

Children, Schools and Families

Briefing on the Children Act, December, 2004 (Updated January 2005)

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Introduction and Summary

The Children Bill was enacted on 15th November 2004. The Act implements proposals outlined in the green paper, Every Child Matters, and the linked Every Child Matters; Next Steps, both published in September 2003. Every Child Matters: Change for Children was published in December.

The Act seeks to make fundamental changes to the way children's services will be delivered across the range of agencies and organisations responsible for children's services. It has particular implications for local authorities in the way children's services are co-ordinated across the whole council and how the council works with local agencies. Councils will be the accountable local body for children's services across all key local agencies, bringing partners together in the locality and acting as the catalyst for change locally to achieve effective integrated services for children. The Act focuses on outcomes for children rather than structural change.

Part 1 – Children's Commissioner

Part 2 – Children's Services in England, including new duties to improve well being, an overarching children and young people's plan, safeguarding and promoting welfare, information sharing, Local Safeguarding Children Boards, establishing a Director of Children's Services and lead member for children, and inspection of children's services.

Parts 3 and 4 – Wales - children's services in Wales, and advisory and support services for family proceedings

Part 5 - Miscellaneous, including private fostering, intervention and the duty to promote educational achievement

Part 6 – General

Some Issues

- All agencies involved in delivering children's services should be placed under a duty to co-operate with each other to improve the well-being of children including schools, GPs and housing associations.
- The new duty for local authorities to promote the educational achievement of looked after children should be extended to schools.
- There is a need to ensure a strong emphasis on "safeguarding" across all sectors and at all levels. It is the duty of all those working with children to make their safety and well being paramount.

- The joint area reviews should form part of the broader inspection framework, including the Comprehensive Performance Assessment.
- There are resource implications, including establishing the information sharing database, annual inspections of private foster carers and investment necessary to bring about cultural change and a refocusing of services.

Part 1 – Children’s Commissioner

This establishes a Children’s Commissioner to promote and safeguard the rights and interests of children and certain groups of vulnerable young adults in England. The Commissioner does not have the power to investigate individual cases, the intention being to focus on broader issues affecting children. However, the Commissioner will also be able to hold inquiries into cases of individual children with wider policy relevance in England.

Part 2 – Children’s Services in England

Section 10: Co-operation to improve well being

Each children’s services authority in England must make arrangements to co-operate between the authorities and its relevant partners. These arrangements are to be made with a view to improving the well being of children in the authority’s areas relating to:

- physical and mental health,
- protection from harm and neglect,
- education and training
- the contribution made by them to society
- social and economic well-being

Relevant partners of a children’s service authority in England include:

- in two tier areas the county and district councils.
- the police authority and chief officer
- the local probation board
- youth offending team
- Strategic Health Authority and Primary Care Trust
- any person providing services under section 114 of the Learning and Skills Act 2000 in any part of the authority

- Learning and Skills Council

These partners must co-operate with the authority in making arrangements under this section and there is provision made for the partners to establish a pooled fund for these purposes in Children's Trusts. They must also have regard to any guidance given to them by the Secretary of State. The government is developing a framework to ensure that co-operation is achieved.

Section 11: Arrangements to safeguard and promote welfare

"Promoting welfare" is clarified in the Framework for the Assessment of Children in Need and their Families of 2000 as:

- All agencies working with children, young people and their families take all reasonable measures to ensure that the risks of harm to children's welfare are minimised; and
- Where there are concerns about children and young people's welfare, all agencies take all appropriate actions to address those concerns, working to agreed local policies and procedures in full partnership with local agencies

This applies to:

- A children's services authority in England
- A district council which is not a children's services authority
- A Strategic Health Authority
- A Primary Care Trust
- An NHS trust all or most or most of whose hospitals, establishments and facilities are situated in England
- An NHS foundation trust
- The police authority and chief officer including the British Transport Police Authority
- A local probation board
- A youth offending team
- The governor of a prison or secure training centre
- Any person to the extent that he is providing services under section 114 of the Learning and Skills Act 2000

Each must make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children. They must also ensure that any services for which they are responsible but provided by another person under these arrangements have regard to the guidance given to them by the Secretary of State. These functions do not include schools, which are already required to make these arrangements under section 175 of the Education Act 2002.

