

Children and Young People's Health Policy Influencing Group

Health and Care Bill- House of Lords Committee Stage briefing

About the Children and Young People's Health Policy Influencing Group

The Children and Young People's [Health Policy Influencing Group](#) (HPIG) is a membership group made up of over 70 leading voluntary organisations, Royal Colleges and professional associations who champion the needs of children in the health service.

HPIG members represent babies, children and young people aged 0-25. References to 'children' in this briefing includes babies, children and young people.

Our position on the Health and Care Bill

Children in England have some of the worst health outcomes in Europe¹. There are persistent challenges in the health system for children, including: a lack of priority; inconsistent join-up with education and children's social care; insufficient workforce capacity; and barriers to information and data sharing.

Our organisations welcome the Government's drive towards integrated services, including the proposals to place Integrated Care Systems (ICSs) on a statutory footing.

The Health and Care Bill provides a crucial opportunity to think differently about how we meet children's needs and reduce inequalities. However, **we have concerns that the bill does not do enough to bring the benefits of integrated working to children and families**. While progress has been made in the House of Commons, we believe that more needs to be done to address these gaps and ensure the bill works for children, as well as adults.

Progress in the House of Commons

Our members were pleased that the Minister for Health, Edward Argar MP, recognised the importance of focusing on children and families in the new ICS structures and his commitment that the government would develop **"bespoke guidance for Integrated Care Systems on meeting the needs of babies, children and young people"**.

We welcome the increased attention that has been paid to children as the bill has progressed through the House of Commons and we would like to thank the officials who have consulted with HPIG members and worked with us to address some of our concerns. However, we believe more needs to be done in the House of Lords to ensure that children are at the heart of our health and care systems.

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Amendments at Committee Stage

We are supporting the following amendments to the Health and Care Bill:

- AM20 - Ensuring the Better Care Fund delivers for children as well as adults
- AM51 - Improving data and information sharing for children
- AM98 – Putting child protection at the heart of the new system
- AM141- A national accountability framework for improving health outcomes for children
- AM151 - Ensuring the needs of children are prioritised within local strategies
- AM162 – Requiring the Care Quality Commission to work jointly with Ofsted to plan and conduct reviews into provision of children's health and social care
- AM177 – Regulations and statutory guidance on babies, children and young people
- AM307 – Using the NHS identification number as a single unique identifier for children

Detailed briefings on amendments

Ensuring the Better Care Fund delivers for children as well as adults

AM 20 – Baroness Meacher

Clause 10, Page 6, line 19, at end insert –

“including how it must be used to support service integration for children.”

Explanatory statement: This amendment would require the Better Care Fund to be used to support service integration for children as well as adults.

The Better Care Fund (BCF) programme supports local systems to successfully deliver the integration of health and social care. The programme requires the NHS and local authorities to make joint plans and pool budgets to develop integrated services, aiming to reduce the barriers often created by separate funding streams. There are a number of funding streams to the Better Care Fund, that in 2021/22 equal £6.9bn.

However, **the BCF is primarily focused on supporting integration for services used by adults.** There is no reference to children within the four metrics underpinning the fund and two of the four are focused on adults over the age of 65ⁱⁱ and the Improved Better Care Fund (iBCF) grant, worth over £2bn, only funds services to meet the needs of adults.ⁱⁱⁱ

Integrated, multi-agency support for children and families is key to delivering on the government's policy agenda, including for disabled children and those with special educational needs, for children supported by the social care system, and for children in the first 1000 days of life. In a government review of the BCF, 93% of areas said that the fund had improved joint working in their locality^{iv}. We believe that re-targeting the BCF to cover services for children would greatly accelerate the process of integration and support the government's wider ambitions for children.

We would like to thank officials from the Department for Health and Social Care and the Department for Education for engaging in positive discussions with us on this matter. At Committee Stage, we hope the minister will commit to expanding the remit

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of the Better Care Fund to children in principle, and that these discussion will continue with a view to taking concrete action.

