

Authors Details Page

Jennifer Cooper

PhD Student, Law School, Lancaster University

Lancaster University Faculty of Arts and Social Sciences, Law School
Bowland North
Lancaster University
Lancaster, UK LA1 4YD

Correspondence:

Jennifer Cooper, Law School, Lancaster University. Email: J.cooper13@lancaster.ac.uk

Acknowledgements:

With deep gratitude to Professor Judith Harwin and Professor Karen Broadhurst, for their support, encouragement, feedback and supervision.

Biography:

Jennifer Cooper is a Registered Social Worker with experience working in both Child and Family social work and Adult social work. She is undertaking her PhD research at Lancaster University and is a part-time University Teacher in Social Work at the University of Sheffield.

Author submitted manuscript

In need of what? Section 17 Provision under the Children Act 1989

Abstract

This article considers Section 17 'child in need' provision under the Children Act 1989, the main legislation governing Children's Services in England. Arguably, Section 17 has never been given the same priority as other statutory requirements under the Act. The intention was to create a broad umbrella provision for children living with their families, but children assessed as 'in need' are not entitled to receive such services unless they are disabled. This exploration is timely given the current Independent Review of Children's Social Care in England, ongoing austerity measures, high rates of child poverty and COVID-19. Consideration is given to the development of Section 17 and what the future may hold.

Introduction

When introduced in Section 17 of the Children Act 1989 (hereafter CA1989) - the main legislation governing child welfare provision in England - the concept of a 'child in need' was new in terms of English child welfare legislation. This new concept shifted the focus of children's social work provision from those in care and at risk of entering care to supporting children within their families. The emphasis on children in need firmly reflected the preventative ethos of the CA1989, requiring professionals to support the raising of children in their families as well as the responsibilities under the United Nations Convention on the Rights of the Child to which the UK became a signatory on 19 April 1990. Despite the promise of the CA1989 and provisions contained in Part III of the Act, it is reasonable to conclude that operationalising a consistent and effective response to children in need has proven difficult (see e.g., Audit Commission 1994, Tunstill and Aldgate 1995, 2000). At present, the Independent Review of Children's Social Care (IRCSC) in England is underway and with its focus on transforming the children's social care system, consideration of the statutory framework governing this area of work is once again centre stage. It is therefore important to revisit the concept of a child in need and consider why this arguably critical element of child and family social work has been given lower priority than its counterparts of child protection, children looked after, fostering and adoption work (see e.g., Secretaries of State for Health and for Wales, 1993). The development of the term 'child in need', the legislative intent behind it, its implementation into practice by local authorities and the challenges this brought will be explored in this article, followed by consideration of what the future may hold for Section 17 provision.

Background

Prior to CA1989, child welfare legislation in England predominantly focused on the requirements for receiving children into local authority care when their parents were unable to care for them, by reason of illness, infirmity or “any other circumstances” that impacted on a parent or guardian’s ability to provide accommodation and bring up a child (Children Act 1948 (1) (b)). This was extended further to providing “advice, guidance and assistance as may promote the welfare of children” under the 1963 Children and Young Persons Act (1) (1)), to reduce the need for children to come into - or remain under - the care of the local authority. The 1963 Act also set out specific categories for which children required social work input such as those in need of ‘care, protection or control’, those who were exposed to ‘moral danger’ or where certain offences had been committed against them or generally by a member of their household.

CA1989 marked a shift away from this categorical approach, with the concepts of ‘child in need’ and ‘significant harm’ replacing the specified circumstances where a local authority should intervene. ‘Significant harm’ as a concept and threshold for intervention has been explored and analysed at length since the introduction of CA1989 (see e.g., White and Adcock, 1998; Volume 5, Issues 2 and 3 of the Journal of Children’s Services 2010; Masson 2010). Although there has also been exploration of the concept of ‘child in need’, perhaps due to the intentionally broad nature of the definition (DOHSS, 1987; DOH 1989), the boundary delineating what constitutes a child in need has been much more problematic.

The aim of CA1989 was to bring together the overlapping and at times contradictory legislative provisions in place for children at that time. Since the 1963 Act, there had been much social change, the creation of Social Services Departments to provide access and services to families as a whole and to be available to all (HMSO, 1968, *The Seebohm Report*), and the high-profile death of Maria Colwell. The 1987 Department of Health and Social Services White Paper set out the need for a change in direction and a recognition of the role of child and family social workers as not only diverting children from entering care but supporting children *within* their families.

The introductory guide to the Act noted its ground-breaking position as “the most comprehensive piece of legislation which Parliament has ever enacted about children” (DOH, 1989, piii). Drawing together the existing, outdated, confusing and overlapping child welfare legislation that existed in England at that time, CA1989 hailed a new era for child and family social work in England and Wales. The emphasis shifted from parental rights to parental responsibilities, and the welfare of the child was

placed at the forefront with the introduction of the welfare checklist. The duties of local authorities were extended from merely preventing the reception of children into care to providing support for children at home with their families.

The definition of what makes a child 'in need' is set out in Section 17(10) (Children Act 1989) as follows:

- (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.

