



Reflections on the Children Acts 1989 and 2004

Introduction

This year marks 30 years and 15 years respectively since the Children Acts 1989 and 2004 received Royal Assent.

The 1989 Act marked a turning point in children's rights legislation in England and Wales. It introduced comprehensive change concerning the welfare of children. Central to this was the idea that children's wishes and feelings must be taken into account when making decisions that affect them. Traditionally, parents were seen to have rights over their children, but the Act reversed this stating that children had free standing right. These welcome child centred principles remain at the heart of all local authorities do.

It is important to celebrate the successes of the Acts. Children are safer now than they were 30 years ago, for example. However, many of the challenges faced by children, their families and the services they rely on today could not have been foreseen by the legislators such as the levels of pressure currently in the system or the use of Section 20 voluntary accommodation arrangements for unaccompanied migrant and asylum-seeking children arriving in this country with no family ties.

Over the past decade, the preventative principles underpinning the '89 Act have been eroded by austerity, chronically underfunded children's services and rising need. We continue to call on government to work with us to reclaim and resource the core principles of prevention in the Act, backed by adequate new funding.

The 2004 Act went further to create, amongst other things, the concept of a clear, single point of professional accountability for children and young people's outcomes in the director of children's services (DCS). A single individual uniquely centred in the local place in which they work, to bring together different parts of the systems in the best interests of children. It also provided the legal underpinning for the Every Child Matters outcomes framework.

To mark the anniversary of the Acts we have invited the ADCS President, Vice President and Past Presidents to reflect on the Children Acts of 1989 and 2004, the successes and what has changed since they became law.

John Coughlan - ADCS President 2007/08

In 1989 I secured my first children's management position with a presentation called, "The Children Act 1989 – Legislation for Attitude". I'm still proud of that title – and the argument – from one so young and uppity. I was trying to say that, alongside the mass of technical reforms the new Act contained, still more important was we now had a piece of all encompassing, framework legislation for children, which explicitly legislated for principles. Law telling us how we should work with and for children, as much as what we should be doing. That the child's welfare is the paramount concern; that we must work in partnership with children and with parents; and that children have rights in their own right.

The Act wrestled with the balance between children's rights and adult responsibilities. The very nature of childhood and responsible parenting must be about understanding that children have rights and parental responsibility is to do with protecting those rights and putting them first. A bit heavy? Maybe. A provocation to those who rage against the "nanny state". I do hope so. Especially in a state which, for all my own optimism and pride in what this visionary legislation has achieved for our country's children, still holds a legal defence of "reasonable chastisement". Just dwell on that phrase. It means the only citizens who can legally be assaulted in England are children.

The Children Act remains an international marker. I'm so glad I've had it with me in my management career. (Not so young now – still fairly uppity.)



John Freeman - ADCS President 2007/08

In 2001 I became Education Director in Dudley and, for the first time, paid attention to my role as corporate parent. Exclusion rates for children in care were extraordinarily high, so I decided to act for children in care as I would do for my own children – visit every headteacher personally to discuss every case. Unsurprisingly, it worked! This experience, and the background information on children in care that I collected, led to my being 'woke' about the issues.

In 2005/6, I was appointed as the first DCS for Dudley, which required a great deal of personal learning. Those first years were heady, with the *Children Act 2004*, backed up by Ofsted's Joint Area Reviews, legitimising cross-public sector working. In Dudley there was genuine enthusiasm for Every Child Matters (ECM), and although the mantras have changed, echoes of ECM and the five outcomes still resonate across the Borough, and in councils across the country. It was an energising time, both across the council and with our public service partners.

The Children's Trust in Dudley made real progress in joining-up the thinking – with the police banning 'Mosquitoes', devices that use high pitched noises to deter young people from gathering in public spaces, and with health colleagues working on SureStart, as two examples among many. One of the most important activities was to start to join up the statistical data that enabled us all to focus integrated developments on the areas with the greatest needs.

Notwithstanding later challenges, I believe we made lasting improvements to children's lives and to the way we all worked.



Maggie Atkinson - ADCS President 2008/09

The *Children Act 2004* created seismic change in the delivery of services covered by the post-war Welfare Settlement. The latter separated education from all-age social care and health. By 2005, all these services, alongside schools, early years, justice and the voluntary sector, were driving lasting change.

I was a first-generation director of children's services, having been Director of Education and Culture and a teacher before that. Being an educational specialist greatly benefited me in my role as a DCS.

I learned all I could about the services I led that weren't within my specialist experience. I worked with both stellar senior professionals and teams to deliver them, and a broader partnership representing all agencies and all levels of service, from the universal to the specialist. And it worked.

