



Delivering the Children's Plan

**Strengthening Children's Trusts:
legislative options**



Summary

1. In the Children's Plan we set out our shared ambition to make this country the best place in the world for young people to grow up, and said that consistently to deliver 21st century children's services would require a series of system-wide reforms. Children's Trusts will be at the heart of this, raising their game and bringing together services for children in each local area so that they:
 - deliver measurable improvements for all children and young people;
 - have in place by 2010 consistent, high quality arrangements to provide identification and early intervention for all children and young people who need additional help.
2. To that end Ministers announced that they would examine whether Children's Trusts need to be strengthened, including by further legislation. At present this framework consists, in essence, of a requirement to appoint a Director of Children's Services and designate a Lead Member for Children's Services, a 'duty to cooperate' placed on key 'relevant partners', and the requirement (unless exempted) to publish a Children and Young People's Plan.
3. A great deal is being achieved **within** this existing framework, and the challenge now is to ensure that good practice is widely implemented and deeply embedded. It is primarily for local partners, led by each local authority, to rise to the challenge of the Children's Plan; to agree their own local vision for improving the lives of their children, young people and families; and to organise their Children's Trust so that it drives real change.
4. An important start has already been made, through the publication of draft supplementary statutory guidance on Children's Trusts. This builds on the existing guidance issued in 2005. It retains the crucial and well-established definition of a Children's Trust as embracing all systems from the strategic partnership board to co-located front line delivery. It explains how these arrangements now need to be strengthened, at all levels, to deliver the vision in the Children's Plan. In particular a framework is needed that ensures that every child, whatever their needs and wherever they are in the country, will have ready access to preventative services and early intervention to meet their additional needs as they emerge.
5. Schools, early years settings, health and other universal services in day-to-day contact with children must take the leading role in identifying children who need additional support and, working with others as necessary, to provide it. In doing this, they need to know they can rely on the Children's Trust to bring other services to bear so that they can provide timely, targeted and specialist support.

Children's Trusts should ensure that partners support one another more effectively, and by doing so, address the needs of the local population more successfully.

6. It is crucially important therefore for schools, in particular, to be fully involved. This will help ensure that their voices are heard when local strategic plans are developed, that schools are able to play an effective role in identifying problems early, and that they can rely on timely support to help them overcome all the barriers to their pupils' learning and well-being. This key message is reflected in the draft guidance on the duty on schools to promote the well-being of their pupils, which is being issued in parallel to this consultation.
7. Consultation on the draft supplementary Children's Trust guidance ended on 26 June. Key issues raised include:
 - Leading local areas are pressing ahead with deep and broad cooperation arrangements for their Children's Trust, and achieving significant improvements in their services as a result.
 - Local partners who are not statutory 'relevant partners' of the Children's Trust can find it difficult to get their voices heard, and can experience difficulty in securing the support they need.
 - Conversely, local partners who do not have a statutory obligation to cooperate to improve well-being can sometimes be difficult to engage, which can hinder progress in achieving better outcomes for children and young people.
 - The 'duty to cooperate' alone is not sufficient to secure the gains that all partners want to see from Children's Trusts.
- The day-to-day practicalities of co-operation arrangements are important to the success of the Children's Trust.
8. The guidance will be revised taking responses into account, and issued in the autumn. The guidance and plans for further support will also benefit from the findings of a project currently being undertaken by DCSF, with support from the Association of Directors of Children's Services, to look in detail at six local areas. A particular focus here is the barriers that exist to developing successful Children's Trusts.
9. Ministers believe that there is now a strong case for strengthening the statutory basis of Children's Trusts, on the model of existing good practice, and as part of a wider strategy to improve children's services. *Preparing Britain for the Future* (The Government's Draft Legislative Programme 2008-09) therefore said that the Education and Skills Bill, to be introduced in the fourth session of Parliament, would:

'legislate to strengthen the operation of Children's Trusts to champion and take responsibility for improving the lives of children across all five Every Child Matters outcomes, in particular to make arrangements for the identification of and support for children with additional needs'.
10. This note invites comment on the form such legislation should take. It would be very helpful to have initial responses on the core propositions by **the end of July**. But comments received by 25 September will still be helpful, in particular with regard to the detail of Children and Young People's Plans and Children's Trust Boards, both of which are likely to be the subject of secondary legislation.

