

Children and Families Bill – Third Reading (House of Lords)

Update on Government amendments to clause 70 - children and young people with SEN in custody

Welcoming further Government amendments

SCYJ and SEC believe that a child or young person in custody should have the same rights to have their special educational needs met as a child or young person who is not in custody. We warmly welcome the Government amendments moved at Report Stage and the further amendments tabled for Third Reading. We believe these amendments significantly improve the position of children and young people with SEN in custody.

Improvements at Report Stage

At Report Stage, SCYJ and SEC welcomed a number of improvements to the Bill contained in Government amendments, including:

- The deletion of Clause 70, which excluded children and young people in custody from the new SEN framework. Children and young people with SEN in custody will now be included in the new system.
- Amendments to Clauses 28 and 31 which will improve cooperation between local authorities and youth secure estate institutions.
- Amendments setting out how the new SEN framework applies to children in custody, the process for assessing the SEN a detained child, the rules on securing an EHC Plan, and appealing against any decisions.

Concerns expressed at Report Stage

At Report Stage, Peers expressed concern that despite the Government amendments above, the new system would still fail to accord equal rights for children and young people with SEN in custody. Concerns remained that children and young people with Education, Health and Care plans (EHC plans) in youth custody would still not have the same rights to access the provision specified in their plan as those not in custody. In particular, the duty on local authorities and health commissioners to use their “best endeavours” to secure provision for those in custody was not as strong as the duty owed to children and young people not in custody.

Further Government amendments at Third Reading

SCYJ and SEC are extremely pleased by the Government's decision to table further amendments at Third Reading, which we believe will significantly improve the position of children and young people with SEN in custody. In particular, we welcome:

- **Amendments 28 and 29 to clause 70** – these amendments remove the stipulation that the local authority and health commissioners use only their “best endeavors” to arrange SEN provision for children in custody. Under the amendments, local authorities and health commissioners “must arrange” appropriate SEN provision for children in custody.
- **Amendments 30 and 31 to clause 70** – these amendments ensure that, in the first instance, local authorities and health commissioners must arrange the exact provision specified in an EHC plan. If this is not practicable, it must arrange provision that corresponds as closely as possible to what is specified in the plan.
- **Amendment 32 to clause 73** – this amendment requires youth offending teams and persons in charge of “relevant youth accommodation” (custodial institutions) to have regard to the Code of Practice. This will provide guidance for carrying out their duties towards children and young people with SEN in custody.

Thank you

SCYJ and SEC would like to thank Ministers, Peers and officials for their hard work and support in improving the Bill to ensure that children and young people with SEN in custody can access their rights to the support they need and benefit from the new system.

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