

Just for Kids Law submission to the Education Select Committee Inquiry on the impact of COVID-19 on education and children's social care

June 2020

The impact of COVID-19 on children's social care

About Just for Kids Law and CRAE

Just for Kids Law (JfKL) is an award-winning UK charity working with and for children and young people to hold those with power to account, and fighting for wider reform by providing legal representation and advice, direct advocacy and support, and campaigning. The Children's Rights Alliance for England (CRAE) merged into Just for Kids Law in 2015 and works with over 100 members to promote children's rights and monitor government implementation of the UN Convention on the Rights of the Child.

Key messages

- Some local authority leaving care teams have reduced contact with care leavers, despite the additional challenges which care leavers are facing as a result of COVID-19.
- In particular, care leavers we work with are in need of urgent practical and financial support to meet basic needs such as food. Local authorities are not always stepping in to provide this, meaning voluntary sector services such as ours have to fill the gap.
- Housing problems are a particular issue for care leavers we work with, both before and during COVID-19. Care leavers who do not meet 'priority need' criteria for emergency housing are at risk of becoming homeless once lockdown measures are lifted.
- Care leavers who are sofa surfing or are in shared semi-independent/supported settings may face challenges following social distancing guidelines and keeping themselves safe.
- Moving accommodation presents particular risks to young people. Guidance on placement moves for care leavers should be updated to increase safeguards to protect young people who are required to move. The current ban on evictions should be extended to include care leavers in semi-independent/supported accommodation.

The capacity of children's services to support vulnerable children and young people

Prior to COVID-19, we routinely encountered evidence of children's services departments lacking capacity to support vulnerable children and young people, particularly in relation to care leavers, who make up a significant proportion of our clients. Now, with the pandemic, we are concerned that pre-existing delays, problems and shortfalls have been exacerbated.

For care leavers up to 25, a personal advisor (PA) will be their main point of contact with their local authority's leaving care team, part of children's services. However, we regularly work with young people who are care leavers who do not know whether they have a PA or have had no contact from their PA, have requested support from their PA in relation to particular issues (such as their education, benefits or accommodation) and have not received this, or have not been provided with

clear information about their rights and entitlements. All care leavers should have a pathway plan setting out their future plans and support needs which is updated regularly with their PA, but young people have told us they have never seen their pathway plan, don't know when it was last updated or it was updated when they were not present. We also encounter cases where the local authority wants to close the young person's file - often at age 21, the previous age limit prior to this being extended to 25 in the Children and Social Work Act 2017 - despite the young person needing ongoing support. Relationship breakdown with PAs is another common problem, with many young people telling us they do not feel their PA is 'on their side' and hence why they need to seek independent advocacy support from our organisation.

Example from a Just for Kids Law practitioner

I have been working with a 22- year old woman who has multiple health conditions, physical and mental, financial issues, and great difficulty with daily functioning/accessing education as a result of her depression. She approached JfKL when the local authority threatened to close her case, and even after several letters from a lawyer, and multiple professionals meetings to try to resolve the issue, we seem to be skirting around the same threat, and the answer is still the same. If she continues with education, she will be fine, if she doesn't there's no guarantee the local authority can continue to offer her support and a PA, despite her requesting it. She has been told that if she is no longer in education, the LA will close her case, then do an assessment and decide whether or not to reopen it, and they will reserve the right to keep it closed if they believe it to be in her best interests.

She is struggling to understand why they must do it in this order, and why they keep telling her they can't help her until she defines what type of support she needs when she has repeatedly asked for: mental health support, support with her health (for which she now has a carer), support with her education and employment, support with her financial situation (she has only recently come through a period of being in debt). She has been told repeatedly that her PA cannot 'hold her hand', that they cannot continue to support her as they do, for fear of "setting her up to fail" by making her "reliant on services".

This narrative is incredibly disempowering, and essentially attempts to make the young person feel they are asking too much, leaning too heavily on services, and trying to squeeze every drop of support they can get.'

Problems as a result of COVID-19

Since the onset of COVID-19, children and young people have told us of problems they are encountering contacting children's social care services, for example social workers/PAs not responding to calls or visiting young people less (although we appreciate that visits may now have to be socially distanced). We have also heard of instances where young people have only been receiving contact from PAs via text message rather than hearing from them by phone. In some cases, social workers/PAs have refused to support children and young people with problems they are facing – it is unclear whether this is due to lack of capacity or another reason. One young person who contacted us told us "Since the pandemic started I have been left to my own devices as my PA left me and I have had no support." It is concerning therefore that the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 changes the duty for social workers to visit children in care every six weeks to "as soon as is reasonably practicable" and makes provision that a phone call can take the place of a visit. Independent reviews of children in care have been changed from every six months to "where reasonably practicable." These changes risks contravening Article 25 of the UN Convention on the Rights of the Child (CRC) which stipulates that children in care have the right to a regular review of their treatment, way they are cared for and their wider circumstances.

