

**Report to Children, Young People  
and Family Support Scrutiny &  
Policy Development Committee  
26<sup>th</sup> January 2015**



**Report of:** Jayne Ludlam, Executive Director, Children, Young People & Families

**Subject:** Children & Families Act 2014

**Author of Report:** Dorne Collinson, Director of Children and Families

**Summary:**

The Scrutiny Committee has requested this report in order to allow it to understand the implications of the Children & Families Act 2014 for Sheffield, how the Council and its partners are responding to the new legislation and any challenges posed by it.

**Type of item:** The report author should tick the appropriate box

Reviewing of existing policy	
Informing the development of new policy	
Statutory consultation	
Performance / budget monitoring report	
Cabinet request for scrutiny	
Full Council request for scrutiny	
Community Assembly request for scrutiny	
Call-in of Cabinet decision	
Briefing paper for the Scrutiny Committee	<b>x</b>
Other	

**The Scrutiny Committee is being asked to:**

The Committee is asked to consider the new requirements under the Children & Families Act and make recommendations for any changes to the proposed implementation to comply with the legislation.

**Background Papers:**

n/a

**Category of Report:** OPEN

# Report of the Executive Director, Children, Young People & Families

## Children & Families Act 2014

### 1. Introduction/Context

- 1.1 The Scrutiny Committee has requested this report in order to allow it to understand the implications of the Children & Families Act 2014 for Sheffield, how the Council and its partners are responding to the new legislation and any challenges posed by it.
- 1.2 The new Children & Families Act received royal assent on 13th March 2014. It came into force in September 2014 (other timescales specified throughout the report).

### 2. Children & Families Act 2014

#### Part 1: Adoption and contact

Part 1 of the act contains provisions to give effect to proposals set out in 'An action plan for adoption: tackling delay' and 'Further action on adoption: finding more loving homes'.

New duties include:

- Contact: the children and grandchildren of adopted people will be able to **access information** on the adopted person's birth family under certain circumstances
- **Fostering for adoption:** to enable children to be placed earlier with prospective adopters who are already approved foster parents
- **Removing the requirement** that adoption agencies must give **due consideration to ethnicity**, religious persuasion, racial origin and cultural and linguistic background when seeking prospective adopters
- The Government is given a power to **require** a local authority to **outsource** its functions relating to the recruitment, assessment and approval of prospective adopters **and adoption functions**
- Changes to support for adoptive families including **personal budgets**, **additional information**, and access by prospective adopters to the national register of children for whom adoptive parents are sought. Further regulations will be published regarding these elements.
- A new statutory basis to giving **an adoptive child contact** with the child's birth family

Key dates are as follows:

- The option for the Secretary of State to require all Local Authorities to outsource adoption functions cannot be used until March 2015. The

Secretary of State may require LAs to outsource before then on a case by case basis.

- Personal budgets, associated regulations and the rolling out of the Adoption Support Fund are expected to commence in 2015.

## Part 2: Family justice

Part 2 of the Act contains provisions relating to recommendations from the independent family justice review.

New duties include:

- A **requirement to attend a family mediation**, information and assessment meeting to find out about and consider mediation before applying for certain types of court order unless an exemption applies
- Courts to take into account that **both separated parents** should continue to be **involved** in their child's lives where that is consistent with the child's welfare, although "involvement ... shall not be taken to mean any particular division of a child's time"
- New '**child arrangements order**' to replace the existing residence and contact orders
- Expert evidence in family proceedings concerning children is permitted only when necessary to resolve the case justly, taking account of factors including the impact on the welfare of the child (with exceptions for local authority social workers and CAFCASS staff)
- Introducing a maximum **26-week time limit for completing care and supervision proceedings**, with the possibility of extending the time limit in a particular case for up to 8 weeks at a time, should that be necessary to resolve the proceedings justly

## Part 3: Special educational needs

Part 3 of the Act has a focus on improving outcomes for children and young people with special educational needs and/or disabilities. It will extend the SEN system from birth to 25, giving children, young people and their parents greater control and choice in decisions and ensuring needs are properly met. It takes forward the reform programme set out in the green paper: 'Support and aspiration: a new approach to special educational needs and disability' published by the Department for Education on 18 March 2011 and the follow up 'Progress and next steps' published 15 May 2012.

New duties

This is one of the larger parts of the Act and so not all elements have been included but key changes include:

- **Replacing statements** with a new birth- to-25 education, health and care (EHC) plan
- Offering families **personal budgets**

- Improving cooperation between all the services that support children and their families, particularly **requiring local authorities and health authorities to work together** (and specifically Clinical Commissioning Groups requirement to comply with health service requirements in EHC plans)

Key dates are as follows:

- The final SEN code of practice was issued shortly ahead of reforms coming into force in September 2014.

