



House of Commons
Education Committee

**Educational poverty:
how children in
residential care have
been let down and
what to do about it:
Government response
to the Committee's
Second Report**

**Third Special Report of Session
2022–23**

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The Education Committee

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Contacts

All correspondence should be addressed to the Clerk of the Education Committee, House of Commons, London, SW1A 0AA. The telephone number for general enquiries is 020 7219 2370; the Committee's email address is educom@parliament.uk.

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Third Special Report

The Education Committee published its Second Report of Session 2022–23, *Educational poverty: how children in residential care have been let down and what to do about it* (HC 57) on 8 July 2022. The Government's response was received on 26 October 2022 and is appended below.

Appendix: Government Response

1. The Education Select Committee published its report, 'Educational poverty: how children in residential care have been let down and what to do about it' on 8th July 2022. This document sets out the government's response.

2. In its report, the Committee's recommendations are identified by italic text. In this response, the recommendations have been grouped together according to subject matter, with the relevant paragraph number where each recommendation appears in the report detailed below.

Introduction

3. The government welcomes the Committee's report into the educational and career outcomes of children in residential care. These children are amongst the most vulnerable in society; not only are they without the support that living as part of a family usually provides, but many enter care with complex needs—often a direct result of their pre-care experience, with abuse or neglect being the biggest factors for children entering care. Despite incredibly difficult circumstances, we know that looked-after children can and do go on to achieve when provided with the right support. It is incumbent across all of society to support these children to the highest level possible. Acting as their parents, the state must play a proactive and robust role to ensure that they are provided with all they need to redress the harm they have faced and to ensure that they are able to thrive and succeed. While we have come a long way in recent years to improve the lives and outcomes of children in residential care, there remains more to be done, and the Committee's report has highlighted a number of areas for further focus that we are determined to address.

4. We know looked-after children tend to have significantly lower educational outcomes than their non-looked-after peers, and the disadvantage they experience can continue to have an adverse effect into adulthood. In 2021 at Key Stage 4 (ages 14–16), the average Attainment 8 score for children looked-after for 12 or more months was 23.2 compared to 50.9 for all children,¹ and data for the year ending March 2021 show that 41% of care leavers aged 19–21 are Not in Education, Employment or Training (NEET), compared to 12% of young people in the general population.² As their corporate parent, it is incumbent on local authorities, and by extension central government, to place a special focus on supporting looked-after children, alongside other children receiving support from social care, to ensure that through education, and others around them, they are able to learn and achieve.

1 <https://explore-education-statistics.service.gov.uk/find-statistics/outcomes-for-children-in-need-including-children-looked-after-by-local-authorities-in-england/2021>

2 <https://explore-education-statistics.service.gov.uk/find-statistics/children-looked-after-in-england-including-adoptions/2021>

5. The introduction of Virtual School Heads (VSHs), through the Children and Families Act 2014, has had a significantly positive impact on supporting looked-after children. Their success in this area is regularly noted in Ofsted's inspection of local authority children services (ILACS) reports. While these outcomes still have further to go to reach parity with average outcomes for all children, the statistics show that looked-after children's outcomes have been improving over recent years, supported by the dedicated work of VSHs—who, in partnership with schools and social workers, are helping to level the playing field. Between 31 March 2013 and 31 March 2020 permanent exclusions for looked-after children fell from 0.14% to 0.05%,³ and in the 2020/21 academic year, overall absence amongst children that have been looked-after for at least 12 months was as low as 'all other children'.

6. Their impact, on education outcomes for looked-after children, is evident when compared to other children supported by children's social care. In 2019, progress of looked-after children in reading, writing and maths at Key Stage 2 was significantly higher than progress for children in need, with the most significant difference in reading of -0.2 for looked-after children compared to -1.5 for children in need (the average for all children was 0.0). Additionally, progress at Key Stage 4 of looked-after children was better than children in need, with progress 8 scores of -1.23 for looked-after children compared to -1.49 for children in need (the average for all children was - 0.07).⁴

7. These improvements to the educational outcomes of looked-after children are, in large part, why we are taking forward the key recommendation of the government's Review of Children in Need⁵ to extend the support provided by VSHs beyond this cohort to all children with a social worker. The Department for Education ("the department") provided funding and worked with the National Association of Virtual School Heads (NAVSH) and the Association of Directors of Children's Services (ADCS) to introduce this extended role in the 2021/22 academic year. The department has also been piloting extending support to looked-after children and care leavers in post-16 education. We had a successful first year, in 2021/22, providing post-16 Pupil Premium Plus style funding in 30 local authorities. We are looking towards building further evidence to understand how to implement these programmes as effectively as possible for the longer term.

8. The Committee makes its recommendations at a time when the department is progressing a significant programme of work to improve the educational outcomes of looked-after children, and to improve the children's social care and school systems more broadly. In March, the department published the Schools White Paper,⁶ launched a consultation of the SEND and Alternative Provision Green Paper,⁷ and published the Competition and Markets Authority (CMA) study into children's social care placements.⁸ In May, Josh MacAlister, who was appointed by the Secretary of State to lead an independent review of children's social care (the 'care review'), published his review's final report.⁹

3 <https://explore-education-statistics.service.gov.uk/find-statistics/outcomes-for-children-in-need-including-children-looked-after-by-local-authorities-in-england/2021>

4 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/884758/CLA_Outcomes_Main_Text_2019.pdf.

5 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/809236/190614_CHILDREN_IN_NEED_PUBLICATION_FINAL.pdf

6 <https://www.gov.uk/government/publications/opportunity-for-all-strong-schools-with-great-teachers-for-your-child>

7 <https://www.gov.uk/government/consultations/send-review-right-support-right-place-right-time>

8 <https://www.gov.uk/government/publications/childrens-social-care-market-study-final-report>

9 <https://childrensocialcare.independent-review.uk/>

This was followed by the publication of the national Child Safeguarding Practice Review Panel's review into the murders of Arthur Labinjo- Hughes and Star Hobson (the "child safeguarding panel review").¹⁰ Using the care review as a roadmap, we are committed to delivering once in a generation reform, so that the system provides high quality help, at the right time, with tangible outcomes.

9. Following publication of the care review, the government set out the actions we are taking to improve children's social care ahead of publishing a detailed and ambitious implementation strategy; these actions include:

- establishing a National Implementation Board of people with experience of leading transformational change, to challenge the system to achieve the full extent of government's ambitions for children. The Board includes:
 - His Majesty's Chief Inspector at Ofsted, Amanda Spielman;
 - computer scientist Sir Anthony Finkelstein CBE;
 - Chief Social Worker for Children and Families for England, Isabelle Trowler;
 - Chief Executive of Together for Children and Director for Children's Services in Sunderland, Jill Colbert OBE;
 - England's Children's Commissioner, Dame Rachel De Souza DBE;
 - President of the Association for Directors of Children's Services, Steve Crocker OBE;
 - Chief Executive of Leeds City Council, Tom Riordan CBE; and
 - three board members with direct experience of the care system will be appointed ahead of the first full board meeting to remind us of the promise of delivery and the cost of delay;
- working with the sector to develop a National Children's Social Care Framework, which will set a clear direction for the system and point everyone to the best available evidence for how to support children and families;
- setting out robust plans to refocus the support social workers receive early on—with a particular focus on child protection given the challenging nature of this work;
- taking action to drive forward the care review's three data and digital priority areas, co-designing solutions and improvements with local government and sector experts;
- prioritising working with local authorities to recruit more foster carers;
- conducting research into the children's homes workforce, engaging with the sector and experts to develop proposals to improve oversight of the market;

10 <https://www.gov.uk/government/publications/national-review-into-the-murders-of-arthur-labinjo-hughes-and-star-hobson>

- developing further the offer of support to safeguarding partners and clarify their roles and responsibilities through guidance—looking at recommendations from both the child safeguarding panel review and the care review; and
- forming a new Child Protection Ministerial group involving colleagues across Whitehall to ensure that safeguarding is championed at the very highest levels.

10. Additionally, we have set out the government's ambition to take immediate action now and to deliver an ambitious and detailed implementation strategy. This will take account of the Independent Review of Children's Social Care, the child safeguarding panel review and the CMA study.

11. A number of the Committee's recommendations closely relate to issues where recommendations have been made by the care review. This includes, for example, recommendations relating to Ofsted's inspection framework for local authority children's services (ILACS). As we are keen to consider all related recommendations in a cohesive, holistic manner, in such instances we will consider the Committee's recommendations as we progress the wider work of the department in these areas.

12. As we take forward the government's ambitious programme of reform, we will look for further opportunities to strengthen the measures in place supporting the educational achievement of looked-after children and children with a social worker, including through Ofsted inspections, the role of the Virtual School Head, and other measures, so that every child and young person is supported to reach their fullest potential.

Responses to the Committee's recommendations regarding data

The Department must annually publish statistics on looked-after children, disaggregated by placement type, including key metrics on gender, ethnicity, age, special educational needs, and rates of out-of-area placements. (Para 2, pg 44 of the Committee's report)

The Department must urgently tackle the black hole of data on the educational outcomes of children in children's homes. It must commit to annual data publication through a data dashboard on outcomes for looked-after children which is disaggregated by care placement type, including flagging when the child is living in unregulated provision. We would expect this to include data on progress, attainment, attendance, suspensions and exclusions. (Para 4, pg 44 of the Committee's report)

The Department must publish education, employment and training outcomes data disaggregated by care placement type. The absence of disaggregated data is a barrier to scrutiny and accountability and hinders the development of targeted, evidence based interventions. (Para 47, pg 50 of the Committee's report)

13. Data is of critical importance to having a clear picture and understanding of the experiences and outcomes of looked-after children. We will publish the recommended breakdowns in the 2023 releases.

