



OLLSCOIL NA GAILLIMHE  
UNIVERSITY OF GALWAY

## Helping Children By Supporting Their Families:

### Factors Affecting How English Local Authorities Interpret Section 17 of the Children Act 1989

a summary of research findings

**Becca Dove**

University of Galway

A minor thesis completed in partial fulfilment of a Masters  
of Arts in Family Support

May 2023

“

The implementation of the 1989 Children Act is a complex task, requiring resources, skills, motivation, and time not only for performance but for conceptualization. It is therefore not surprising that local authorities were found to be still struggling with the very difficult task of fulfilling new duties and accommodating new perspectives.

However, we may take some comfort from the fact that a document like the Children Act exists at all. In an era that is generally residualistic, here is a major piece of legislation that is not.

Colton, Drury and Williams, 1995, p.727

”

# Research Background

Children Act 1989 gives a clearer legislative basis for broad preventative family support than had previously existed in any legal framework guiding the care of children.

Section 17 of the Act positively promotes family support as one of the means to achieve an overarching principle - that most children should be raised within their own families.

Established a gradient of needs rising from **anticipated** needs to **higher-level** needs. '[An] important feature of the [child in need] definition is its inclusion of children who are likely to encounter difficulties as well as those who already have them' (Allen, 1998:89).

Despite the Act's preventative scope and its emphasis on a broad family support continuum, research undertaken after the Act was passed (Statham and Aldgate, 2003; Colton, Drury, and Williams, 1995 for e.g.) found that local authorities had opted for a narrow interpretation of section 17.

This interpretation has remained largely consistent for over three decades (Cooper, 2021).

Existing academic and policy research shows the implementation of section 17 has rarely achieved the continuum of family support envisaged by its architects.

Limited research exploring the reasons why



Children Act 1989

"In the middle 90s [there was] concern at the extent to which local authorities seemed to be overconcentrating on child protection services at the neglect of family support; some seemed mistakenly to regard whole family support as not being statutory.....

[and] to remind authorities that there is no sharp line between need and risk or between support and protection and that services needed to be seen more as a continuum with a balanced provision targeted at the various degrees of need"

HUGHES, 2000, P.4

# Section 17 of the 1989 Children Act

Part 1 of section 17 gave a general duty to promote the welfare of children in need through support to their families

Part 10 described when a child would be considered to be 'in need' with a gradient from anticipated needs, through low needs, to high needs

Part 11 described disability and defined 'health and development' for children in need

Parts 1, 10 and 11 together established a floor for an acceptable modern standard of children's health and development. If a child fell beneath that floor, and the provision of services would help lift them above it, then the state should explore their needs with a view to providing assistance to their families.

The concept of a 'child in need' became fused to social work assessment, latterly via statutory guidance 'Working Together' (Department for Education, 2018).

Social work is located towards the acute end of the support continuum.

'Child in need' is then pulled to the acute end of the support continuum, understood as higher needs (or risks)

Result = the utility of section 17 as a broad preventative family support continuum becomes limited

## **Part 1:**

(a) to **safeguard and promote the welfare of children within their area who are in need**; and  
(b) so far as is consistent with that duty, to **promote the upbringing of such children by their families**, by providing a range and level of services appropriate to those children's needs.

## **Part 10:**

For the purposes of this Part a **child shall be taken to be in need** if

(a) he is **unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development** without the provision for him of services by a local authority under this Part;

(b) his **health or development** is likely to be **significantly impaired, or further impaired**, without the provision for him of such services; or

(c) he is **disabled**,

and "**family**", in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.

## **Part 11:**

For the purposes of this Part, a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed;

"development" means **physical, intellectual, emotional, social or behavioural development**; and "health" means **physical or mental health**

# Research Purpose

This research aimed to fill some of the gap in understanding why section 17 continues to be interpreted and implemented in the way it is, 32 years after it came into force.

5 research questions were posed.