Proponents of the new legislation aimed to rebalance services towards supportive work within the community, in keeping with the general ethos of the Act, with the core belief that children are best cared for in their birth families. By introducing this new legal category, children living within their families could now be legitimate recipients of services. It is important to note however that the Act only entitles children to an assessment of need and not the provision of services, unless they fall under the definition of disability set out in Section 17 (11). As such this paper will not be exploring entitlement and provision under Section 17 (10) (c) for children with disabilities and will be focusing on provision under Section 17 (10) (a) and (b). As Schedule 2, Part 1, (8) of the CA1989 indicates, local authority duties and powers regarding children in need were broad and included 'appropriate' provision of such services as: (a) advice, guidance and counselling; (b) occupational, social, cultural or recreational activities, (c) home help, (d) assistance with travel to access services and (e) assistance to have a holiday.

In need of what? - Legislative intent and scope of the duty

The White Paper precipitating CA1989 envisioned a "broad "umbrella" power" (DoHSS, 1987, p4) to promote the welfare and upbringing of children within their families through provision of services. The *intent* behind CA1989 was to extend the number of children eligible for help and support from local authorities (and partners as identified under Schedule 2) and to ensure more children were able to meet their potential and be supported when families experienced difficulties. However, whilst the intent may have been to broaden the range of children who would be *eligible* for help, CA1989 did not entitle these children to *receive* services as per the guidance and regulations accompanying the Act, which states "[L]ocal authorities are not expected to meet every individual need" (Department of Health, 1991, p7). To consider how and why the provision thus evolved, it is pertinent to examine the

way in which the House of Lords responded to the development of the concept of a child in need and how this became incorporated into CA1989.

Despite this being the first iteration of 'in need' within a community setting as a statutory concept - a substantial shift in focus from preventing entry to care - there was limited debate about the definition within the House of Lords when the Bill was passing through. The 53rd proposed amendment suggested leaving out "who are in need" and replacing it with "in the manner of a good parent" (Hansard, 1988 cc 1283) and the alternate, 54th proposed amendment, suggested including "or who are likely to be in need" (Hansard, 1988 cc 1284). Whilst several members of the House supported either or both amendments, the Lord Chancellor deftly addressed these amendments through a clear, concise breakdown of what would become Section 17 (10) explaining that "[t]he idea of likelihood and of prevention is encapsulated in those provisions" (Hansard 1988, cc 1286) and that a change to 'in the manner of the good parent' shifted the subject and context away from the child.

There was discussion around funding for the Bill once it reached the House of Commons with one Member of Parliament (MP) noting: "There are resource implications, from which we hope the Government will not shrink" (Hansard, 1989, cc1127) as well as about the phrase 'in need' itself. However, these latter questions - when discussed in the House of Lords - were focused on the draughtsmanship and wording of the phrase, with 'in need' being said to conjure up "a picture of starving children in Sudan" (Hansard, 1988 cc 1283). Further, the 'relegation' of some key child in need provisions to the Schedule was also raised as a potential issue of concern, with Lords Mottistone and Prys-Davies querying if this would mean they were not given as much attention because they were not contained within the main body of the Act. These concerns were perhaps somewhat prophetic, with Tunstill and Aldgate (1995) later advising of a "misinterpretation [within local authorities] about the definition of 'statutory responsibilities' under Section 17, with most interviewees reserving this term for child protection cases or children looked after" (p55).

The wording within the White Paper was clear that the new Act would broadly maintain existing powers and duties through an amalgamation of the varied extant legislation and bring a focus on support for families in a variety of ways. Local authorities would be able to "provide services to a child *at home*... [and support] the family in various ways especially where parents are under severe stress" (emphasis in original) (DoHSS, 1987, p4-5). The broad phrasing of what constitutes a child 'in need' could likely be applied to most children in certain circumstances at some point in their lives. Therefore, the intent was for local authorities to be responsible for determining the level - and types - of need in their own areas as it was acknowledged that this would likely vary subject to local circumstances. The associated guidance makes this clear, reiterating "[t]he definition of 'need' in the Act is deliberately

wide to reinforce the emphasis on preventive support and services to families” (DoH, 1991, p5). Schedule 2 details the type of support local authorities should be providing to children in need and their families, highlighting the emphasis on *identifying* children in need (Part 1 (1)); *disseminating information* about services (Part 1 (1 ((2))); *assessing* children’s needs (Part 1(3)) and *preventing* neglect and abuse (Part 1 (4)). It was not, however, intended to be a mechanism through which all children could be lifted out of poverty - with Baroness Faithfull quoting the 1984 Social Services Committee Report that “Social work intervention alone cannot be expected to combat the cycle of poverty, bad housing and indebtedness” (Hansard, 1989a, cc536). There was much debate in the House of Commons’ reading of the Bill regarding the extent of poverty in Britain in 1989, with levels of child poverty being referred to as “catastrophic” (Hansard, 1989b, cc1109), and the impact this would have on children and levels of need. How such levels of poverty could be addressed were missing from the debate. A number of MPs highlighted their concerns about funding for what would become Section 17 provision, with one stating “there is no mention of where resources will come from should a local authority wish to take up the Government's suggestion that they ought to identify need and do something about it” (Hansard 1989b, cc1126).

As is often the case, a positive legislative intent conceived at the macro-level, when applied in practice by social workers working at the micro-level, falls at the first hurdle - lack of objectivity. The notion of a ‘reasonable standard of health or development’ as understood by those debating the matter in the House of Lords in the 1980s is highly likely to be a different notion to that held by a present-day social worker in a post-industrial, deprived area with high unemployment, low levels of post-16 education and high levels of crime. That being said, one of the aims of the Act was to create a legislative framework that stood the test of time, and, to a great extent, this has been achieved, allowing for flexibility and the shifting of thresholds in response to the prevailing social, economic and political situation.