At the same time, the children and young people we work with are dealing with new problems relating to the Coronavirus pandemic, for which they need support. Those we work with have told us they are facing financial hardship, lack of food, living in 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.

Children and young people have also told us of the ineffectiveness of having to carry out crucial meetings with social services via online platforms, e.g. child protection conferences. This is making it difficult for young people to get their point across effectively and they are not able to be supported in person by our advocates.

Provision of practical support including discretionary payments

One area in particular where we have seen a sharp increase in demand on our services as a result of a gap in statutory capacity is in relation to discretionary payments needed by young people, including care leavers to pay for basic necessities. On 18th April the Government announced an additional £1.6bn for local authorities to help them address pressures arising from COVID-19. The *Coronavirus (COVID-19): guidance for children's social care services* states that "we would encourage local authorities to utilise some of this funding to provide discretionary payments to care leavers to cover items such as food, utilities and rent during this period, if required." However, during the lockdown, JfKL has needed to make payments to care leavers who have not been able to obtain funding through their local authority leaving care team, to cover basic items including food, gas/electricity and essential household items and nappies for babies.

From when the lockdown was announced on 23rd March to 31st March, our hardship fund made ten payments to young people to cover essential items; during April we made a further seventeen payments. This is much higher than previous months: five in December, two in January, none in February. (Please note: not all payments made were to care leavers as our scheme can be accessed by young people more generally).

Hardship fund requests we have received from care leavers highlight the particular ways in which statutory support has fallen short. All of the young people described below are care leavers:

One young person who has two young children had no money for food and her local authority was unable to send any money to her due to staff shortages in the finance department. She was also unable to get in contact with her PA despite spending a morning trying to get through.

Another young person was reliant on an abusive ex-partner to bring her food whilst in self isolation. A young person living in university accommodation and having to self-isolate due to COVID-19 symptoms also made a request to us as she was running out of food and had very little money.

In the case of another young person who did not have food in, the local authority arranged delivery of a food parcel however this did not arrive; the reason for this is unclear. A young person with two young children contacted her PA as her washing machine had broken down and she needed money to do washing at a laundrette however she was told by her PA that the local authority would not give her the money for reasons that are unclear.

As these examples indicate, many care leavers are in an extremely precarious financial situation, with benefits as their only source of income, often having to rely on food banks and schemes such as ours. It is unacceptable that local authorities are not stepping in to meet their urgent needs even after they have been provided with funding to do so.

Our practitioners have highlighted that this issue with discretionary funds is part of a wider trend of young people needing an increase in practical support as a result of COVID-19, and statutory services failing to step up and provide this practical support, and voluntary sector organisations such as ours have to fill the gap.

Recommendations:

- Government should ensure that part of the £1.6bn allocated to local authorities to cope with the effects of COVID-19, as well as future emergency settlements, should be ringfenced specifically for children's social care.
- DfE should provide further guidance to local authorities on discretionary payments to care leavers, clarifying that they should be provided at short notice if necessary and that payments should be authorised unless there is a clear reason not to. This additional guidance could be provided through updating the *Coronavirus (COVID-19): guidance for children's social care services* and/or a letter to Directors of Children's Services. Local authorities should also publish details of their discretionary payments schemes online.
- Local authorities should make sure that other forms of financial support for care leavers including Setting Up Home Allowances can continue to be accessed during the COVID-19 pandemic, and should speed up timeframes and relax restrictions on these where necessary.
- Local authorities should update their local offer to care leavers to show their entitlements during COVID-19, including access to discretionary funding if needed and their entitlement to proactive contact from their PA in line with the new Coronavirus guidance.
- Local authorities should proactively contact all care leavers in their area, including those who are no longer receiving support, to identify whether they have any support needs which have arisen as a result of coronavirus.

Housing and accommodation for care leavers

Housing and accommodation-related problems were one of the top issues children and young people sought our support with prior to COVID-19. We see many cases where young people fall through the cracks between local authority housing and children's services departments. We also saw many cases of care leavers who had been placed in unsuitable or unsafe accommodation, often unregulated settings or temporary accommodation, and were receiving little support from their leaving care team to find a more suitable place to live.

Under Article 20 of the CRC, the Government has a duty to ensure that children who are unable to live with their families are given special protection and assistance, including ensuring that the child is provided with alternative care. Article 27 of the CRC also requires children to have an adequate standard of living which includes a right to housing.

Since COVID-19, children and young people have continued to seek our support for housing-related problems, many related to or made more complex by the pandemic. We are continuing to see homeless under 18s who are not receiving the correct support from children's social care, and have some anecdotal evidence that this may be happening to more children as a result of the additional resource burdens COVID-19 is placing on local authorities.

