



Short thematic review of children and young people placed on Deprivation of Liberty Orders - January 2022

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1. Basis

In conducting this review, we met virtually with the placing authority social workers, key worker or a member of house staff for all the children and young people subject to a Deprivation of Liberty (DoL) Order in Scotland in January 2022; conducted face to face meetings with nine of the children and young people; and had a telephone interview with one young person. One child did not wish to participate in this review.

As the numbers were small (11 cases) we can only give an analysis of quality of decision making and care provision for those cases. They may provide some initial indications of quality of service to children and young people in cross border placements where a DoL order is in place, but we can't guarantee that what we found would be the case for every child ever placed on a DoL order in Scotland. In addition to the DoL order nine children and young people were subject to a full Care Order (section 31 Children Act 1989 England and Wales) and two were subject to an Interim Care Order.

2. Review aims

2.1 Provide a snapshot of the range and type of restrictions placed on children and young people on DoL orders in Scotland

At the time of the review there were 11 children and young people subject to a DoL order placed in Scotland with one or more of the following measures in place:

Measures within DoL orders (NB: most children and young people had more than one condition as part of their order)	Number of children and young people
To be supervised at all times at home, community, whilst travelling (Some orders specify staff ratios of 1:1 or 2:1, and the management of trips into the community, e.g., to be subject to dynamic risk assessment)	10
Restriction of use of mobile and landline phone (Some children and young people were required to hand their phone to staff members at night, one young person was permitted use of a mobile phone subject to a risk assessment)	8
Restriction of use of internet and social media	7
To be prevented from leaving placement (including locking windows and doors to prevent child or young person from leaving - this restriction was not implemented as, based on Schedule 12 to the Public Services Reform (Scotland) Act, it was not permitted in the services where the	2

children and young people were placed	
Use of physical restraint to prevent harm to self and others, including the risk of absconding	6
Physical restraint not permitted	1
Restricted access to personal allowance	1
Search of possessions with and without notice to the child or young person	2
Permission to search the child or young person's room	1
Permission to remove knives/sharp objects, makeshift weapons, ligatures	4
Night-time observation	1
Transport to placement (including the use of secure transport)	3
Measures to be reviewed weekly	1

The measures in place were bespoke to the needs and risks in respect of each child or young person, and were reviewed and implemented as part of the care planning process in almost all cases.

2.2 Children and young people and their families' rights are promoted during legal proceedings in respect of applications for DoL orders

All children and young people and their families, as appropriate, had access to an advocate and a solicitor representing their views in the legal proceedings. Some children and young people attended the court to participate in the proceedings. One child commented that the virtual nature of proceedings (due to the impact of Covid-19) made it easier to participate.

3. Explore the reasons why those children and young people are being placed in a care home service in another country, and a considerable distance from home

3.1 Rationale for cross border placement

The intensity of the care package required for the children and young people in all cases necessitated a UK-wide placement search. Resources in the home areas could not provide for the needs/risks of the children and young people. The level of risk posed to the child or young person in their local area was a key factor in the rationale for the cross-border placement. Evidence provided reflected the vulnerability of the children and young people which exposed them to heightened risk to themselves or from others. Early life trauma and the impact on the mental health of the child or young person was evident in almost all cases (10). Child Sexual Exploitation (CSE) was a noted concern in more than half of the cases (six). Self-harm was a noted concern in five cases; five children and young people had a

formal diagnosis of autistic spectrum condition; significant missing from home episodes was a noted concern in four cases; offending behaviour was a noted concern in three cases; and in three cases the child or young person was at risk in the local community after serious assault. In all cases the child or young person was living with the complexities of at least three of these identified concerns.

Decision making around individual placements was informed by the staff ratio required (in line with the DoL order); smaller numbers of children and young people supported in the children's house; or the opportunity for a singleton placement.