As previously noted, a child is entitled to an *assessment* to establish if they are in need, but there is no entitlement to *services* at an individual level or any obligation on the local authority to provide each individual child with services following that assessment. The legislation is clear that local authorities shall make “such provision as they consider appropriate” (Schedule 2, Part I (8), CA1989) in response to the prevailing types of need in their area. As noted by Sunkin (1992), there would likely be scope for legal challenge by disabled children were a local authority not to provide them with services, but this does not extend to those considered in need under Section 17 (10) (a) and (b). Indeed, as Sunkin goes on to state, this issue is further compounded by the fact that the Section 26 complaints procedure only applies to children ‘in need’ or looked after by the local authority - so if an assessment determines a child is not ‘in need’, there appears to be no mechanism for this determination to be challenged.

There is little information publicly available on challenges brought under Section 26 in relation to child in need service provision or case law in this area, and what does exist tends to be focused on children who are in need by virtue of disability or relates to the provision of accommodation under Section 20, which is beyond the scope of this article to explore. Given the broad scope of the duty, and the ability for local authorities to provide services based on local priorities, how then did local authorities develop service provision under Section 17?

In need - Local Authority implementation of the new duties

The introduction of the concept of a child 'in need' raised age-old anxieties for those delivering public services about how legislation which promised to meet the needs of a broader range of children could be realised within limited budgets, leaving "authorities ... apprehensive lest they uncover need they are unable to meet" (Audit Commission, 1994, p19). This research identified that definitions of need within local authorities were not well-defined which, unsurprisingly, impacted on how they were being applied. It also highlighted that without the underpinning of identification of need in an area, and the numbers of children in need, service provision continued to be service-led rather than needs-led, with an ongoing focus on child protection and crisis intervention rather than the new, "low priority" (Audit Commission, 1994, p19) child in need provision.

Tunstall and Aldgate's research on how local authorities had understood, prepared for and implemented their new duties under CA1989, identified a sense of "trepidation" (1995, p14) within local authorities in relation to their duty to identify need, as per Schedule 2, Part 1, 1 (1). The approach taken by local authorities in identifying need was predominantly through a combination of referral and assessment, and identification of predetermined groups of children who were considered to fall within the definition of 'in need'. The predetermined groups identified by most local authorities focused predominantly on children already known to services or for whom services already had some responsibility, such as those at risk of significant harm, in or leaving care or involved with the criminal justice system. The predetermined groups within communities, however, were less consistent and three-quarters of the studied authorities appeared to have failed to take into consideration the significant research base identifying the links between disadvantage, poverty and poor educational, health and future outcomes (e.g., Bebbington and Miles, 1989), (Tunstall and Aldgate, 1995, p21-22).

Whilst identifying need locally was a required component of implementation, providing services to meet the identified need of each individual child was not (DoH, 1991, p7). Service priorities were to be based on local needs analysis and given the disparities in how local authorities had approached identifying need, and the limited (in comparison to other groups) categorisation of need within communities, it is unsurprising that provision under Section 17 varied greatly. As Ryan notes, the issue

was not solely related to funding concerns, but required a change in attitudes to recognise such preventative family support work as “high-status, skilled work on a par with child protection work or family-finding” (1994, p44).

This matter was also highlighted repeatedly in the yearly Section 83 Children Act reports for 1992, 1993 and 1994 (Secretaries of State for Health and for Wales 1993; DOH and Welsh Office 1994; Secretaries of State for Health and for Wales 1995). The 1992 report stated it was “of some concern that such low priority is given to these groups” (Secretaries of State for Health and for Wales, 1993, p35), with the 1993 report noting “[i]n practice there is still an overwhelming emphasis on giving priority to children for whom the local authority already have some responsibility, with children at risk of abuse or neglect and those in care or accommodated ranked highest” (DOH and Welsh Office, 1994, p10) and the 1994 report advising that whilst “[i]t is a little early to identify any national trends in services for children in need... it is already noticeable that in some areas assessment procedures seem to be over-elaborate and unduly influenced by child protection” (Secretaries of State for Health and for Wales, 1995, p1). Despite the above-mentioned research, and the government’s own reports identifying this area of service provision as problematic, little appears to have been done to address this.

The next report, published in 2000 and covering 1995-1999, took a different format and issues around service provision under Section 17 were notably absent. It acknowledged that statistical information about children ‘in need’ was poor and that consequently it was “difficult to measure both the extent of local authority activity in this area and to assess its effectiveness” (Secretary of State for Health et al, 2000, p42). Implementation of different statistical collection methods following this report has led to better government data collection around children in need; however, this is published as high-level data (see e.g., Department for Education, 2020) which explores the numbers of children in need (including those on child protection plans and children looked after), referrals and assessments, but with little exploration of service provision under Section 17 (10) (a) and (b).