# Method and Limitations

## Sampling strategy:

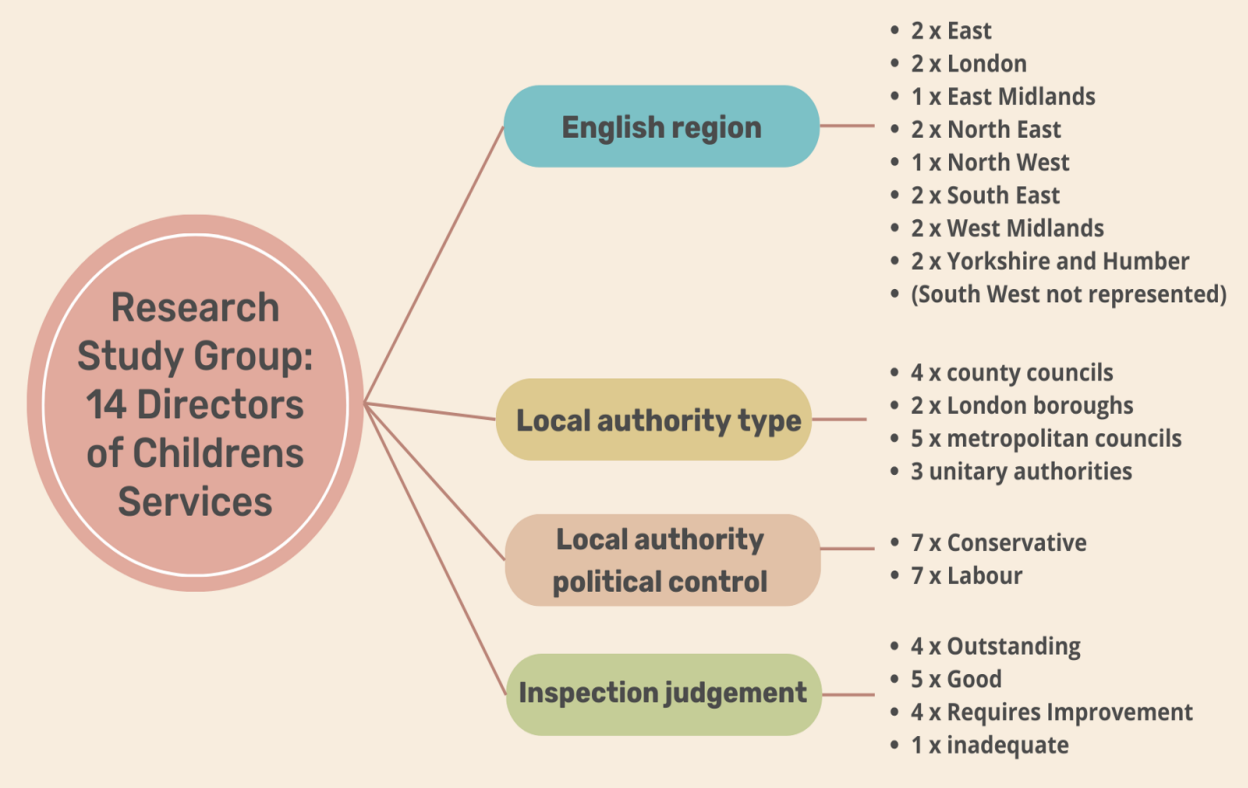
- Research population = Directors of Childrens Services from 152 English local authorities
- Non-probability quota sampling method – aimed for 5% representative sample of the research population
- Stratified by English region, local authority type, political control
- Current inspection judgement added as participant characteristic during coding

**14 DCSs participated**, representing 9% of the total population group

**Data collection** = semi structured individual interviews held via MS Teams between 1 February and 6 March 2023

**Data analysis method** = thematic analysis

Sample not fully representative of the total research population; size not sufficient to lead to generalisable conclusions; perspectives of families, lead members and others not included in this study.