3.2 Placement outcomes

The placing authorities sought placements UK wide for all young people on DoL orders. For two young people decision making was guided by the placing authority's previous experience of working with the service, and the view that the young person's needs could be met. The placement in Scotland had positive outcomes for the child or young person in most cases. Eight children and young people provided detail related to the positive impact of their placement location. Children and young people noted:

- the move to Scotland was beneficial as it allowed them to put distance between them and peers with whom they had been involved in a lot of difficulty. This has allowed the space to reflect on their situation and to make significant progress
- that they viewed themselves as settled in their placement with aspirations to stay until 18 years old and then reside in the local area
- that they saw the service as a home and wished to remain there until they are 18

Contact with those important to the child or young person were in place for most children and young people (10). Where there were issues relating to frequency/quality these were directly related to factors outwith the child or young person's and placing authority control, for example, related to the parents own difficulties. Contact plans with placing authority workers were in place for all children and young people at a frequency that was beneficial and in line with care plans. Face-to-face visits, video calls, and telephone calls were all noted to be available by the children and young people, with children's house staff detailing the benefits of regular communication.

3.3 Children and young people's understanding of their rights

In all cases the child or young person was supported to develop a fuller understanding of their rights once they were placed in the service. As noted earlier, in all cases an advocate and solicitor represented the child or young person throughout the court process with five children and young people attending and actively participating. Where the child or young person lacked understanding of their rights at the point of the DoL order being made and/or placement commencing, it was clear that direct support from key professionals: social worker, advocate, court guardian, independent reviewing officer, and children's house staff had helped them develop a heightened understanding through the placement. In two cases the child or young person lacked any understanding at the point of placement; in both these cases the DoL order was in place pre-placement and support from the care team

helped the young people fully understand their circumstances. In most cases (nine) the rights of the child or young person were being honoured and upheld. However, in two cases the delay in placement move and care planning were identified by the children and young people as having negatively impacted on them, for example they were anticipating leaving but this had not happened and they had no clear information on when they would be leaving.

4. Assess the quality of shared decision making and information sharing in the admissions and matching of children and young people on DoL orders being placed in Scotland.

4.1 Information sharing

Information provided by the placing authority to the children's house, in all cases, detailed the placement requirements and the historical and current factors impacting on the child or young person's need for a protective placement with identified safeguards. The legal status was understood in all cases except one, where a new social worker had recently assumed responsibility and was unaware of the DoL order, although the child's history and needs were shared. However in all cases, the host authority and relevant services were not included in the placement decision-making. Notification was made in all cases at the point of placement or post admission. Responsibility for registration with local services was devolved to the staff within the care service. One young person was significantly impacted by delayed registration as their health and education needs were not being met for a significant period of time.

4.2 Involvement in decision making

All the children and young people and/or their parents/carers, where appropriate, were involved in the decision making. Whilst the limited resources impacted on choice, children and young people had an understanding of the search for a resource UK-wide and the rationale for it at the time of the decision, for example due to crisis, additional support needs, or limited local resources. Two children and young people understood the alternative was secure accommodation. Children and young people were involved in the decision-making for the cross-border placement in eight of the cases. Evidence for the children and young people not involved in decision making suggests the level of risk the child or young person was exposed to directly guided the level of involvement. For example decisions needed to be made quickly due to the level of risk, or the child or young person was not in an appropriate frame of mind to engage with the decision making process. Parents/carers were involved in decision making in seven cases; two of these were cases where the child or young person had not been involved. In seven of the cases the placements were planned and four were made on an emergency basis; three of which involved the child or young person or parent/carer in the decision making. The involvement of children's house staff was evident in seven cases and detail provided reflected the benefits of this in relation to the placement planning for the child or young person and the care team.

4.3 Transport to placement

The transport to placement, noted by all to be a lengthy journey, was provided by secure escort services for the child or young person in eight cases; in almost all of these cases (seven) the adults were not previously known to the child or young person. For five of the children and young people the experience was detailed as negative resulting in feelings of being scared, frightened, distressed and/or nervous. Children and young people said the experience was more positive when they had been involved in the planning; when they knew at least one of the adults involved and could engage in activities en route (such as stopping for food or playing games); or where they could speak to people they knew by phone while they were travelling.

The planning for transport to placement in three cases involved the child or young person and was more child-centred and co-ordinated around the child or young person's needs. Two children and young people were supported to travel by the care team from the children's house with another, at their request, supported throughout the journey by their social worker and support worker. The involvement of the child or young person in the planning and the support of an adult, directly holding a role or relationship with the child or young person, was beneficial.

5. Assess the use of restrictions and resulting outcomes for the child or young person during the placement

5.1 Placement arrangements

Children and young people subject to DoL orders in Scotland were placed in houses delivered by private providers, often in rural areas, where staffing ratios are high; minimally one member of staff for each child or young person with one child being cared for by three-four staff members. Eight children and young people were cared for in very small house settings with fewer than 3 children and young people residing in the house. All the children and young people had an identified key worker who provided support in individual sessions in addition to the support provided by the rest of the care team. All children and young people reported positive relationships with the staff caring for them.