Later research commissioned by the government again highlighted ongoing issues in relation to Section 17 implementation. The nature of the statutory responsibility on local authorities under Section 17 continued to be misunderstood by local authorities and remained associated with child protection procedures - echoing the earlier research; and that where local authorities had implemented services, they continued to be service-led rather than needs-led (Tunstall and Aldgate, 2000). This later research explored families’ experiences of Section 17 services, the reasons for referral, local authority responses and implications for policy and practice moving forward. There was a clear association identified between the category of need under which support was sought and

whether services were provided. For example, just over half of those cases falling into the social deprivation category received support. It was also identified that those being referred rather than self-referring were more likely to receive services (p94) and this also influenced the type and length of services received (p97). Given this research was conducted over 20 years ago, we turn next to consider where we are today, the current political, social and economic situation and what the future may hold for Section 17 provision.

Where are we today

In need of what? The current situation

Since 2010, there has been a significant rise in referrals to Children's Social Care, with the Association of Directors of Children's Services (ADCS) reporting referrals increased from 538,500 in 2007/2008 to 657,790 in 2013/14 and falling slightly to 642,980 in 2019/20 (ADCS, 2021). The IRCSC highlights this increase (IRCSC 2021a) but fails to mention one of the commonly accepted contributory factors - the death of Peter Connolly and the subsequent media coverage, colloquially referred to as 'the Baby P effect' (see e.g., McNicoll, 2017). This coincided with over a decade of austerity, putting further strain on already-stretched services.

It is within this context that Tyler describes the 'austerity state', "characterised by the inability of increasingly large swathes of people to access the basic resources of shelter, food, heating and healthcare." (2020, p166). Considering the wording of the legislation, it would not therefore seem unreasonable that there are potentially 'large swathes' of children 'in need'. Perhaps at the very least, the children who received 980,000 food parcels from the Trussell Trust between April 2020 and March 2021 (The Trussell Trust, 2021) should be included in such a definition, as lack of food must surely impact on a child's opportunities to achieve or maintain a reasonable standard of health or development without the provision of assistive services. And the postcode lottery of service provision under Section 17 continues, with the All-Party Parliamentary Group for Children identifying in 2018 that children with the same level of need were receiving differing levels of support, with this being particularly acute in relation to early help and child in need provision (Ellison and Renton, 2018).

Further, it seems there remains ongoing confusion over the duties CA1989 places on local authorities, with ADCS stating "there is no legislative requirement for local authority children's services to provide preventative services" (ADCS 2021 p22), which seems directly at odds with the very specific wording of Schedule 2, Part 1, Sections (4) of the 1989 Act which stipulates local authorities should take reasonable steps to prevent children suffering ill-treatment or neglect. Whilst the wider language of

CA1989 may not focus on prevention, the Introduction to the Children Act (DoH 1989) states “[T]his broad duty ... **comprehends and extends the present duty to reduce the need for children to be in care...**” (my emphasis, p2). The question is *what* is to be prevented, and whether local authorities consider provision of services aimed at prevention of either ill-treatment and neglect, or the receipt of children into care, *appropriate* and a priority when they are already over-stretched with child protection and children already in care.

Hardiker notes “[f]amily support services for children ‘in need’ has replaced the term ‘prevention’” (*emphasis in original*) (1999, p56), noting a shift towards a more positive, familial approach in contrast to the previous century’s focus on preventing admission into care. Given the change in language away from ‘prevention’ in combination with the discretionary nature of service provision under Section 17, it is perhaps easier to understand why the Audit Commission (1994) and Tunstill and Aldgate (1995 and 2000) found confusion and misunderstanding around duties placed on local authorities by CA1989.

It is also important to consider the current political, legislative, policy and economic situation and as such, we turn now to the current position and what the future may hold for Section 17 provision.

Social Inequality, Poverty and Austerity.

Debates around social inequality and poverty are nothing new in England, especially in relation to children (see e.g., Hansard, 1989b). How to support children and families out of poverty has long been a partisan issue, with New Labour being the first to articulate a whole family policy and aim to eradicate child poverty (Skinner, 2003). However, the 2008 economic crash led to claims by the Conservatives that Labour overspending had been a contributory factor and their platform of fiscal responsibility helped them come to power - with a Liberal Democrat coalition - in 2010. This has been followed by over a decade of austerity measures in terms of public spending in England, and the COVID-19 global pandemic has likely created a situation where austerity measures will continue. Austerity came along on the back of already-increasing social inequality - both nationally and internationally (see e.g., Wilkinson and Pickett, 2009; Stiglitz, 2012; Dorling, 2019). Poverty in England persists for many families, with the Child Poverty Action Group (CPAG) identifying 31% of children as living in poverty in 2019/2020 and 75% of children experiencing poverty living in a household with at least one adult in work (after housing costs) (CPAG 2021).

A decade of austerity has led to stalled progress on child wellbeing since the 2010s in England, (UNICEF, 2020) with the UK being ranked 27th out of 38 of the richest countries, placing it in the bottom third in terms of child wellbeing outcomes (UNICEF 2020 p11), a startling fall from 16th out of 29 in

2013. Austerity measures have seen local authority spending on children's services fall dramatically, with a £0.8bn cut in funding for Sure Start centres between 2009/10 and 2017/18 representing a real-term decrease of 62% (Institute for Government, 2019). In this context, talk of innovation within the sector is widely welcomed but, as noted by the then president of ADCS in 2015, when provision of family support services is decimated and social workers are managing increasingly large and complex caseloads, we "risk losing capacity in the system to prevent problems from escalating to a point beyond repair" (Butler, 2015). If early help and Section 17 services continue to be restricted, the crises experienced by families will undoubtedly escalate and become more pressing than if they had earlier access to support, thus increasing referrals and the need for service provision under Section 47.

