

The Children Act 2004

The CES continues to monitor legislation and to respond to the government's requests for comments on its proposals. In particular, CES responded at length to the green paper *Every Child Matters*, from which the *Children Act 2004* derives. The following text sets out the background to the Act (which has been claimed to be as significant in its long term aims as the 1944 Education Act), summarises the Act itself and related documents in the Every Child Matters series, and points out some implications for the Catholic sector.

Background

The Act cannot be understood without some knowledge of its social and educational context. A central element of this context is *The Victoria Climbié Inquiry report (2003)* by Lord Laming, which highlighted grave shortcomings in society's ability to protect the most vulnerable children. It identified several factors including: poor coordination between different agencies; failure to share information; the absence of any one person accountable for the overall wellbeing of the child; and a frontline workforce suffering from poor management, staff vacancies and ineffective training. The report recommended that protection of the most vulnerable cannot be separated from the need to improve children's lives overall. It proposed that improvements were essential not only in arrangements for children at risk but in the universal services which every child uses. The report may be seen as a catalyst that strengthened the government's commitment to joined-up thinking and to personalised provision across services.

The Act does not stand alone as an instrument of government policy: in particular, the consultation green paper *Every Child Matters (2003)* (ECM), summarised at annex 1, sets out a wide-ranging strategy to maximise opportunities and minimise risks for children and young people. Some elements of this strategy do not require new legislation, but some do: the Act gives effect to most of the legislative proposals in the green paper, but the wider, non-legislative, changes also need to be taken into account. The aspects of the strategy which underpin subsequent documents and so are quoted here in full are defined as five outcomes for children and young people:

- enjoying physical and mental health and emotional well-being;
- being protected from harm and neglect;
- getting the most out of education, training and recreation;
- making a positive contribution to society;
- achieving social and economic well-being.

Responses to the green paper were very largely positive and were summarised in *Every Child Matters: Next Steps (2004)*. This document sets the *Children Act 2004* in context as "the first step in a long-term programme of change", describes the broader, non-legislative, elements of changes that are being promoted and points the direction of future policy. For a summary of the *Next Steps* document, see annex 2.

The third document in the ECM series, *Every Child Matters: Change for Children (2004)* does not propose new policies. It "sets out the national framework for local change programmes", explaining what is already happening in various fields of activity and what government support is available to help in bringing about change.

The annexes are particularly useful, for example, giving summaries of the Act, government expectations of what needs to be done to meet requirements and schedules for meeting them. This document is summarised at annex 3.

Other documents relevant to the subject but not summarised in this paper are:

Every Child Matters: Change for Children in Schools (2004)
Engaging the Voluntary and Community Sectors in Children's Trusts (2005)
Common Assessment Framework (CAF) (2005)
Youth Matters green paper (2005)
The Framework for the Inspection of Children's Services (Consultation paper 2005)
Children's Workforce Strategy (Consultation paper 2005)
Common Core of Skills and Knowledge for the Children's Workforce (2005)
The National Service Framework (NSF) for Children, Young people and Maternity Services (2005)

In addition to these documents, a great deal of guidance is available through the Every Child Matters (ECM) website at www.everychildmatters.gov.uk/strategy/guidance/ and through the DfES teachernet site at www.teachernet.gov.uk The document "An Overview of Cross Government Guidance" on the ECM site gives a useful summary of the guidance already available and indicates what will be available soon. Of particular relevance to schools are *Lead Professional Good Practice Guidance* (ECM site), *Safeguarding children in education* (teachernet site) and *Common Assessment Framework (CAF): Guide for Service Managers and Practitioners* (ECM site).

The Children Act 2004

The act provides the legislative basis for some of the reforms of children's services sought by the government.

Part 1 of the Act establishes a Children's Commissioner to promote awareness of the views and interests of children and to be an independent champion for them, particularly those suffering disadvantage. The Commissioner will be able to hold inquiries on his own initiative or on direction by the Secretary of State into cases of individual children with wider policy relevance in England, or, on non-devolved matters, in the other parts of the UK.

Part 2 gives effect in England to proposals in the green paper to support better integrated planning, commissioning and delivery of children's services and provides for clear accountability. In particular, it establishes:

- a duty on the Local Authority (LA) to make arrangements to promote cooperation between agencies and other appropriate bodies (such as voluntary and community organisations) in order to improve children's wellbeing (defined by reference to the five outcomes listed on page 1 above) and a duty on key partners to take part in the cooperative arrangements;
- a duty on key agencies to safeguard and protect the welfare of children;
- a duty on LAs to set up Local Safeguarding Children Boards (replacing the non-statutory area child protection committees) and on key partners to take part;

- provision for indexes or databases containing basic information about children and young people to enable better sharing of information;
- a requirement for a single Children and Young People's Plan to be drawn up by each LA;
- a requirement on LAs to appoint a Director of Children's Services and designate a Lead Member of the Council;
- the creation of an integrated inspection framework (coordinated by OFSTED) and the conduct of Joint Area Reviews to assess local areas' progress in improving outcomes.