Section 12: Information databases

The Secretary of State may establish, or require children's authorities in England to establish and operate databases. These include:

- Facilitating contact between professionals who are supporting individual children or who have concerns about their development well being or welfare with the aim of securing early and coherent intervention
- To help practitioners identify quickly a child they have contact with, and whether that child is getting the universal services to which he or she is entitled.
- In service planning, when suitably anonymised.

Operational requirements will be set out in regulations and there will be guidance on technical matters. Basic data to be held comprises:

- Name
- Address
- Gender
- Date of birth
- A unique identifying number
- Name and contact details of any person with parental responsibility or day to day care of the child
- Details of any education being received whether in an educational institution or other setting
- Name and contact details of a GP practice

Section 13 Establishment of Local Safeguarding Children Boards

Each children's services authority in England must establish a Local Safeguarding Children Board in their area, to strengthen local arrangements for safeguarding children. The Board must take reasonable steps to include representatives of the authority and each of the Board partners of that authority. LSCBs will differ from Area Child Protection Committees (ACPCs) in that they have statutory functions and the partner agencies will be specified in primary legislation.

The objective for the LSCBs is to co-ordinate and ensure the effectiveness of the work of partner agencies in relation to safeguarding children and promoting their welfare. Board partners are:

- Where the authority is a county council, the district councils must also be included.

- The chief police officer
- The local probation board
- The youth offending team
- A Strategic Health Authority and Primary Care Trust
- An NHS Trust and an NHS foundation trust where all or most of the hospitals, facilities and establishments fall in the area of the authority.
- A person providing services under Section 114 of the Learning and Skills Act 2000 in any part of the area.
- The Children and Family Court Advisory and Support Service
- The governor of any secure training centre
- The governor of any prison in the area of the authority which ordinarily detains children
- The Local Safeguarding Children Board can also include representatives of other relevant bodies.

Sections 14 – 16: Functions and procedures of Local Safeguarding Children Boards

The objectives of the Local Safeguarding Children Board are:

- a) to co-ordinate what is done by each person or body represented on the Board for the purpose of safeguarding and promoting the welfare of children in the area of the authority by which it is established; and
- b) to ensure the effectiveness of what is done by each person or body for that purpose.

The government intends to make regulations to set out the functions of LSCBs in five areas:

1. Strategic planning - to support the relevant local children and young people strategic planning partnership and to ensure that adequate plans are in place to safeguard children across all the relevant agencies
2. “Preventative” work covering:
 - i) Child protection i.e. activity to protect children in respect of whom concerns have been expressed.
 - ii) Safeguarding i.e. the prevention of abuse and neglect more generally, encompassing community awareness-raising, support for families.
 - iii) Prevention of harm
 - iv) Inter agency co-operation in the safeguarding of children who are privately fostered.

3. Improving the quality of child protection work and inter agency working through interagency training and development
4. Establishing screening teams to investigate each sudden, unexpected child's death
5. Commissioning serious case reviews, to be chaired by an independent person along the lines set out in Part 8 of Working Together to Safeguard Children.

The children's services authority or any Board partner may make payments directly or by contributing to a fund out of which payments may be made towards the expenditure incurred by the Local Safeguarding Children Board:

Section 17: Children and young people's plans: England

Children's services authorities will be required to produce a single children and young people's plan to setting out the authority's strategy for discharging their functions in relation to children and relevant young people. This allows rationalisation of current statutory plans across children's services.

Section 18 Director of Children's services

A children's services authority must appoint a Director of Children's Services. Some key functions are:

- those conferred on or exercisable by the authority in their capacity as a local education authority and social services functions so far as they relate to children.
- The functions under section 6 – 8 of this Act (co-operation to improve well-being, arrangements to safeguard and promote welfare and information sharing)
- Any functions exercisable by the authority under section 31 of the Health Act 1999 on behalf of an NHS body as those functions relate to children.