Whilst the legislative intent behind CA1989 and the requirements under Section 17 and Schedule 2, Part 1 (8) appears to have been somewhat misunderstood by local authorities at the point of implementation - and despite this being highlighted by government-commissioned research - the additional impact of over a decade of stringent austerity measures on local authorities' ability to provide supportive and preventive services under Section 17 cannot be overlooked.

In order to look to the future, the current government's position, as well as the COVID-19 pandemic and the Independent Review of Children's Social Care, require some consideration.

COVID-19

The COVID-19 pandemic has impacted globally throughout 2020 and 2021 and has led to over 4.9 million deaths worldwide (as at 25.10.2021, WHO, 2021), with 162,620 deaths in the UK attributed to COVID (as at 25.10.2021, HM GOV 2021). The economic impact of COVID, both nationally and globally, has been significant, with many job losses and many people trying to juggle childcare, home-schooling and homeworking throughout multiple lockdowns.

The potential emotional and psychological impact of the huge disruption to daily life on children and families cannot be overlooked, with most children missing out on significant periods of schooling while being unable to enjoy their usual activities or even play with other children. Many families suffered the stresses of reduced income, working from home and home-schooling. Whilst referrals to children's social care services initially fell at the start of the national lockdown (see e.g. Thomas, 2020) due to children not being routinely seen by professionals in education and healthcare settings, ADCS recently reported that referrals received by local authority children's services within the first six months of the pandemic were more complicated, with families not previously known to services being referred, and referrals coming in later, meaning problems were then more complex and entrenched (ADCS, 2021).

Independent Children's Social Care Review - 'A once-in-a-generation opportunity'

A key 2019 election manifesto policy for the English Conservative Party was a focus on devolving power from central government to local government to 'level up' the economy (Jeffrey, 2020). In line with this agenda, one of the initiatives is the Independent Review of Children's Social Care in England, the remit of which is to "take a fundamental look at the needs, experiences and outcomes" of the children our Children's Social Care services support and consider "what is needed to make a real difference" (HM Government, 2021a, p1). It will consider the capacity and the capability of the current system to work with families to prevent 'unnecessary' admissions into care, considering the whole process from referral through to entry into care, concluding with recommendations that focus on sustainability, the most effective use of resources to change lives and providing good value for money.

The recently published interim report, the 'Case for Change' (IRCSC 2021a), explicitly calls for "investment in services which help families" (p33) that are "high-quality, evidence-led and delivered by skilled professionals" (p36). It acknowledges that the issues it is tackling have been considered repeatedly but despite sensible recommendations from previous reviews (e.g., Laming, 2009 and Munro, 2011), achieving changes that make a difference has been "stubbornly difficult" (p81). So once again we see efforts to reimagine prevention, though it is not clear at this stage how the obstacles outlined throughout this article will be overcome. In addition, some critics have noted the Case for Change's categorisation of Section 17 as non-statutory (Thoburn 2021), which echoes the concerns highlighted throughout this paper of the diminishment in importance of this area of work. The recommendations from the Review may provide further clarity and are awaited with interest.

What next for the child in need?

Arguably, the (non-disabled) child in need has never received the service provision the White Paper (DOHSS 1987) intended. The legislative discretion given to local authorities in relation to service provision (as opposed to assessment entitlement), whilst allowing them to prioritise based on need, denied potential service recipients of a route to challenge this. Furthermore, despite the provisions being contained within the same piece of legislation as Section 47, Section 17 has never managed to develop a foothold in what is considered 'statutory' social work in children's social care. What then does the future hold for this critical aspect of work with children and families?

A move away from thresholds?

In 1995, the Department of Health (DoH) noted that over the last century, "the threshold beyond which child abuse is considered to occur is gradually being lowered", (DoH, 1995, p15) and following a number of further high-profile child deaths in the 2000s (e.g. Victoria Climbié in 2000, Peter Connolly

in 2007, Daniel Pelka in 2012), the number of referrals to children's social care rose dramatically. This appears to be a move away from what Streiker (1998) referred to as the 'preventive state' that takes action to prevent issues, rather than simply waiting for issues to arise and then detecting and investigating them. Indeed, it is recognised by ADCS that whilst thresholds for such statutory interventions are set in legislation, "the application and interpretation of thresholds and the management of risk and support...varies between authorities" (ACDS 2021 p27). Interestingly, they also note a small number of LAs beginning to move away from the idea of thresholds as these tend not to be child-focused and centre instead on service provision.

For example, Blackburn with Darwen have introduced a conversational model, removing referral forms and having potential referrers discussing their concerns in the first instance with experienced practitioners. An internal review identified a 33% reduction in referrals and a 31.7% reduction in the number of single assessments just 12 months after implementation (Ivory, 2021). Norfolk also adopted this model and views it as allowing social workers "to use their professional curiosity and skills to the max in order to deliver really big change" (Community Care, 2018). This approach could be considered the embodiment of the legislative intent behind Section 17 - highly experienced social workers engaging with concerned professionals and other referrers at an early stage, providing support, advice and guidance to reduce risk - and *perceptions* of risk - and signposting to service provision delivered directly by the local authority or through universal, voluntary or third-sector services. It would be of significant interest and value to see further research and analysis within these areas to understand if the model continues to provide such results and if its adoption has enabled a shift in focus to earlier support and help under Section 17 rather than through Section 47 processes.