14. Improving data was one of the government's commitments made in May 2022, upon publication of the care review. We are setting up a new National Implementation Board of sector experts and people with experience of leading transformational change and the care system. Its role is to advise, support and challenge us on the delivery of our reform programme, which will include how to improve the way data is collected, used, and shared, including what data is needed to support change in the system.

15. Currently, statistics on looked-after children and their outcomes are published annually in two National Statistical releases.¹¹ Whilst not all of the breakdowns recommended above are included in these publications, they are derivable from the data, and we make this available to external users on request. The looked-after children collection is a large child-level dataset from which many breakdowns can be produced and so when publishing data releases we need to make decisions on which provide the most insight. This is continuously changing as we respond to user needs.

16. Publication of the recommended breakdowns, in the 2023 releases, will be done in conjunction with the department's policy on confidentiality¹² which may result in us needing to suppress low numbers at the proposed level of granularity.

17. We have committed to publishing additional stability analysis, previously carried out by the Office of the Children's Commissioner, that will help shine a light on the placement experience of children in care. The department's first release of this data will be published in November 2022.

Response to the Committee's recommendation regarding the extended role of Virtual School Heads for children with a social worker

The new Virtual School Head duty to promote the education of children with a social worker must be given a statutory footing by 2023, with statutory guidance to accompany this. The statutory powers of Directors of Children's Services towards the education of children with a social worker should be delegated to the Virtual School Head. Local authorities must be held accountable via Ofsted for allocating education funding for children with a social worker, and tracking its impact on their education outcomes. (Para 6, pg 44 of the Committee's report)

18. The extended role of the Virtual School Head (VSH) was a key recommendation and commitment from the government's 2019 Review of Children in Need¹³—a recommendation made all the more important given the disproportionate impact of the pandemic on this group of children and young people.¹⁴ It was introduced on a non- statutory basis in September 2021, supported by £16.8 million of new annual funding for local authorities.

19. Longer-term plans for the extended role, including whether to put it on a statutory footing, are under active consideration, but we recognise that the role is still relatively new, having been implemented for one full academic year. We need to ensure (as noted by Ofsted in their evidence to the Committee) that the role “is not to the detriment of looked-after children” and further build the evidence base—including understanding in greater detail the activities and responsibilities undertaken by VSHs, as well as the funding needed, to enable the role to be established effectively.

20. The government's decisions will be informed by the work of our independent research partner, the Rees Centre at the University of Oxford, who have been commissioned

11 <https://explore-education-statistics.service.gov.uk/find-statistics/children-looked-after-in-england- including-adoptions>

<https://explore-education-statistics.service.gov.uk/find-statistics/outcomes-for-children-in-need- including-children-looked-after-by-local-authorities-in-england>

12 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/77_3124/ External_confidentiality_policy.pdf

13 <https://www.gov.uk/government/publications/review-of-children-in-need>

14 <https://www.gov.uk/government/publications/pupils-progress-in-the-2020-to-2022-academic-years>

by the department to evaluate the programme. Research findings from the first phase of delivery will be published shortly and we will consider the Committee's report and recommendations for the future of the role in the round.

21. Further detail on the role of Ofsted in inspecting local authority children's services (ILACS) is included in response to the next recommendation (from para 8, pg 45 of the Committee's report), below at paragraph 22.

Response to the Committee's recommendation regarding accountability for outcomes and funding

Local authorities must annually report to Ofsted, accounting for how every penny of their Pupil Premium Plus grant is being spent. The Department must strengthen its guidance on the grant, stipulating that all funding must be allocated via the Virtual School Head, and the Virtual School Head be awarded powers to sign off on the use of the grant. Local authorities must evidence that the grant is being spent on specific educational interventions and not being used to plug funding gaps elsewhere. Ofsted's inspections of local authority children's services must scrutinise the measurable impact Pupil Premium Plus is having on progress and outcomes for looked-after children. Where local authorities are not spending Pupil Premium Plus allocations within the terms of grant, or where it is having insufficient impact on outcomes, local authorities should face clear consequences via capped Ofsted judgements. (Para 8, pg 45 of the Committee's report)

22. The department's statutory guidance *Promoting the education of looked-after children and previously looked-after children*,¹⁵ is clear about Pupil Premium Plus (PP+), stating that, "VSHs, working with education settings, should implement PP+ arrangements for all looked-after children," and "All VSHs should publish a clear policy on their use of PP+, including how they decide the level and use of top-sliced funding."

23. Further detail is set out in *Pupil premium: virtual school heads' responsibilities*¹⁶ guidance—which states that "VSHs are responsible for managing pupil premium funding for the children they look after" and further outlines that any funding retained centrally should not be used to fund services that the local authority is responsible for funding.

24. The guidance documents require the publication of an annual report by VSHs and specify that this should include details of how the Pupil Premium funding has been managed by the VSH, and evidence of how the funding has been used to support the achievement of the children looked-after by their local authority.

25. Ofsted's framework for inspecting local authority children's services (ILACS)¹⁷ includes judgement on the experiences and progress of children in care and care leavers. Inspection reports routinely offer assessment of the effectiveness of individual VSHs in their narrative on such judgement—with inspectors requesting the annual report of the VSH and the data used by the VSH and the local authority to monitor the attainment, progress, attendance, exclusion, employment and training of children in care and care leavers. As part of this inspection, a schools HMI carries out two days of fieldwork, and they will usually interview the virtual school headteacher.

15 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683556/Promoting_the_education_of_looked-after_children_and_previously_looked-after_children.pdf

16 <https://www.gov.uk/guidance/pupil-premium-virtual-school-heads-responsibilities>

17 <https://www.gov.uk/government/publications/inspecting-local-authority-childrens-services-from-2018/inspecting-local-authority-childrens-services>

26. We will consider further changes to the guidance and specifically whether it should stipulate that the VSH must sign-off on all use of the funding and whether more detailed financial information should be included in the Virtual School Annual Report provided to Ofsted. In doing so we need to be mindful as to whether the addition of these processes could have any unintended consequences on VSHs' capacity to effectively carry out their wider role. In addition, and also in the context of the upcoming implementation strategy, we are considering the care review recommendations for greater accountability for VSHs on the educational attainment of children in care and care leavers up to age 25 through Ofsted's ILAC framework.

Responses to the Committee's recommendations regarding post-16 funding and support

The case for extending Premium Plus is clear. The Department must extend Pupil Premium Plus funding beyond age 16 to ensure looked-after pupils are receiving the support they deserve to succeed throughout their education. (Para 10, pg 45 of the Committee's report)

When rolled out nationally, post-16 Pupil Premium Plus funding must be calculated using the same funding formula as for the pre-16 cohort. Virtual School Heads must ensure Post-16 Pupil Premium Plus funding is used on specific, evidence-based interventions to improve progress and outcomes of looked-after pupils. Given that 41% of care leavers aged 19–21 are not in education, employment or training, Virtual School Heads should also ensure post-16 Pupil Premium Plus is being used to commission careers mentoring and advice. (Para 11, pg 45 of the Committee's report)

27. We recognise the crucial importance of looked-after children and young people, as well as care leavers, receiving the right level of support to be successful in all stages of their education. Looked-after children can have more difficult transitions into post-16 education, take longer to progress, and often study lower-level qualifications compared to their non-looked-after peers. They are around six times more likely than average to not be in education or employment at any point between the ages of 16–24, and over three times more likely to be on out-of-work benefits.¹⁸

28. For this reason, in October 2021 the department launched a £3 million pilot in 30 local authorities to test proof of concept of extending Pupil Premium Plus style funding support to looked-after children and care leavers in further education. The department agrees that funding should be used to deliver specific, evidence-based interventions such as employing additional staff in FE colleges and training for FE leads and tutors to improve progress and outcomes, and the pilot has been testing this approach.

29. The department has commissioned the Rees Centre at Oxford University to evaluate the pilot and their report will be published shortly. The evaluation will provide insights to inform how best to take forward. We will provide further details about the continuation of the funding in the autumn.

18 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1076705/Post-16_educational_and_employment_outcomes_of_children_in_need.pdf

Careers and employability outcomes for care-experienced young people up to age 25 should be a core part of the Virtual School Head remit. Every Virtual School should have a designated careers lead whose function is to promote and support the career outcomes of looked-after young people. This should be done through the extension of Pupil Premium Plus funding past age 16, which would resource career leads to commission bespoke careers mentoring and support for every looked-after child from primary up to age 25. Virtual School Heads should work with local charities and businesses to identify community support and mentoring opportunities. (Para 48, pg 50 of the Committee's report)

30. The Children Act 1989 sets out a statutory duty on local authorities to ensure that all children in care have an effective and regularly reviewed Personal Education Plan (PEP) as part of their Care Plan. The PEP is dedicated to covering the full range of education and development needs of a child—as specified in the ‘Care Planning, Placement and Case Review (England) Regulations 2010’.¹⁹

31. The VSH statutory guidance, *Promoting the education of looked-after children and previously looked-after children*²⁰, states that the PEP is the “joint responsibility of the local authority that looks after the child and the school.” Relevant professionals including social workers, VSHs and designated teachers should work closely to ensure the PEP accurately reflects the needs of the child, and that this should include careers advice and guidance, with discussions about longer term goals starting early and, ideally, well before Year 9 at school.