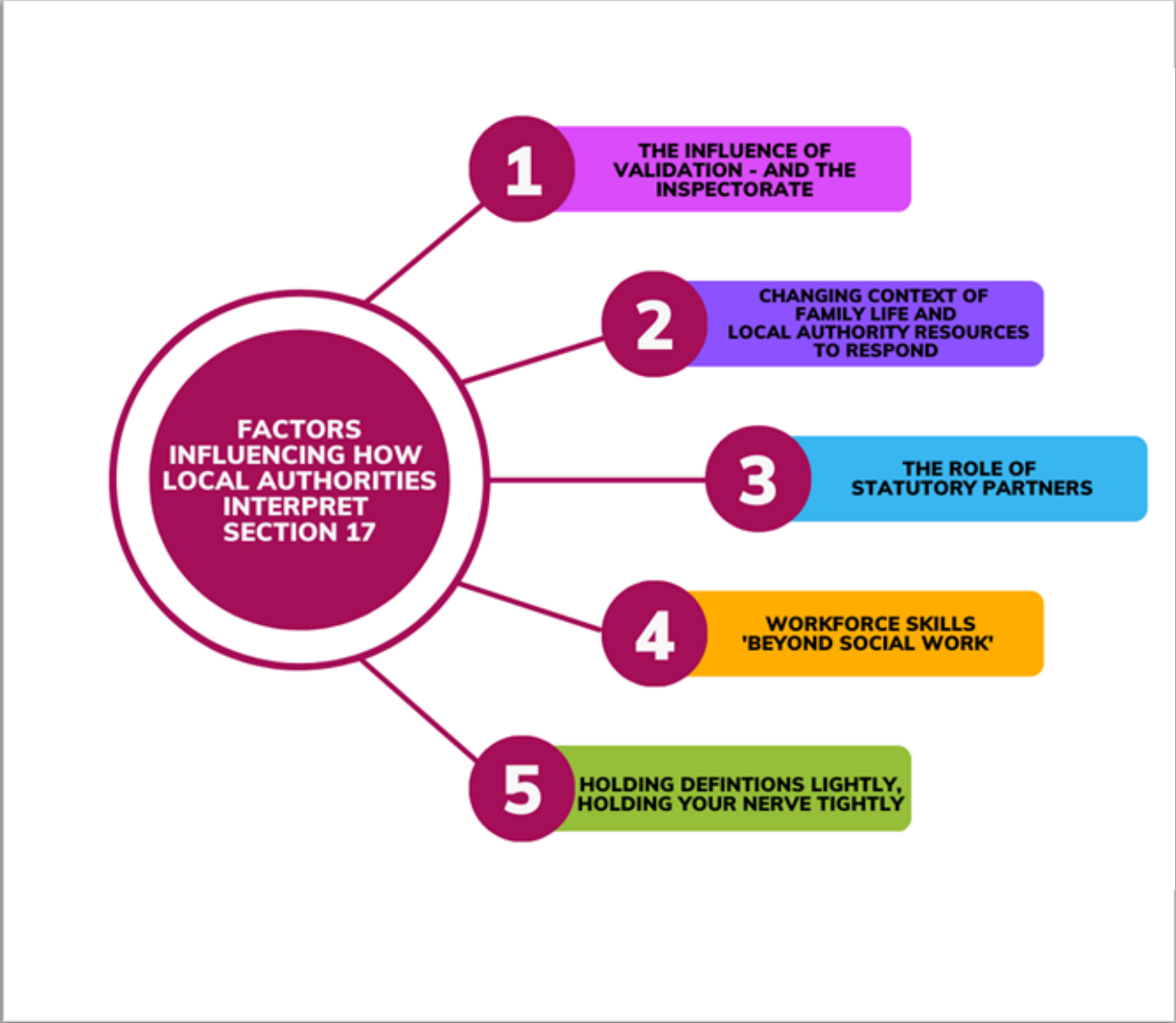
# Findings

Iterative process of coding and thematic analysis of interview transcripts identified an overarching central concept of 'navigation'

A further five interconnected themes emerged around the central theme.

The five themes clustered broadly into two groups:

1. the multiple contexts in which DCSs attempt to chart a complex course between the intent of section 17 as preventative family support and the reality of their operating environments
2. despite these conditions, alternative paths to interpreting section 17 through a broad preventative family support lens were possible and, in some cases, had already been taken by some local authorities



# Influence of Validation – and the Inspectorate

The most striking aspect of the data was the regularity with which participants commented on the role of the inspectorate Ofsted as contributory to how local authorities interpret section 17.