The separation of family support and child in need provision from Child Protection and services for children in care?

As noted throughout, there has always been a sense of separation between, and in the importance of, processes under Section 17 compared to Section 47 processes and services for children in care. It may come as no surprise then, that one of the considerations of the IRCSC, as highlighted by Professor Eileen Munro, appears to be "whether there is a benefit in separating child protection from family support systems" (Association of Professors of Social Work, 2021).

Interestingly the 'Case for Change' (IRCSC, 2021a) set out the Review's vision for 'family help' which, in their definition, covers early help and child in need because separating these is 'not necessarily meaningful in practice' and has a number of similarities to CA19189 Schedule 2, Part III, Section 8:

Family Help would provide support with: parenting, helping parents and carers to manage their child's behaviour; improving the relationship between parents; supporting families to protect their children

from exploitation or harm within their community; and providing respite for parents of children with disabilities. It would support adults with challenges that impact on children, including support with parental substance misuse, mental health, physical disabilities or domestic abuse, as well as helping to manage and mitigate other stresses on families such as poor housing and debt. (IRCSC, 2021a, p36)

A significant amount of this work is already carried out under many Child in Need plans as well as at team around the child (TAC) or team around the family (TAF) level. Different local authorities have different models and child in need cases may be held by non-social work-qualified workers so there is already a model upon which this change could be based. However, as noted by Ryan, such preventive, family work should be considered “high-status, skilled work on a par with child protection work or family-finding” (1994, p44). It could be argued that to separate this work from child protection and child looked after social work would be to go in the opposite direction; it could create further divisions between services and potential competition for funding depending on how such services would be provided, if not through local authority children’s social care services (which would potentially require legislative change, although it is noted this could be done through creative use of the requirement for local authorities to facilitate provision of Part III services by others under Section 17 (5)). Furthermore, one of the most common frustrations expressed by families involved with children’s social care is the need to repeat their story to different workers time and again. Such a division would potentially mean there would be further repetition and further changes of worker, in addition to creating potential issues around data-sharing, confidentiality and multi-agency working.

The report on Blackburn with Darwen’s implementation of the conversational model (Ivory, 2021) makes clear the benefit of having experienced social workers involved at the initial stages when referrals into social care would have previously been made. By engaging in discussion with potential referrers about their concerns at this stage, the (limited) research potentially indicates removing qualified social work input at child in need level could have an effect opposite to that which was anticipated, leading to increased referrals under section 47 processes. Indeed, one of the suggestions from Hood *et al*’s 2020 report on the links between system conditions and welfare inequalities is a rebalancing of the system from its current “unsustainable emphasis on high-cost late intervention” (Hood *et al*, 2020, p99) to higher investment in preventive services.

Or perhaps, we simply need to return to the intention behind Section 17?

The underpinning principles of a broad range of support, prevention and the promotion of children’s welfare encompasses the spirit of CA1989. The first guiding principle of the White Paper perhaps

sums up the (re)direction in which we need to travel with child in need, rather than separating this crucial provision from the wider children's social care services:

The prime responsibility for the upbringing of children rests with parents; the State should be ready to help parents to discharge that responsibility especially where doing so lessens the risk of family breakdown (DoHSS 1987, p2).

The intentions behind Section 17, and without a doubt section 20 regarding voluntary accommodation, appear as long-distant memories in current practice, with thresholds and austerity meaning services are continually stretched and reserved to those considered most *at risk*, rather than those most *in need*. On the whole, people with lived experience and the wider social work profession have for many years been highlighting the importance of early intervention, evidence-based and relationship-based practice (see e.g., Munro, 2011; Early Intervention Foundation, 2018). The intentions behind CA1989 - of help and support - and the divergence from these intentions, is perhaps best articulated by Featherstone and Gupta, who state we need to 'do differently' and change our path from the current one where "stories of need and trouble [are translated] into categories of risk and shame" (2018, p159). This approach would, however, require sustainable funding for Children's Social Care, and given the effects of COVID-19, it seems unlikely this will be an area of priority for further funding, despite the significant impact the pandemic has had on our children.

Conclusion

The original intent behind Section 17 was to broaden the scope of children entitled to services at a point when they were in need whilst living with family. This was not solely for the purposes of diverting children from coming into care, as had been the driver behind earlier child welfare legislation. Research by the Audit Commission and government-commissioned research following implementation of CA1989 identified that local authorities had fundamentally misunderstood their duties in relation to this area of work, but little was done to address this apparent misunderstanding and a similar picture remains today.

There has been a long-standing tension between the intent of the legislation and the ability for local authorities to achieve these aims due to workloads, staffing and over a decade of austerity. The thresholds between what constitutes prevention, early help, family support, child in need and child protection are not clear-cut and vary between authorities. The challenges around implementing services for such a broad range of children are certainly problematic and, as a result, some local authorities are moving away from threshold models and introducing different approaches.

The answer to the question of what is next for child in need will likely be determined by the recommendations of the IRCSC and will undoubtedly contribute to the ongoing debate around early intervention, prevention and family services. To conclude, the ethos of the Seebohm report seems to have considerable relevance as we look for ways forward: a “comprehensive, community-based, family-orientated, social service” (Hansard, 1969).

