

## **ANNEX 3 - OUTLINE OF LEGISLATIVE FRAMEWORK FOR CHILDREN'S CENTRES**

### *The Childcare Act 2006: General Duties*

The Childcare Act 2006 (“the Act”) imposes a number of duties on local authorities. The general duty contained in section 1 is to (a) improve the well-being of young children in their area; and (b) reduce inequalities between young children in their area in respect of physical and mental health and emotional well-being, protection from harm and neglect, education, training and recreation, the contribution made by them to society and social and economic well-being.

A “young child” is defined by the Act as a child during the period from birth until 31 August following the child’s 5<sup>th</sup> birthday.

In discharging its functions under the Act, a local authority must have regard to any guidance given from time to time by the Secretary of State. The Secretary of State published the “Sure Start Children’s Centres Statutory Guidance” in April 2013. A copy of this guidance is found in Annex 5.

Section 3 of the Act states that a local authority must make arrangements to secure that early childhood services in its area are provided in an integrated manner, which is calculated to facilitate access to those services, and to maximize the benefit of those services to parents, prospective parents and young children. “Early childhood services” are defined by section 2(1) of the Act. They mean (a) early years provision; (b) the social services functions of the local authority, so far as relating to young children, parents or prospective parents; (c) health services relating to young children, parents or prospective parents, (d) the provision of assistance to parents or prospective parents (employment and training) and (e) the authority’s duty to provide specified information and assistance to parents/prospective parents relating to childcare and other matters of benefit to parents, children and young people.

Section 3(3) of the 2006 Act states that the authority must take steps (a) to identify parents or prospective parents in the authority’s area who would otherwise be unlikely to take advantage of early childhood services that may be of benefit to them and their young children; and (b) to encourage those parents or prospective parents to take advantage of those services.

Section 4 states the authority must make arrangements to work with certain partners in performing the functions referred to above. These are the NHS Commissioning Board, CCGs in the authority’s area and the Secretary of State in relation to education and training.

### *The Childcare Act 2006: Children’s Centres and Consultation*

Prior to 2010, a local authority was free to determine how best to deliver the early childhood services under section 3. However, amendments were made by the Apprenticeship, Skills, Children and Learning Act 2009 which introduced new provisions, including sections 5A-5E. Section 5A(1) of the Act states that arrangements made by a local authority under section 3 must, so far as is

reasonably practicable, include arrangements for sufficient provision of Children's Centres to meet local need. "Local need" is defined as the need of parents, prospective parents and young children in the authority's area. A Children's Centre is a place managed by or under arrangements with the authority making "early childhood services" available (see definition of "early childhood services" above), and providing activities for young children.

Section 5A(5) of the Act states that a service is "made available" by providing the service *or* by providing advice and assistance to parents and prospective parents on gaining access to the service. Local authorities must consider whether early childhood services should be provided through a Children's Centre. A local authority must take into account whether providing a service through a Children's Centre would (a) facilitate access to it; or (b) maximize its benefit to parents, prospective parents and young children: see section 5E of the Act. Section 5E(7) states that, for the avoidance of doubt, nothing in this section is to be taken as preventing a local authority or any of its relevant partners from providing early childhood services other than through a Children's Centre.

Section 5D(1) of the Act states that a local authority must secure that such consultation as they think appropriate is carried out before any significant change is made in the services provided through a children's centre (including a change to location), or before anything is done that would result in a Children's Centre ceasing to be a Children's Centre.

### *Statutory guidance*

The statutory Guidance published by the Secretary of State is attached at Annex 4. It explains some things which the authority must do, and some which they should do – though the "should do" guidance should be departed from only where there is good reason. Chapter 2 concerns the provision of sufficient Children's Centres. Members are invited to pay particular attention to pages 9 and 10 of the Guidance. This states that local authorities should:

- ensure that a network of Children's Centres is accessible to all families with young children in their area;
- ensure that Children's Centres and their services are within reasonable reach of all families with young children in urban and rural areas, taking into account distance and availability of transport;
- together with local commissioners of health services and employment services, consider how best to ensure that the families who need services can be supported to access them;
- target Children's Centres services at young children and families in the area who are at risk of poor outcomes through, for example, effective outreach services, based on the analysis of local need;
- demonstrate that all children and families can be reached effectively;
- ensure that opening times and availability of services meet the needs of families in their area;
- not close an existing Children's Centre site in any reorganisation of provision unless they can demonstrate that, where they decide to close a children's centre site, the outcomes for children, particularly the most

disadvantaged, would not be adversely affected and will not compromise the duty to have sufficient children's centres to meet local need. The starting point should therefore be a presumption against the closure of Children's Centres;

- take into account the views of local families and communities in deciding what is sufficient Children's Centre provision;
- take account of families crossing local authority borders to use Children's Centres in their authority. Families and carers are free to access early childhood services where it suits them best; and
- take into account wider duties under section 17 of the Childcare Act 1989 and under the Child Poverty Act 2010.

Local authorities should consult everyone who could be affected by proposed closures of or significant changes to Children's Centres, for example, local families, those who use the centres, Children's Centres staff, advisory board members and service providers. Particular attention should be given to ensuring disadvantaged families and minority groups participate in consultations.

The consultation should:

- explain how the local authority will continue to meet the needs of families with children under five as part of any reorganisation of services
- Be clear how respondents views can be made known
- Provide adequate time for those wishing to respond
- Announce decisions following consultation publicly and explain why decisions were taken

### *Summary*

The broad duty therefore is to ensure, so far as is reasonably practicable, that there is sufficient provision of Children's Centres to meet local need. Therefore, in considering any significant changes to or the closure of any Children's Centres, it is important that the local authority ensure it is satisfied as to (amongst other matters):

- that a proper consultation has been undertaken
- the extent of the local need
- whether there are sufficient Children's Centres to meet that need
- if it is considered that there are not sufficient children's centres to meet local need then whether it is reasonably practicable to provide additional Children's Centres

## **ANNEX 4**

**Click on link below to published Guidance:**

**Sure Start Children's Centres statutory guidance for local authorities, commissioners of local health services and Jobcentre Plus. April 2013**

Alternatively cut and paste the following web address into the address bar on Internet Explorer:

<https://www.gov.uk/government/publications/sure-start-childrens-centres>