

Item No 9	Classification: Open	Date: September 10 2007	Meeting Name: Corporate Parenting Committee
Report title:		Legal Duties and Framework in respect of Children Looked After	
Ward(s) or groups affected:		All	
From:		Strategic Director of Children's Services	

RECOMMENDATION

1. That the Committee notes the legal framework in respect of children looked after (CLA) and the context within which services for this vulnerable group have been developed.

BACKGROUND INFORMATION

2. Children who are in the care of local authorities are described as 'Children looked after' (CLA). They are one of the most vulnerable groups in society. The majority of children who remain in care do so because they have suffered abuse or neglect.
3. While considerable progress has been made in improving services to CLA, to date the outcomes achieved by them have remained poor. Southwark currently has about 600 CLA who are placed in a variety of different care settings.
4. There are two main reasons for children being in local authority care:
 - a) Children who are subject to a care order made by the courts under section 31 of the Children Act 1989 (about 66% of all CLA in Southwark). For the courts to grant a care order they have to be satisfied that a child is suffering or would suffer 'significant harm' without one. Where children have a care order, the local authority shares parental responsibility with the child's parents.
 - b) Children who are accommodated by the local authority on a voluntary basis under section 20 of the Children Act 1989 (about a third of all looked-after children). Where children are accommodated, parental responsibility rests with the birth parents, who must be fully consulted about the care plan for their child. Children may be in this category as a result of hospital or disability respite care; unaccompanied minors; or homeless young people.
5. To assist Members to fully exercise their role as Corporate Parents, this report provides an outline of the legal and policy framework which surrounds this important area of the Council's statutory functions.

KEY ISSUES FOR CONSIDERATION

6. At any one time there are around 600 CLA in Southwark, making it the second highest care population in London, after Lambeth. This is not a static group, and in any year, over 200 children will enter and leave the care system. The

Children's Services Department works to maintain children within their families, schools and communities whenever possible. Admission to care only happens in exceptional circumstances when children are suffering from, or are at risk of, abuse and neglect.

THE LEGAL AND POLICY FRAMEWORK

7. Local authorities and their partners have to operate within a complex framework of statute, regulation and guidance when developing their services for CLA. The information below gives a brief summary of the key legislation and guidance, which has helped shape our approach in Southwark, and indicates the increasing pace of change particularly in the past decade.

- **United Nations Convention on the Rights of the Child** provides the overarching framework for national government's agenda in respect of children and young people.
- **Children Act 1989** gives local authorities legal responsibility for children in public care either with the agreement of their parents/carers or as a result of family court proceedings. Members undertake the duties of a corporate parent of CLA and ensure that the whole Council and its partners work together to improve outcomes.
- **Quality Protects (1998 – 2004)** aimed to transform the quality and management of children's social care services. This initiative conveyed a fundamental message to all those involved in children's services - the need to ask themselves: *'Is this good enough for my child?'* It was backed by a special grant and introduced a new performance management culture, which tied the funding to an expectation that it would deliver improved outcomes. This has helped to secure significant improvements in outcomes for vulnerable children.
- **Children (Leaving Care) Act 2000** introduced new requirements and ring-fenced funding to deliver improvements for care leavers. Amongst other things it required local authorities to draw up a Pathway Plan to support care leavers into independent living.
- **Care Standards Act 2000** established national minimum standards for care in residential homes and fostering and adoptive placements. The Commission for Social Care Inspection routinely inspects local authorities against these standards. Fostering services are on an annual inspection cycle and adoption services on a three yearly cycle. In the Care Matters White Paper, the Government is proposing a revision to the national standards for fostering services, in an effort to secure further improvements in outcomes for CLA.
- **Guidance on Education of Children and Young People in Care 2000** requires a nominated champion for looked after children to promote inter-agency working (then Director of Social Services); Personal Education Plans; a designated teacher in each school; and an expected limit of 20 school days to provide suitable education for CLA who change care placement.
- **Education Protects** was launched in **2000** as a joint Department of Health (DoH) and Department for Education and Skills (DfES) initiative to drive

educational improvements for looked after children. It is now funded solely by the Department for Children Schools and Families (DCSF) to support the Guidance and the Social Exclusion Unit's report recommendations (see below).