The 2004 Act, having never been rescinded but pushed into a dusty cupboard, covers every aspect of what all services do for children and young people. That governments and Ofsted, it seems, have decided what is meant by children's services is in a narrow band width of social care, does a disservice to the universal nature of childhood – where for example, most children never need a social worker, but do go to school.

Despite the current pressure on localities to address the statutory end of service, they remain determined to think wider, keep partners at the table, address what childhood means, not segmenting services or relying on Ofsted to define which ones they should concentrate on most. EVERY child still matters, after all.



Marion Davis - ADCS President 2010/11

I was one of the "first wave" of DCSs. At that time the sector had a strong sense of optimism that gave energy to the establishment of integrated and universal children's services and was ready to take off. It's features resonated, not just for the children's services workforce, but also as a common language and set of ambitions and values to underpin the structural changes. For new DCSs the invigoration was palpable as Every Child Matters (ECM) promoted dialogue across all settings for children's services, but also reached wider and deeper into a new way of thinking and acting.

I will never forget the unity of purpose exhibited by the multi-agency model of leadership that worked together tackling difficult issues and making them doable. From the smallest school or voluntary organisation to local health trusts and police forces, the dialogue of ECM became embedded and unstoppable as children and young people's voices began to be heard.

In April 2010 the rise of optimism was threatened by austerity and the potential of curtailed ambitions loomed. One of the first changes made at the DfE was the removal of the colourful rainbow messages that accompanied the ECM promises - was this an ominous change of direction or just another challenge in the day in the life of DCSs and their teams?

The hopes and ambitions of those working across children's services suddenly became that much harder to deliver.

If there's a message from this for the government it's about the short-sightedness of giving additional funding to schools alone without addressing issues such as child and family poverty, inadequate provision of CAMHS and a hundred other areas of need. These require multi-agency collaboration and support on a sustainable and integrated basis.



Reflections on the Children Acts 1989 and 2004

Matt Dunkley - ADCS President 2011/12

The *Children Act 2004* benefited me by creating the statutory role of the DCS - a job I have loved ever since. More importantly, it has benefited generations of children by ensuring that services that affect their lives are better integrated, among other things. It is tempting to look back and bask in the light of the Every Child Matters rainbow, and reminisce about the rivers of money, helpful legislation and joined-up approach in government that flowed after the 2004 Act.

What is better today? The state is a much better parent to children in care now. Successive governments have passed helpful legislation and councils have leapt at the opportunity to become ambitious, pushy corporate parents for their children. In 2005, very few children in care went to university, now many do every year.

Our aspirations for care and the young people in it have been transformed by virtual schools, designated teachers, young people's councils and participation, better social work supporting care leavers into adulthood and staying in touch with them. With whole councils contributing jobs, apprenticeships, rent guarantees, housing, council tax etc., we are much better corporate parents in 2019 than ever before.

There is still, however, a long way to go before the State is the best parent it can possibly be, negative stereotypes about care are dispelled and staff and foster carers get the recognition they deserve. That's the challenge that keeps me doing the job I love.



Debbie Jones - ADCS President 2012/13

The *Children Act 1989* is unique. No other country has adopted such a clear and unequivocal attention to the best interest of every child. The 1989 Act established a step change in our societal attitude to children placing them at the heart of all our thinking. The 2004 amendment built on this basic premise in an exciting and creative way and I am proud and privileged to have been one of the architects of these changes.

The 2004 Act heralded a clear and determined focus on where the responsibility for children in a local area rests and that is with the DCS. A clear and unambiguous line of accountability for children's outcomes in a locality. Every Child Matters was the ambition and that must be the guiding principle for us all.

Great strides have been made, however, changes introduced in 2010 via the *Academies Act* undoubtedly had a real impact. The ambitions for children were watered-down to some extent, with the present approach not fully recognising the importance of every single individual child – their unique and key contribution, whatever their circumstances, to our collective good.

“Success” is sometimes measured by objectives such as exam results, not by what each child can bring to society. The best achieving areas are still operating within the core spirit of the 2004 changes and this is recognised by the sector regulators. Fifteen years on from the *Children Act 2004* receiving Royal Assent there is an opportunity for us to reflect on current policy and practice to ensure it is working for all children.



Andrew Webb - ADCS President 2013/14

I had the privilege of working on the Children Bill and Every Child Matters (ECM) and was a DCS for 12 years. The *Children Act 2004*, aimed to deliver wholesale, sustainable improvement in a child protection system that was operating sub-optimally, and tackle inequalities for cohorts of children facing social and economic exclusion. ECM was visionary, evidence-driven and, crucially, was supported by a Treasury that understood the importance of long term, targeted investment in children if you want to change their outcomes.

So, did changing the structures and processes of children's services improve outcomes, and if so, how? I think the answer is "yes", but nowhere nearly as much as it could or should have done. Looking back I believe there were three factors that had a fundamental impact on us falling short in our ambition for children.