Part 3 provides for similar provisions to be made in Wales, but allows for implementation within the different context that exists for children's services there. There are no provisions on inspection in Wales equivalent to those for England.

Part 4 provides for the devolution of the Children and Family Court Advisory and Support Service (CAFCASS) functions in Wales to the Assembly.

Part 5 (miscellaneous) makes a number of provisions relating largely to foster care, private fostering, the registration of child minders and providers of day care, and the education of children in care. It also requires LAs to ascertain the child's wishes and feelings before determining what services to provide under section 17 of the Children Act 1989, and to give these wishes and feelings due consideration.

Implications of the Children Act 2004 for the Catholic sector

Part 1 of the Act, concerning the work of the Children's Commissioner, is unlikely to impinge directly on the daily lives of schools. The CES and DSCs will keep themselves informed of the Commissioner's activities via his website.

Part 2 has wide-reaching implications for all schools and managers of educational services. The underlying philosophy of ECM and the Act is to put children's overall well-being at the centre of all planning and practice and to judge actions by their success in achieving the five outcomes for children and young people. These aims are not new, though some of the proposals to help achieve them more effectively are. Many Catholic schools will be well-placed to meet the challenges of the Act.

Local Authorities vary greatly in their speed of response to the Act and in how actively they seek the views of the partners they are now legally bound to consult. Smaller authorities may have more difficulties without sufficient specialist staff. Conversely, some authorities which have piloted various aspects of the ECM agenda are well on with the process of implementing the Act. The following suggestions are offered with these caveats in mind and in the knowledge that there are limits to what LAs, schools and DSCs can do in the time available.

At school level, existing responsibilities that are given new emphasis in the Act are:

- to continue to foster good relations with other practitioners such as social workers, nurses, GPs, the police, speech therapists and educational psychologists;
- to ensure that the school discharges its duty to safeguard children and promote their welfare and that this is reflected in the school profile;
- to work with LAs in promoting the educational achievement of looked-after children.

Also at school level, new responsibilities that might affect some teachers, chaplains, youth workers, mentors or other support staff are:

- to support and even take on when appropriate the role of the lead professional (see footnote to annex 1 of Children Act briefing; see also ECM website), coordinating multi-agency provision for individual children with additional needs;
- to become familiar with the Common Assessment Framework (see footnote to annex 3 of Children Act briefing and ECM website) for which the DfES is making training available locally; and with the new children's database, as it is developed.

At local authority level, it will be important:

- for schools, groups of schools, youth workers and DSCs to collaborate with LAs and particularly Directors of Children's Services in developing the Children's Trusts which will in most areas be the means of achieving integrated services (the trusts are not statutory organisations but the government recommends that most areas should have one by 2006) ;

- for schools, groups of schools and DSCs to contribute to the Children and Young people's Plan that must be produced by each LA by April 2006; in particular, to contribute a spiritual element to these plans, a feature not explicitly present in the five outcomes proposed in the green paper and Act;
- for schools and dioceses to play their part in the working of the Local Safeguarding Children Board.

At regional and national level, DSCs and the CES will seek:

- to contribute to the development of an integrated inspection framework and to ensure that inspection does justice to the contribution of the Catholic sector;
- to maintain regular contacts with the Regional Change Advisers (see annex 4) and the regional directorates and advisory bodies which will replace them next year.

Some other implications of the ECM strategy, not formally required by the Act but related to it

At school/local level:

- to continue to develop partnerships with parents, voluntary and community groups;
- to ensure that the education of all children meets their individual needs; and that school improvement planning takes into account how well different groups of pupils are progressing and whether there are barriers to learning that can be tackled by supporting their wider well-being;
- to deal with bullying and discrimination and keep children safe;
- to ensure attendance and give pupils a strong voice in the life of the school;
- to promote healthy living through PSHE, good school meals and physical activities.

Many Catholic schools already set high standards in aspects such as these.

At regional/national level, some priorities are:

- to be aware of and where appropriate contribute to the process of workforce reform as this relates to schools;
- to develop agreed policies for providing extended services either on site or across a cluster of local schools and providers (this is discussed in another paper);
- to ensure that the sector plays a full part in the drive to involve and support parents and carers, including receiving its share of the Parenting Fund to support local initiatives and participating in the Sure Start programme.

Annex 1

The Green Paper (GP): *Every Child Matters* proposed policies designed “both to protect children and to maximise their potential. It sets out a framework for services that cover children and young people from birth to 19 living in England. It aims to reduce the numbers of children who experience educational failure, engage in offending or anti-social behaviour, suffer from ill-health, or become teenage parents.”