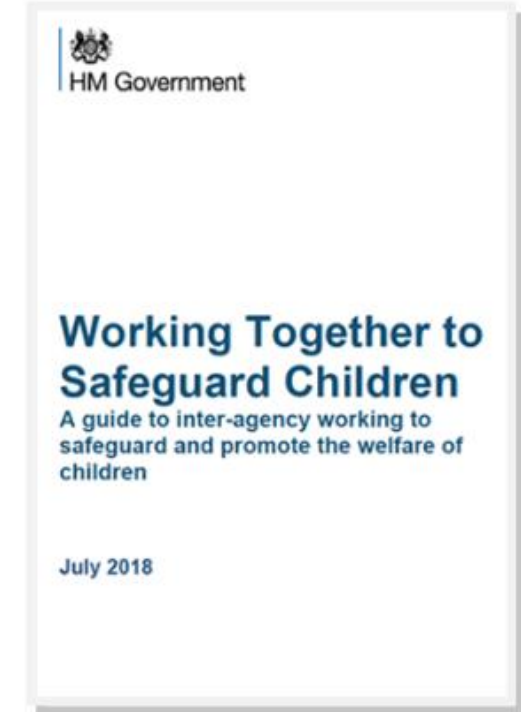
Inspection approach commonly described as prescriptive, process-driven, and stifling creativity, particularly regarding section 17's definition.

Particularly affected participants from local authorities with a 'requires improvement' or 'inadequate' inspection judgement, who often commented on the paralyzing effect of inspection on local authorities being able to support local families differently.

The 'fusing' of section 17's 'child in need' definition with social work assessment in Working Together, and the inspector's unevenly strict adherence to that model, regularly described as problematic.

Inspection regime seen to validate some local authorities for using a different interpretation of section 17 but insisting other local authorities apply section 17 strictly by what Working Together says.

Overall, participants reflected that the inspection process reinforced a binary and inconsistent understanding of section 17.



# Changing Context of Family Life – and local authority resources to respond

A common reflection amongst participants was the ways in which childhood and local family life were changing and, in many cases, worsening.

Participants described a potent combination of rising family needs coupled with local authority financial pressures that inhibited more creative and broader interpretations of section 17.

Poverty, cost of living, and economic decline regularly cited as having a major impact, accelerating need and demand for local authority support.

Viewed as influencing the interpretation of section 17 in two ways:

- whether a system geared towards child protection at the acute end of the support continuum was able to be sufficiently flexible to address external structural needs that are often beyond parents’ control.
- rising needs due to poverty and simultaneously reducing resources available to local authorities to meet need.

Emergence of contemporary risk factors e.g. extra familial harms like child criminal exploitation and online abuse + post-pandemic rise in poor mental health and trauma in children

Dual effect of limiting the relevance of section 17 and schedule 2 whilst simultaneously increasing needs for new types of section 17 services.

## ‘Worse than austerity’ – councils warn that any cuts to their budgets next year would mean they are only able to offer the bare minimum in local services

CCN Latest News, CCN News 2022 | 27 October 2022



England’s largest councils today warn that any moves to cut their budgets next year would be ‘worse than austerity’ and result in ‘devastating’ reductions to local services – with local authorities offering just the bare minimum.

## Number of UK children in food poverty nearly doubles in a year to 4m

Support grows for expansion of free school meals to struggling families in face of rising hunger



## Contextual dynamics of abuse, vulnerability and risk (Firmin, 2015)



## Fairer foundations: How has the pandemic affected young people’s mental health?





# Role of Statutory Partners

A strong discourse developed in the findings regarding the role of partners including education, health, police, criminal justice, housing and the civil society sector, and their participation in the family support continuum.

The Children Act 2004 (particularly sections 10 and 11) cited regularly by participants.

Challenge highlighted by participants was that family support continuum duties are split across two pieces of legislation; the Children Act 1989 applying largely to local authority children's services and the Children Act 2004 applying to external partners.

Both legal texts give scope for interpretive discretion. Partners compliance with duties under section 11 of the 2004 Act are audited locally rather than inspected nationally.

How partners approached their 2004 duty often referred to as influential in how local authorities interpreted section 17.

This was particularly noted when partners had different understandings of what the duty means (for example a purely strategic duty and/or an operational one) and could withdraw or suspend their operational services from the family support continuum in a way that local authorities cannot.

## Statutory guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act 2004



Every Child Matters  
Change For Children



# Enabling Factors – Workforce Beyond Social Work

Of particular interest was the regularity of reflections on the skills and contributions of the family support workforce ‘beyond social work’.