The first was that we adopted the wrong theory of change. ECM was basically embedded in New Labour's "deliverology" (centrally controlled target setting) which has since been shown to be incapable of driving sustainable change in complex systems and which, unintentionally, also gave undue weight to the perverse agenda set by schools' league tables.

This veneration of one-dimensional indicators compounded the second impediment to lasting progress: the rise in influence of Ofsted (increasingly arrogant and dogmatic from its creation, but out of control from 2010). If there was ever a better example of the medicine killing the patient, I have yet to see it, and its legacy of forcing compliance with models that have no evidence base is still with us.

The third factor? The coalition government which recklessly pulled money out of the system from day one and legislated to atomise local systems as a political priority at the earliest opportunity.



Alan Wood - ADCS President 2014/15

The *Children Act 2004* set out a new way of working with children and their families. In a DCS it implied a controller of cross agency levers to be used to introduce and foment change and improvement in services to protect and support children. There has been tremendous progress toward the Act's vision with great credit due to staff in all agencies. That said, I question whether we have managed to deliver it sufficiently. Significantly, resources have been a factor leading to this but not the only or most critical reason.

Too often a DCS could pull a lever only to discover it was not connected to anything. There was no compelling authority which meant the levers would work. Other deeper, cultural levers were in play:

- an overload of plans, strategies, guidance and hoop jumping
- overly bureaucratic processes
- confused and protectionist decision making
- process-led performance management
- overzealous, tick box and weak inspection
- a shortage of social workers
- inconsistent messaging from various government departments with responsibility for different aspects of children's policy.

So many directors have done a great job of influencing and persuading decision makers in other agencies – but once this approach ran out of space, the same old cultural problems re-emerged. We don't need a new Children Act, we need additional and existing resources to be more ruthlessly focused at practice level. I am optimistic, a counter cultural alternative is breaking out! It has a focus on practice leaders and improvement, and it has and is generating new and more effective models of cross agency working at operational level.



Alison O'Sullivan - ADCS President 2015/16

The post-Seebohm expansion created social services departments in 1971 but in spite of the prominence of grassroots community work, a legacy from the sixties, the prevailing view was still that professionals knew best.

In my first social work job a local 'Who Cares?' group saw children in care given a voice. And in 1975 the first national conference for children in care was convened by NCB.

Chairing child protection case conferences in the 1980s we began to involve parents – considered radical, to the extent that some professionals refused to participate when parents were present!

Then the 1989 Act enshrined children's right to be heard, changing forever both our thinking and our practice.

More recently we have seen the emergence of a co-production movement, with people as partners in their own care and shaping services: it would now be unthinkable to make decisions about a child in care without engaging them; and older care experienced people are also finding their voice.

But debates around both Brexit and climate change are a stark reminder that children have a greater stake in our future and should have more say, including the vote at 16.

After 20 years involving young people in the appointment of senior staff, I came to the view that we could dispense with the rest of the process – the young people always got it right.

We need to recognise the wisdom of the young as well as the power of the voice of people with direct experience. We fail to listen to them at our peril.



Dave Hill - ADCS President 2016/17

The *Children Act 1989* set out the right of every child to grow up in their own family, but it also ensured that this right was balanced against the paramountcy of the welfare of the child. The '89 Act set out the possibility of a 'game change' for children in care - but frankly we squandered the opportunities that lay before us.

Progress has been partial and piecemeal. Why? Firstly, child protection tragedies, such as the deaths of Victoria Climbié and Peter Connelly, have been defining policy drivers for government. Secondly, adoption has dominated the agenda since 2002, reinforced in 2010, but this will not help the majority of children in care as most eventually return home. The rights and needs of children in care haven't really come to the fore in recent years despite national reviews of adoption, foster care and residential care. I find myself wondering where the deep, life changing commitments from government are?

We should continue to support all children to live, wherever possible, safely in their own families, but where children need to come into public care, the experience should be 'life enhancing' in every way. Despite the default narrative that children in care generally have poor outcomes, there is important evidence that suggests the opposite with regards to educational outcomes for example.

Going forward I would like to see children and young people's voices put at the heart of everything we do. We must do this with understanding and compassion and of course as adults we have to listen, guide and protect them too.