Improving data and information sharing for children

AM 51 - Baroness Tyler; Lord Bichard; Lord Hunt; Baroness Bennett

Clause 16, Page 14, line 4, at end insert –

(1A) In carrying out their functions with regard to subsection (1)(g), an integrated care board must share such relevant information with key health and care partners and collect such multiagency data from those partners, as will ensure that services for pregnant women and children are relevant and targeted."

Explanatory statement: This amendment would require ICBs to share relevant information and data to arrange the provision of relevant and targeted services for pregnant women and children in line with paragraph 16 (1)(g).

Barriers to sharing information and data has been identified over many years as one of the key barriers to better joint working, commissioning and research across the children's system^v. **We believe that the exclusion of children from the provisions to improve the sharing of information and data in the bill is a huge missed opportunity to put this right.**

Part two of the Health and Care Bill seeks to improve data sharing arrangements between adult social care and the health service. It does this by: requiring health and adult social organisations to share information; removing legislative barriers; and placing duties on NHS Digital to provide greater clarity on what is permissible. **Yet the measures to improve the sharing of information and data in the bill only apply to the adult system.**

Due to the invisibility of children in existing data sharing legislation and the exclusion of education and children's social care, the children's system faces even greater barriers to sharing information than for adults. As the House of Lords Public Services Committee in its recent publication *Children in crisis: the role of public services in overcoming child vulnerability* states:

"While the evidence suggests that the NHS is particularly poor at sharing data, witnesses described barriers across the public sector. Different departments within local authorities often failed to share information with each other, as did statutory services and the voluntary sector.

A common concern raised by witnesses was that, in most local areas, services working with children are unable to match unique pupil identifiers on the national pupil database with children's NHS numbers. This limits the ability of early intervention services to reach the most vulnerable children^{vi}.

We believe the bill should be amended to ensure that the benefits of improved information and data sharing apply equally to children by:

- Requiring health and children's social care agencies to share information as part of the measures set out in the Health and Care Bill;

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- Making it clear that agencies can and should share information and data where it is in the best interests of children to do so

Putting child protection at the heart of the new system

AM 98 - Baroness Tyler; Baroness Masham

Clause 20, page 18, insert –

"14Z43A Discharge of duty as a safeguarding partner

1. The Secretary of State must lay before Parliament regulations specifying how Integrated Care Boards must discharge their duty as a statutory safeguarding partner under section 16 of the Children Act 2004.
2. Regulations under section 1 are subject to affirmative procedure.
3. In discharging its duty under section (1), an Integrated Care Board must have regard to statutory guidance on inter-agency working to safeguard and promote the welfare of children, including requirements to –
 - a. assign a lead representative for the safeguarding partnership, equivalent to the accountable officer of a clinical commissioning group, who has the authority to make decisions on behalf of the Integrated Care Board.
 - b. share data and information for the purposes of safeguarding and promoting the welfare of children in its area.
 - c. ensure independent scrutiny of the effectiveness of multi-agency arrangements to safeguard and promote the welfare of children in its area.

Explanatory Statement

This amendment would require the Secretary of State to lay regulations before Parliament which set out how Integrated Care Boards must perform their duties as a statutory safeguarding partner

Multi-agency safeguarding partnerships came into force in 2019, establishing a shared legal duty on health, local authorities, and the police to work together to safeguard children. **However, we believe there is now a risk that the proposed NHS restructure could destabilise these relatively new local arrangements, putting children at increased risk of harm.**

The Health and Care Bill proposes a major restructure that will amalgamate over 100 Clinical Commissioning Groups (CCGs) into 42 Integrated Care Boards (ICBs). As a result, CCGs statutory safeguarding responsibilities will be transferred to ICBs^{vii}.

We believe the Government must act to ensure that ICBs understand their role as a safeguarding partner and that this restructure does not have a negative impact on the services that can help keep children safe. Instead, the bill should be used as an



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opportunity to strengthen safeguarding arrangements by setting out clear requirements and responsibilities for Integrated Care Boards.