Guidance will be issued, covering clear accountability, achieving better outcomes and services for children within the local authority and leading local change and co-operation arrangements.

Section 19: Lead members for children’s services

A children’s services authority must designate one of its members as their “lead member for children’s services”.

Guidance will outline the roles and responsibilities of the Lead Member for Children’s Services, who will strengthen accountability at the local political level for children’s services. These will have a particular focus on child protection.

Section 20 –23: Inspecting Services and Joint area reviews

The Act makes new proposals for joint area reviews, which aim to provide a picture, and judgement, of what it is like to be a child in a local authority area. They will evaluate the quality of services provided for children, and the extent to which those services work together to improve children’s well-being

The Act also sets out a framework for inspecting children’s services and imposes a duty on the Chief Inspector for Schools to devise the framework. The Secretary of State may require a review of all children’s services provided in the area. The review can be undertaken by any two of the following bodies or persons:

- The Chief Inspector of Schools
- The Adult Learning Inspectorate
- The Commission for Social Care Inspection
- The Commission for Healthcare Audit and Inspection
- The Audit Commission
- The chief inspector of constabulary
- Her Majesty’s Chief Inspector of the National Probation Service
- Her Majesty’s Chief Inspector of Court Administration
- The Chief Inspector of Prisons

Section 24: Performance rating of social services

The annual performance rating for each authority awarded by the Commission for Social Care Inspection (CSCI), is made specifically in relation to services for children and a separate rating awarded to adult services

Part 5 - Miscellaneous

Part 5 sets out a number of new measures including:

- Payments for foster carers that fully meet the cost of caring for a looked-after-child
- Strengthen the existing notification arrangements for private fostering
- Clarifying and simplifying the registration of child minders and providers of day care
- Extending existing intervention powers and inspection powers under section 38 of the Education Act 1996
- Creating a new duty for local authorities to promote educational achievement of looked after children and to transmit data on individual children in monitoring this
- A duty to ascertain the child's wishes regarding the provision of services and give due consideration to them
- Allowing for the payment of fees to adoption review panel members
- Restricting the grounds on which battery of child may be justified as reasonable punishment
- Allowing grants to be paid across the range of children, young people and families services
- Removing the power to make a care order at a lower threshold than would be usual under the Children Act 1989 as sanction for not complying with a Child Safety Order.

Foster carers

The government introduced payment for foster carers to ensure that allowances for foster carers fully meet the cost of caring for a looked-after-child. The new measures strengthen the private fostering notification scheme set out in the Children Act 1989. Councils will be required to undertake annual inspections of private foster carers, for which the registered person would have to pay a fee.

Section 48: Intervention

The Act will enable the Secretary of State to intervene where local authorities are failing to discharge functions relating to children's services. It extends existing powers of intervention in line with those relating to education services, including social services functions relating to children and those relating to children leaving care. The Government has given assurances that the new intervention powers will be proportionate to the extent and nature of a failure and can only be used with regard to education and children's social services functions, not to any other functions of the local authority, or of any other body.

Section 50: Educational achievement of looked after children

The Act provides local authorities with a duty to promote educational achievement of looked after children, amending Section 22 of the Children Act 1989. The government has made commitments that will strengthen existing guidance:

- ensuring that a suitable school placement is available at the same time as arranging a care placement;
- ensuring that each looked after child has a Personal Education Plan;
- the need to monitor admission and exclusion of looked after children; when an exclusion has taken place, a requirement to ensure that the child receives appropriate alternative education;
- an offer of induction training and ongoing professional development support for the designated teacher and training and support for school governors;
- prioritisation of looked after children in local authority-wide strategies for improving educational achievement and promoting the inclusion of vulnerable groups of children and young people.

Section 57: Power to give financial assistance

This section amends the section 14 of the Education Act 2002 to give financial assistance for the purposes of:

- The promotion of the welfare of children and their parents
- The provision of support for parenting (including prospective parents).