5.2 Planning for placement

Seven children and young people were already subject to a DoL order when placed in Scotland. An order was sought for the remaining four children and young people during placement due to emerging concerns about their behaviour and the level of risk to which they were exposed, as a result. The restrictions were seen as necessary to implement a plan to keep them safe. The nature and use of measures permitted within each order were detailed in almost all children and young people's plans.

5.3 Use of measures to restrict a child or young person's liberty

The type and number of measures to restrict a child or young person's liberty were particular to the needs and risks for each individual child or young person.

Scottish courts review DoL orders minimally every 3 months however the circumstances for one child or young person were reviewed more often as there had been an unplanned ending of placement resulting in a move to another Scottish resource pending a return to the home area. The court has maintained a regular overview of this young person's circumstances as plans have changed.

We found that the measures were applied in the least restrictive way, promoting the child or young person's rights. The measures in place within the DoL order reflected the greatest level of restriction applied to the child or young person. The measures which are applied with 'permissive intent' were implemented in line with ongoing risk assessment, review, and the child's plan. This means that although the measures have been authorised for use, the service does not need to implement all of the measures. As progress is made, restrictions vary and reduce over time with the aim of evidencing progress to remove the DoL order.

5.4 LAC reviews

Nine children and young people had an up to date Looked After Child's Plan formulated at a review conducted by an Independent Reviewing Officer (IRO). One young person's LAC review was overdue due to the absence of the IRO and a decision to delay the meeting until the IRO returned to work. Postponing the review was seen by the adults involved as being in the child or young person's best interests given the positive relationship they have with their IRO. A planning meeting had been held in the interim however the child or young person was of the view that their plan was unclear creating uncertainty for them.

A review was overdue for another child or young person following a change of placement. The placement for this child or young person was temporary until an appropriate placement could be identified in the home area. This child or young person would have benefited from an interim review to ensure the plan was clear to them and others involved.

5.5 LAC reviews / use of DoL order

The measures contained in the DoL orders were reflected in the plans for nine children and young people. The requirements of the order were not specified in a plan or reviewed for the young person waiting on a placement in their home area. For another child, in which the least restrictive measures were in place, the service provider and a newly allocated social worker were unaware of the existence of the DoL order and as such it was not reflected in plans.

5.6 Children and young people's participation in reviews

All children and young people were given the opportunity to participate directly in their most recent review with nine children and young people attending their meetings; one child choosing to attend part of the meeting; and one young person who contributed their views to others to represent at the meeting.

5.7 Support plans

In addition to LAC reviews, support plans were in place and reviewed regularly by service providers. These plans incorporated the measures in place and the extent to which these were being implemented to support the child or young person's plan and help the child or young person progress. A few children and young people's plans agreed full implementation of all measures. Most were using some of the measures with the ability to reinstate them if the assessment of risk indicated this.

Overall plans were being reviewed and implemented with the aim of not having the restrictions required by the DoL order where appropriate. Decisions were being taken jointly between service providers and the placing authorities through the provision of regular updates and meetings. Children and young people were contributing their views to these discussions.

During the review we were able to see how services were attempting to minimise restrictions for most children and young people, e.g. length of time with mobile phone; increasing time using internet and social media; unsupervised community access with friends; and attendance at school and college, etc. to promote the child or young person's rights and growing levels of independence.

In two cases there was no ongoing communication regarding plans for the use of the measures within the DoL order, i.e. where the order was thought to have lapsed and where the child or young person was awaiting a placement in the home area.

5.8 Impact / Outcomes

Placement progress

Of the 11 children and young people placed on DoL orders, seven were placed on a planned basis and four placements were organised on an emergency basis.

Children and young people interviewed as part of this review reported positively regarding their experience in placement and relationships with their care teams. This included children and young people placed on an emergency basis.

Children and young people commented:

- "I like the staff – I would be happy here it were nearer my home"
- "The move to Scotland has allowed me to put distance between me and my friends who I've got into trouble with"
- "Scotland is very good I love it - it's nice and peaceful and not too busy"
- "I feel calmer and able to work with people here to think about my future"

For one child it was noted that for the first time there is a safe and consistent staff team who have not given up.