In 2020-21, there were 536 incidents involving the death or serious harm of a child due to abuse or neglect. Compared to the previous year, 188 more children died due to abuse and neglect^{viii}. During the Second Reading of the Bill in this House, many speeches reflected the tragic nature of young Arthur Labinjo-Hughes' death, a six-year-old boy who suffered prolonged abuse and was murdered by the very people who were supposed to keep him safe. Multi-agency working is at the heart of child protection and the bill represents an immediate opportunity to strengthen this aspect of the system.

We are supporting this amendment that would require new regulations that specify how ICBs should carry out their duties as child safeguarding partner. While the statutory guidance in *Working Together to Safeguard Children* already sets out the responsibilities of the safeguarding partner, we believe a more robust legislative approach is needed. Setting out the requirements on Integrated Care Boards in secondary legislation will provide absolute clarity to local health partners on the critical importance of the safeguarding partnership and send an important signal about just how crucial Parliament believes this issue to be.

A national accountability framework for improving health outcomes for children

AM 141 - Baroness Tyler, Baroness Finlay, the Lord Bishop of London, Lord Shinkwin

Clause 20, page 25, line 31, at end insert –

"(3A) In conducting a performance assessment, NHS England must assess how well the integrated care board has identified and met the needs of children and young people aged 0-25.

"(3B) For the purposes of carrying out the assessment in subsection 3A, NHS England must publish a national accountability framework for children and young people."

Explanatory Statement: This amendment would require NHS England to assess how well an integrated care board has met children and young people's needs in relation to a national accountability framework they have responsibility for publishing.

It is vital for the government's ambition to reduce health inequalities and improve prevention that Integrated Care Boards are focused on improving health outcomes for children. This will require local prioritisation of children, supported by a national accountability framework that helps local systems to meet these goals and acts where they are not delivering. With new structures in the NHS there is a real opportunity to address previous inadequacies in the commissioning of children's health services but without strong accountability this opportunity may be lost.

Clause 20 of the bill gives NHS England a crucial role in holding local systems to account: new section 14Z57 will require NHS England to conduct and publish an annual performance assessment of each Integrated Care Board. This assessment must include how well the Integrated Care Board has discharged its duties concerning the

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improvement in quality of services, on reducing inequalities, and the extent of its public involvement and consultation. We believe there is a strong case for including an emphasis on improving children's outcomes within this assessment.

However, we believe that an assessment of how well the system meets the needs of children is not enough – local systems need a clear accountability framework so they that they know what they will be assessed against. Currently, the absence of a single national accountability framework for children's health, or a wider cross-government children's strategy, means local systems find themselves pulled in different directions by different government initiatives and separate pots of funding. **We believe that the priorities need to be clearer and more co-ordinated from central government to allow strong policy responses from local systems.**

As well as focusing local systems on improving long-term outcomes for children, this more integrated approach to accountability can be a crucial way to reflect and reinforce the wider government agenda for children. This includes healthy development in the first 1001 days, improving provision for children with long-term health needs, delivering integrated services for disabled children and those with special educational needs, and strengthening outcomes for children in the social care system.

Ensuring the needs of children are prioritised within local strategies

AM151 - Baroness Tyler; Baroness Finlay; Lord Farmer; Lord Shinkwin

Clause 21, Page 29, line 30, at end insert–

"(1A) In preparing a strategy under this section, an integrated care partnership must include specific consideration of how it will meet the needs of children and young people aged 0-25."

Explanatory Statement: This amendment would require an integrated care partnership to specifically consider the needs of babies, children and young people when developing its strategy

Clause 21 sets out the requirement for Integrated Care Partnerships to prepare an integrated care strategy which details how a local area's needs will be met. Given that children have distinct health needs and experiences, and use a distinct health and care system, it is vital that ICSs are required to consider how they will meet the needs of children when developing this pivotal strategy. The proposed amendment would require ICP strategies to include specific consideration of the needs of children the area in order to deliver on the Government's vision of improving health outcomes and reducing inequalities.