Correlates strongly with the theme of partners owning and contributing to family support and how wider workforce capability was seen as vital to the broader family support continuum envisaged by section 17.

References to social work recruitment and retention difficulties in relation to wider workforce development was common across the data.

However, some participants reflected that workforce development and the section 17 support continuum was not about ‘differently qualified staff’ holding acute ‘social work’ cases.

Instead, it was to enable honouring section 17’s original intention of a *continuum* of need that required a wide set of skilled practitioners across the whole support continuum where the gravity, severity or frequency of a child’s needs would determine who was best placed to help.

Image courtesy of ‘Building a Workforce that Works for All Children, ADCS, 2019



## Enabling Factors – Holding Your Nerve Tightly, Holding Definitions Lightly

The concept of boldness and ‘holding your nerve’ with the inspectorate to confidently describe why you had interpreted section 17 differently was evident across the dataset (particularly strongly described by local authorities with a good or outstanding inspection judgement).

Some participants reflected on how confidence to take a different interpretation was linked to successfully inculcating shared values in and across the family support workforce and partnership.

Growing importance of demonstrating local impact for children and families (rather than process-based performance management information gathered nationally) in justifying why a local authority interprets section 17 differently.

The theme of “being helpful not intervening’ recurred across the data. A sense of section 17 complementing that principle was often referred to.

Most participants felt that they had *discretion* to apply their own interpretation of section 17, although there was a less consistent view about whether local authorities had the *control* to use that discretion.

Many participants spoke of the ways in which changes to statutory guidance, and inspectorate approach, could help cultivate the conditions for a broader family support continuum enabled by section 17.



# Implications

## ***The role and nature of inspection***

Further analysis needed of the impact of inspection frameworks on how section 17 and family support continuums are implemented. The findings in this study regarding the relationship between the inspectorate and local authority children's services appear consistent with findings in studies of the relationship between inspectorates and schools (Greatbatch and Tate, 2019; Waldegrave and Simons, 2014 for e.g.).

To explore the potential of a lower-stakes alternative accountability framework where formal inspection sits alongside, and equally weighted with, other forms of assessment in supporting an effective family support continuum.

## ***Statutory guidance and legal framework***

Further work to assess whether statutory guidance should be revisited to provide greater flexibility in how section 17 is interpreted, particularly section 17's 'child in need' as a *broad continuum* with a *gradient of needs* rather than a *narrow category of acute needs*.

To simultaneously model the potential impact of expanding section 17 to a greater number of children for a finite amount of services that cannot be expanded within current available resources.

Analysis of whether the current legislative framework for supporting families, provided through the 2004 Children Act and the 1989 Children Act, offers sufficient coherency and understanding of *all* partners roles and responsibilities in the delivery of the family support continuum envisaged by section 17.



# Implications

## ***Workforce Beyond Social Work***

To consider whether there is sufficient emphasis on workforce skills development, infrastructure and investment 'beyond social work' and its value and importance to implementing section 17's idea of a broad family support continuum.

English national and local policymakers' engagement in the work of the European Family Support Network on this topic may prove beneficial (Antunes, Avirovic Bundalevska, and Radulovic, 2021; Zegerac et al 2021 for e.g.).

## ***Addressing the causes of children's needs***

National analysis of the structural causes of rising numbers of children with intra and extra familial needs. The findings show that this remains a key determinant of how section 17 is interpreted and implemented.

National policy measures to tackle structural and socioeconomic determinants of children's needs, and a cross-government plan that seeks to nationally reduce the number of children with needs, to help increase local authorities and partners confidence to make fuller use of section 17's family support continuum provisions – a national 'vision for childhood'.

The same note of caution regarding the impact of reduced local authority resources to meet need applies to this point (Webb and Bywaters, 2018 for e.g.).



For further information or  
to request a copy of the  
research executive summary  
(including citations  
referenced in this slide pack):

**Becca Dove (researcher)**

[B.Dove1@universityofgalway.ie](mailto:B.Dove1@universityofgalway.ie)

**Professor John Canavan  
(supervisor)**

[john.canavan@universityofgalway.ie](mailto:john.canavan@universityofgalway.ie)