



The Rt Hon Baroness Jacqui Smith

Minister for Skills

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The Baroness Berridge
House of Lords
London
SW1A 0AA

Wednesday 25th June 2025

Dear Baroness Berridge,

I am writing to you following my commitment, during the Clause 11 debate on Day 5 of the Children's Wellbeing and Schools Bill Committee, to provide more information on the small number of children who are not looked after at the time an application is made to the High Court for a deprivation of liberty order, and who would not be able to be deprived of their liberty under section 25 of the Children Act 1989.

As you referenced during the debate, Nuffield Family Justice Observatory research has found that a small proportion (under 4%) of children on a Deprivation of Liberty Order made under the inherent jurisdiction of the High Court were not looked after children at the time of the application. A child who is not looked after may nonetheless have significant special educational needs and disabilities or mental health needs that mean a deprivation of liberty order is required to keep them safe.

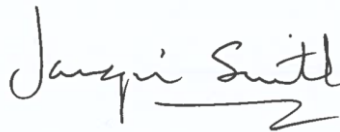
You specifically asked whether this small proportion of children will still require the inherent jurisdiction of the High Court to authorise their deprivation of liberty. Authorisation by way of the inherent jurisdiction for children who need to be deprived of their liberty for their own safety and the safety of others will remain as an option of last resort if the state is responsible for depriving the child of their liberty, where there is no other statutory mechanism available. This will continue to ensure children are not deprived of their liberty unlawfully, and the High Court is able to adapt its order to the specific child in question and their needs.

Reducing the risk of escalation such that a deprivation of liberty is not required is fundamental. We have recently commissioned independent research which will help build the evidence around how children's needs escalate as well as different interventions and their impact on children's outcomes. Furthermore, we will be testing and evaluating an integrated multi-disciplinary assessment, commissioning and delivery model in the South East Regional Care Cooperative, looking at how systems can work effectively together to meet the needs of children.

Details of the government's intended approach to SEND reform will be set out in a White Paper in the autumn, including for early years and post-16. We want to make sure that other departments are involved in, and aligned with, our plans for the future of SEND. In line with our Plan for Change, I know that ensuring that the SEND system works well, so all children can achieve and thrive, is a shared priority with colleagues across the cabinet.

Thank you again for taking the time to engage on these matters. I hope these further details have been useful and I will place a copy in the House libraries.

Yours sincerely,

A handwritten signature in dark ink, reading 'Jacqui Smith'. The signature is written in a cursive style with a long horizontal flourish at the end.

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