#### Part 4: Childcare reform

Part 4 of the Act contains various provisions relating to childcare, described in More Great Childcare which the Government published on 29 January 2013 and which includes the Government's response to Professor Cathy Nutbrown's report, Foundations for Quality (published June 2012). Section 3D of the report refers to the plans to introduce childminder agencies.

Key changes include:

- New mechanisms for the registration of childminders via **childminder agencies**
- The option for early years childcare providers to **request (and pay for) inspections**
- A **repeal of the duty** to conduct a **childcare sufficiency assessment** every three years
- **Removing the requirements for governors to consult** on offering childcare and wrap-around support

#### Part 5: Welfare of children

Part 5 of the Act is largely comprised of amendments that were requested by the House of Lords, as such is it is perhaps more wide-ranging than other parts of the Act.

New duties include:

- Every local authority to have a **virtual school head** to champion the education of children in the authority's care, as if they all attended the same school
- Gives **children in care** the choice to **stay** with their **foster families** until they turn **21**, so long as the child, family and local authority deems it appropriate
- A new legal duty on schools (including academies) to **support children at school** with **medical conditions** better

- Making young carers' and parent carers' rights to support from councils much clearer including the duty for local authorities to **assess the needs of young carers and parent carers**
- Reforms to **children's residential care** including a provision to allow the Secretary of State to create regulations for organisations regulated by Ofsted and to use the national minimum standards to supplement this
- **Ofsted's new ability to suspend registration**, for example in relation to a children's home, where someone has been suspended from being a foster carer
- A requirement on all state-funded schools - including academies - to provide **free school lunches** on request for all pupils in reception, year 1 and year 2 (*and this provision can be extended to early years*)
- Amendments to the law to **protect children from nicotine** including in cars from the dangers of second-hand smoke, purchase of tobacco on behalf of others, the option to introduce plain packaging
- Repeals s.38 of the Children and Young Persons Act 1963 which **removes restriction** on the circumstances in which a local authority can issue a **performance license** to a child under the age of 14

#### Part 6: Children's Commissioner

Reinforces the role of the national Children's Commissioner, taking forward recommendations in John Dunford's 'Review of the Office of the Children's Commissioner (England)' including giving the commissioner a statutory remit to promote and protect children's rights.

#### Parts 7, 8 and 9: Statutory rights to leave and pay, time off work and right to request flexible working

**Part 7** of the act delivers the legislative commitments made in the government response to the modern workplaces consultation (November 2012), including a new employment right to **shared parental leave** and statutory shared parental pay for eligible working parents.

**Part 8** creates a new right for employees and qualifying agency workers to take unpaid **time off work** to attend up to two **ante-natal appointments** with a pregnant woman.

**Part 9** provides for the **expansion of the right to request flexible working** from employees who are parents or carers to all employees, and the removal of the statutory process that employers must currently follow when considering requests for flexible working. The government's policy reforms for the right to request flexible working are set out in its paper 'Modern workplaces - government response on flexible working' (published in November 2012).

Key dates are as follows:

- from April 2015, mothers, fathers and adopters can opt to share parental leave around their child's birth or placement. This gives families more choice over taking leave in the first year - dads and mothers' partners

can take up to a year, or parents can take several months at the same time

- from 1 October 2014, prospective fathers or a mother's partner can take time off to attend up to 2 antenatal appointments
- adoption leave and pay will reflect entitlements available to birth parents from April 2015 - no qualifying period for leave; enhanced pay to 90% of salary for the first 6 weeks; and time off to attend introductory appointments. Intended parents in surrogacy and 'foster to adopt' arrangements will also qualify for adoption leave and pay
- extending the right to request flexible working to all employees from 30 June 2014

### Financial pressures generated by the Act

The total financial pressures generated by implementation of the Act are significant (this includes areas where we have some existing spend, we have not yet calculated how much can be off-set against the pressures). Whilst in the long-term, changes brought in by the Act are intended to result in better outcomes for children and families and may therefore reduce crisis / high cost reactive spend in the future, this cannot yet be forecast. The total annual pressures are currently estimated to be in the region of £2,323,600 once fully implemented. This is not all new cost but it represents the total pressures from the Act – these are services which we cannot now cut. We have SEN grant income of £1m in 2014-15 and expect a further £300,000 in 2015-16. The adoption reform grant will allow us to manage some of the costs identified in Part 1, Part 2 and Part 5. This is £466,000 to be spent over 2014-16 but we do not know whether it will be available in future years.

### **3 What does this mean for the people of Sheffield?**

- 3.1 The Act is an important piece of legislation aimed at improving outcomes for children and families. There are many positive changes included within it.
- 3.2 Implementation will be expensive and this needs to be considered in the context of broader budget reductions and consequently the impact on other services.

### **4. Recommendation**

- 4.1 The Committee is asked to consider the new requirements under the Children & Families Act and make recommendations for any changes to the proposed implementation to comply with the legislation.