Children's Continuing Care Network

FUTURE WORK

SESLIP
South East Sector Led Improvement Programme

- **The Law Commission's consultation (September 2025) emphasised:**

  a. lack of statutory definition of care boundaries;
  b. increasing reliance on local authorities to meet complex needs;
  c. absence of enforceable dispute mechanisms.

- **This represents a critical and strategic opportunity for SESLIP to influence statutory reform and advocate for:**

  a. A primary health need test;
  b. statutory boundary provisions;
  c. independent dispute resolution.

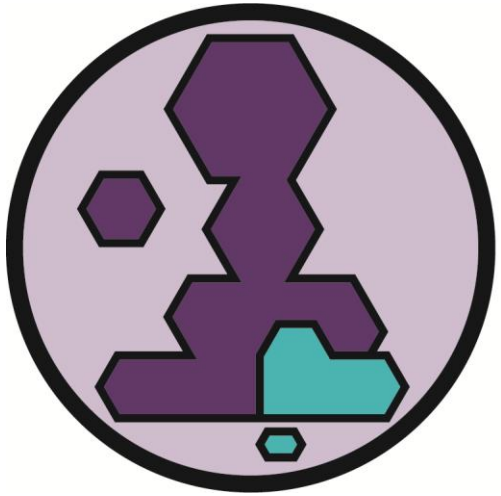
- In terms of future legislation, this should provide that a child is eligible where their needs are either more than incidental or ancillary to accommodation; OR are beyond what a local authority can reasonably provide. This mirrors the regulation 21 (Standing Rules) and the test as set out in the Coughlan case.

Options to improve the current regime would be: -

- Replication of Section 22 of the Care Act within a statute relating to children's continuing care, prohibiting Local Authorities from providing health care unless it is incidental. This would align the adult and children regimes, reduce litigation and clarify funding responsibilities. However, a children's Framework would need to reflect the tripartite system for children (health, education and social care) and integrate with Section 17 of the Children Act 1989 as well as SEND framework. This would be a task for those drafting the legislation
- Consideration to be given to the Welsh Statutory Framework and what elements of that could be adopted. The Welsh Framework is embedded within a wider statutory scheme and supported by legally binding Codes of Practice which creates greater clarity around duties, assessment, eligibility, planning, review and inter-agency working. It also includes a single integrated assessment and care planning framework, unlike the current multiple parallel processes in England.

In terms of options between now and any statutory changes taking place, consideration could be given to litigating a “test case” which might then result in changes to case law. However, this would be dependent on an appropriate case being identified.

Any questions?



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