Author submitted manuscript

References

Association of Directors of Children's Services. (2021). Safeguarding Pressures Phase 7: Research Report. ADCS. February 2021. Available at: https://adcs.org.uk/assets/documentation/ADCS_Safeguarding_Pressures_Phase7_FINAL.pdf

Association of Professors of Social Work. (2021). KEE 1: Alternative child care social work service delivery models - Eileen Munro. Available at: <https://apsw.org.uk/kee-1-alternative-child-care-social-work-service-delivery-models/>

Audit Commission. (1994). Seen but not heard: Co-ordinating Community Child Health and Social Services for Children in Need - Detailed Evidence and Guidelines for Managers and Practitioners. London: HMSO.

Bebbington, A., and Miles, J. (1989) The Background of Children who enter Local Authority Care in The British Journal of Social Work, Volume 19, Issue 1, 1989, pp 349–368, <https://doi.org/10.1093/oxfordjournals.bjsw.a055547>.

Butler, P. (2015). Outsourcing is the future for children's services. The Guardian. [online]. 15 December 2015. Available at: <https://www.theguardian.com/society/2015/dec/15/outsourcing-future-childrens-services>

Child Poverty Action Group (CPAG). (2021). Child Poverty Facts and figures. March 2021. [Online]. Available at: <https://cpag.org.uk/child-poverty/child-poverty-facts-and-figures>.

Community Care. (2018). Employer Zone: Norfolk County Council: Why this council is reinventing the social work front door by saying goodbye to written referrals. Community Care. 9 July. [Online]. Available at: <https://www.communitycare.co.uk/2018/07/09/council-reinventing-social-work-front-door-saying-goodbye-written-referrals/>

Department for Education. (2020). Reporting Year 2020: Characteristics of children in need. HM Government [online]. Available at: <https://explore-education-statistics.service.gov.uk/find-statistics/characteristics-of-children-in-need/2020>

Department of Health (DoH). (1989). An Introduction to the Children Act 1989. London: HMSO.

Department of Health (DoH). (1991). The Children Act 1989: Guidance and Regulations. Volume 2: Family Support, Day Care and Educational Provision for Young Children. London: HMSO.

Department of Health and Welsh Office. (1994). A Report by the Secretaries of State for Health and for Wales on the Children Act 1989 in pursuance of their duties under Section 83(6) of the Act, presented to Parliament by Command of Her Majesty. Cm 2584. London: HMSO.

Department of Health (DoH). (1995). Child Protection: Messages from Research. London: HMSO.

Department of Health and Social Security. (1987). *The Law on Child Care and Family Services*. Cm 62. London: The Stationery Office. (Fowler Report).

Dorling, D. (2019). Inequality and the 1%. London: Verso

Early Intervention Foundation. (2018). Realising the Potential of | Early Intervention. The Early Intervention Foundation. [Online]. Available at: <https://www.eif.org.uk/report/realising-the-potential-of-early-intervention>

Ellison, R., and Renton, Z. (2018). Storing Up Trouble A postcode lottery of children's social care. All Party Parliamentary Group for Children and National Children's Bureau. July 2018. Available at: <https://www.ncb.org.uk/sites/default/files/uploads/files/NCB%20Storing%20Up%20Trouble%20%5BAugust%20Update%5D.pdf>

- Featherstone, B., and Gupta, A. (2018) *Protecting Children: A Social Model*. Bristol: Policy Press.
- Hansard. HL Deb. Vol 298 cc 1198-274. 29 January 1969. [Online]. Available at: <https://api.parliament.uk/historic-hansard/lords/1969/jan/29/social-services-the-seebohm-report-1>
- Hansard. HL Deb. Vol 502 cc 1252-315. 20 December 1988. [Online]. Available at: https://api.parliament.uk/historic-hansard/lords/1988/dec/20/children-bill-hl#S5LV0502PO_19881220_HOL_334
- Hansard. HL Deb. Vol 503 cc496-584. 23 January 1989a. [Online]. Available at: <https://api.parliament.uk/historic-hansard/lords/1989/jan/23/children-bill-hl>
- Hansard. HC Deb. Vol 151 cc1110-87. 27 April 1989b. [Online]. Available at: <https://api.parliament.uk/historic-hansard/commons/1989/apr/27/children-bill-lords>
- Hardiker, P. (1999). Children Still in Need, Indeed: prevention across five decades. In O. Stevenson, Ed. *Child Welfare in the UK*. Oxford: Blackwell Science. pp 42-61.
- HM Government. (2021). Coronavirus (COVID-19) in the UK: Deaths with COVID-19 on the death certificate. 13 May. HM Government. Available at: <https://coronavirus.data.gov.uk/details/deaths>
- HM Government. (2021a). *Terms of reference for the independent review of children's social care: a bold and broad approach to support a fundamental review of children's experiences*. London: HM Government. [Viewed 01 February 2021]. Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952624/terms_of_reference_independent_childrens_social_care_review.pdf
- HMSO (1968). Report of the Committee on Local Authority and Allied Personal Social Services. Cm 3703. London: HMSO. (The Seebohm Report).
- Hood, R., Goldacre, A., Gorin, S., Bywaters, P., and Webb, C. (2020). Final Report Identifying and understanding the link between system conditions and welfare inequalities in children's social care services. Nuffield Foundation. Available at: https://www.healthcare.ac.uk/wp-content/uploads/2020/04/System-conditions-and-inequalities_Full-report_Final_March-2020.pdf
- Institute for Government. (2019). Performance Tracker 2019: Children's social care. Institute for Government. [Online]. Available at: <https://www.instituteforgovernment.org.uk/publication/performance-tracker-2019/children-social-care>
- Ivory, J. (2021). *Evidenced Based Practice and the Development, Implementation and Impact of BwD's Children's Advice and Duty Service or "The front door"*. Blackburn with Darwen Council – Appendix 1 - Report for Executive Board 11 March 2021. Available at: <https://democracy.blackburn.gov.uk/documents/s12840/Appendix%201%20-%20CADS.pdf>
- Jeffrey, S. (2020) *Levelling up local government in England*. Centre for Cities. Available at: <https://www.centreforcities.org/wp-content/uploads/2020/09/Levelling-up-local-government-in-England.pdf#:~:text=Centre%20for%20Cities%20Levelling%20Up%20local%20government%20in,of%20its%20efforts%20to%20level%20up%20the%20economy.>
- Laming, H. (2009). The Protection of Children in England: a Progress Report (HC 330). London: The Stationery Office [online]. Available: at https://dera.ioe.ac.uk/8646/1/12_03_09_children.pdf
- Masson, J. (2010). (Mis)understandings of significant harm. *Child abuse review*. 2010-07, Vol.19 (4), p.291-298