32. Local authorities are required to provide every care leaver with a Personal Adviser, to age 25, to help them make a successful transition to independence, which includes support with education, employment, and training (EET). Local Authorities are also under a duty to support care leavers to engage in EET, including giving them a £2,000 bursary if they go to university. Care leavers are also a priority group for the 16–19 bursary (up to £1,200 a year) if they are in FE; and a £1,000 bursary if they start an apprenticeship. Local authority leaving care teams work with a wide range of local partners to provide care leavers with access to mentors, community-based organisations and organisations that provide targeted support to engage in education, employment, and training. The care leaver covenant also secures similar offers of support for care leavers across England.

33. However, whilst current guidance and legislation does provide support for care leavers up to age 25 (including those with SEND), we have noted the Committee's recommendations and will give them purposeful consideration as part of the department's work to respond to the care review's recommendation for VSHs to be held accountable for educational attainment for looked-after children and care leavers up to age 25 through Ofsted's ILACS framework.

¹⁹ <https://www.legislation.gov.uk/uksi/2010/959/contents/made>

²⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683556/Promoting_the_education_of_looked-after_children_and_previously_looked-after_children.pdf

Responses to the Committee's recommendations regarding admissions and type of school placements

The Department must take greater responsibility for policing the school admissions system to ensure it is working in the interests of looked-after children. There must be a clear sanctions mechanism in place for schools who consistently refuse or delay admissions of looked-after children. The lever for this accountability should be the impact on the school's Ofsted judgement. Where schools are refusing to admit looked-after children, this should be a limiting factor for their Ofsted rating. (Para 13, pg 45 of the Committee's report)

Where the involvement of the Schools Adjudicator is required for admissions decisions for looked-after children, these decisions must be made within a maximum 20-day timeframe. (Para 19, pg 46 of the Committee's report)

34. We agree the school admissions system needs to work in the best interests of children in care, ensuring they are supported to succeed in education and are admitted to school without delay. That is why the statutory *School Admissions Code*²¹ (the "Code") requires all school admission authorities, including those of academies, to give the highest priority in their oversubscription criteria to looked-after and previously looked-after children. This requirement also applies to grammar schools and schools with a religious character (paragraphs 1.20 and 1.37 of the Code).

35. Additionally, following recent changes to the *Code*,²² other children that are or have recently been supported by a social worker, including children either subject to or having previously had (in the previous 12 months) a Child in Need Plan or a Child Protection Plan, are eligible for placement via Fair Access Protocols for securing school places for vulnerable children in-year.

36. More generally, the school admissions system is governed by legislation, including the Code. The admission authorities of all mainstream state schools, including those of academies, are required to comply with the Code. Anyone who considers that a school's admission arrangements are unfair or unlawful may submit an objection to the Schools Adjudicator. Where the Adjudicator finds that a school's admission arrangements are unlawful, the admission authority must revise their admission arrangements within two months of the decision (or by 28 February following the decision, whichever is sooner), unless an alternative timescale is specified by the Schools Adjudicator. The Adjudicator's decisions are binding and enforceable.

37. Where schools refuse to admit looked-after children, they can be directed to do so. Local authorities have the power to direct the admission authority for any maintained school in England to admit a child who it looks after, even if that school is full. Where a local authority considers that a particular academy will best meet the needs of a looked-after child, it can ask the Secretary of State to intervene. Under an academy's funding agreement, the Secretary of State has the power to direct the academy to admit a child, including a looked-after child. Information published by the Office of the School's Adjudicator²³

21 [School admissions code 2021 \(publishing.service.gov.uk\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001050/School_admissions_code_2021.pdf), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001050/School_admissions_code_2021.pdf

22 In September 2021, a new School Admissions Code came into force, to improve clarity, timeliness, and transparency of the in-year admissions process, to ensure all children, especially the most vulnerable, can access a school place as quickly as possible.

23 [OSA annual report 2021 \(publishing.service.gov.uk\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001050/School_admissions_code_2021.pdf)

showed that in 2021, they advised on 8 local authority requests that the Secretary of State direct an academy to admit a looked-after child, of which 4 were withdrawn and in the remaining 4 cases, the recommendation was that the academy should admit.

38. In 2021 the Adjudicator received only one direction case for a looked-after child into a maintained school. These cases are prioritised within and make up a small proportion of the Adjudicator's overall caseload. For maintained schools, the vast majority of directions are dealt with locally and do not need to come to Adjudicators.

39. Should a case come to the Adjudicator, in order to make lawful and fully informed decisions about what is in a child's best interest, Adjudicators must take into account all relevant factors. Adjudicators are reliant on schools and local authorities to provide the information required in a prompt and timely manner.

40. For both direction and direction advice cases, it is the expectation that schools and local authorities provide responses to requests for information within one week. The average time a direction or direction advice case handled by an Adjudicator takes is currently less than 20 working days, and in the instances where a case takes longer, it is always a result of relevant parties not providing information requested by the Adjudicator promptly. Even so, the longest time a case was with the Adjudicator last year was 34 days (and not the several months cited in the report). As a result, setting a maximum 20-day timeframe for the Adjudicator would be unlikely to improve the speed of decisions.

41. We agree that looked-after children must receive appropriate education that meets their needs, without interruption or delay. As the Committee's report notes, we have given a commitment in the Schools White Paper to consult on a new statutory framework to govern children's movements into and between schools, along with a backstop power for local authorities to direct schools to admit children where necessary and a trust is refusing to do so. These proposals, alongside a number of other measures to reform the admissions framework, form an important part of the government's plans to strengthen the system by which vulnerable children, including looked-after children, are found school places. The proposed new framework would ensure that all schools, trusts, and local authorities work collaboratively, in the best interests of the child. On the rare occasions where the collaborative process to place a child fails, the backstop power would enable local authorities to direct admission into academies as well as into maintained schools. We believe these proposals will lead to more cases being resolved more quickly, without the need for a direction. Schools Adjudicators would only be involved where a school appeals against a direction. More detail of the department's next steps towards implementing this proposal is provided in response to the recommendation (from para 15, pg 46 of the Committee's report) below at paragraph 43.

42. There are sufficient powers in place when schools refuse to admit looked-after children including the ability to direct the admission of a looked-after child. There are therefore no plans to seek to extend Ofsted's statutory remit for school inspections to include an assessment of admissions.

The Schools White Paper sets out a new backstop power for local authorities to direct trusts to admit children. This is a very welcome step forward. It would enable the local authority to immediately secure an education place for the looked-after child, putting the onus on the school to justify its rationale for appealing against admitting the child. We call on the Department to introduce this new backstop power without delay. (Para 15, pg 46 of the Committee's report)

The 2022 Schools White Paper proposes a new statutory framework to govern children's movements to ensure that education placements are made in the child's best interests, especially where the child is vulnerable. Looked-after children, who are particularly at risk of moving between schools and missing education, must be prioritised within this new framework. (Para 27, pg 47 of the Committee's report)

43. We are committed to taking forward these proposals as soon as possible. However, we want to ensure that we get the details right and avoid any unintended consequences. We are working with stakeholders to refine the department's proposals and will undertake a formal public consultation in due course—to ensure all the proposals are coherent and will work effectively for both families and the sector. We know some elements of the proposed new system will require primary legislation, and this will be taken forward when an appropriate legislative opportunity arises.

44. As described earlier, the statutory *School Admissions Code* contains a number of provisions to support the school admission of looked-after children, including requiring all school admission authorities to provide looked-after children and previously looked-after children highest priority in their oversubscription criteria. We have no intention to change this going forward.

The Department must introduce a reporting and accountability requirement for local authorities to provide data on how many admissions of looked-after children have been contested or refused by schools. It should be made mandatory for local authorities to report all instances of schools blocking admissions to the Office of the Schools Adjudicator. This data must also be published annually by the Department. (Para 17, pg 46 of the Committee's report)

45. We agree that collection and publication of data provides an important avenue to understanding how local authorities and schools are fulfilling their duties in respect of looked-after children, including in school admissions. For this reason, in their annual report on admissions for all schools in their area, local authorities are required to report on how well the interests of looked-after children are served in the admissions system. These reports are published on local authority websites and provided to the Office of the Schools Adjudicator to inform the Chief School Adjudicator's annual report to the Secretary of State which is published on GOV.UK.

46. Data in relation to the refusal of places for any pupil during the normal admissions round (usually reception and year 7) is not collected as a matter of routine and we believe doing so for all pupils would add considerable burden to local authorities. However, the *School Admissions Code* requires admission authorities of non-faith schools to give looked-after and previously looked-after children the highest priority in oversubscription criteria and for faith schools to give priority to looked-after and previously looked-after children of the faith before other children of the faith. This should mean that these children almost always secure one of their preferred schools in the normal admissions round.