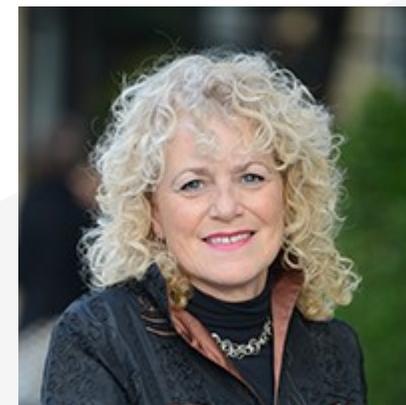
Alison Michalska - ADCS President 2017/18

The Every Child Matters (ECM) policy provided a comprehensive landmark reform of children's services. The Department for Children, Schools and Families and their rainbow logo emerged full of promise and real ambition for children but with every year that passes we're moving further away from the incontrovertible principles of ECM, so much so that whilst I was ADCS President I used my platform to start a debate about what a country that works for all children looks like.

The starkest difference between those heady ECM days and the biggest ongoing challenge is money. Government funding and grants were readily available not only to implement ECM but to trial new preventative initiatives, we had an abundance of family support and youth workers, children's centres had bulging toy cupboards and our social workers had optimism that they could make real change for children.

Since then councils have seen our funding evaporate. In order to protect spend on statutory services councils have had to make some really tough choices. Preventive services that help to reduce demand for statutory intervention such as children's centres and youth services and other services that improve the quality of children's lives like libraries, leisure centres and parks have faced cuts.

In addition, the ongoing impact of austerity has resulted in almost a third of our children living in poverty, it certainly doesn't sound like this country is working for all children. There remains so much financial uncertainty - indeed the only certainty is that there is no crock of gold at the end of the rainbow.



Stuart Gallimore - ADCS President 2018/19

I can remember the excitement surrounding the introduction of the *Children Act 1989*. There was a real hope of achieving better outcomes for children and improving how we work together across agencies to do this. Underpinning all of this was a keen focus on early help and prevention and meeting children's needs earlier before they reach crisis point.

The 2004 Act went on to build further on the importance of the views and wishes of children and create a clear, ultimate line of accountability for children's outcomes in the DCS, all positive developments. However, those hopes and aspirations whilst not forgotten have been reduced after a decade of austerity and this is hindering our ability to improve children's life chances. I don't think at the time of their introduction anyone could have envisaged the challenges we face now; local authority budgets have been cut in half over the past nine years whilst need has risen.

Life is getting harder for a growing number of families due to increasing child poverty, growing use of food banks, lack of affordable housing and insecure work. It can be tempting to reflect on the past with rose tinted glasses but the reality is some families don't even feel they have a glass let alone one that's half full.

I don't think the drafters of the Acts would believe us if we told them where we have ended up – a reversal of the two decades of progress made in reducing child poverty in this country.



Rachel Dickinson - ADCS President 2019/20

The 1989 and 2004 Children Acts laid the pathway to real progress at national and local levels. The statutory duties of paramountcy, prevention and system integration have been foundations for achieving real change. The care system is delivering better outcomes than ever before, and we rightly share a collective aspiration to improve the lives of care experienced young people. I am proud at how far we have come for children compared with the late 1980s, how much more we know about what good looks like and how to deliver it. We should be proud that England has one of the safest child protection systems in the world despite the challenges that now exist.

In stark contrast I am ashamed that over four million children are living in poverty and at the lack of any coherent response from the government. Since 2010, local government funding has been cut by 50% but demand has not. This has led to counterintuitive decisions like a 60% reduction in spending on early help services that not only improve children's lives but provide a safety net for children and families before their problems reach crisis point.

The potent combination of austerity; rising demand; fewer resources and a government whose attention is largely focussed elsewhere endangers the ambitions of both Acts. There is still much to do if we are to become a country that works for all children.

The role of the DCS and our endeavour to ensure a relentless focus on the lived experiences of vulnerable children and to speak loudly for change, has never been more important.



Jenny Coles - ADCS Vice President 2019/20

The context in which the *Children Act 2004* was drawn up and implemented is important, it followed a series of high profile and tragic deaths of young children where a number of agencies had been involved in their lives. So although it provided the legal framework for Every Child Matters, enabled services to take a holistic approach to children and young people and promoted a welcome integrated response in local areas under a DCS, what followed was a bureaucratic regulation and inspection regime which placed importance and, crucially, reliance on key performance indicators. Some would argue at best this move did not develop the quality of front line practice and at worst worked against it.

The drafters of the 1989 and 2004 Children Acts could not have foreseen the challenges facing children and young people today, from exploitation in all its forms and digital dangers to a 50% reduction in local government funding since 2010 and rising need. Research, professional dialogue, innovation and debate is valued more highly by policy makers, the workforce and the public. The voice of children and carers enshrined in both Acts is now being taken seriously and is shaping services.

So the spirit of the Acts bringing partners and services together to improve outcomes is still strong. However, whether local government and partner agencies will have the resources to address and prevent the increasingly complex challenges of children and young people remains to be seen.



The Association of Directors of Children's Services Ltd (ADCS)

ADCS is the national leadership association in England for statutory directors of children's services and their senior management teams

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