

Appendix 1:
Briefing 3: Sufficiency - statutory guidance on securing sufficient accommodation for looked after children

Introduction

The briefing is one of a series of briefings on the revised Children Act 1989 regulations and statutory guidance, based on the proposals in the Government White Paper (Care Matters) (DCSF 2007) and the resulting legislative changes outlined in the Children and Young Person's Act 2008.

The other briefings are:

Briefing 1: The Children Act 1989 Guidance and Regulations, Volume 2: Care Planning, Placement and Case Review – sets out the main functions and responsibilities of local authorities and partner agencies under part 3 of the Children Act 1989 with respect to looked after children – including eligible children (young people looked after aged over 16 years of age).

The guidance on sufficiency is one of three supporting pieces of guidance that accompany The Children Act 1989 Guidance and Regulations, Volume 2. The other two are described in other briefings, which are:

Briefing 2: IRO Handbook (statutory guidance for independent reviewing officers and local authorities on their functions in relation to case management and review for looked after children)

Briefing 4: Short Breaks (statutory guidance on how to safeguard and promote the welfare of disabled children using short breaks).

Briefing 5 focuses on the Transition Planning to Adulthood 2010 Regulations and Statutory Guidance, which update the Children (leaving care) (England) Act 2000 - which focus on promoting the needs of care leavers (relevant and former relevant children).

A full copy of the Children Act 1989 Guidance and Regulations, Volume 2: Care Planning, Placement and Case Review; IRO Handbook; Guidance on the Sufficiency duty and Short breaks (relating to briefings 1 to 4) can be found out:

<http://www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/childrenincare/careplanning/careplanning/>

* A full copy of the draft guidance on Transition Planning to Adulthood 2010 and the Children leaving care Regulations 2010 (briefing 5) can be found at:

<http://leavingcareconsultation.dcsf.gov.uk/downloads>

Sufficiency

Briefing 3 focuses on the 'sufficiency duty', which requires local authorities to take steps that secure, so far as reasonably practicable, sufficient accommodation within the authority's area which meets the needs of children that the local authority are looking after, and whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation that is in the local authority's area.

Reference to the sufficiency duty is also made in the Children Act 1989 Guidance and Regulations, Volume 2 (*referred to in the briefing as the main guidance*) (see pages 78 to 80, paragraphs 3.177 to 3.183).

Chapter 1: Introduction (pages 3 to 7) sets out aims and status, clarifies those involved, and describes the context and timescales for implementation of the sufficiency duty. Two issues are outlined in detail:

- Paragraphs 1.1 to 1.6 set out the legal context for the sufficiency duty – under Section 22G of the Revised Children Act 1989. See also Annex 1 (page 34) and main guidance (paragraphs 3.180 and 3.181).
- Regulation 11 (together with Regulation 13, which applies to all LAC) (see main guidance, page 157) sets out requirements on local authorities placing children out of area to ensure proper planning, consultation and notification has taken place. It is expected that local authorities will undertake these tasks prior to placement in planned placements and within 5 working days for emergency placements.
- The implementation of the sufficiency duty is to be phased (see paragraphs 1.16 to 1.17).
 - From April 2010 local authorities are required to include in relevant commissioning strategies their plans for meeting the sufficiency duty.
 - From April 2011 – working with their children's trust partners – local authorities must be in a position to secure, where reasonably practical, sufficient accommodation for LAC in their LA area.

Chapter 2: About the sufficiency duty (pages 8 to 15) explains:

- Why the sufficiency duty is being introduced (paragraphs 2.4 to 2.8) (i.e. as part of a range of measures to improve outcomes)
- What is meant by 'sufficiency' (see paragraphs 2.9 to 2.13 and main guidance, paragraphs 3.179 and 3.180). This includes not only ensuring sufficient numbers of placements but must also have regard to:
 - The benefits of securing a range of accommodation through a number of providers that can meet the wide ranging needs of the authorities LAC population including children on the edge of care (paragraph 2.10)
 - The role that different placement types play in securing provision (i.e. short breaks, emergency placements, adoption, fostering, residential care and secure accommodation)
 - The skills, expertise and characteristics needed by carers

- Accessible housing for disabled children
- The needs of care leavers – including arrangements for young people to remain with their foster carers and supported accommodators, the range of additional services needed to meet the needs of LAC and promote placement stability (see paragraph 2.11).
- Paragraph 2.12 highlights that local authorities should not move children out of established out of authority placements that are meeting the needs of the child for the sole reason of meeting the sufficiency duty.
- Paragraphs 2.14 to 2.21 describe what is meant by the term 'reasonably practicable' (see also main guidance, paragraphs 3.181 to 3.183). This section highlights that local authorities should not assume that it is not reasonably practical to secure sufficient accommodation simply because it is difficult to do so – any constraining factors should not be taken as permanent constraints (paragraph 2.16). However – the overriding aim is to secure the most appropriate placement for the child rather than a narrow focus on whether the placement is out of area or not.
- Paragraph 2.22 states how the sufficiency duty will be monitored – under the current arrangements for Comprehensive Area Assessment.

Chapter 3: Using Commissioning to deliver efficiency (pages 16 to 17) sets out the process for commissioning (paragraphs 3.1 to 3.4), which is expanded upon in Chapter 4.

Chapter 4: Standard for commissioning practice (pages 18 to 29) (see also main guidance page 80, paragraphs 3.182 and 3.183) requires local authorities to work with trust partners to demonstrate an effective level of commissioning, based on a standard covering 6 areas:

- Individual assessment and care planning – setting out the needs of the child and the planned outcomes (paragraphs 4.2 and 4.3)
- Commissioning decision – to secure the right decision, the first time and thereby promoting placement stability, service efficiency and effectiveness (paragraphs 4.4 to 4.6)
- Strategic needs assessment – based upon comprehensive aggregate data about the needs of LAC and which should inform the CYPP and commissioning strategies for a range of services (paragraphs 4.7 to 4.9)
- Market management – focuses on resource analysis and workforce development, with an emphasis on the leadership role of commissioners in establishing incentivised markets and securing sufficient provision (paragraphs 4.10 to 4.13)
- Collaboration – refers to the extent to which partners work together to secure outcomes through commissioning (paragraphs 4.14 and 4.15), and
- Securing Services – requires commissioners to be familiar with and to employ sophisticated commissioning mechanisms and approaches to

performance management to secure efficient and effective services
(paragraphs 4.16 to 4.18)

Chapter 5: Further Information and next steps (pages 30 to 32) provides a signpost to sources of information relevant to the tasks required to meet the sufficiency duty. This includes:

- Policy - page 30
- Commissioning practice - page 31
- Tools – pages 31 and 32

References – a list of articles and publications used in the guidance can be found on page 33.

Annex 1: Excerpt from the Children Act 1989 (page 34) outlines section 22G General duty of local authority to secure sufficient accommodation for looked after children.

Annex 2: Overview of statutory framework for care planning (page 35)

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