



Department  
for Education

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**Dear colleague,**

Over the last few months I have been meeting and talking with many of you about the power in the Children and Social Work Bill to allow local authorities to test different ways of working. I am writing to you to set out why I believe the power is vital to improving the outcomes we want for children and families, but also to address the concerns some of you have raised. A policy document is attached setting out in more detail the process for the power, some of the safeguards we have in place, and examples of how it could be used in practice.

For 25 years I have often been puzzled as to why we do things in the way we do. I have witnessed, as you have too, a vast array of legislation and regulation which has emerged over time intending to plug a deficit in national practice systems, all entirely honourable. But, it has inevitably happened in a piecemeal way, and the unintended consequence is we have a morass of well-meaning rules, in which practitioners but most importantly children and families, kinship carers, foster carers and prospective adopters are entrapped. This procedural approach to professional practice has contributed to an inflexible system in which individual child and family need is ignored for the sake of ticking the correct procedural box. The cultural impact on the practice system is enormous and often leads to the people we serve experiencing our involvement as uncaring, time wasting, punitive and thoughtless.

How to put that right? It isn't easy. We definitely need checks and balances in place to make sure children are safe, well cared for and quality of practice is good. And the public must have confidence in our ability to help families and protect children. Regulation-must not be removed without confidence that something better will happen as a result. So we need to test new checks and balances. Authorities in whom we have the most confidence should be enabled to lead the way in designing and testing new ways of doing things so we can be-more responsive, flexible, sensible and proportionate. The Bill is our chance to fundamentally challenge and change the existing orthodoxy, but in a way which is controlled, incremental and evaluated.

Firstly, I want to reassure you that this power is about enabling local authorities to change the way they work to achieve better outcomes. It is not about removing the fundamental aims of what local authorities do in order to safeguard children. Over recent years through the Innovation Programme and projects that followed Munro's review in 2011 we have tested different ways of working pushing the limits of the current framework. These trials

have generated exciting results, but local authorities want to go further. They can picture a better way of doing things and are keen to try it. This is what the power is about.

We will start this work with our Partners in Practice local authorities. They are all strong local authorities that have demonstrated an appetite for trialing an alternative way through the Innovation Programme. The power will provide the opportunity for the Secretary of State to allow exemptions for a particular piece of legislation and create a controlled environment to pilot a different way. This is bold and I understand why people are cautious about it. But I believe that this is the only way to free our practitioners from the bureaucracy that has built up over the years. With the right safeguards this is the safest way to find out if there is a better way.

When I have been speaking with you the first concern that is raised is about how broad the power is. The scope of the power is broad because Government wants to allow ideas for innovation to come from the sector and from children and families themselves. I think this is completely the right approach. We can't wait for a new legislative opportunity for each and every new idea. We would be here until the cows come home. Children and families deserve a better, more responsive system and we need to change with pace.

During the bill debate Lord Nash provided some illustrative examples of how the power may be used. I wanted to stress that these ideas have come from the sector: they are barriers that local authorities want to address so they can deliver better outcomes for children. This is about the shift in practice that we have been arguing for, for many years. I really urge you to support your colleagues in their endeavours to try and change our risk averse practice system. The power is a push directly from the frontline to free us from central bureaucracy. Government has listened and wants to help do something about it.

And not all ideas of course will be tested. There will be a very rigorous process for local authorities to go through. Every request will have to make the case for how it will achieve the purpose of the power. They will need to fully explain how they think the exemption will enable them to achieve better outcomes or the same outcomes but in a better way. If there is a question mark on this then they simply won't progress. This is not about eroding children's rights. The pilots won't be scrapping services which children and families clearly need, but looking at ways in which their needs can be met more quickly, to a higher standard, or more efficiently so that staff or resources can be better targeted. Nor will they be allowed to change or remove fundamental services: the pilots will look at the detail of specific services and see if there is a better way of delivering them.

Generally, I have found that many are supportive of innovation, but want assurances that any exemption requests will be robustly scrutinised before they are approved must be in place. I agree. It is essential that we have confidence that any exemptions are fully thought through and closely scrutinised, with the correct checks and balances in place to mitigate the risk of trialing a different way of working. When we first brought forward the Bill we put in place a rigorous process for assessing applications, however I am conscious that many of you felt we needed to go further. We have listened to your concerns and will be tabling Government amendments at report stage to increase the scrutiny of proposals.

First we will introduce an amendment to state that the Secretary of State must consult an expert advisory panel on each application before laying regulations. The advisory panel will contain Her Majesty's Chief Inspector and the Children's Commissioner as well as skilled representatives from the voluntary sector, social work practice and local government, appointed on the basis of their expertise. I believe the combined expertise of this panel will ensure a robust assessment for each application made for the power. We are also committing to publishing the panel's advice so that the process is transparent and it can inform parliamentary scrutiny of applications to use the power.

As Lord Nash told peers previously, we will also be tabling Government amendments to increase the scrutiny around the power. First, we have broadened the scope of legislation that will pass through the affirmative parliamentary process. By doing this we can ensure more proposals to use the power will be subject to debate by MPs and Peers in both Houses of Parliament. Secondly, we are proposing that an explanatory report should be laid alongside each request to use the power. The note will provide in more detail the specific exemption a local authority is requesting, how the exemption will enable them improve services for children, the safeguards they will put in place and how they plan to monitor and evaluate their progress.

I have also heard that many of you have concerns that the power could potentially be used to allow the generation of more profit into the system, which could incentivise privatisation of services. Ministers have said before, and they will say again, this is not the intention of the clauses. However to put this point beyond doubt we are tabling a Government amendment that will explicitly rule out any local authorities being able to use the power to revisit any restrictions on profit making in children's social care.

When Eileen Munro said we need to do the right thing, rather than doing things right, everyone agreed. When she said that the system was overly-bureaucratic which lead to social workers not having enough time to do the direct work they are trained for and which has a real impact on children's lives, everyone agreed. If we don't support this power we can no longer complain that the system is too bureaucratic and that we are hamstrung by legislation. The title of the clause is 'power to test a different way of working'. It is about testing, trialling, piloting, and researching other, better ways of delivery support to and protecting children. This is our chance to test different ways of working to do the right thing, and we must seize it.

Yours sincerely,



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