47. The in-year admissions system is more challenging as some schools or year groups will already be full. When local authorities seek school places for looked-after children in-year they often do this outside of the usual in-year admissions process, to avoid delays and ensure the child can access the school place that is best for them. This will often involve contact and discussion with a number of schools in deciding which is best placed to meet the child's needs. Whether, at this stage, a school is merely providing relevant information, or is "contesting" an admission, would not always be clear, as the local authority may be gathering information, rather than actually asking the school to admit. Therefore, it would be difficult for a local authority to report on which schools are 'blocking' an application at this stage.

48. Where a local authority asks a school to admit a looked-after child in-year, the admission authority should do so, and if they refuse, they can be directed to admit. The Chief Schools Adjudicator's annual report contains data on the instances where the direction of a looked after child into a school is referred to the Office of the Schools Adjudicator and on the number of occasions the Secretary of State has sought advice from the Schools Adjudicator on a request for a direction into an academy school. The department has asked the Schools Adjudicator to ask local authorities to provide data on the number of times that they have had to use a power of direction to ensure admission of a looked after child into a maintained school. This will improve the data available on the instances where a school has attempted to 'block' the admission of a child.

The Department must make it a priority to collect and publish national data on how often school places are not being provided within the statutory 20 school days timeframe for looked-after children under an emergency care order. The lack of data means there is currently no visibility into the scale of the issue. (Para 37, pg 48 of the Committee's report)

49. Children placed in care under an emergency care order are likely to be particularly vulnerable and require intensive support from the state, including from both children's social care and education. Where it is determined that it is in the child's best interests to move schools, every effort must be made for an appropriate school place that meets the child's needs to be identified as quickly as possible and for the child to be moved into that new place with as little disruption to their education as possible.

50. Given the critical nature of these situations, the department agrees that an improved system of oversight and accountability is needed. The department will consider how this can best be achieved as part of its wider programme of work to strengthen the children's social care and school systems and this will form part of the department's implementation strategy.

Under section 497 of the Education Act 1996, the Secretary of State has the power to take legal action against local authorities who are not meeting their statutory duties relating to the provision of education. The Department must provide clearer guidance setting out how it will identify and sanction local authorities who are breaking the law in failing to secure school places for their looked-after children. The Department must also set out clearer guidelines on the responsibility of central government when an authority is non-compliant. (Para 14, pp 45–46 of the Committee's report)

51. If a local authority is not performing its duties under the Education Act 1996, then the department can intervene. However, there is a robust inspection framework in place that ensures local authorities are effectively meeting their statutory responsibilities and

enables the department to identify when support is needed to improve their performance. The current Ofsted framework for inspecting local authority children's services (ILACS), includes evaluation of the educational progress of children in care and care leavers. As part of the wider work to reform and strengthen the children's social care and school systems, the department will consider whether further guidance in these areas would be helpful.

Responsibility and accountability for getting looked-after children into their most appropriate local good or outstanding school should lie with the Virtual School Head.
(Para 21, pg 46 of the Committee's report)

52. We are currently working towards delivery of the proposals set out in the Schools White Paper²⁴, to raise standards in all schools, building a stronger and fairer school system so that every child in every part of the country can reach their potential. We want to spread the brilliance of the best trusts throughout the country and create a school system where every part has a clear role to play—all focused on delivering outstanding outcomes for children. To support delivery of this vision, we published an implementation framework²⁵ setting out the next steps towards the government's ambition for all schools to be in a strong trust by 2030, or with plans to join or form one.

53. Beyond the improvements underway for the school system, VSHs have clear responsibilities in this area. As noted in the responses above, VSHs have a statutory duty to promote the education of looked-after children, including with respect to school admissions, as outlined in the guidance for VSHs.²⁶ The statutory guidance details that VSHs are “responsible for supporting social workers to ensure timely provision of a suitable education placement for looked-after children.”

54. Guidance is clear that it is the responsibility of the VSH to ensure that admissions authorities understand the provisions pertaining to looked-after children in the *School Admissions Code*. Moreover, the local authority, as a corporate parent, cannot tolerate any delay or drift in respect of securing education placements which accommodate the assessed needs of looked-after children.

55. While the VSH has this statutory responsibility, there is equally a role that admission authorities play in the admissions process. The department, therefore, does not think it would be appropriate for VSHs to be held solely accountable for a looked-after child's school place. However, as noted above at paragraph 43 (in response to the recommendation from para 15, pg 46 of the Committee's report), the department has committed to consult on a new statutory framework to govern pupil movements, along with a backstop power for local authorities to direct schools to admit a child where a Trust is refusing to do so. The department expects that this framework will improve VSH's ability to carry out their responsibility in this area with greater consistency.

24 <https://www.gov.uk/government/publications/opportunity-for-all-strong-schools-with-great-teachers-for-your-child>

25 <https://www.gov.uk/government/publications/implementing-school-system-reform-in-2022-to-2023>

26 [Promoting the education of looked-after children and previously looked-after children \(publishing.service.gov.uk\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683556/Promoting_the_education_of_looked-after_children_and_previously_looked-after_children.pdf), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683556/Promoting_the_education_of_looked-after_children_and_previously_looked-after_children.pdf

56. With regard to education placements being in good or outstanding schools, we note that Ofsted's February 2021 report on the education of children living in children's homes²⁷ showed that these children were marginally less likely to attend good or outstanding education provisions (82 percent, compared to 84 percent for all children nationally). The department acknowledges that there is work to be done to ameliorate this situation including driving up standards of teaching and learning in all schools as set out in the Schools White Paper. However, the guidance is clear that there may be circumstances where it can be appropriate to place a looked-after child in a school judged by Ofsted as 'Requiring Improvement', for example where VSHs and social workers have evidence that the school is providing high quality support to its vulnerable pupils and will enable a looked-after child to make maximum progress.

57. Further, whilst a school's Ofsted judgement is a consideration when identifying a new school placement, in many circumstances it is most likely to be in the looked-after child's best interest to stay in the school that they already attend, if their education needs are being appropriately met. The statutory guidance for VSHs states that a "child's allocated social worker should do everything possible to minimise disruption to the child's education, whatever the child's age, and this should involve the VSH. Stability and continuity in education is important at all stages (...)." In terms of stability, the relationships that a child may have at the school they attend may be crucial in enabling them to manage the immense upheaval that will be taking place in their life outside of school as they are placed into care.

Ofsted must make outcomes for looked-after children a limiting judgement on a school. If a school is not delivering good or outstanding progress and outcomes for looked-after pupils, it should not be able to gain a good or outstanding judgement. Ofsted should amend its education inspection framework to reflect this. (Para 23, pg 47 of the Committee's report)

58. The government agrees that Ofsted's inspections should take full account of the provision and outcomes for the most vulnerable children. Under Ofsted's Education Inspection Framework (EIF), when making judgements, inspectors will always consider the experiences of the most disadvantaged pupils. Ofsted's school inspection handbook includes within its definition of disadvantaged pupils "looked after children" and "children who have left care through adoption or another formal route". In addition, it includes children in need of help and protection, receiving statutory local authority support from a social worker.

59. The EIF specifies that on inspection, inspectors will evaluate evidence of the impact of a school's curriculum, including on the most disadvantaged pupils, giving specific attention to the acquisition of knowledge and skills.

60. When making a judgement on the quality of education, inspectors will evaluate the extent to which leaders take on or construct a curriculum that is ambitious and designed to give the most disadvantaged learners the knowledge they need to succeed in life. The grade descriptors in the school inspection handbook highlight this.

27 [The education of children living in children's homes - GOV.UK \(www.gov.uk\), https://www.gov.uk/government/publications/the-education-of-children-living-in-childrens-homes/the-education-of-children-living-in-childrens-homes#where-children-living-in-childrens-homes-receive-their-education-findings](https://www.gov.uk/government/publications/the-education-of-children-living-in-childrens-homes/the-education-of-children-living-in-childrens-homes#where-children-living-in-childrens-homes-receive-their-education-findings)

61. For a school to be judged outstanding for its quality of education, the most disadvantaged pupils must consistently achieve highly. If the progress that disadvantaged pupils make is consistently well below that of other pupils nationally and shows little or no improvement, then a school is likely to be graded inadequate.

62. To be graded outstanding in personal development, there must be a strong take-up by pupils of the opportunities provided by the school, and the most disadvantaged pupils consistently benefit from this excellent work. Similarly, if a significant minority of pupils do not receive a wide, rich set of experiences, then personal development is likely to be inadequate.

Responses to Committee's recommendations on access to mental health support

Access to specialist mental health support is essential in supporting children in care, and the Government must commit to funding specialist mental health support for every school. It must also invest targeted funding to fully level-up spend per-child on mental health, and to reduce mental health waiting lists to no longer than one month. (Para 24, pg 47 of the Committee's report)

The Department must ensure looked-after children are quickly able to access vital mental health support services in a timely way despite being placed out-of-area or moved around. The child must not be disadvantaged in terms of waiting times if they are placed out-of-area, and consideration must be given to maintaining continuity of service. (Para 40, pg 49 of the Committee's report)

63. The department agrees with the Committee on the need for timely provision of mental health support services for looked-after children. With the most common reason for children becoming looked-after recorded as being abuse or neglect, there is a much higher probability of children having suffered adverse childhood experiences or traumatic events which then manifest as psychological symptoms and result in poor mental health outcomes.

64. The government is committed to ensuring all children, including those in care, receive the right mental health support, and any child in care in need of specialist mental health support should receive tailored and appropriate support through NHS children and young people's mental health services (CYPMHS). It is important that this support has been identified and secured through joint working between social care, health and education and included as part of a child in care's Personal Education Plan (PEP).

