



COT/ BAOT Briefings

The Children Act 2004

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Country Relevance:	England (with reference to Scotland, Wales and Northern Ireland)

1 Introduction

This briefing describes selected sections of *The Children Act 2004*, which became law in November 2004, as they relate to children's services in England. Some sections apply to Wales because the National Assembly for Wales has asked for provisions. Part 1 of the Act deals with the establishment of Children's Commissioners in England, Scotland, Wales and Northern Ireland.

The sections of *The Children Act 2004* selected here are those that will be of interest to occupational therapists working with children and young people. *The Children Act 2004* provides legislation that aims to improve the way services work together to improve the lives of all children. The strategies for improvement cover all children's services as well as services for children and young people with additional needs. It places duties on key agencies to promote the welfare of all children and requires shared planning and commissioning of services, shared accountability and robust integration. It also requires an integrated framework for inspection of services, to ensure the extent to which services improve the well being of children and young people are properly evaluated.

2 Background

The principles supported by *The Children Act* are that:

- the welfare of the child is paramount;
- children are safe and protected;
- a child is brought up within his or her own family, as far as possible;
- parents of children in need are supported;
- parents continue to have responsibility for their children even when their children no longer live with them; and
- children are able to participate in decisions made about their future.

Children in need are defined in *The Children Act 1989* as those who 'are unlikely to achieve or maintain, or have the opportunity to achieve or maintain, a reasonable standard of health or development without the provision of services by the local authority. Alternatively that the



child's health or development is likely to be significantly impaired or further impaired without such services, or that the child is disabled' (Parliament, 2004 S17, 10).

The Children Act 2004 states that services provided to the child and family should be delivered in partnership with parents and carers, meet each child's identified needs, be appropriate to the child's race, culture, religion and language, be open to complaints procedures and use partnership arrangements.

The Children Act 2004 is divided into six parts. This briefing describes the following:

- Part 1 (UK)
 - Children's Commissioners
- Part 2 (England)
 - Duty to Cooperate
 - Local Safeguarding Children Boards
 - Children and Young People's Plan (England) Regulations 2005
 - Directors of Children's Services and Lead Members
 - Joint Area Reviews
- Parts 3 and 4 (Wales)
 - Sections 25 to 43
- Additional information and guidance (UK).

3 Part 1 of The Children Act 2004

Sections 1-9 of *The Children Act 2004* apply to all UK administrations.

3.1 Children's Commissioners

Sections 1-9 provide for the establishment of Children's Commissioners for England, Wales, Scotland and Northern Ireland. The Commissioners, who are independent of government, will act as a voice for all children, especially those most disadvantaged or vulnerable, by representing their views and interests and reporting annually to Parliament on the progress being made towards achieving the outcomes in *Every Child Matters* (Department for Education and Skills 2003). The commissioner will be free to report on any issue of concern, not just those relating to services provided by the public sector.

Each Commissioner has a website:

Northern Ireland www.niccy.org/ accessed 28/03/2006

Scotland www.cypcommissioner.org/ accessed 28/03/2006

Wales www.childcom.org.uk/ accessed 28/03/2006

England www.childrenscommissioner.org/ accessed 28/03/2006.

4 Part 2 of The Children Act 2004

Sections 10-24 of *The Children Act 2004* apply to England.

4.1 Duty to cooperate

Section 10 establishes a duty on local authorities to promote cooperation between agencies in order to improve the well being of all children and young people. Arrangements made for cooperation relate to young people aged 18 and 19 years, or over 19 years if they are receiving



services under sections 23c (being looked after in a voluntary home) or 24d (in accommodation provided by the health authority, local education authority, or residential care or nursing home) of *The Children Act 1989*. Young people with learning difficulties, who are over the age of 19 years but less than 25 years old, are also included.

Part 2 of the Act places a duty on key agencies to take part in any arrangements that are made and provides for a new power to pool resources such as staff, goods, services, accommodation and establishing and maintaining a pooled fund. A pooled fund for the purposes of this subsection is made up of contributions from the local authority and the relevant partners. Payments may be made from the pooled fund towards expenditure occurring in the discharge of the functions of the local authority and of relevant partners.

4.2 Local Safeguarding Children Boards

Sections 11 to 16 focus on safeguarding children. Key agencies have had, from October 2005, a duty to ensure that services safeguard children and promote their welfare. Since April 2006 each local area must have a Local Safeguarding Children Board (LSCB) in place comprising key partners.

Section 12 allows for further secondary legislation and statutory guidance to be made to set up databases or indexes that allow services to share basic information about children, such as a child's general practitioner, the school they attend and contact details of practitioners working with them. Databases will not hold any sensitive information. Their purpose is to enable a practitioner who is worried about a particular child to easily make contact with anyone else working with that child or family. This will speed up communication, avoid duplication of effort and help professionals work together more effectively. The index will indicate when a common assessment has been carried out.

