

Health & Wellbeing Board

15 July 2014

Children & Families Act 2014 - Briefing

Recommendation

- (1) That the Briefing is noted**
- (2) Members satisfy themselves that the checklist of key questions can be answered**

1.0 Summary

- 1.1 Many of the provisions of the Children and Families Act 2014 (“the Act”) came into force on the 22nd April 2014. This report is designed to provide the Health and Wellbeing Board with the key points arising from the legislative changes.
- 1.2 The Act is wide ranging and covers everything from adoption, to employment rights to smoking in cars with children.
- 1.3. The Act is set out in ten parts:-
 1. Adoption and Contact
 2. Family Justice
 3. Special Educational Needs and disabilities
 4. Childcare
 5. Welfare of Children
 6. The Children’s Commissioner
 7. Employment Rights – leave and pay
 8. Time of for Ante-Natal care
 9. Flexible working
 10. Miscellaneous provisions
- 1.4. This reports sets out some of the key changes.

2.0 Changes to Family Justice

- 2.1. The Act abolishes the distinction between High Court, County Court and Family Proceedings Court work and creates one single Family Court, which will have judges of all levels (Lay Judges (magistrates), District Judges, Circuit Judges and High Court Judges) to hear cases. The only family matters that will be in the High Court will be cases involving wardship or those

that invoke the inherent jurisdiction of the High Court (eg cases involving medical treatment of children). So the court is now referred to as “the Coventry Family Court” sometimes referred to as “the Family Court sitting in...”

Section 11 of the Act requires the court to work on the presumption that a child’s welfare is likely to be furthered through involvement with both parents – unless the evidence shows this not to be safe or in the child’s best interests.

Public Law matters - care proceedings

The Act imposes a statutory timescale for the completion of care proceedings – there is now a 26-week time limit for these proceedings although the Act does allow courts to extend this by up to 8 weeks if necessary to resolve the case justly.

In Warwickshire we have been piloting the amendments to the Public Law Outline since the 1st July 2013 and have already seen a dramatic drop in the length of care proceedings. There are a number of reasons for this – there has been a noticeable change of culture to get cases concluded quickly which has been driven by the judiciary and court staff. There has also been a significant reduction in the number of unnecessary experts and a greater appreciation and reliance upon Local Authority social work evidence.

The Act makes it clear that the court can only order expert evidence in care proceedings when it is “necessary”.

Private Law matters – residence and contact

The Act abolishes Residence Orders and Contact Orders and creates a new order to combine both – a Child Arrangements Order. This is an order which regulates where the child is to live and with whom the child is to spend time or otherwise have contact. Any existing Residence or Contact Orders are automatically converted into Child Arrangements Orders. Where social workers are asked to give a view about contact and residence and an order is required to set out these arrangements it will be a Child Arrangements Order.

The Act also requires a person to attend a family mediation information and assessment meeting (referred to as MIAM) before they can make an application to the court, however there will be exemptions which will include cases of domestic violence or where there is a good reason that mediation will not be effective.

3.0 Adoption Changes

- 3.1 The Act will require Local Authorities to consider placing children with *family or friend carers* in the first instance and, if that is not appropriate, to then try to place children in foster-to-adopt arrangements with their prospective adopters.

The Act will repeal the requirement for councils to give 'due consideration' to children's racial, religious, cultural or linguistic background when matching them with adopters.

The Act will also give approved adopters access to the Adoption Register subject to appropriate safeguards. There is provision in the Act to allow adoption agencies to charge for this service. BAAF will be undertaking a pilot of adopter access.

Finally the Act will give the Department for Education the power to require councils to outsource adopter recruitment to external agencies, opening the door for ministers to intervene when they feel services are underperforming.

Local Authorities will also be required to provide adoptive families with personal budgets if they are asked to do so by the family.

Adoption agencies will be required to inform adoptive parents about what adoption support services are available locally, their right to request an assessment for support, and what support councils are required to provide by law.

The adoption changes are not in force yet and there is no date for implementation given, so watch this space.