Our organisations recognise the intention of the bill is to provide local flexibility however, our experience is that where the emphasis in legislation and in health structures is on adults, children are not considered when it comes to implementation. For example, analysis by Young Minds¹ found that 77% of Sustainability and Transformation Partnerships (STPs), the precursors to ICSs, failed to sufficiently consider the needs of children. We do not want to see this replicated in the new ICS structure.

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The proposed amendment provides the necessary safeguard to ensure children will receive equal priority within ICSs while allowing flexibility for ICSs to determine how to respond to the needs of their local population.

When developing local strategies, we believe ICPs should include:

- **How they listen to children's voice.** If an ICS is not listening to the voices of children and parents, they will not be able to meet children's needs effectively. It is vital that the voices of children, young people and parents/carers are heard when developing the ICP strategy. The strategy must also set out how this approach will be embedded throughout the ICS and how barriers to engaging 'seldom-heard' voices will be removed. This must include a commitment to include the voices of disabled children and capture the voice of very young children through proxy means.
- **Plans for developing the children's workforce.** ICSs must prioritise the development of a well-qualified children's workforce, enabling them to acquire the skills and experience needed to support and protect the babies, children and young people they work with. The strategy must therefore consider the capacity and skillset required in the workforce to provide consistent high-quality and integrated care which meets children's needs. Children's health workforce mapping and modelling should be joined up across the NHS, local government, voluntary and community sector (VCS) and education settings to put the children's journey and care at the centre.
- **How they will deliver against the national priorities.** This is set out in the proposed amendment for a national accountability framework above.

Requiring the Care Quality Commission to work jointly with Ofsted to plan and conduct reviews into provision of children's health and social care

AM162 – Baroness Tyler; Baroness Finlay

Page 37, line 22, at end insert—

"(1A) The Commission must also conduct reviews of the provision of relevant health care, and children's social care, within the area of each integrated care board.

(1B) In conducting reviews under subsection (1A) the Commission must plan reviews jointly with Ofsted."

Explanatory statement

This amendment would require the Care Quality Commission to work jointly with Ofsted to plan and conduct reviews into the provision of health and children's social care in integrated care board areas.

Vulnerable children are at considerable risk of going unnoticed and falling through the gaps between health, education and children's social care provision. This issue was highlighted in Chapter Four of the Lords Public Services Committee report on the role of public services in addressing child vulnerability. As part of the Committee's inquiry,

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evidence was taken from Dr Rosie Benneyworth, Chief Inspector of Primary Medical Services and Integrated Care at the Care Quality Commission (CQC) and Amanda Spielman, HM Chief Inspector at Ofsted. It found that **inspectorates do not work closely enough together or have an integrated approach.**^{ix}

CQC have called for the Health and Care Bill to give it the "ability to look at care of children across all settings" as part of its regulation of Integrated Care Systems (ICSs) and have explained that its ambitions were "wider than SEND and safeguarding" and that it wished to "focus on reducing health inequalities" by holding to account ICSs for poor commissioning decisions, providers for insufficient collaboration and local authority leaders for failing to meet children's needs.^x

The Health and Care Bill should give CQC and Ofsted joint powers to hold ICSs, service providers and local decision-makers accountable for inequalities in children's health outcomes.

Regulations and statutory guidance on babies, children and young people

AM177 - Baroness Tyler; Lord Bichard; Lord Hunt; Baroness Bennett

After Clause 40 insert the following new Clause -

"(1) The Secretary of State must publish regulations on how integrated care systems must meet the needs of babies, children and young people aged 0 to 25.

(2) The Secretary of State must publish guidance on how integrated care systems should meet their obligations under subsection (1).

(3) The Secretary of State must lay a copy of the guidance before each House of Parliament.

(4) Integrated care systems must act in accordance with the guidance in subsection (2)."