11. This note specifically invites comment on the following options:

- Extending the 'duty to cooperate' (in making arrangements to improve well-being) to schools, Schools Forums, Sixth Form and Further Education Colleges, with future Academies brought within scope through their funding agreements. This duty currently applies to local authorities, PCTs and other strategic partners. Extending the duty to front line providers of education would give them corresponding rights within Children's Trusts to a stronger voice, more influence over their strategic arrangements, and better support from other statutory partners. We can also see the value in closer engagement with other front line providers, primarily GP practices, and would welcome views on how this might best be achieved.
- Requiring all areas to have a Children and Young People's Plan, and extending ownership of the plan to all statutory partners. Children and Young People's Plans are currently local authority plans, although they must consult with other partners and the plans must cover the full range of outcomes for children. Extending responsibility for the Plan to all partners covered by the 'duty to cooperate', and requiring all partners to 'have regard' to them, would mean that the Plan becomes the shared responsibility of the Children's Trust.
- Strengthening the statutory framework for Children and Young People's Plans through secondary legislation. This could include clarifying that Plans must be agreed by all partners, set out the arrangements for early intervention and joint commissioning, and

specify the spend of each partner on areas such as child health and youth offending, in particular those covered by local joint commissioning arrangements. This would establish a higher baseline for the quality of plans in line with the best practice already established in many areas.

- Establishing a stronger statutory basis for Children's Trust Boards, on the model of existing good practice and with significant local flexibility. Leading local areas have already put in place Children's Trust Boards which have the representation and functions that primary or secondary legislation could prescribe for all. Setting out core membership and functions in legislation could help secure more consistent performance and more robust operation of the Children's Trust as a whole. Alternatively we could create reserve powers for Ministers to direct areas when local arrangements are not operating successfully.
12. There are now many examples of effective Children's Trusts. The aim of strengthening the legislative framework is to empower and encourage local partners within a broadly permissive framework. We would therefore welcome advice on whether there are elements in the wider legislative framework which unhelpfully restrict partners' room for manoeuvre which should be removed. An example here might be the restriction on pooling budgets to 'relevant partners'. Are there other legislative barriers, for example in respect to the sharing or delegation of functions?
13. The remainder of this note discusses these options in more detail.

Extending the Duty to Co-operate

The Current Position

14. Section 10 of the Children Act 2004 requires local authorities to make arrangements to promote co-operation between themselves, named 'relevant partners' and 'other' partners as appropriate, to improve the well-being of children in the authority's area. The 'relevant partners' are required to cooperate with the local authority in making these arrangements. At present these partners are: district councils; police and police authorities; Strategic Health Authorities and Primary Care Trusts; National Offender Management Service (NOMS) (Probation Service); Youth Offending Teams; agencies responsible for providing services under section 114 of the Learning and Skills Act 2000 (Connexions Service); and the Learning and Skills Council for England. Section 10 also enables 'relevant partners' to establish and maintain a pooled fund and share other resources. 'Other' partners may be fully engaged with the Children's Trust and typically include organisations from the private, voluntary or independent sectors. But they are not bound by the 'duty to cooperate' nor can they pool their resources within the partnership.
15. Under section 10 those to whom the duty to cooperate applies are required to have regard to guidance issued by the Secretary of State.

The first such guidance, issued in 2005, explained that the implications of the duty were that partners needed to work together to build Children's Trusts: that is, systems and arrangements centred around the needs of the child which provide strategic direction (though a Children's Trust Board); integrated planning and commissioning; integrated systems (for example information sharing); and integrated front line delivery – all of which would centre on the needs of the child.

16. Draft supplementary guidance under section 10, reflecting the imperatives of the Children's Plan and stressing the need for the full involvement of schools, was issued for consultation in April 2008. This fresh guidance will be issued in the autumn, alongside a summary of the responses to the consultation; some key messages are referred to in paragraph 7 above.

The Case for Change

17. Schools have been involved with Children's Trusts from the outset. In some cases this has only been to the extent that local arrangements for supporting children with additional needs inevitably involve some form of liaison between schools and other agencies. Some areas have gone further, developing local networks of schools with a place within the Children's

Trust landscape, or in ensuring that schools are represented on the Children's Trust Board.

