



INTRODUCTION

Today's Queen's Speech set out the Government's legislative programme for the 2008/9 parliamentary session. This briefing outlines The Children's Society's initial comments on key bills affecting children and young people and highlights some omissions and gaps.

Over the coming weeks and months The Children's Society will provide further briefings to parliamentarians with a focus on our practice and learning with children and young people on the streets, in trouble with the law, refugee children, disabled children and young people, and other groups of children facing challenges in their lives. The Children's Society is a leading national charity, driven by the belief that every child deserves a good childhood.

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CHILDREN, SKILLS AND LEARNING BILL

Children's Trusts

It is The Children's Society's view that there has been unequal and differential in progress towards effective Children's Trust arrangements across the country. The 'onion model' of the Children's Trust in action as shown in *Every Child Matters* set out the Government's vision of what was needed to achieve whole system change. Recent tragic events have demonstrated that there is an urgent need for still greater integration at every layer of the 'onion' in frontline delivery, processes, strategy and governance. At the level of service delivery in particular there remains significant practical, philosophical and resource barriers to full integration. Further legislative change at governance level alone will not automatically make it easier to address these barriers.

It is our understanding that this Bill will seek to strengthen the statutory framework by legislating for Children's Trust Boards to be put in place across the country. While the intention to further increase accountability is to be welcomed it should be done with regard to a number of concerns:

- **There must be clear relationships between the Children's Trust Board and the panoply of other partnership boards in existence.** For example it is imperative to ensure that the creation of a Children's Trust Board does not blur the clear lines of accountability for children's safety that the Local Children Safeguarding Board has established, particularly given that there will be significant overlap between the memberships. Proposals contained in the Youth Crime Action

Plan to place YOT Management Boards on a statutory footing must also be considered within this context.

- **It is crucially important to retain sufficient local flexibility.** The legislation should operate as a 'light-touch' duty that simply sets out a requirement to set up a board and its broad objectives and leaves the requirements about membership and functions to guidance
- Further legislative reform undoubtedly entails risks in terms of imposing further change on a sector that has undergone seismic upheavals in recent years. Management of these change must be carried out in close consultation with all those agencies involved, both statutory and voluntary.

We believe that the proposal **to extend responsibility for the Children and Young People's Plan (CYPP) and make it mandatory has the potential to increase its effectiveness as a vehicle for coordinating services for children and improving outcomes.**

Children's Centres

The Children's Society is fully supportive of, and committed to Sure Start Children's Centres (SSCCs). We currently manage and provide services in 12 SSCCs across the country. Our Children's Centres adhere to the principle of providing integrated services and support with employment as the best way of ensuring good outcomes for children and families and of reaching out to the most disadvantaged. They serve both urban and rural settings, with a common commitment to ensuring that they are flexible and as accessible as possible to the local communities they serve.

We are therefore very supportive of the proposal to put SSCCs on a firm legislative basis in order to ensure their long-term future. This proposed legislation would allow consolidation of the good practice that has been developed so far and the necessary embedding of change for children, families and communities, which has to be a long-term commitment.

Children in Trouble with the Law

It is expected that this Bill will contain a number of measures relating to young offenders. The Children's Society is a member of the Standing Committee for Youth Justice, which will be briefing on these aspects.

We especially welcome the intention to **transfer responsibility for the education and training of young offenders in juvenile custody to local authorities.** This has been a longstanding campaigning objective of The Children's Society because without relevant statutory duties in place the situation for young people in custody with regard to education is currently very poor. Children who are detained have very often been failed by mainstream education and need the chance to make up for lost time. This move will help to level the educational level playing field for them.

This Bill could also provide an opportunity to **set out in statute young people's entitlements to resettlement services on leaving custody** as proposed in the Youth Crime Action Plan.

BORDERS, IMMIGRATION AND CITIZENSHIP BILL

As a member of the Refugee Children's Consortium we have long campaigned for a duty on immigration officials to safeguard children and promote their welfare - akin to the duty in s.11 Children Act 2004 that currently covers other statutory bodies, but excludes the immigration service. Section 21 UK Borders Act 2007 established a Code of Practice to safeguard this group of children, and cl.189 of the Draft (Partial) Immigration and Citizenship Bill (published in the last session) committed go further to both safeguard and promote welfare. **We warmly welcome the announcement that the new duty will be included in this Bill** and will be working to ensure that it will operate in line with the Children Act principles that underlie s.11 and associated guidance.

The Children's Society considers it an urgent legislative priority to **end the detention of children in Immigration Removal Centres and urges the Government to do so in this Bill.** Children are currently detained under the same policy as adults, without judicial oversight and there is no

consideration of the fact that they are vulnerable when a decision is taken to detain. Asylum statistics show that during 2006, 1,235 children were recorded as leaving detention. Moreover the statistics also show that they are being held for lengthy periods of time. As at 30 June 2007, 35 children were in detention and of this number, 10 (29%) had been in detention for between one and two months, 20 children (57%) had been in detention for between 15 and 29 days and only 5 children (14%) for 7 days or less.

The Children's Society currently chairs the Refugee Children's Consortium and will be working on the Bill in partnership with other members of the coalition.