Full implementation of the Information Sharing Index developed by pilot sites was agreed in December 2005. Guidance and regulations to bring section 12 into force are currently being prepared.

4.3 Children and Young People's Plan (England) Regulations 2005

Section 17 replaces previous legislation and requires local areas produce a single plan for all services used by children and young people.

The Children and Young People's Plan is one of four planning 'blocks' within Local Area Agreements (LAAs), which have been developed to improve service delivery, efficiency and partnership working. Twenty-one pilot sites for LAAs were signed up in March 2005 and the Government is now committed to rolling out the initiative across England over the next two years.

The Children's and Young People's Plans must provide clear actions designed to lead to improvements in outcomes, stating how and when improvements will be achieved. They must show the contributions of all partners and include a realistic assessment and identification of the resources needed for implementation.

Local authorities will take the lead in developing the plans with their partners, which will include regional government offices. The plans should be in line with the Local Delivery Plan (LDP) of the local primary care trust (PCT). The LDPs are produced for three year periods and set out how PCTs intend to achieve the key targets in the *NHS Plan* (Department of Health 2000) and how funding will be used.



Each Children and Young People's Plan must state the vision for future services, an outline of key actions planned, the working arrangements with each partner and how the budget will be used to achieve the improvements. Improvements must be based on accurate and comprehensive information of the current situation.

4.4 Directors of Children's Services and Lead Members

Sections 18 to 19 require all county councils and unitary authorities in England to appoint a Director of Children's Service and designate a Lead Member for children's services by 2008. The Director of Children's Services will be responsible for children's education and social services functions as a minimum. Other relevant functions such as housing may be added to the role at the discretion of the local authority.

The Director of Children's Services will be accountable for the delivery of the local authority's education and social services functions for children, and delivery of any delegated health functions. The designated Lead Member is a local Councillor who will have day-to-day responsibility for issues relating to children and young people. Both the Director of Children's Services and the Lead Member will have a key role in the formation of local partnerships.

4.5 Joint Area Reviews

Sections 20 to 24 require integrated inspection processes to be established. Section 20 makes provision for Joint Area Reviews to be carried out. Section 21 requires a framework to be devised which sets out the principles that will be applied by any person carrying out an inspection of children's services.

Section 23 defines children's services and includes those provided by statutory, voluntary and private sectors for children and young people up to 19 years old. Services for care leavers aged over 19 years and young people with learning difficulties aged from 20 to 25 years are also included.

The new inspection arrangements are designed to fulfil the intentions set out in *The Children Act 2004*, with the purpose of developing an integrated approach to inspection, assessment and review of services.

The scope of the joint area review (JAR) goes beyond the annual performance assessment of local authority education and social care services for children and young people, which was previously carried out by the Office for Standards in Education (Ofsted) and the Commission for Social Care Inspection (CSCI). The purpose of the JAR is to describe what life is like for children and young people living in the area and to evaluate how effectively local services work together to improve the five outcomes that forms the basis of *Every Child Matters* (Department for Education and Skills, 2003).

The outcomes, which are the same for all children, are to:

- stay safe
- be healthy
- enjoy and achieve
- make a positive contribution
- achieve economic well being.

JARs report on the well being of all children and young people in a local area. They cover services provided for the whole community, including health, education, housing, leisure and



transport, as well as targeted and specialist services. Particular attention will be given to joint action by local services on behalf of those groups of children and young people who are vulnerable to poor outcomes. Two such groups will be covered in detail in every review: children and young people who are looked after by the council and children and young people with learning difficulties and/or disabilities.

The key judgements are whether:

- the processes of assessment, intervention and review identify the help needed by children, young people and their carers;
- children and young people have opportunities to be actively involved in decisions affecting them;
- they are actively involved in the process of inspection, assessment and review;
- children and young people are helped to lead as normal a life as possible by the steps being taken to meet their educational, health, care and recreational needs;
- there is managed transition from setting to setting, and from children's to adult services.

The *Improving the Life Chances of Disabled People* (Cabinet Office 2005) report recommends that JARs include the provision of equipment, key workers and childcare as key performance indicators for health, social care and education services.

5 Sections 25 to 43 (Wales)

Different regulations and statutory guidance in sections 25 to 43 reflect the circumstances and organisational structures within Wales. However, the basic requirements are the same as those for England. These sections set out the duties to cooperate and:

- improve well being;
- prepare Children and Young People's Plans;
- make arrangements to safeguard children; and
- develop and use information sharing databases.

In Wales there will be a requirement for the nomination of a Lead Director for Children and Young People's Services and of a lead executive and non-executive director for Local Health Boards and NHS Trusts.