18. Arrangements for identification and early intervention for children who need additional support are also variable. While some Children's Trusts and schools have put in place robust arrangements, for example through placing co-located multi-agency teams in and around schools to offer early intervention, this is by no means universal. However, whilst the form of the arrangements can vary, effective identification and early intervention needs to be available for **all** children, with a clear understanding by all concerned – schools and other services – of responsibilities and sources of support.
19. Schools must be able to rely on timely and appropriate support for their pupils from other agencies and specialist services where pupils' needs cannot be met by the school alone. Schools also need to be able to contribute fully to strategic discussions with the Children's Trust partners about local needs and priorities as well as to being clear about their explicit role in prevention and early intervention. Clarity about the roles and responsibilities of all services within each Children's Trust will in turn support mutual accountability.
20. All schools are already required to 'have regard' to the Children and Young People's Plan, and to promote the well-being of all their pupils. Compared with the situation at the time of the Children Act 2004, there is a much greater awareness and agreement that improvements in outcomes – including in attainment – can be sustained only where all services and local agencies, including schools, work together more effectively to design and deliver integrated services around the needs of children and young people. This is the core rationale for Children's Trusts, which has been reflected both in the Children's Plan and the alternative educational provision White Paper, *Back on Track*.
21. The White Paper and consultation document *Raising Expectations: Enabling the System to Deliver* set out plans to transfer responsibility for planning and funding 16–19 provision from the Learning and Skills Council (LSC) to local authorities from 2010. This included a proposal to identify Sixth Form Colleges as a distinct legal category for the first time, to reflect the closer relationship between Sixth Form Colleges and their home local authority. In line with this closer relationship with a single home local authority, there is a strong case for including Sixth Form Colleges in the duty to cooperate, setting them as key partners in Children's Trust arrangements, at both the strategic and front line delivery levels. Extending the duty would facilitate relationships between Sixth Form Colleges and the Children's Trust, similar to schools and reinforce the totality of requisite local provision, helping to strengthen the youth delivery architecture, in turn delivering improvements and outcomes for young people in the locality.
22. Whilst there is clearly a similarly key role for all providers of publicly funded 16–19 provision in relation to the delivery of 14–19 reforms, there are a number of practical obstacles in extending the duty to these types of provider at this time. In particular, FE providers can draw learners from a very wide area – sometimes from over 100 authorities so determining appropriate relationships with a home authority is not always straightforward. However, many other services such as PCTs and the police deal with clients from a wider geographical area than a single local authority.

We believe that it would be advantageous to extend the duty to cooperate to all providers of publicly funded 16–19 provision but would need to develop a clear understanding how this would apply in practice. As the transfer of planning and funding responsibility for 16–19 provision is taken forward, and in particular as local collaborative arrangements develop and the arrangements for managing the relationship with providers become clear, we propose, therefore to focus on how extending the duty can strengthen the delivery architecture and partnership working arrangements to ensure that colleges are fully engaged in strategic planning and operational delivery of the ECM agenda within the areas they serve, whilst retaining their autonomy and flexibility.

The Proposal

23. Extending the duty to co-operate to front line providers of education would give them corresponding rights to a stronger voice, more influence over their strategic arrangements, and better support from other statutory partners. We propose, therefore, to extend the duty so that it embraces schools, Pupil Referral Units and Sixth Form and Further Education Colleges, and that section 10 should be amended accordingly. Future Academies would be brought within scope by alteration to the model funding agreement.
24. One implication, which guidance would reinforce, is that the Children's Trust would need to work with all schools, including Academies, to ensure appropriate representation and influence. Schools Forums already exist as statutory, representative and authority-wide bodies, albeit with fixed and relatively limited responsibilities. It is important that they should see their work as sitting within their local Children's Trust architecture, drawing on and being reflected in the Children and Young People's Plan, and that the Children's Trust Board should view them as full partners. This implies extending the 'duty to cooperate' to Schools Forums as well as to individual schools.
25. GP practices clearly need to work closely with schools and other local agencies, and feel themselves part of 'neighbourhood Children's Trusts'. Health interests are represented at the strategic (Children's Trust Board) level by the PCT and SHA, but it is also important that GPs have regard to the wider plans for improving outcomes for children. We would welcome views as to how this can best be achieved, as well as on the scope to promote closer engagement through practice based commissioning.
26. Sure Start Children's Centres (SSCCs) also need to be fully embedded within locality level arrangements for children's services. Partnerships with health and local private and third sector organisations are essential to the success of SSCCs, and it is important that SSCCs, like schools, are able to contribute to the strategic discussions with Children's Trusts about their needs and priorities. SSCCs need to be clear about their role in prevention and their contribution to improving outcomes for children, and to maximise their impact they require active engagement and support from health services, including GPs, and other agencies. We would welcome views on how SSCCs can best be engaged in Children's Trusts.