65. Statutory guidance for *Promoting the health and wellbeing of looked-after children*²⁸ states that "As an integral part of care planning, social workers must make arrangements to ensure that every looked-after child has (...) their physical, emotional and mental health needs assessed" and has "a health plan describing how those identified needs will be addressed to improve health outcomes". The guidance states that "This must be done in accordance with The Care Planning, Placement and Case Review (England) Regulations 2010."

66. The statutory guidance also details the importance of assessing the emotional wellbeing of individual looked-after children, which is to be done through *the Strengths and Difficulties Questionnaire* (SDQ). The guidance states that "Child and adolescent mental health services (CAMHS) play a crucial role in assessing and meeting any needs identified

28 <https://www.gov.uk/government/publications/promoting-the-health-and-wellbeing-of-looked-after-children--2>

as part of the SDQ screening process” and that “CCGs, local authorities and NHS England should ensure that CAMHS and other services provide targeted and dedicated support to looked-after children according to need.”

67. VSHs also have an important role to play in ensuring that looked-after children receive the support in school that they need. The VSH statutory guidance, *Promoting the education of looked-after children and previously looked-after children*²⁹, details that VSHs have a duty to provide a quality assurance role over a child's Personal Education Plan (PEP).

68. We are expanding access to CYPMHS and have already provided an additional £79 million in the 2021/22 financial year, allowing around 22,500 more children and young people to access community health services, 2,000 more children and young people to access eating disorder services, and a faster increase in the coverage of Mental Health Support Teams (MHSTs) in schools and colleges.

69. As of Spring 2022, the government has delivered MHSTs to 4,700 schools and colleges and 26% of pupils in schools and further education learners, supporting 2.4 million children and young people. By April 2023 we estimate MHSTs will cover 3 million children and young people (35% of pupils and further education learners).

70. We are also working to ensure timely access to community mental health care for all children and young people. In February 2022, NHS England and NHS Improvement published the outcomes of its consultation on the potential to introduce five new access and waiting time standards for mental health services and the government is now working with NHS England on next steps. This included one for children, young people and their families or carers presenting to community-based mental health services to start receiving care within four weeks from referral.

71. Looking ahead, the NHS Long Term Plan has committed to increasing investment in mental health services by at least £2.3 billion a year by 2023/24, including an additional 345,000 children and young people to be able to access NHS-funded mental health support by 2023/24. The NHS Long Term Plan also includes a goal of 100% of children and young people who need specialist care being able to access it over the coming decade.

72. However, many children in care will not need specialist mental health support but instead, access to early, pastoral support and enrichment activities in school that support and promote mental health and wellbeing. We are working to strengthen early intervention in schools by providing a grant to all state schools and colleges to train a senior mental health lead by 2025; this will support schools to put in place whole school approaches to mental health and wellbeing as well as understand the mental health needs of their student population.

73. Early identification of poor mental health issues is vital to ensure that looked-after children are quickly able to access the appropriate support services. That is why we have invested over £1 million to pilot high-quality mental health assessments, with a focus on establishing individual needs as children enter care. We took forward a number of recommendations from the Department of Health and Social Care and Department for

29 [Promoting the education of looked-after children and previously looked-after children \(publishing.service.gov.uk\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683556/Promoting_the_education_of_looked-after_children_and_previously_looked-after_children.pdf), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683556/Promoting_the_education_of_looked-after_children_and_previously_looked-after_children.pdf

Education commissioned Expert Working Group through the pilot, including trialling a new Virtual Mental Health Lead role, which provides expert oversight for mental health assessments. The pilots generated considerable learning and informed our understanding of what changes are needed to the mental health assessments of looked-after children when they first enter care which we will use to inform support for the mental health of looked-after children moving forward, building on the commitment in the NHS Long Term Plan. The evaluations of the pilots are published online.³⁰

74. We remain committed to the proposals made in the government response to the Department of Health and Social Care and Department for Education's joint Green Paper on improving children and young people's mental health provision, and we are working across government to achieve this aim.

75. Any transitions or moves a child faces can also impact on mental wellbeing. For this reason, any placement moves should only be made with careful consideration of the specific needs to the child, and out-of-area placements should only be used when necessary.

76. As noted above, statutory guidance for *Promoting the health and wellbeing of looked-after children*³¹ details the responsibility on CCGs, local authorities, and NHS England to ensure that CAMHS and other services provide targeted and dedicated support to looked-after children according to need. Regarding children placed out of area, the guidance is explicit, stating "CCGs, NHS England and NHS service providers have a duty to comply with requests from local authorities in support of their statutory requirements. Where a looked-after child is placed out of area, the receiving CCG is expected to cooperate with requests to undertake health assessments on behalf of the originating CCG."

77. To help ensure that looked-after children that have moved schools get access to the support they need with as minimal a delay as possible, the statutory schools safeguarding guidance, *Keeping Children Safe in Education*, sets out a duty on Designated Safeguarding Leads in schools to ensure information is shared with the destination education provider in a prompt manner. Placing a time restriction of 5 days for the transfer of information as to not hinder or otherwise disadvantage children from accessing support services.

Response to Committee's recommendations on children missing from education

All looked-after children should be receiving full-time education in a DfE registered school—it is unacceptable for local authorities to settle for unregulated education provision as an alternative. (Para 26, pg 47 of the Committee's report)

78. The law is clear that institutions providing full time education for looked-after children should register and be regulated as a school. We therefore agree with the Committee that local authorities should not arrange full time education for looked-after children in settings that meet the criteria to register as a school but have failed to register, which is a criminal offence.

79. Local authorities can however arrange part time placements for looked after children in settings which are unregulated. This provision, commonly known as unregistered alternative provision, is highly valued by many local authorities and schools. When

30 <https://www.gov.uk/government/publications/evaluation-of-the-mental-health-assessment-pilots-for-looked-after-children>

31 <https://www.gov.uk/government/publications/promoting-the-health-and-wellbeing-of-looked-after-children--2>

used under the right circumstances it can offer a crucial 'hook' back into learning and mainstream schooling for children and young people with complex needs who require bespoke packages of education, training, and support.

80. Given its unregulated nature then this type of provision requires very careful planning and oversight, but we know that too often commissioning practice is poor. The department recognises the Committee's concerns over the use of unregulated educational placements. That is why the SEND and Alternative Provision Green Paper published on 29 March 2022 committed to strengthening protections for children and young people in unregistered alternative provision settings so that every placement is safe, offers good quality education and has clear oversight. On 11 July, the department issued a call for evidence on its use. The call for evidence closed on 30 September, and the information collected will help us to find the right solution that is effective and proportionate.

The Department has set out a new legal requirement for local authorities to maintain registers of children not in school. The Department must issue clear guidance to local authorities on the definition of a child missing education, to ensure that all looked-after children not in the roll of a DfE registered school are recorded. (Para 38, pg 48 of the Committee's report)

81. We agree with the recommendation. As noted throughout this response, the department is clear that it is the duty of local authorities to ensure that every looked-after child in their care is provided with the most suitable education to meet the individual child's needs. It is clear that local authorities must have a complete understanding of the education status of each and every child in their care, and local authorities are held accountable through Ofsted's ILACS framework. The department considers the issue of children missing education to be serious, whether a child is looked-after or not.

82. We are keen to support parents and carers in educating their children at home if they choose to do so, and, as outlined in the response above, part-time education in unregistered alternative provision may in right circumstances offer a crucial 'hook' back into learning and mainstream schooling for children and young people with complex needs who require bespoke packages of education, training, and support. As such, it is vital that local authorities have a clear understanding of where, if not in school, children are being educated, and that this education is suitable to the child's age, ability, aptitude, and educational needs.

83. The department has statutory *Children Missing Education guidance*³² for local authorities and advice for other groups on helping children who are missing education to get back into it. In this guidance, children missing education are defined as "children of compulsory school age who are not registered pupils at a school and are not receiving suitable education otherwise than at a school." This is set out in section 436A of the Education Act 1996 and this legislation is explained in the statutory guidance.

84. The government is committed to a form of local authority registration for children not in school at a future legislative opportunity. These registers would set out the information to be recorded by local authorities, including whether a child is a child missing education. Any legislation in this space would likely be supplemented by statutory guidance, outlining

32 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/55_0416/Children_Missing_Education_-_statutory_guidance.pdf

the expectations on local authorities regarding how they are to discharge their new duties. The regulations and operational guidance will apply to all children, whether in the care of the local authority or not.

85. The department continues to explore how to improve the data on Elective Home Education and Children Missing Education. We will also reiterate to local authorities how this data should be recorded as per guidance.

The 2022 Schools Bill sets out a new duty for local authorities to maintain a register of children not in school. Alongside this, the Department must issue guidance to clearly outline how it will hold Directors of Children's Services to account where the looked-after children they are responsible for are not in school. (Para 28, pg 47 of the Committee's report)

86. At the time of publication of the government response, the current legislative timetable is still under review. The department, however, remains committed to the introduction of Children Not in School registers. Ensuring the best outcomes for children and young people is of the highest priority for the department.

87. As outlined earlier in this response, we agree and have a clear system in place to hold local authorities, including Directors of Children's Services, to account for the education of looked-after children—through Ofsted's ILACS. Future children not in school legislation would likely be supplemented by statutory guidance, outlining the expectations on local authorities regarding how they are to discharge their new duties. This guidance will apply to all children, including those that are looked-after, and we will consider the need for specific references in this guidance to looked-after children.