Care leavers at risk of homelessness

We are particularly concerned about the impact of COVID-19 on care leavers, given they are widely recognised to be at greater risk of homelessness than other young people¹. Our evidence shows that these young people often experience ‘hidden homelessness’, such as sofa surfing or having to sleep in a car, which means that Government initiatives to target rough sleepers developed in response to COVID-19 are unlikely to benefit this group. During the pandemic the Government made a commitment to house all rough sleepers through the ‘Everyone In’ scheme. Now lockdown measures are being lifted, funding for the scheme is expected to come to an end and young people who have been temporarily housed will no longer have an automatic right to access housing and may be at risk of returning to the streets. Care leavers who are ‘hidden homeless’ and have been sofa surfing with friends and family as a temporary measure during the coronavirus crisis may also be at risk of becoming street homeless if they are asked to leave where they are currently living.

For care leavers aged up to 21, a safety net exists in that they have ‘priority need’ status for emergency accommodation, meaning that if they are homeless, their local authority’s housing department should provide them with accommodation. For care leavers aged 21 and over, local authorities are only required to house a young person who is a care leaver if they can demonstrate that they are vulnerable as a result of having been looked after. The threshold to evidence this vulnerability is high and the burden of evidence falls on the young person, with many being turned away as they don’t have the necessary paperwork (often having lost this due to sofa surfing or an otherwise chaotic lifestyle). This means that many vulnerable care leavers aged 21+ do not receive the support they are entitled to and become homeless as a result. Moreover, many care leavers aged 22-25 who do not meet the vulnerability threshold are still in need of significant support and have few other options apart from statutory services if they are facing homelessness.

As a result of these restrictions as to which young people meet the legal test for being ‘priority need’ for emergency housing, there is a risk of a wave of care leavers becoming homeless once temporary lockdown measures for homeless people are lifted, including many who are extremely vulnerable.

To prevent this happening, in line with other corporate parenting duties which have been extended to cover all care leavers up to 25, we believe that given the additional risks created by coronavirus it should now be an urgent priority for the Government to **extend ‘priority need’ status to all care leavers up to 25** (not just those who can evidence vulnerability from 21 onwards). This would mean that all homeless care leavers up to 25 would be eligible for emergency accommodation from their local authority. We are raising this with the Ministry of Housing, Communities and Local Government but also urge DfE and Ministers to take every opportunity to support this proposed change, particularly given the Education Secretary’s recognition of care leavers’ vulnerability in his statement at the daily press briefing on 19th April. One opportunity to do this could be through the Inter-Ministerial Board on Care Leavers which is being established and will be co-chaired by the Education Secretary and Minister for the Cabinet Office.

Challenges young people face keeping themselves safe

Young people who have been sofa surfing also face obvious challenges in following social distancing guidelines and self-isolating if they become unwell, putting their own health and that of others at risk. Care leavers who are currently living in shared semi-independent, unregulated supported living placements or temporary accommodation with shared facilities such as kitchens and bathrooms are

¹ The Government’s rough sleeping strategy cites data from the Combined Homelessness and Information Network (CHAIN) in 2017-18 shows 11% of people sleeping rough were in care as a child. A survey of 87 care leavers by Centrepoin in 2017 found that 26% have sofa surfed and 14% had slept rough since leaving care.

likely to face particular challenges in trying to follow the guidelines on social distancing and keeping themselves safe, particularly if those they live with are not following the guidelines, as the case study below demonstrates.

Case study: challenges of self-isolating for young people in shared accommodation

Bella is aged 22, a care leaver and is at Kent University. She was on campus on her own and wanted to be moved more into the town. She is due to finish university next month and was meant to be provided with her care leaving accommodation but her local authority (Croydon) have not been forthcoming with this.

She became unwell with COVID-19 symptoms and our solicitor informed the local authority of this; they immediately took steps to have her moved. However, she was placed in temporary accommodation which is shared with five other tenants and Bella is concerned that she will not be able to self-isolate. She has told us that the other tenants are not always hygienic and have had various visitors coming in and out of the property. She has described one shared accommodation she had to stay in previously as being run like a brothel. She is also unable to practice social distancing as the current property has a shared bathroom, kitchen and main door. Her local authority are now looking for independent accommodation for her as her symptoms of COVID-19 have worsened and Bella was told to self-isolate until 5 May 2020. Our legal team is now waiting to see what the local authority comes back with in terms of accommodation.

Care leavers moving accommodation during COVID-19

The *Coronavirus (COVID-19): guidance for children's social care services* guidance contains a question on ***Whether children in care and care leavers should continue to move into independent living when they turn 18 and whether care leavers can still be moved between different accommodation settings if necessary***. Moving accommodation presents particular risks to young people, particularly if the setting they are moving into is not safe in relation to COVID-19, or if they do not receive adequate support during the moving process. We urge DfE to strengthen this response in this section of the guidance to increase the safeguards which local authorities must put in place to ensure that the settings young people are moving into are safe in relation to risk factors arising from COVID-19 in relation to cleanliness, self-isolation, safety and who else is living in the property. Personal advisors should be in regular contact with young people pre- and post-move and local authorities should ensure they can provide appropriate logistical support recognising the additional challenges created by COVID-19.