Children and Young People's Plans

The Current Position

27. Section 17 of the Children Act 2004 allows the Secretary of State through regulations 'from time to time' to require a local authority to 'prepare and publish a plan setting out the authority's strategy for discharging their functions in relation to children and young people'. The regulations may cover matters to be dealt with in the Plan, its duration, publication, review arrangements and consultation arrangements. All local authorities now have a published CYPP, and whilst 4 star authorities are exempt from the requirement, none have chosen to opt out.
28. Two sets of regulations have been issued, in 2005 and 2007, each of which has been accompanied by guidance. These have been prescriptive about the process of producing the Plan but have remained relatively silent on the detailed content.
29. The CYPP also sits within the wider local performance framework, as outlined in *Strong and Prosperous Communities*, the Local Government White Paper. As the central plan for children and young people, the CYPP informs the development of priorities for each Local Area Agreement and vice versa. The CYPP has also become a key source document for the Inspectorates.
30. In an attempt to engage schools more directly in developing and delivering the CYPP, section 38 of the Education and Inspections Act (2006) requires schools to 'have regard' to the CYPP in their own planning and commissioning and in turn the local authority must consult schools on the development of the CYPP.

The Case for Change

31. A major weakness of the CYPP is that, although it covers the full range of services for children, it is exclusively a local authority rather than a Children's Trust plan. Local authorities are expected – but not required – to align the CYPP with partners' plans and to consult them through their Children's Trust. Conversely, there is little leverage on partners to align their plans with the CYPP or any legal requirement for them to 'have regard' to it. This is a serious limiting factor on the development of the CYPP as a shared mechanism for improving outcomes for children in the local area and as a driver for better integrated planning and commissioning.
32. Research in 2006/7 and 2007/8 into published CYPPs has shown wide variation in format, intended audience, level of detail etc. In addition, recent attempts to reduce burdens on local authorities by combining the annual CYPP review with their Annual Performance

Assessments have been largely abandoned, in part because they required a level of uniformity from CYPPs that they do not have. This is evidence that the CYPP has become a locally owned plan which genuinely reflects local circumstances and priorities, but there is also significant variation in the quality of these plans.

33. Currently regulations issued under section 17 of the Children Act 2004 are mainly concerned with the process of producing a CYPP. They set out in some detail the needs for the plan to contain details of a needs assessment, to be informed by an extensive consultation, how it should be published, its duration and review arrangements. But there is little prescription on the actual content of the plan beyond improving outcomes for children. Two years on from the publication of the first statutory CYPPs, and based on the experience of leading local areas, there is now a significant body of knowledge about what elements have worked well. A degree of national consistency, therefore, presents a good opportunity to improve their overall quality and effectiveness.

The Proposal

34. Extending responsibility for the Plan to all partners covered by the 'duty to cooperate', and requiring all partners to 'have regard' to them, would mean that the Plan becomes the shared responsibility of the Children's Trust Board. We would therefore welcome views on whether the duty on top tier local authorities to produce a CYPP should be amended to a requirement to produce and implement a joint CYPP. This would extend ownership to all of the 'relevant partners' currently listed in section 10 of the 2004 Act, including strategic

health authorities and primary care trusts, police and youth offending teams, and to the 'new' 'relevant partners' to be added should section 10 be amended. The revised duty would require the 'relevant partners' to 'have regard' to the CYPP in their own planning where it impacts on outcomes for children, young people and their families.