6 Additional information and guidance

The full text of *The Children Act 2004* can be found at:
www.opsi.gov.uk/acts/acts2004/20040031.htm accessed 09/05/2006

Several documents have been and continue to be developed to provide statutory and other guidance in support of *The Children Act 2004*. Some of these are included here:

6.1 Inspection of children services is contained within *Every Child Matters: the Framework for the Inspection of Children's Services* and includes:

- *Every Child Matters: arrangements for joint area reviews of children's services.*
- *Every Child Matters: arrangements for the annual performance assessment of council children's services.*
- *Every Child Matters: inspection of children's services, key judgements and evidence.*



www.ofsted.gov.uk/publications/index.cfm?fuseaction=pubs.displayfile&id=3765&type=pdf
accessed 28/03/2006

6.2 *Interagency cooperation to improve the well being of children: Children's Trusts* sets out the broad strategic direction for the development and operation of children's services. It describes the arrangements that constitute a Children's Trust and how local authorities and other key partners should discharge their duty to cooperate in order to improve the well being of all children and young people. It is available at

www.everychildmatters.gov.uk/files/1200903D4F3C1396021B70D7146FAFEA.pdf accessed 28/03/2006

6.3 The Directors of Children's Services and the Lead Members for Children's Services will provide the governance and leadership required for interagency cooperation. Draft guidance on the *Role and responsibilities of the Director of Children's Services and the Lead Member for children's services* can be found at

www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1276 accessed 28/03/2006

6.4 Statutory guidance on making arrangements to safeguard and promote the welfare of children under section 11 of *The Children Act 2004* sets out the key arrangements that agencies must make. It can be found at

www.everychildmatters.gov.uk/files/9204C14C73ACCA279701DDF9731B16F6.pdf accessed 28/03/2006

6.5 Closely connected to this is a revised guide on the new arrangements. *Working together to safeguard children: a guide to interagency working to safeguard and promote the welfare of children* can be found at

www.dh.gov.uk/assetRoot/04/07/58/24/04075824.pdf accessed 28/03/2006

6.6 Guidance on the *Children's and Young People's Plan* is available at www.everychildmatters.gov.uk/files/58A771D2F683214338B20DA1393F9B29.pdf accessed 28/03/2006

6.7 Statutory guidance is in preparation to support the establishment, operation and management of information sharing databases or indexes (Section 12 of *The Children Act 2004*) and will be available in 2006 or 2007. It will include technical specifications; tackle the issues of security, transfer and cross matching of data; and give advice on data protection rights.

6.8 *The Children's Workforce Strategy* was published for consultation in April 2005. It identified the main challenges for recruitment and retention of high quality staff and contained proposals to develop a national single qualifications framework to improve career pathways for the workforce.

www.everychildmatters.gov.uk/files/7805B4A312A144238AED77508DCFED9B.pdf accessed 28/03/2006

6.9 The common core of skills and knowledge for the children's workforce is a project that started in November 2005 to produce materials for local use by early 2006. More information can be found at www.skillsforhealth.org.uk/viewnews.php?id=31 accessed 28/03/2006

6.10 *Lead Professional Good Practice Guidance* was published to help the development and implementation of lead professionals who work with children and young people who have a



number of needs and where joint working arrangements are required. Lead professionals will act as a single, trusted point of contact for the children, young people and their families and will ensure that appropriate interventions are planned, delivered effectively and reviewed at regular intervals. The full guidance can be found at

www.everychildmatters.gov.uk/deliveringservices/leadprofessional/ accessed 28/03/2006

6.11 A multi-agency working toolkit, designed to help people in multi-agency working, offers information and advice about different roles, responsibilities, skills, knowledge and key activities.

The multi-agency working toolkit is currently in pilot form and has sections for:

- managers of multi-agency panels;
- managers of multi-agency teams;
- managers of integrated services;
- practitioners in multi-agency teams;
- service delivery models;
- benefits of interagency working.

See www.everychildmatters.gov.uk/deliveringservices/multiagencyworking/ accessed 28/03/2006

6.12 *Engaging voluntary and community sectors in Children's Trusts* has advice for local authorities, other public sector agencies and community and voluntary organisations to help them develop effective working arrangements.

www.everychildmatters.gov.uk/_files/9BC0394D20F3A2FA425FAFE5CC099E02.pdf accessed 28/03/2006

7 References

Cabinet Office (2005) *Improving the life chances of disabled people* London: Cabinet Office

Department for Education and Skills (2003) *Every child matters* London: DfES

Department of Health (2000) *NHS plan: a plan for investment, a plan for reform* London: DoH

Great Britain. Parliament (1989) *The Children Act 1989* London: Stationery Office

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