Alternative placements were being sought for two children and young people; one who was placed on an emergency basis and another whose placement was planned but assessed as not meeting their significant mental health needs.

The rural locations, the small house environments, and the commitment of the staff groups caring for children and young people were seen as significant factors in the

progress most young people made by professionals involved and young people themselves.

Nine children and young people placed on orders had made significant progress in the placement, resulting in a reduction of risk and easing of the measures within their orders. The assessed level of risk in respect of two children and young people indicated continued use of most of the measures in place and plans were in place to identify alternative placements for both children and young people. All the children and young people were supported by their care plans and the measures within the DoL order to make progress.

Education provision

10 children and young people were achieving educationally either through attendance full-time or part-time in mainstream education; education provided by the service provider; or through college and attending work experience. Some children and young people were participating in education and working towards qualifications after years of no provision.

One child or young person who was excluded from school, was awaiting a care placement imminently, in the home area. Therefore no attempts had been made to find alternative education provision for them in Scotland.

Family contact

Different ways of maintaining contact (e.g. phone, social media, in person) had been considered for all the children and young people. Nine children and young people had contact at a level that they were satisfied with and organised at a level appropriate to the plan. One young person had telephone contact however face-to-face contact had been limited and this was difficult. The plan was for this child or young person to return to the home area partly to address family contact issues. Attempts had been made to organise contact for another child or young person however this was impacted by the quality of family relationships.

Promoting interests, hobbies and community integration

All children and young people were supported to participate in hobbies, activities and leisure pursuits of interest to them, based on a risk assessment / plan and the measures within the DoL order. Some were doing so unsupervised in the community, and others were supported by their care team. By doing so, and through attendance at school or college, children and young people were afforded the opportunity to make friends locally.

Health needs

All children and young people were registered with universal health care providers, and most had attended routine appointments and where required had received more specialised input. One child had not received medication prescribed whilst moving between health board areas, and would have benefitted from additional support to access routine health care.

Where required, children and young people had access to CAMHS, with transition between CAMHS teams being well supported at the time of the move.

Nine children and young people had access to CAMHS or in-house specialist intervention services. Support was also available to the care teams to support their work with children and young people. There was evidence of good work between CAMHS teams to support the young person's transition and there was no evidence of delay for young people requiring specialist therapeutic intervention.

Staff training

Almost all of the staff caring for children and young people had not received formal training on English care orders, including DoL orders. One UK wide service provider incorporated English and Scottish legislation into their training, including DoL. Others reported relying on the knowledge of colleague's previous experience of caring for young people subject to DoL orders for advice, or advice from placing authorities. Most appeared to understand the implications of the legislation for the child or young person cared for. However there were two children and young people as detailed above where there were issues in the implementation of the DoL order, as staff were either unaware of it or unclear about the restrictions that had been agreed.

Staff had had training on caring for children and young people who had experienced trauma.

6. Opportunities for Improvement

Whilst the review highlighted a number of positive examples of practice, we cannot be confident this would be mirrored if we looked at the cases of all children placed in Scotland from other parts of the UK. There were several areas where we believe practice could be strengthened, which are detailed below. While we looked only at a small number of cases where children are placed on DoL orders, these recommendations may be of relevance to all children and young people placed cross border.

- 6.1 It would be helpful to have UK-wide guidance to support good practice in meeting the needs of all children and young people placed outwith their country of birth.
- 6.2 Better coordination in meeting the needs of children and young people would be supported by a pre-placement multi-agency planning meeting being convened, or in the case of an emergency placement, a meeting within 72 hours of commencement. Meetings should include representatives of the placing authority, host authority, service provider, and health, education and police services. The focus should be on ensuring a shared understanding of the child or young person's needs and how these can be met within placement and by services, if required, in the area in which they are to be placed.
- 6.3 Training developed by a national organisation should be available for all service providers involved in cross border placement provision on English legislation, including specific detail relating to DoL orders.

- 6.4 The use of secure escort services to transport children and young people requires additional consideration to ensure it is trauma informed and child-centred given the impact for children and young people as outlined above
- 6.5 Improved practice would be supported by comprehensive guidance for services supporting children and young people placed cross-border (covering, for example, responsibility for transport support; training on English legislation and pre-placement planning). Guidance should be in line with, and reflect, child-centred, rights-based approaches.

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