The Department must take overall responsibility for monitoring the register of children not in school, and must set out clear and robust accountability for local authorities who fail to secure full-time places at good or outstanding DfE registered schools for the children they are responsible for looking after. (Para 39, pg 49 of the Committee's report)

88. The Children Not in School registration proposals would require specified information to be provided by local authorities on children not in school. This information would likely feed into the evaluation of its implementation.

89. The above measure is in addition to the accountability measures in place as outlined above, at paragraph 52, in respect of the recommendation from para 21, pg 46 of the Committee's report (addressing places for looked-after children in good or outstanding schools).

90. While the department takes overall responsibility to ensure that local authorities are held accountable for discharging their duties in respect of children, the department does not carry out this role alone but accounts for information provided through Ofsted's inspections of local authority children's services (ILACS) to identify when they are failing and to intervene when needed. Ofsted's ILACS framework, last updated in April 2022, includes evaluation of the educational progress of children in care and care leavers. In this way, Directors of Children's Services and VSHs are held accountable. The department works closely with Ofsted to ensure it understands changes to policy, including statutory requirements, and will continue to do so in this area as the duty to keep a register of children not in school is introduced.

As part of the proposed register of children not in school, the Department must set out how it will collect and publish data on how many looked-after children are falling through the gaps by missing education or being 'educated' in unregulated education provision. This data should form part of a regular statistical release, published at minimum, annually. (Para 29, pg 47 of the Committee's report)

Current national-level data is not available to illustrate the scale of gaps in education for looked-after children. It should be a priority for the Department to ensure this data is collected and published, so that responsible parties can be held to account when looked-after children are missing education. (Para 36, pg 48 of the Committee's report)

91. The department agrees that Children Not in School registers will provide an important opportunity to understand the extent to which looked-after children are either missing education or are educated in unregulated provision, and for this information to be published, in part to strengthen accountability.

92. As part of any Children Not in School registers, local authorities would provide the department with information from the registers. It is the department's intention that this should include the provision of information such as whether a child is: a Child in Need, a Looked-after Child, or has a Child Protection Plan; whether the child is missing education or where they are being educated. This data would be analysed by the department to help evaluate the impact of the registration system on local authorities and eligible families, and to help inform policy development.

93. As a precursor to the Children Not in School data collection, from October 2022 the department will be collecting elective home education and children missing education data voluntarily from local authorities.³³ This will be analysed and published in December 2022 and will help provide this national-level data picture sooner.

94. The disadvantage gap index³⁴ summarises the relative attainment gap (based on the average grades achieved in English and maths GCSEs) between disadvantaged pupils, which includes looked-after children, and all other pupils. This index has been created to be a more resilient measure (than the binary category of disadvantage) of changes over time in attainment that may have been affected by, for example, the GCSE reforms introduced in 2017 and associated changes to headline measures (e.g., moving away from 5 or more GCSEs to average Attainment 8 scores).

Before the start of the next academic year—at the very latest—the Department should issue robust guidance on how the section 19 duty on local authorities to provide children with a suitable full-time education should be fulfilled by local authorities. Where local authorities are failing to discharge this duty, the sanction should be in the form of limiting their Ofsted rating. (Para 31, pg 48 of the Committee's report)

95. On 23 June 2022, Ofsted launched a consultation on the new Area SEND inspection framework, which for the first time proposes to include how local authorities use, commission, and oversee alternative provision. The consultation closes on 11 2022, and the new framework will be introduced early in 2023. The department has passed on the evidence from the Committee to Ofsted to consider as part of the consultation process.

33 <https://www.gov.uk/guidance/elective-home-education-and-children-missing-education-submit-your-data>

34 <https://explore-education-statistics.service.gov.uk/find-statistics/key-stage-4-performance-revised>

96. The alternative provision statutory guidance currently explains the statutory duties on local authorities though the section 19 duty as well as including information to support them to plan the alternative provision that they use.

97. The SEND and Alternative Provision Green Paper set out a new vision for Alternative Provision, that will deliver sustainable funding and provide much earlier intervention in mainstream school. In particular, the Green Paper proposals include a clear role for Local authorities to lead local delivery, supported by new local SEND and alternative provision partnerships. These will bring together education, health, and care to produce a local inclusion plan setting out how each area will meet the national standards. The department's Regions Group, in its role leading system regulation, will hold local authorities and Multi Academy Trusts to account for effective local delivery against national standards. New funding agreements between the department and local authorities will provide clarity on spending of the high needs budget in line with the new national SEND standards and form the basis of where the department will intervene to tackle failure.

Responses to Committee's recommendations on care placements

The Department must aim towards banning unregulated provision for looked-after children once it has addressed placement sufficiency issues using the mechanisms outlined by The independent review of children's social care. In the meantime, while these reforms are being undertaken, the new set of standards for unregulated provision should be implemented on a sliding scale so as to provide regulated care, with flexibility for children for whom greater independence is in their best interests.
(Para 33, pg 48 of the Committee's report)

98. We welcome the suggestion from the care review to proceed with the speedy introduction of these reforms, which comprise mandatory national standards and an Ofsted registration and inspection regime for providers of supported accommodation that accommodate 16- and 17-year-old looked-after children and care leavers. Ofsted will begin registering providers from April 2023 and the new quality standards will become mandatory from Autumn 2023, from which point local authorities will no longer be permitted to accommodate looked-after children or care leavers aged 16 or 17 in provision that is not registered with Ofsted.

99. In December 2021, we committed to investing over £142 million across the next three financial years to fund the introduction of mandatory national standards and an Ofsted registration and inspection regime. These reforms will ensure that local authorities can be confident when making placements in this provision, strengthen Ofsted's ability to take action against poor providers, and will ensure that all children live in safe and high-quality accommodation which meets their needs. The introduction of this new regime signals a landmark change for children's social care, with all providers that accommodate looked-after children and care leavers up to 18 now being regulated by Ofsted.

100. These vital reforms will not only increase the quality of provision and ensure we have effective levers for acting where provision is not good enough, but will also enable us to develop a much better understanding of the different types of provision in this area, and the role each provision type could play in meeting the needs of older children for whom greater independence can be in their best interests.

Where this is in the child's best interest, every looked-after child should be cared for in a local care placement, receiving their education at a good or outstanding local school. The Department must take greater responsibility for overseeing the placements system and for driving funded system change to reduce the current dependence on out-of-area placements. A national approach to commissioning of care places must consider the location of children's homes in relation to local good and outstanding schools. Except in exceptional evidence-based cases, children should not be moved to residential placements where they cannot reasonably access good or outstanding local schools
(Para 35, pg 48 of the Committee's report)

101. Local authorities have a statutory duty to ensure that sufficient provision is available locally to meet the needs of the children in their care. However, we recognise the challenges local authorities face in meeting their duties. In part, that is why this government made it a manifesto commitment to launch the bold and ambitious independent review of children's social care. We are carefully studying the review's recommendations—alongside those from the CMA study into the children's social care market, and the child safeguarding panel review—and will shortly be publishing a detailed implementation strategy.

102. Both the CMA and care review made recommendations around the commissioning of care placements, including that government should mandate the appropriate level of collaboration in terms of market shaping and procurement, and there should be greater use of regional commissioning. The department is studying these recommendations carefully and its response will be set out within the implementation strategy. However, neither recommended national commissioning of all care placements. The care review agreed with the CMA's finding that some functions of the care system could usefully and effectively be done at national level. However, establishing a single national body responsible for all commissioning or running of homes would be costly to set up, increase the risk and impact of failure, break an important link with local authority accountability for children, and would be too distant from the specific needs of individual local areas. In order to make a national body function effectively, the care review determined that it was likely it would need to set up regional teams so that they have appropriate local knowledge to be able to effectively carry out the role.

103. Whilst it is right that these reviews inform the government's longer-term reform programme, we have not delayed in taking action to address urgent issues across the system. For instance, to help address sufficiency issues, this government is investing £259 million across this Spending Review period to help local authorities meet their sufficiency duty by increasing the number of places in open and secure children's homes.

104. As part of this, in July 2021, we launched a new capital funding programme designed to support local authorities (individually or in a consortium) to establish new children's homes provision via expansion, refurbishment, or new building work. Local authorities can bid for funding to:

- establish innovative approaches to reduce the number of children needing care over time;
- ensure sufficient provision for children with more complex needs; and
- address current shortfalls, including in geographic areas with fewer children's homes.

105. Last year, we awarded up to £19.5 million over two years, to be matched by local authorities. We invited applications for a second wave of funding on 29 June 2022 to be paid out between autumn 2022 and March 2025 on a match-funded basis. Alongside this we are also supporting the building, or rebuilding, of three new secure children's homes, as well as funding capital works for a number of secure children's homes.

106. We also recognise the urgency of ensuring a greater sufficiency of foster carers across the country and will prioritise working with local authorities to recruit more foster carers. This will include pathfinder local recruitment campaigns that build towards a national programme, to help ensure children have access to the right placements at the right time. As the care review recommends, we will focus on providing more support throughout the application process to improve the conversion rate from expressions of interest to approved foster carers.