35. The CYPP would need to draw on the key elements of each of the partner's plans but must be greater than the sum of its parts demonstrating the added value of a partnership approach. It would continue to be fully consistent with the Sustainable Community Strategy and provide a wider context for targets relating to children and young people in the Local Area Agreement. There should be a consistently high quality approach to consultation with the third sector over the development of the CYPP.
36. Regulations for the new joint CYPP would seek to introduce more consistency without losing the flexibility to reflect local circumstances and promote local ownership. Coverage would include:
- that partners would need to have their new plan in place and published by **April 2010** but beyond that, there would be no fixed duration of the CYPP;
 - the Plan would contain a statement as to how the partnership intends to achieve improvement to the ECM outcomes, including who will do what;
 - details of a joint needs assessment against the outcomes and key actions planned to achieve the improvements and fill gaps in provision;
 - a list of people and organisations to be consulted, including all of the statutory

'relevant partners', Sure Start Children Centres, private and third sector bodies, professionals and other front line staff and, crucially, children, young people and families;

- that the CYPP must be reviewed in each year a new CYPP is not published;
- specific details to provide early identification and early intervention for children needing additional help through universal services such as children's centres and extended schools, as well as targeted services. CYPPs would cover the roles and responsibilities of the partners involved in early identification and intervention and the implications for development of the children's workforce; and,
- arrangements for joint commissioning, and specify the spend of each partner on areas such as child health including support for SSCCs and youth offending, in particular that covered by local joint commissioning arrangements.

37. We would welcome views on what else the CYPP regulations should prescribe and what needs to be covered by guidance.

Statutory Children's Trust Boards

The Current Position

38. There is no requirement in legislation for the authority and its partners to create a Children's Trust Board. However, in practice it is difficult for partners to give effect to their duty to cooperate without creating such a Board, and all areas have done so in some form. But the membership, design, functions, name (not all are actually badged 'Children's Trust'), cycle of meetings and relationship with other partnership bodies, in particular the overarching Local Strategic Partnership, varies markedly.
39. The absence of a statutory framework for Children's Trust Boards contrasts with other partnerships with which the Trust Board has, or should have, a clear relationship such as the Local Safeguarding Children Board and Youth Offending Team.

The Case for Change

40. It was explicit in the original concept of the Children's Trust that local authorities and their partners should have the flexibility to design the partnership arrangements which made best sense locally. But equally explicit was the expectation that, whatever form these took, they should be sufficiently strong and purposeful to drive changes across all levels of Children's Trust work, and that all partners

should be committed to driving change within the framework of the CYPP both as collegiate members of the Board and as leaders and representatives of their own organisation.

41. As the draft supplementary guidance made clear, Children's Trusts need to ensure that they have an approach that truly focuses on local children and young people, and are delivering cooperation arrangements and integrated systems, which includes from the front line to the overarching strategic governance arrangements, and that these essential features and others are in place and working together, delivering significantly improved outcomes, with the appropriate integration at every organisational level.
42. It is clear that whilst some areas have moved ahead quickly, many have not yet reached this stage. The question is therefore whether requiring a Children's Trust Board in every area, and giving them a clear set of statutory functions, would accelerate progress towards consistently high quality local arrangements. Leading local areas have already put in place Children's Trust Boards which have the representation and functions that primary or secondary legislation could prescribe for all.
43. Without such explicit underpinning, Children's Trusts could remain – to a different extent in

different areas – insufficiently robust to secure the potential benefits. Setting out core membership and functions in legislation could help secure more consistent performance and more robust operation of the Children's Trust. An alternative to a universal statutory framework would be to create reserve powers for Ministers to direct areas when local arrangements are not operating successfully. On balance we think that a consistent national approach with significant local flexibility will provide greater clarity and certainty for all parties, and will secure faster improvements in local outcomes for children and young people.