Explanatory statement

This Clause would require the Secretary of State to lay regulations and publish guidance on how integrated care systems should meet the needs of babies, children and young people aged 0-25. This would also require integrated care systems to act in accordance with guidance.

At Committee Stage in the House of Commons, the Minister for Health committed that the government would develop "*bespoke guidance for Integrated Care Systems on meeting the needs of babies, children and young people*". Given that ICSs will deal with many competing priorities, and that the needs of children are not often given priority in health services, this is an important step forward. We warmly welcomed this commitment and would like to thank officials from the Department for Health and Social Care who are engaging with us in positive discussions on this issue.

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However, we are concerned that **if this guidance is not statutory, holding ICSs to account with regards to their responsibilities for children's services would be impossible.** This amendment would do a number of things to ensure that babies, children and young people remain at the heart of ICSs for years to come.

- First, it would ensure that the needs of children are set out in regulations, allowing for Parliamentary scrutiny.
- Secondly, it would put the Minister's commitment to bespoke guidance on the face of the bill and would require it to be laid before each House of Parliament, ensuring that future Secretaries of State would be required to maintain it
- Finally, it would require ICSs to act in accordance with the guidance, providing much needed accountability.

Using the NHS identification number as a single unique identifier for children

AM307 - Baroness Tyler; Baroness Finlay

After Clause 87 insert the following new Clause -

"Using the NHS identification number as a single unique identifier for children

Within one year of the passing of this Act, the Secretary of State must publish plans for using the NHS number as a single unique identifier for children in health and care."

Explanatory statement

This amendment would require the Secretary of State to develop and publish plans on how the NHS number could be used as a single unique identifier for children, to better facilitate data and information sharing.

The absence of a single unique identifier for children makes identification of children who are in touch with multiple systems extremely difficult and hinders joined-up support. This new clause would seek to address that problem by requiring the Secretary of State to publish plans to use the NHS number as a single unique identifier for children.

Everyone in England and Wales is assigned a unique NHS number at birth, or after the first time they interact with NHS services, and their NHS number will be valid for life. Currently, the NHS number is used to share information on healthcare patients within electronic healthcare records. However, we know that **children and young people are frequently in contact with other agencies and services and, more often than not, these settings all use different identifiers.**

The House of Lords Public Services Committee's report on the role of public services in overcoming child vulnerability highlighted that:

"A common concern raised by witnesses was that, in most local areas, services working with children are unable to match unique pupil identifiers on the

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national pupil database with children's NHS numbers. This limits the ability of early intervention services to reach the most vulnerable children"^{ix}.

Use of the NHS number as a unique identifier for children could reduce the risk of incorrect identification; improve multi-agency working and care pathways; ease the transition into adulthood; and enable better data collection, allowing for greater research capabilities, which in turn informs understanding of population health needs and service planning and policy development.

For more information, please contact:

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ⁱ Royal College of Paediatrics and Child Health (2018) *Child health in 2030 in England*

https://www.rcpch.ac.uk/sites/default/files/2018-10/child_health_in_2030_in_england_report_2018-10.pdf

ⁱⁱ <https://www.england.nhs.uk/wp-content/uploads/2021/09/B0898-300921-Better-Care-Fund-Planning-Requirements.pdf>

ⁱⁱⁱ <https://www.gov.uk/government/publications/better-care-fund-policy-framework-2021-to-2022/2021-to-2022-better-care-fund-policy-framework#national-condition-4>

^{iv} Ibid.

^v See work of the NHS Future Forum and the Children and Young People's Health Outcomes Forum

^{vi} <https://committees.parliament.uk/publications/7881/documents/81834/default/>

^{vii} Children's Act (2004), amended by the Children and Social Work Act (2017)

^{viii} DfE (2021) *Serious incident notifications, Financial Year 2020-21*

^{ix} <https://committees.parliament.uk/publications/7881/documents/81834/default/>

^x Ibid.

^{xi} Ibid.