affected. Without this clarification, local authorities, parents, young people and others may mistakenly believe there have been significant changes to the Children Act 1989, which is not the case.

We are particularly concerned that the guidance relaxes local authorities' duties to care leavers. This highly vulnerable group of young people may have few other sources of support available to them aside from statutory services and it is unacceptable that the guidance advises local authorities to "do their best to meet statutory duties" to care leavers. There have been no changes to leaving care duties in the Children Act 1989 or associated regulations. We therefore ask that the following content be removed from the guidance: "Local authorities should continue to do their best to meet statutory duties such as providing personal advisers to care leavers and preparing or reviewing pathway plans. We

do recognise the additional pressure local authorities are under, and if they need to alter the support they are able to offer care leavers during this period, they should assess their needs and prioritise the most vulnerable”.

All care leavers must continue to receive the full package of support they are entitled to and the same frequency of contact with personal advisers and other professionals they received prior to the crisis (although we recognise this contact may now need to be remote).

Guidance relating to ‘Supporting the workforce’ advises: “Where authorities need to deviate from standard practice and statutory requirements, we expect that they will keep clear records to capture the rationale and risk assessment for that”. While we agree that clear records should be kept at all times, this wrongly implies that local authorities will be acting lawfully when breaching their statutory duties so long as they have written evidence of their “rationale and risk assessment”. The guidance as currently drafted risks exposing local authorities to legal challenge.

This same ‘Supporting the workforce’ section provides advice on social workers using Personal Protective Equipment (PPE), noting “it is not required unless the people being visited are symptomatic of coronavirus (COVID-19) or have a confirmed diagnosis of coronavirus (COVID-19)”. The British Association of Social Workers (BASW) has published advice for social workers which recommends that home visits without prior discussion with the family /household should be treated “as a Covid-19 high risk situation (for practitioners and/or people visited)” and in this and other respects its PPE guidance is more extensive than the department’s. BASW and UNISON’s comprehensive PPE and safe working advice is there to help ensure social workers are equipped to support children and families, and to recognise the importance of continuity and statutory duties during the coronavirus pandemic.

Care experienced children and young people are themselves struggling with the consequences of COVID-19. Those we work with have told us they are facing financial hardship, lack of food, cramped or unsuitable environments, as well as the harmful impact on their mental health, which is leaving them feeling isolated, anxious and unable to cope. Being out of formal education, as many are, further compounds children and young people’s vulnerability. At this time of crisis, care experienced children and young people need more support, not less.

We strongly urge you to amend this guidance as a matter of urgency, in order to clarify that local authorities must continue to fulfil their existing statutory duties to all vulnerable children and young people and their families, even during this crisis, and to extend the advice on social workers wearing PPE. We further note that the guidance states the department is “exploring ways in which we could go further to reduce burdens and requirements, and are in close discussion with sector representatives on the most effective way to do this”, and ask that you commit to consulting those who will be directly affected by any such changes – that is, children, young people and families who rely on children’s social care services.

Yours sincerely,

Organisational signatories

Enver Solomon, CEO, Just for Kids Law

Louise King, Director, Children’s Rights Alliance for England

Carolyne Willow, Director, Article 39

Prof. Anna Gupta, Co-chair, Association of Professors of Social Work

Berni Baker, CEO, Baker and Joy

Maris Stratulis, National Director, BASW England

James Blewett, Chair of BASW Children and Families sub group
Richard Servian, Chair BASW UK Policy Ethics and Human Rights Committee
Katharine Sacks-Jones, Chief Executive, Become
Katie Clarke, Director, Bringing Us Together
Hannah Kirkbride, Director, Career Matters
David Graham, National Director, The Care Leavers' Association
Sue Bent, Chief Executive, Central England Law Centre
Alison Garnham, CEO, Child Poverty Action Group
Kathy Evans, CEO, Children England
Dr Carol Homden CBE, Chief Executive, Coram
Martha Wansbrough, CEO, Drive Forward Foundation
ECPAT UK
Ed Nixon, Chair, Every Child Leaving Care Matters
Denise McDowell, Chief Executive, Greater Manchester Immigration Aid Unit
Sylvia Duncan, Chair, Institute for Recovery from Childhood Trauma
Dr Edie Friedman, Executive Director, Jewish Council for Racial Equality
Martha Spurrier, Director, Liberty
Lisa Payne, Senior Policy and Advocacy Officer, Migrant and Refugee Children's Legal Unit
Jon Fayle and Paul Smart, Co-chairs, NAIRO
Jonathan Stanley, National Centre for Excellence in Residential Child Care
Rita Waters, Chief Executive, NYAS (National Youth Advocacy Service)
June Leat, Chair, Parents of traumatised adopted teens organisation
Jane Chevous, Director of Reshapers CIC
Maurice Wren, CEO, Refugee Council
Delma Hughes, CEO, Siblings Together Charity
Robyn Kemp, Chair, Social Pedagogy Professional Association
John McGowan, General Secretary, Social Workers Union
Jonathan Whalley, Chief Executive, St Christopher's
Sally Causer, CEO Southwark Law Centre
Andy Elvin, CEO, TACT
Jon Richards, National Secretary, Local Government, Police and Justice Section, UNISON

Individual signatories

Maggie Atkinson, Children's Commissioner for England 2010-15
Andy Bilson, Emeritus Professor of Social Work, University of Central Lancashire
Dr Lynn Brady, Advocate/Independent Person for Children Act complaints
Liz Davies, Emeritus Professor, London Metropolitan University
Ian Dickson, former Chair of the Conference for Care Experienced People & campaigner for the rights of care experienced people
Karen Goodman, Independent Social Worker
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Kim Harrison, Principal Lawyer & Head of Operations – Abuse, Slater and Gordon
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