The Proposal

44. We propose to establish a stronger statutory basis for Children's Trust Boards, on the model of existing good practice and with significant local flexibility. Primary legislation would place a duty on the local authority to set up and maintain a Children's Trust Board, with guidance making clear that partners would be expected to cooperate on this. Primary legislation would also set the Board's objectives: for example to improve well-being as defined by the five ECM outcomes; to make arrangements to improve early intervention; to improve outcomes; and to narrow gaps in outcomes between different groups of children and young people.
45. Secondary legislation could then specify core membership and (as necessary) the procedures Boards must follow. It would also specify the functions of the Board: for example to carry out joint needs assessments, to agree the CYPP, to evaluate its impact, to ensure parents and others are consulted, and to exercise oversight of the work of other partnerships. Each partner would however continue to be responsible for its existing functions. There is a range of options here and the current research described in paragraph 8 will help identify the best practice that is developing and that, if adopted by all areas, would put arrangements on a stronger footing.
46. Legislation would require the representation of schools on Children's Trust Boards and we also propose that the Schools Forum should be represented. Schools Forums should be prepared to operate across the whole Children's Trust agenda as it relates to schools, and engage both with the Board and individual schools on that basis. There is certainly nothing in the existing legislative framework related to Schools Forums which would prevent them operating in such a way. But their current statutory functions are unlikely to be sufficient to allow them to be the sole representative body for schools. Ministers would welcome views on whether we should specify in secondary legislation how that wider representation should be secured, or whether this can be left for local discretion.
47. The voluntary and community sector agencies are already key players in local interagency cooperation arrangements, with current regulations on Children and Young People's Plans requiring the local authority to consult them in preparing the Plan. While in some areas this has developed into a close and effective working relationship, with consultation at an early stage of the development of plans; it is by no means universal. While there is no proposal to extend the 'duty to cooperate' to this sector it is important that they should have a place as part of any statutory body such as a Children's Trust Board, so that they are able to inform and influence activity at the right time.

Removing Barriers

48. Section 10 of the 2004 Children Act provides a power for local authorities and 'relevant partners' to pool funding and share staff, goods services accommodation or other resources with the aim of improving well-being. The original rationale for this power was to help to break down silos which act as barriers to improving outcomes for children, but it has not proved sufficient to overcome some of the obstacles that local authorities and their partners encounter. There are two main issues: the lack of a power to delegate functions in section 10 (Children Act 04), and the fact that the power to pool funding, goods, staff etc does not extend beyond the section 10 'relevant partners', effectively excluding the third sector partners.

Power to delegate functions

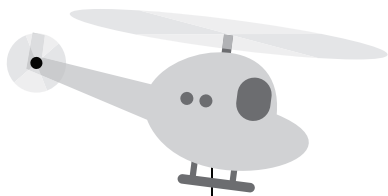
49. A power to delegate functions between local authorities and health bodies exists in section 31 of the Health Act 1999. This has been replicated in section 75 of the National Health Service Act 2006. These Acts give the Secretary of State the power to make regulations in relation to the exercise of NHS and local authority functions if the arrangements are likely to lead to an improvement in how those functions are exercised. However, this legislation is not without its own problems: it is restricted to local authorities and health bodies only and it is quite complicated, difficult and time consuming to

use. There are several options to explore when considering how best to remove the barriers preventing the delegation of functions between section 10 relevant partners (and possibly beyond). This might be achieved by extending section 31/75, by amending section 10 or, given that neither has been totally effective in achieving their objectives, working to create new powers that would help resolve these issues.

Extension of pooling

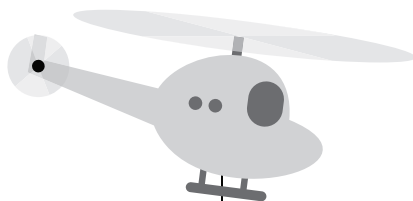
50. At present, the ability to pool funding, goods, staff and services under section 10 is restricted to 'relevant partners' only, meaning that it does not extend to the private or voluntary sectors. As a result, these sectors are not as involved as they might be in section 10 arrangements. There are legal difficulties in including these sectors as 'relevant partners' under section 10, but it may be possible to extend the ability to pool beyond 'relevant partners' to encompass these sectors. It may also be possible to delegate functions to these sectors should delegation of functions be made possible between section 10 partners. Ministers would welcome views on whether extending powers in this way is desirable.

51. Ministers would welcome views on these points and also any other barriers to effective partnership working to improve well-being that might be addressed through legislation.



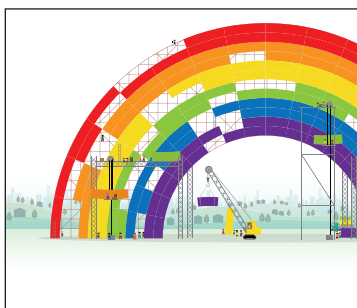
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