- **Adoption and Children Act 2002** overhauled adoption law to ensure the welfare of the child is paramount and that local authorities provide post-adoption support for adoptive parents. Regulations impact upon the Independent Reviewing Officers (IROs) responsible for reviewing the care plans of CLA, complaints processes and the right of every child to have an advocate. It also introduced Special Guardianship Orders, which are a new legal route to care for a child if a carer was not the birth parent and/or did not have parental responsibility. This would enable a foster carer to apply for a residence order or special guardianship order after one year of caring for the child.
- **Guidance on Promoting the Health of Looked After Children** published in **2002** places a duty on local authorities, Primary Care Trusts and Strategic Health Authorities to ensure that every child in care has a health plan that is regularly reviewed.
- **A Better Education for Children in Care** published by the Social Exclusion Unit in **2003** sets out specific recommendations for local action to provide looked after children and young people with the full range of educational opportunities. This will be strengthened by new proposals in the Care Matters White Paper.
- **Choice Protects (2003 - 2006)** aimed to improve the quality and choice of placements for children and young people, backed by £113 million grant over three years. This helped to strengthen fostering services, improve placement stability and reduce dependence on high cost independent fostering agencies.
- **'If this were my child ... a Councillor's guide to being a good corporate parent'** was published in **2003** jointly by the DfES and the Local Government Information Unit. Although it is now four years old, the guide still provides useful information for Members and lists the questions they should ask to enable them to challenge officers and monitor the quality of the service.
- **Children Act 2004** places duties on every agency to work together to deliver common outcomes and creates a statutory basis for partnership working. It requires local authorities to appoint a Director of Children's Services and a Lead Council Member for children and creates a national Children's Commissioner. It places a new duty on local authorities to promote the educational achievement of CLA, including those placed out of the authority. It also provides a more stringent regulatory framework for privately fostered children.
- **The National Service Framework for Children, Young People and Maternity Services 2004** is a 10-year programme intended to stimulate long-term and sustained improvement in children's health. It sets standards for health and social services for children, young people and pregnant women to ensure fair, high quality and integrated health and social care from pregnancy, through to adulthood.

- **DfES Statutory Guidance: Duty on local authorities to promote the educational achievement of Looked After Children 2005** describes the essential actions which local authorities are expected to take to comply with this duty and sets out the requirements and roles for local authorities, social workers, foster carers, schools and parents in delivering this duty effectively on a day to day basis.
- **Care Matters White Paper 2007** proposes wide ranging changes in approaches to those on the threshold of care, in addition to recommendations for improving the quality of care and entitlement to a wider range of services. Signals an increase in regulation and guidance and revised foster care standards, backed by regular inspection of services for CLA.

Policy implications

8. The continued development and improvement of services for CLA is essential to secure better outcomes and ensuring this vulnerable group have the best possible start in life. Better outcomes for CLA is a priority in the Children and Young People's Plan and the strengthening of our services will ensure that children and young people can make a positive contribution to the community.

Community Impact Statement

9. Legislation and guidance can have a differential impact on a diverse community. It is important that implementation should be closely monitored to ensure that all communities are able to benefit equally. The CLA population is monitored to identify possible trends in admissions, which may be influenced by the way legislation, guidance and policy is applied locally.

Resource implications

10. Work has been commissioned from the Department's Management Information and Analysis (MIA) team to undertake a more detailed and comprehensive analysis of the care population. This will enable the Department to commission services that more accurately reflect the needs of the local community and address any differential issues in relation to care admissions.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Reports set out at paragraph 7 above	Children's Services Department 49 Grange Walk SE1 3DY	Rory Patterson Assistant Director

APPENDICES

No.	Title
Appendix 1	"If this were my child.. A Councillor's guide to being a good corporate parent"

AUDIT TRAIL

Lead Officer	Rory Patterson	
Report Author	Rory Patterson	
Version	Final	
Dated	30/08/07	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal and Democratic Services	No	No
Director of Finance	No	No
Executive Member	Yes	Yes
Date final report sent to Constitutional/Community Council/Scrutiny Team	31/08/07	