Checklist for implementation of the Children Act in Hertfordshire, for completion as guidance and regulations are issued

Part/section	Section title	Hertfordshire action	commencement
Part 1	Children's Commissioner	To note	15 th November 2004
Part 2	Children's Services in England		
10	Co-operation to improve wellbeing. Pooled funds and	The Children and Young People's Strategic Partnership (HC&YPSP) is <ul style="list-style-type: none"> • developing proposals for a children's trust based on joint 	Children's Trusts by 2008

	resources	<p>commissioning and shared outcomes, learning from and building on the pilot Children's Trust in Stevenage and</p> <ul style="list-style-type: none"> • is restructuring to meet the Children Act/Change for Children agenda • encouraging and supporting District C&YPSPs 	
11	Duties and arrangements to safeguard and promote welfare	Co-operation through the HC&YPSP and Area Child Protection Committee /Local Safeguarding Children Board	Guidance will be issued. Draft guidance Dec 2004 on Common Assessment Framework. Final guidance & CAF materials pub'd Mar 05.
12	Information databases and information sharing	HC&YPSP 's Information Sub Group is steering this work. Margaret Marshall is in post as Information Sharing Officer.	Consultation on 'cause for concern' & recording practitioner details for sensitive services ends 19 Jan 05. Regulations and guidance promised
13	Local Safeguarding Children Boards	The Area Child Protection Committee will move to becoming a LSCB by April 2006 when guidance available.	Guidance & regulations will set out functions of the Board. Guidance replacing 'Working Together' Summer 2005. LSCBs In place by April 2006.
17	Children and Young People's Plan	This applies to excellent authorities as well as others. Start made in: <ul style="list-style-type: none"> • the Herts Together Community Strategy Investing in Children and Young People theme and draft action plan. • The Children and Young People's Strategic Partnership shared vision and outcomes work 	Regulations expected with implementation by April 2006. Aligns with integrated CPA of LA's children's services from 2005
18	Director of Children's Services	Requirement already met. John Harris in post.	Most by 2006 Guidance being consulted on
19	Lead members for children's services	Requirement already met. Jane Pitman and Robert Gordon are the Executive members for children's services and education.	By 2006 Guidance being consulted on
20-23	Joint Area Reviews	Will include children and young people in reviews	Ofsted devising joint framework for inspection

Every Child Matters Timetable

August 2004	DfES Five Year Strategy for children and learners
September	DoH/DfES National Service Framework for Children, Young People and Maternity Services, followed by local implementation document, December
December	Publication of DfES 10-year Childcare Strategy
December	Consultation launch of Integrated Inspection – Regulations and Framework
December	Publication of Every Child Matters: Change for Children
December	Publication of the Voluntary and Community Sector strategy
December	Draft Common Assessment Framework materials and implementation plan produced for informal consultation
December	Every Child Matters Change for Children 'Tailored Documents' (Health, Social Care, Youth Justice and Schools) - Published
December	Richard Inquiry – Progress Report
January 2005	Public consultation on lead professional guidance
January	Publication of the Common Core Prospectus
Jan/Feb 2005	Consultation on draft statutory guidance on new duties for co-operation to promote children's well-being, safeguarding children, promoting their welfare and improved information sharing (Sections 10 and 11 of the Children Act 2004)
19 January 2005	Close of public consultation on treatment of 'flags of concern' and sensitive services in proposed information sharing indexes
February	Publication of Youth Green Paper
February	Publication of the Pay and Workforce Strategy
March 2005	Common Assessment Framework materials and implementation plan published
March-April 2005	Publication of statutory guidance on new duties for co-operation to promote children's well-being, safeguarding children, promoting their welfare and improved information sharing (Sections 10 and 11 of the Children Act 2004)

Background Papers

Children Act 2004 and Explanatory Notes www.legislation.hmso.gov.uk/legislation/uk.htm

Every Child Matters: Next Steps and Change for Children DfES <http://www.dfes.gov.uk/everychildmatters/>

National Children's Bureau presentation 12 November 2004 www.ncb.org.uk , Local Government Association Rough Guide to the Children Bill www.lga.gov.uk, Hertfordshire Children and Young People's Strategic Partnership reports on Every Child Matters and the Children Act.