3.2. Special Educational Needs and disabilities

There are significant changes to support available for children and young people with Special Educational Needs (SEN) – SEN statements will be replaced by Education, Health and Care (EHC) plans. EHC plans will need to be reviewed regularly and cover people up to the age of 25 years old. These plans will provide families with more say in the service that is offered to their children.

Local Authorities are required to publish a 'local offer' setting out what support is available to families with children who have disabilities or SEN. The local offer should also explain how families can request personal budgets, make complaints and access more specialist help.

The Act says families with EHC plans will be offered personal budgets and also places a duty on Local Authorities to identify all children in their area who have SEN or disabilities.

EHC plans are due to be introduced from September 2014.

The recently issued (June 2014) Code of Practice (2014) covers the 0-25 age range and includes guidance relating to disabled children and young people as well as those with SEN

- There is a clearer focus on the participation of children and young people and parents in decision-making at individual and strategic levels.
- There is a stronger focus on high aspirations and on improving outcomes for children and young people.

- It includes guidance on the joint planning and commissioning of services to ensure close co-operation between education, health and social care.
- It includes guidance on publishing a Local Offer of support for children and young people with SEN or disabilities.
- There is new guidance for education and training settings on taking a graduated approach to identifying and supporting pupils and students with SEN (to replace School Action and School Action Plus).
- For children and young people with more complex needs a co-ordinated assessment process and the new 0-25 Education, Health and Care plan (EHC plan) replace statements and Learning Difficulty Assessments (LDAs).
- There is a greater focus on support that enables those with SEN to succeed in their education and make a successful transition to adulthood.
- Information is provided on relevant duties under the Equality Act 2010.
- Information is provided on relevant provisions of the Mental Capacity Act 2005.

4.0. **Welfare of Children**

4.1. Young Carers

The Children and Families Act 2014, in conjunction with the adults-focused Care Act 2014, seeks to make sure young carers get the support they need.

Under the Act, there is a duty upon Local Authorities to identify young carers so they can be offered support and both adult and children's social services will need to work together on helping young carers.

Adult social care should be considering the needs of young people in the household when reviewing support for adults and children's social workers should also do assessments in such situations.

4.2. Staying Put

The Act includes provisions that allow young people to remain in foster care until their 21st birthday. Local Authorities are able to reject these arrangements if they believe they are not in the best interest of the young person, but when those arrangements are approved Local Authorities must provide advice, assistance and support, including financial help.

4.3. Virtual schools

There is a new requirement for Local Authorities to appoint virtual school heads to promote the educational achievement of looked-after children.

5.0. Other miscellaneous matters

The Act also lays the legislative foundations for the government to develop new regulations and inspections of children's homes.

It also bans people who have been disqualified from privately fostering a child from working in or having a financial interest in a children's home in England.

Joint Readiness:

- The Safeguarding and Family Court are working closely on the implications and implementation of the new court process.
- The SEND reforms begin in earnest from 1st September 2014 when new children will have Education, Health and Care plans. All children with statements will convert to the new plans over the next three and a half years. A reference partnership group originally working on the IDS Social Care Offer began in January 2014 alongside our Education offer where we have seconded a Special Schools Head who has worked across the sector and with parents groups.
- An initial offer will be consulted upon across the summer and the reference group will then drive the implementation plan.
- The Children's Joint Commissioning Group (Children's Trust) will oversee the progress. The CJCG reports to the Health and Wellbeing Board.
- Strategic Commissioning for both Children and Adults are working with Public Health and Early Help who are the intelligent client to come up with proposals for Young Carers.
- Steve Pendleton is the Virtual School Head.

6.0 Options and Proposal

6.1 That the Children Joint Commissioning Board oversee the implementation of the Children and Families Act

7.0 Timescales associated with the decision and next steps

7.1 1st September 2014 an initial Local SEND Offer is in place. This has to be fully implemented by 31st March 2018.

Background Papers

1. Children & Families Act 2014



Childre and Families
Act 2014.pdf

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