107. As set out in the response to other recommendations above, looked-after children have priority in school admissions and statutory guidance for VSHs states that, when arranging a looked after child's education placement, schools judged by Ofsted to be 'Good' or 'Outstanding' should be prioritised. There may be circumstances where it may be more appropriate that a looked after child is not placed in a school judged by Ofsted to be 'Good' or 'Outstanding', for example, where a school judged 'Requiring Improvement' is evidenced to be providing high-quality support to its vulnerable pupils. However, the guidance is clear that unless there are exceptional evidence-based reasons, looked after children should never be placed in a school judged by Ofsted to be 'Inadequate'.

108. Potential providers of new children's homes must complete and submit a location assessment to Ofsted as part of the process for applying to register the home. These location assessments must address the accessibility of local services, including education. Ofsted will take this information into account when deciding whether to approve the application.

Responses to Committee's recommendations on improving outcomes for looked-after children with SEND

All looked-after children must have an independent advocate whose function is to champion their best interests, ensuring they are admitted to the best, most appropriate schools, and that they are fully supported to appeal to SEND tribunals where their Education, Health and Care (EHC) Plan does not meet their needs.

Virtual School Heads should play a key role here, advocating for the child's needs to be identified, understood and met, ensuring that the child's EHC Plan is appropriate, and where it is not, supporting the child to appeal. (Para 43, pg 49 of the Committee's report)

109. The department agrees that looked-after children need access to a trusted individual who will ensure that their needs are properly met, and it is the role of VSHs to provide this advocacy in respect of looked-after children's education.

110. Statutory guidance³⁵ for VSHs sets out an upfront expectation that, "For looked-after children, as part of a local authority's corporate parent role, the VSH needs to be the educational advocate that parents are for others." The guidance goes on to detail how VSHs should ensure arrangements are in place to promote a culture that takes account

35 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/68_3556/Promoting_the_education_of_looked-after_children_and_previously_looked-after_children.pdf

of the child's views as part of identifying and meeting their educational needs, and VSHs should ensure that other professionals involved in the care and education of the child, understand the importance of listening to and taking account of the child's wishes and feelings about education.

111. The guidance details the role that VSHs should play to ensure that the *SEND code of practice* is followed in respect of looked-after children, that the EHC plans of looked-after children are harmonised with their care plan and PEP, to ensure that together they comprehensively and coherently cover how the child's needs are being met, and to ensure that where SEN support is provided without an EHC plan that this is looked at as part of the looked-after child's care and PEP plans.

112. Further, the department has noted the recommendation of the care review, for significant reform of advocacy provision for children in care including introduction of an independent, opt-out model. While VSHs play an important role in respect of education, looked-after children may often benefit from advocacy support in respect of other areas of their life, such as their care and living arrangements. As such, we are looking at this recommendation alongside the broader package of recommendations made by the care review and are working at pace towards issuing a detailed implementation strategy.

The Government's 2022 SEND Green Paper sets out proposals for a more inclusive education system with enhanced mainstream provision for learners with special educational needs. As these reforms are taken forward, the Government must set out its plan to ensure greater numbers of children in residential care—who are currently 20 times more likely than children nationally to be in special education— will be supported to enter and to thrive in good and outstanding mainstream schools, where this is in their best interests. (Para 44, pg 49 of the Committee's report)

113. The SEND and Alternative Provision Green Paper is a cornerstone in a suite of reforms. With the Schools White Paper and wider reforms to health and social care, we seek to create a coherent education, health and care system that works in the interests of all children in England and levels up opportunities. This includes looked-after children, previously looked-after children, and other children that are or have been in need of children's social care support.

114. We aim to create a more inclusive education system with excellent local mainstream provision which will improve the experience and outcomes for children and young people with SEND and those who need alternative provision. Looked-after children with SEND and looked-after children in alternative provision will also be supported by these changes.

115. The green paper consultation closed on 22 July, and we are currently reviewing the feedback. Later this year, we will publish the government's response to the green paper consultation in a National SEND and Alternative Provision Improvement Plan. This will set out government's response to the consultation and the next steps for delivering reforms.

The Government must also increase its investment in SEND provision to ensure that children in care, alongside all pupils with SEND, get the support they need to thrive in education. Children in care are more likely to have experienced educational disruption compared with children not in care. We recognise that those with special educational needs are more likely to be impacted by educational disruption. (Para 45, pg 49 of the Committee's report)

116. We recognise the need for all pupils with SEND to get the support they need to thrive in education. The government is making an unprecedented level of investment into the SEND system: revenue funding in high needs increased by more than 40% between 2019–20 and 2022–23, with additional investment of £1 billion in high needs in 2022–23.

117. Additional investment alone has not been matched by improved outcomes or experiences for children, young people, and their families. Instead, for all pupils with SEND to get access to the right support, it is critical that resources within the system are used in the most effective way with spending targeted more at strengthening early intervention and meeting the needs of children and young people at the right time, including children in care. The proposals set out within the SEND and AP Green Paper to introduce a nationally consistent system, with national standards around the identification of need and the provision that is put in place to deliver support for children and young people, are intended to improve early intervention so that resources can be targeted towards providing effective, high-quality, and evidence-based support.

Response to Committee's recommendation on care leavers

The Government must expand existing the existing Civil Service care leaver internship scheme and other employment schemes, increasing the number of places so that more care leavers can take advantage of, and benefit from, these opportunities. (Para 49, pg 50 of the Committee's report)

118. The Civil Service care leaver internship scheme has enabled around 700 care leavers to take up posts in over 20 government departments across the UK. The government is committed to continuing to develop the scheme and each year all departments are encouraged to put forward the maximum number of vacancies for the scheme that they can.

119. The ambitions of this award-winning scheme are to: provide opportunities to work in exciting roles across government; and give care leavers a 'launch-pad' into a successful working life and career by developing skills and experience for future roles in the Civil Service and beyond. We launched the latest round of the scheme on 8 August (closing on 5 September). There isn't a target for how many care leavers are recruited each year, but this year 23 departments (including the Department for Education) have offered 241 internship opportunities, which have been advertised in 80 different locations in the UK.

120. The government is keen to create similar employment opportunities in other large public sector employers, such as the NHS. We are aware that many local authorities already offer ring-fenced apprenticeships for care leavers but want to see this as standard practice across all local authorities. The care leaver covenant has an important role to play in securing employment and other offers for care leavers from a wide range of businesses and organisations. Approaching 350 organisations have now signed the covenant, providing: employment opportunities (Amazon); practical help with decorating their first home (Engie); discounts on services (Severn Trent Water); and care leaver friendly processes (Metro Bank). Information on all care leaver covenant opportunities is published online.³⁶

Just 2% of care leavers go on to do an apprenticeship. To address this, the Department must strategically weigh the apprenticeship levy in favour of care-experienced young apprentices under age 25. Too much of the levy is going unspent, the Department reports that £250 million was unspent in 2020/21. Unspent levy funds should be used for an uplift to the apprentice minimum wage for care leavers, enabling them to receive the National Living Wage in recognition of the financial barriers young care leavers face. (Para 51, pg 50 of the Committee's report)

121. We recognise that care leavers aged 19–21 are over three times more likely than their peers in the general population to be Not in Education, Employment, or Training (NEET) and can often face additional barriers to undertaking apprenticeships. It is for this reason we introduced the £1,000 bursary for care leavers; and why we provide £1,000 to both employers and training providers so they can give additional support to enable the young person to complete their apprenticeship.

122. Apprenticeships are jobs with training, and as apprentices make a productive contribution to an employer's business from day one, the government believes it is employers who must pay apprentices' wages. The Low Pay Commission are responsible for setting and reviewing minimum wages including the Apprentice Minimum Wage, and employers must follow these regulations. Most employers pay their apprentices more than the minimum. The Apprenticeship Evaluation Learner Survey (AEvS) 2021 data shows that the median basic hourly pay for apprentices in 2021 was £8.23 for Intermediate (Level 2) and £9.09 for Advanced (Level 3) apprentices, £12.51 for Level 4 & 5 apprentices and £14.48 for Level 6 & 7 apprentices.

123. We recognise that unlike other young people who may still live at home with their parents, care leavers live independently from age 18 and often struggle to pay rent and other bills if they are on lower incomes. That is why the Department for Education and the Department for Work and Pensions have published a factsheet to illustrate the support that is available through Universal Credit for care leavers in this situation.³⁷

124. The apprenticeship levy is set at a level that allows us to fund apprenticeships training and assessment in all employers. While employers who pay the apprenticeship levy may not spend all the funds in their digital accounts, these funds are not wasted and are used to pay for apprenticeships in smaller employers, support apprentices to secure English and Maths qualifications, and to make additional payments to employers, training providers and care leavers.

125. As with all departments, the Department for Education receives a budget from HM Treasury and any underspend in overall departmental budget at the end of the financial year is returned to HM Treasury as per the Consolidated Budgeting Guidance. In 2020/21 the uptake and completion of apprenticeships was significantly impacted by the covid-19 pandemic, and £250 million was returned to HM Treasury. During 2021–22 we have seen a strong recovery in apprenticeship starts as employers' demand for skills training has increased.