DRAFT IMMIGRATION SIMPLIFICATION BILL

This Bill has been announced that will replace ten separate pieces of immigration law dating back to 1971. It follows the Draft (Partial) Immigration and Citizenship Bill that received scrutiny in the last session.

The measures outlined in the Draft (Partial) Bill would have affected every stage of the immigration process and have a significant impact on children over and above that on those seeking asylum more broadly – for example in relation to powers of immigration officers, immigration offences, exclusion orders, reporting and residence requirements, detention and destitution. We strongly believe that the current asylum system is failing to meet children's needs or protect their rights and are concerned that provisions in the forthcoming Bill should not exacerbate this situation. **The aim of simplification must not be allowed to have the unintended consequence of weakening protections where they do currently exist;** and where the proposed immigration legislation is identified as coming into conflict with existing child welfare legislation the latter should take priority.

THE EQUALITY BILL

Age Equality

The Children's Society is a member of the *Young Equals* coalition, a group of children's and youth organisations that have come together to campaign for negative age discrimination against children to be prohibited in this legislation. It is the view of this group that the Government must revise its intention, set out in *A Framework for a Fairer Future*, that the minimum age limit for legislation to protect against age discrimination in the provision of goods, facilities and services should be 18 years.¹ **It is imperative that this measure also offers children protection from less favourable treatment on grounds of age.**

Furthermore it is currently intended that children's services (including education) should be exempt, in respect of age discrimination, from the proposed public sector equality duty (covering race, sex, disability, sexual orientation, religion or belief and age). **Young Equals believes that such a move would not only be a missed opportunity to reduce inequalities that currently impact on children but would also be damaging to the relationship between children and wider society.**

Disability Equality

It is vitally important that the specific requirements which exist under the current race, disability and gender duties are retained in the proposed legislation, in particular the requirement on public authorities to produce equality schemes. If authorities are to be asked to produce a Single Equality Scheme it is very important that the duty makes explicit the need to address separately each distinctive strand of discrimination within an equality scheme in order to ensure that real progress can be made in removing the obstacles to equality.

The current requirement under the Disability Discrimination Act 2005 to formally involve disabled people, including disabled children, in the development of Disability Equality Schemes should be

¹ Government Equalities Office (June 2008) Framework for a Fairer Future – The Equality Bill

extended to other strands of discrimination. Moreover much more needs to be done to ensure that this duty is fully implemented. Schools, for example are well placed to inform and raise awareness of disability equality and promote positive attitudes among the pupils and their families, however, research² soon to be published by The Children's Society, found that a quarter of primary schools surveyed, did not include any disability awareness in the teaching of the National Curriculum.

POLICING AND CRIME BILL

We understand that this Bill will include measures to reform the legislation on prostitution. The Children's Society has long campaigned for the decriminalisation of prostitution for under 18s.

The current legal situation which continues to allow under 18s to be prosecuted for prostitution under Clause 57 of the Street Offences 1959 (although it is very rarely used³) undermines the excellent work which has been done by Government and others to place the focus on the crimes committed by perpetrators and is contrary to the approach which acknowledges the vulnerability of these children and young people and the need to offer persistent and long term support to enable them to disengage from exploitative and abusive situations and relationships. **The Bill must abolish the power to prosecute children for prostitution.**

In its concluding observations on the United Kingdom, published on 3 October 2008, the United Nations committee on the rights of the child made a number of severe criticisms of the UK's failure to comply with the convention on the rights of the child (CRC) in its treatment of children in the criminal justice system. We believe this Bill offers the opportunity to address a number of the committee's most urgent recommendations including:

- That 'the principle that detention should be used as a measure of last resort and for the shortest period of time should be established as a statutory principle'. We consider that this should take the form of a **custody threshold for children** which sets out that children should only be placed in secure accommodation if they are serious or violent offenders who pose a risk to the public or themselves.
- That 'the State party conducts an **independent review on [the] ASBOs with a view to abolishing their application to children**'.⁴

CORONERS AND JUSTICE BILL

The main impact that we anticipate this draft Bill will have on children in trouble with the law will result from the proposals to reform the criminal law on homicide. In its original proposals the Law Commission included an option for a diminished responsibility defence of 'developmental immaturity'. We believe this would be a positive development and urge the Government to include it within the legislation it brings forward. Again we expect to brief on this through the Standing Committee for Youth Justice.

CHILD POVERTY BILL

As members of the Campaign to End Child Poverty we welcome the bill to enshrine the Government's commitment to eradicate child poverty by 2020 in legislation. This will ensure that future generations of children can reach their full potential, live without fear of social exclusion and lead healthy lives through to adulthood. However this should not distract the Government from its promise to halve child poverty by 2010. In order to keep this promise they must commit £3 billion in tax credits and benefits in the next Budget.

² Disability Equality: promoting positive attitudes through the teaching of the National Curriculum, The Children's Society, will soon be available at www.childrengsociety.org.uk/research

³ The numbers of children aged under 18 who have been prosecuted under Clause 57 of the Street Offences 1959 are extremely low – one prosecution and two cautions in 2005.³

⁴ UN committee on the rights of the child, 49th session, Concluding Observations on the United Kingdom of Great Britain and Northern Ireland, 3 October 2008 (CRC/C/GBR/CO/4).