The document responds to the *Climbie* report’s recommendations, but is not limited to that purpose. The GP is a central document in any consideration of policy in this area. Many of its proposals are taken up in the Act and almost all are likely to lead to action. They are summarised here as background to the Act and as a guide to future policy direction.

In consultation with children, young people and families, five aims were established, which have been taken on in subsequent documents including the *Children Act 2004*. The outcomes which mattered most to children and young people were:

- being healthy: enjoying good physical and mental health and living a healthy lifestyle
- staying safe: being protected from harm and neglect
- enjoying and achieving: getting the most out of life and developing the skills for adulthood
- making a positive contribution: being involved in the community and society and not engaging in anti-social or offending behaviour
- economic wellbeing: not being prevented by economic disadvantage from achieving their full potential in life.

The GP focuses on four areas:

- supporting parents and carers
- early intervention and effective protection
- accountability and integration-locally, regionally and nationally
- workforce reform.

Supporting parents and carers will be improved, through

- universal services such as schools, health and social services and childcare, by providing information and advice and engaging parents to support their child’s development
- targeted and specialist support to parents of children needing additional support
- compulsory action through Parenting Orders as a last resort.

Early intervention and effective protection will be effected by

- improved information sharing
- developing a common assessment framework across children’s services
- introducing a lead professional* to coordinate support across services
- developing on the spot delivery in and around schools and children’s centres.

Accountability and integration will be encouraged by

- creating the post of Director of Children’s Services in local authorities (LA)

- creating the post of lead council member for children in LAs
- integrating key services as part of Children's Trusts under the Director of Children's Services
- requiring LAs to work closely with public, private and voluntary bodies
- creating statutory Local Safeguarding Children Boards (LSCB) to replace the non-obligatory Area Child Protection Committees
- creating the new post of Minister for Children, Young People and Families
- ensuring that children are a priority across services
- setting out standards expected of each agency and rationalising performance targets, plans, funding, financial accountability and indicators
- creating an integrated inspection framework across children's services, coordinated by OFSTED
- creating an intervention and improvement function to ensure the sharing of good practice and effective intervention where services are failing
- creating the post of Children's Commissioner to be an independent champion for children, particularly those suffering disadvantage.

Workforce reform will be tackled by

- developing a strategy to improve the skills and effectiveness of those working with children
- a high profile recruitment campaign
- reduction of bureaucracy to give more time for face to face work with children and families
- creating more flexible and attractive routes into social work, including work-based routes for graduates
- common standards across children's practice to allow easier movement between jobs
- a common core of training for those who work solely with children and those with wider roles (such as GPs and the police) to help secure a consistent response to children's and families' needs
- the Chief Nursing Officer reviewing the contribution of health visitors and other health professionals can make for children at risk
- developing leadership training

Workforce reform will be taken forward by a Children's Workforce Unit, based in the DfES. The unit will work with others to establish a Sector Skills Council for Children and Young People's Services, to ensure the development of a pay and workforce strategy.

*The role of **Lead Professional (LP)** is defined by the functions and skills, rather than by particular professional or practitioner groupings. When children or young people have additional needs that require an integrated package of support from more than one service, then one practitioner will be designated the LP to ensure that the support is properly coordinated. Many different types of practitioners are likely to take on the role as needs arise. This could include teachers and other school staff. The role is to:

- act as a single point of contact that children, young people and their families can trust, and who is able to support them in making choices and in navigating their way through the system

- ensure that children and families get appropriate interventions when needed, which are well planned, regularly reviewed and effectively delivered
- reduce overlap and inconsistency from other practitioners.

The role is being piloted in a number of LAs in 2005-6. A formal evaluation of the pilot phase will be conducted and good practice will be shared.

Annex 2

Every Child Matters: Next Steps summarised the outcomes of consultation on the GP. Responses to the consultation strongly endorsed the aims and vision of the GP. Areas of concern included the need to involve all those involved with children and young people, particularly the voluntary and community sector, health services and the police; the value of allowing local flexibility, for example, in setting up Children's Trusts and creating the post of Director of Children's Services; and the need for more resources to accomplish several of the changes proposed.

This document then summarises the Act, showing how the consultation has affected the final nature of the bill.