37 <https://indd.adobe.com/view/1dd6a2bd-e1a3-4d30-af1f-09f952c9dc6a>

Where a care leaver is over 25, and an apprenticeship would be their first qualification since leaving compulsory education, the Department must raise the age limit for receipt of the £1,000 apprenticeship bursary from age 25 to age 30. This would recognise that some looked-after children take longer to fulfil their educational potential due to the multiple disadvantages they have faced. As a care-experienced young person asked us, why, "After 25, should you just be dropped"? (Para 52, pg 50 of the Committee's report)

126. We introduced the care leavers bursary in August 2018 to support care leavers in overcoming costs or barriers associated with starting an apprenticeship. These costs and barriers are often most significant for care leavers starting out in the labour market. Since then, more than 1000 care leavers have claimed the bursary. We continue to raise awareness about and monitor uptake of the care leavers bursary.

127. In addition to the bursary, we also provide additional support to employers and training providers taking on an apprentice care leaver. Both the employer and training provider receive a £1,000 payment for each care leaver aged 16–24 years old starting an apprenticeship. These funds can be used in whatever ways the employer and training provider feel is most appropriate to support the apprentice to succeed.

128. In England, local authorities have statutory duties to support care leavers to age 25. In addition, a range of government policies recognise the challenges that care leavers face and provide additional support up to age 21 or 25.

129. The government's view is that 25 is a reasonable point of transition and that targeting support on care leavers aged 18–24 to help them as they move to independent living is the best use of resources.

The Minister for Children and Families agrees that the Staying Close pilot has produced "very, very good evidence". Without further delay, the Department must roll out Staying Close nationally as a statutory entitlement. Care leavers must have the right to opt-out of participating in Staying Close if they wish. Ahead of leaving residential care, each young person should have a mandatory meeting with the key adults responsible for their care and continuing education to ensure that participating in Staying Close is in their best interest. (Para 54, pg 51 of the Committee's report)

130. We have recently announced funding of £36 million over the next 3 years to extend the Staying Close programme so that more care leavers leaving children's homes get move-on accommodation and support from a trusted adult—providing stability and a safety net into adulthood.

131. We have asked the What Work's Centre for Children's Social Care (WWCSC) to evaluate the effectiveness of the 'Staying Close' residential care programme. Initial evaluations of the programme suggest participating young people benefit from:

- access to improved housing options, and reduced eviction rates;
- higher levels of participation in education, employment, or training (EET);
- improved independent living skills, wellbeing, and relationship management skills.

The WWCS evaluation will consider how Staying Close can be implemented most effectively and its cost effectiveness for local authorities, to inform further roll-out. The first part of the evaluation will be published in late spring 2023.

132. Young people leaving care have a 'statutory review meeting' to discuss their future, including where they're going to live, so we would expect options like Staying Close, where available, to be discussed at that. Staying Close is currently a voluntary programme available in some areas which care leavers can choose to participate in. The care review recommended that Staying Close should be a legal entitlement up to the age of 23 with an 'opt-out' rather than 'opt-in' expectation. The government will respond to this, and the other recommendations for care experienced young people, including those around improving access to apprenticeships and well-paid jobs, in the comprehensive implementation strategy.

Responses to Committee's recommendations on early intervention funding

Local authorities must tackle the imbalance between the 48% reduction in early intervention spending, and the 34% rise in spending on costlier downstream interventions over the last decade. Local authorities cannot simply achieve this by reshuffling spending priorities and reducing essential support for children at the crisis end. The independent review of social care recommends increasing the overall funding envelope for early family help through a £2 billion one-off injection of cash over five years. This one-off injection has clear cost-benefit implications—it could ensure better overall value for the taxpayer by reducing spending in the longer-term, and could ensure greater numbers of vulnerable children are not subject to preventable harms (Para 56, pg 51 of the Committee's report)

The Department must set out their response to the £2 billion expenditure proposed by The independent review of children's social care, indicating how much additional funding they believe is necessary to ensure the care system is fit for purpose, how the additional funding would be deployed and the longer-term cost-benefit analysis. If Government sign off on the £2 billion funding injection, it must ensure this is ringfenced via a more intelligent funding formula that sets a minimum budget for local authority early intervention spending. In this way, additional funding would not be swallowed up by rising placement costs or expensive downstream social care interventions. This would rebalance the system to place greater weight on early intervention, rather than intervening at more costly crisis points downstream. (Para 57, pg 51 of the Committee's report)

133. Government has invested billions into local services. Local authority spending on children's services in 2020–21 was around £11bn, funded through local authorities' core settlement (which is around £51bn per year).

134. In April 2022, we announced a £1 billion package to support vulnerable families, including funding for Family Hubs, the department's flagship Supporting Families programme, and investment in the Holiday, Activity, and Food programme. Local authorities also have access to a one-off Services Grant which is worth over £800 million that can be used for all services, including children's social care. Further, for 2022–23, we have invested £1.5 million in the Early Intervention Foundation to promote evidence-based approaches which improve services for vulnerable children.

135. Whilst we agree that spend on children's services should be rebalanced towards preventative early help services, we believe that councils are best placed to decide how to spend their available funding—local councils understand the needs of their communities best, and it is important they have the freedom and flexibility to manage their funding.

136. We are now carefully assessing the recommendations of the care review with all relevant government departments, including HM Treasury and the Department for Levelling Up, Housing and Communities. As we agree the broad shape of the reform programme, we will also need to consider any cost implications. This includes consideration of the review's recommendation to introduce a new funding formula for children's and young people's services.

Responses to Committee's recommendations on Children's Homes

For far too long, some private providers have extracted significant profits from the public purse, operating under a monopoly market. At the same time, they have not demonstrated equivalent value for taxpayer money in terms of improved outcomes for the vulnerable children they care for. The Government must consider whether The independent review of children's social care's recommendation to levy a 20% windfall tax on the 15 largest private children's homes and independent fostering providers would be effective. The Government must also take a wider look at the market, and consider whether it would be more appropriate for children's homes to be run by organisations such as not-for-profit community interest companies, and for negotiations on pricing to be undertaken nationally rather than locally. (Para 58, pg 52 of the Committee's report)

137. The care review and the CMA study into the children's social care market have both highlighted that some private providers of children's homes and fostering agencies have high levels of profit.

138. The CMA report gives a comprehensive overview of how the children's residential care market functions, and areas for improvement. It includes recommendations around commissioning, reducing barriers to capacity, and improving resilience.

139. The department believes that provision of children's social care placements can best be provided by a range of organisations in the public, voluntary and private sectors. However, both reports highlighted that some providers have high levels of profit. We share concerns that some providers are making excessive profits and are investing £259 million of capital funding across this Spending Review period to increase the number of places in open and secure children's homes run by local authorities.

140. Neither the care review nor the CMA report however has recommended banning for-profit provision or capping profits, recognising that local authorities in England are currently heavily reliant on private providers. Banning or capping profits would reduce private providers' incentives to invest in new capacity and make the current placement shortages much worse.

141. The CMA report also states that regulators found no clear difference in the quality of private provision compared to LA run provision. Ofsted continue to judge the majority of children's homes as 'good' or 'outstanding'. As of 31 March 2022, 77% of all children's homes were judged good or outstanding.

142. The CMA also recommended that central government mandates the appropriate level of collaboration in terms of market shaping and procurement and ensures there is a set of bodies to carry out these activities. Similarly, the care review recommended the introduction of Regional Care Cooperatives to plan, run and commission all care placements.

143. In the government's initial response to the care review and CMA report in May, we announced that we would engage with the sector to develop proposals to improve oversight of the children's social care market. We will shortly present the government's implementation strategy which will outline the detailed response to recommendations from both these reviews.

We continue to be extremely concerned by media reports of children's homes—including the recent case of Calcot Services for Children—failing to meet the needs or ensure the safety of the vulnerable children in their care. In the case of Calcot, their children's homes had been rated good or outstanding by Ofsted. Ofsted must assess its whistleblowing and safeguarding procedures for inspecting children's homes, and must write to us outlining how these have been strengthened in order to prevent future cohorts of children being failed. (Para 59, pg 52 of the Committee's report)

144. The previous Parliamentary Under Secretary of State for Children and Families met with Her Majesty's Chief Inspector at Ofsted on 14 June 2022 to discuss action that was being taken following the allegations of grooming, rape, sexual assault, and of Calcot cutting corners on staffing ratios at their children's homes. Ofsted do take all concerns, including whistleblowing, extremely seriously and consider any new and emerging information when determining the timing of their inspections. The Minister issued a Written Ministerial Statement on 28 June about the department's response.

145. At the Minister's request, Ofsted have written to us outlining some changes they would like to see to improve the regulatory system for the most vulnerable children. The department is carefully considering these proposals, together with the findings from the care review, the CMA report, the child safeguarding panel review, and once published, phase one of the National Panel Review into Children with disabilities and complex health needs placed in residential settings.

146. Ofsted has made us aware that they will write to the Committee on the issue separately.

Concluding remarks

147. The government fully agrees with the core message of the Committee's report, that looked-after children are educationally disadvantaged. We are committed to taking action to improve their outcomes, and work is underway to address these issues. We accept fully or in part the wide majority of the Committee's recommendations. Where we do not fully accept recommendations, this is because there are existing or planned approaches to improve outcomes that have been developed cohesively as part of the government's overall programme for children's social care and education.

148. We will continue to work closely with partners throughout these sectors, including social workers, teachers, VSHs and many others, to achieve the best support for all children, particularly those who are looked-after and all who are disadvantaged, so they can thrive, achieve their full potential, and go on to lead fulfilling lives.