McNicoll, A. (2017). Ten years on from Baby P: social work's story. *Community Care*. 3 August 2017. [Online]. Available at: <https://www.communitycare.co.uk/2017/08/03/ten-years-baby-p-social-works-story/>

Munro, E (2011). *The Munro review of child protection: Final report- A child centred system*. London: Department of Education.

Ryan, M. (1994). *The Children Act 1989: Putting it into Practice*. Aldershot: Ashgate Publishing Ltd.

Secretaries of State for Health and for Wales. (1993). *Children Act 1989: A Report by the Secretaries of State for Health and for Wales on the Children Act 1989 in pursuance of their duties under Section 83(6) of the Act*. Cm2144. London: HMSO. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/271964/2144.pdf

Secretaries of State for Health and for Wales. (1995). *Children Act 1989: A Report by the Secretaries of State for Health and for Wales on the Children Act 1989 in pursuance of their duties under Section 83(6) of the Act*. Cm2878. London: HMSO.

Secretary of State for Health, the Secretary of State for Education and Employment and the Lord Chancellor on the Children. (2000). *The Children Act Report 1995-1999*. Cm 4579. London: HMSO.

Skinner C. (2003) *New Labour and Family Policy*. In: Bell M., Wilson K. (eds) *The Practitioner's Guide to Working with Families*. Palgrave, London. https://doi.org/10.1007/978-0-230-21689-1_2

Stiglitz, J. (2012). *The Price of Inequality: How today's divided society endangers our future*. London: Penguin.

Steiker, C. (1998). *The Limits of the Preventive State*. In *Journal of Criminal Law and Criminology*, Vol 88, Issue 3, pp771 - 808. Available at: <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=6959&context=jclc>

Sunkin, M. (1992). *Judicial Review and Part III of the Children Act 1989*. *Tolley's Journal of Child Law*, 4 (3), pp109 - 115.

The Independent Review of Children's Social Care. (2021). *The Case for Change*. The Independent Review of Children's Social Care. June 2021. [Online]. Available at: <https://childrensocialcare.independent-review.uk/wp-content/uploads/2021/06/case-for-change.pdf>

The Trussell Trust. (2021). *Record 2.5 million food parcels distributed last year*. [Online]. 22 April. The Trussell Trust. Available at: <https://www.trusselltrust.org/2021/04/22/record-2-5-million-food-parcels-distributed-last-year/>

Thoburn, J. (2021). *The Care Review 'Case for Change': A social worker/family justice eye view*. The Transparency Project. 8 July 2021. [Online]. Available at: <http://www.transparencyproject.org.uk/the-care-review-case-for-change-a-social-worker-family-justice-eye-view/>

Thomas, R. (2020). *Fears over vulnerable children after 50pc drop in referrals*. HSJ. [Online]. 26 April 2020. Available at: <https://www.hsj.co.uk/coronavirus/fears-over-vulnerable-children-after-50pc-drop-in-referrals/7027490.article>

Tunstall, J. and Aldgate, J. (2000). *Services for Children in Need: From Policy to Practice*. London: The Stationery Office.

Tunstall, J., and Aldgate, J. (1995). Making Sense of Section 17: Implementing services for children in need within the 1989 Children Act. London: Her Majesty's Stationery Office.

Tyler, I. (2020). Stigma: The Machinery of Inequality. London: Zed Books.

UNICEF Innocenti (2020). 'Worlds of Influence: Understanding what shapes child well-being in rich countries', Innocenti Report Card 16, UNICEF Office of Research. Innocenti: Florence. Available at: <https://www.unicef-irc.org/child-well-being-report-card-16>

White, R.A.H. and Adcock, M. eds., (1998). Significant Harm: Its Management and Outcome. Croydon: Significant Publications

Wilkinson, R and Pickett, K. (2009) The Spirit Level: Why equality is better for everyone. London: Penguin.

World Health Organisation (WHO). (2021). WHO Coronavirus (COVID19) Dashboard. 11 August 2021. [Online]. Available at: <https://covid19.who.int/>

The Children Act 1948

The Children and Young Persons Act 1963

The Children Act 1989

Author submitted manuscript