We welcome the move to ensure that no child has to leave care during the COVID-19 crisis, however we are concerned that care leavers in independent and semi-independent unregulated accommodation are not protected from evictions during the pandemic. A DfE and MHCLG *Factsheet for care leavers on changes to housing during coronavirus (COVID-19)* states that: "If you are living in supported/semi-independent accommodation classified as hostel accommodation, including homeless hostels, who hold a licence agreement (not a tenancy), this is known as an 'excluded group' and in these circumstances you don't have cover in the new protections from eviction legislation. However, all the current government guidance directs people to stay at home, and therefore, we would hope that providers are working with you and the local authority to support you to remain where you are, particularly in the coronavirus (COVID-19) crisis, rather than to focus on eviction."

In our experience prior to COVID-19, young people can be evicted from supported/semi-independent accommodation with as little as 48 hours' notice, in some cases for minor breaches of their placement rules, with no guarantee that the local authority will find alternative accommodation for them. An expectation that "we hope providers are working with you and the local authority" is far from being an adequate safeguard and falls significantly below what care leavers should expect during this time of crisis. It also contrasts starkly with the ban on evictions for adults living in private rented or social housing which has been in place since March; it cannot be right that vulnerable young people have fewer safeguards than adults in relation to security of tenure.

Recommendations:

- The Education Secretary should champion housing priority need to be extended to include all care leavers up to 25 (not just those who are 21+ and vulnerable), particularly through his role as co-chair of the Ministerial Board on Care Leavers.
- Targeted financial support should be provided to care leavers at risk of homelessness, including sofa surfing and hidden homelessness. DfE should work closely with MHCLG to ensure care leavers at risk of homelessness receive the support they need during the COVID-19 outbreak and as the lockdown measures are lifted.
- DfE should update the guidance on coronavirus and children's social care to increase the safeguards which local authorities must put in place to ensure that the settings young people are moving into are safe in relation to risk factors arising from COVID-19 in relation to cleanliness, self-isolation, safety and who else is living in the property. Personal advisors should be in regular contact with young people pre- and post-move and local authorities should ensure they can provide appropriate logistical support recognising the additional challenges created by COVID-19.
- The principle of stability/that nobody should have to leave care during this period should be extended more widely across all significant transitions for children in care/care leavers (for example moving from a semi-independent to an independent setting). Moves which are the expressed wish of the young person and/or for which they have been waiting for a long time (such as taking up their own social housing tenancy) should be prioritised.
- The ban on evictions should be extended to include all care leavers in semi-independent/supported unregulated accommodation. Where there are circumstances which mean a young person must be moved from a particular setting (eg due to risk of harm to themselves or another young person), the local authority should ensure that a suitable and safe alternative placement is found in good time to ensure a smooth transition. Care leavers should not be evicted from semi-independent/supported accommodation for minor infractions of the setting's rules.
- Wherever possible, local authorities should house care leavers housed in self-contained rather than shared accommodation to enable them to follow the guidelines on social distancing.

Statutory instrument and guidance on coronavirus and children's social care

We wrote to the Education Secretary on 17th April to raise concerns about the *Coronavirus (COVID-19): guidance for local authorities on children's social care*, in a joint letter with Article 39 signed by 45 organisations and experts from the children's social care sector. [Our letter can be viewed here.](#)

We are pleased to see that the subsequent version of the guidance which was published reflected several of the changes we called for. Nevertheless, we remain concerned about several aspects of the section of the guidance which relate to care leavers:

- The guidance refers to local authorities assessing care leavers' needs but still states that they should "prioritise the most vulnerable". This emphasis on prioritisation is unhelpful and risks young people missing out on support so it is still important that we all carefully monitor the treatment of children and young people in the care system. *All* care leavers must continue to receive the full package of support to which they are entitled.

More broadly, although we are pleased that DfE listened to concerns raised in our letter and by many others in the sector regarding care leavers, this is significantly undermined by the introduction of the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. These remove vital safeguards and legal protections for children in care and will undoubtedly put many children at greater risk of harm given the many issues outlined above that we are seeing in our practice. We will be continuing to call for the regulations to be revoked in full, as a member of the [Scrap SI 445 campaign](#).

Recommendations

- The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 should now be revoked, given that the lockdown measures are now being lifted and concerns about the social care workforce capacity have not materialised.
- DfE should undertake a Child Rights Impact Assessment (CRIA) of the Coronavirus Act 2020.

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