Chapters three and four of the *ECM: next steps* document describe the steps being taken to implement the green paper. Several of these are outside the remit of this paper, for example, detailed descriptions of plans for the health, police, youth and family justice systems and the probation service. Paragraphs 4.6-4.10 are particularly relevant to schools and 4.16-4.18 to post-16 providers. Relevant to the current brief are

- Support for families, including setting up a £25 million Parenting Fund to support developments in the voluntary and community sector. Nursery and school-parent links are being cultivated in 500 communities to introduce infants to early learning and books before compulsory education
- Expanding the Sure Start programme and encouraging all LAs and Children's Trusts 'to consider co-locating health, family and parenting support services for children and their families within good quality early education and childcare settings'
- Helping young people to fulfil their potential through: access to high quality teaching in schools and post-16 settings, with other services such as childcare and family learning on site; opportunities for personal development outside school hours; a trusted adult who will listen to the young person's views; good quality support from primary health care and effective health promotion; financial support to enable post-16 young people to participate in education and training
- Early intervention as soon as needed, supported by better information, a common assessment framework and a lead professional to coordinate different specialist services when necessary.
- For young people facing deep-seated issues: greater stability for children in care; a more fully inclusive system for dealing with SEN, without necessarily using statements; evidence-based standards for health and social care services set by the National Service Framework (NSF) for Children, Young people and Maternity Services; wider use of intensive supervision and surveillance programmes in place of custody, and community sentences that include a strong focus on a young person's educational engagement, mentoring and parenting.
- Improving accountability by rationalising targets and indicators and putting in place an integrated inspection framework for children's services. All programmes should also involve communities, children and young people closely in the design, delivery and evaluation of services.
- Simpler and more flexible use of resources (ref 3.21-24 for details).

- Work force reform, which will involve the Teacher Training Agency (TTA) becoming the main delivery agent for training and developing school support staff. This ‘opens up the prospect of the TTA taking on a more strategic role for the whole school workforce’.
- Encouraging increased involvement of the voluntary and community sector in service planning and delivery (for details of the strategy, see 4.5 and ECM website *Engaging the voluntary and community sectors in Children’s Trusts*).
- Raising standards in schools for all children, including children in care and those from some minority ethnic groups, by ensuring that each child experiences personalised learning, care and support. Closer collaboration is required between schools and closer working between schools, communities and specialist services.
- Schools are to be encouraged to develop extended services appropriate for their communities. The function of schools in sharing information and taking on the lead professional role is to be explored. The government will work with stakeholders to develop the relation between schools and Children’s Trusts and between Connexions, Learning and Skills Councils (LSC) and Children’s Trusts.

Annex 3

Every Child Matters: Change for Children puts the five outcomes at the heart of the process of change, helpfully spelling out in detail (section 2.4) what they might mean in practice. National targets, key indicators and a common national dataset will enable progress to be monitored, supported by inspection using the *Framework for the Inspection of Children's Services*.

The core of the document gives more detail about how services might be better integrated and more effective in achieving the five outcomes. Sections 3.6-3.9 confirm the importance of early years/childcare, schools and post-16 providers in supporting children's well-being. The document declares that

“schools and headteachers will be key strategic partners in shaping the pattern of local services. Schools may wish to develop their role in delivering services through Foundation Partnerships and other clustering arrangements. A new prospectus on extended schools will set out our vision for schools...”

Paragraph 3.7 signals the inclusion of support for well-being in the criteria for future school inspection.

The section 'A skilled and effective workforce' makes clear that one way to support better cooperation between professionals is the co-location of managers and front-line staff from different services in children's centres or extended schools.

The document charts progress in establishing the common assessment framework* and the collection and sharing of information in a standardised form. It gives more detail on the roles of the Director of Children's Services and Lead Member (3.37-38), and on the nature of the planning that leads to the creation of the Children and Young People's Plan (3.39-3.41).

The final section 4 outlines what has already been done to support change, for example, the appointment of ten regional change advisers (4.1-4.3), and to develop leadership (4.4-4.10). Moves to establish a common format for planning for improvement are described (4.11-4.15), and the nature of the Annual Performance Assessment and Joint Area Review is clarified. Details of the funding of different parts of the strategy are given (4.16-4.25).

*The **Common Assessment Framework** aims to provide an easy-to-use assessment of all the child's individual, family and community needs, which can be built up over time and, with consent, shared between practitioners. It will:

- improve the quality of referrals between agencies by making them more evidence-based;
- help embed a common language about the needs of children and young people;
- promote the appropriate sharing of information; and
- reduce the number and duration of different assessment processes which children and young people need to undergo.

In 2005-6, all LAs and their local partners should be preparing for implementation of the CAF in their areas by 2008.

Annex 4

Regional Change Advisers

Ten regional change advisers have been appointed jointly by the DfES and the Department of Health to posts that continue until April next year. They are based in the government offices. They are working with the DfES strategic education advisers and the Commission for Social Care Inspection (CSCI) business relationship managers to support local areas in the early stages of planning and implementing their local change programmes. In April 2006 the change advisers will be replaced by Children's Services Advisers reporting to Directors for Children and Learners, to support the development of the new structures.

The advisers are engaging directly with local authorities, strategic health authorities, primary care trusts and other local partners to support the development of children's trust arrangements. They will also work closely with existing specialist advisers to ensure that together they effectively support the new integrated structures being developed in each local area.

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