

# **APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 9: Children's Services**

#### **Co-operation to improve well-being of children**

#### ***Section 193: Arrangements to promote co-operation***

573. Section 10 of the Children Act 2004 (“the 2004 Act”) requires each children’s services authority to make arrangements to promote co-operation between the authority itself, its relevant partners and such other persons or bodies as it considers appropriate, to improve the well-being of children. These arrangements are commonly known as “Children’s Trusts”. This section amends section 10 to include new “relevant partners” who must co-operate with the local authority in the making of arrangements under that section. It also allows those bodies more flexibility over how they share resources and pool funds.
574. *Subsection (2)* amends section 10(4) of the 2004 Act to set out the additional “relevant partners”. The effect is to provide for an authority’s “relevant partners”, for the purposes of section 10 arrangements, to include the governing bodies of maintained schools and further education institutions (including sixth form colleges), and proprietors of non-maintained special schools, city technology colleges, city colleges for the technology of arts and Academies. The Government intends, also, to provide for pupil referral units to be “relevant partners” for the purposes of section 10 arrangements, by way of regulations to this effect under Schedule 1 to the Education Act 1996. The inclusion of the Secretary of State’s functions under section 2 of the Employment and Training Act 1973 refers to Jobcentre Plus. The objective behind the amendments is to give the new “relevant partners” a stronger voice within the arrangements made under section 10 to improve children’s well-being, greater influence over the local strategic direction taken, and better support from other partners.
575. *Subsection (3)* amends section 10 of the 2004 Act to allow a children’s services authority and its relevant partners to provide staff and other resources to each other, to another local authority or to the relevant partners of another local authority for the purposes of arrangements made under section 10 (new section 10(5A)(a)).
576. *Subsection (3)* also amends section 10 of the 2004 Act so as to permit children’s services authorities and their relevant partners, for the purposes of arrangements under section 10, to pay money into a pooled fund. This fund may be used by any of the contributors in respect of their functions. This will permit multiple local authorities and/or their relevant partners to pool funds for the purposes of section 10 arrangements.
577. *Subsection (4)* repeals subsections (6) and (7) of section 10 of the 2004 Act as these are replaced with new subsection (5A).

578. *Subsection (5)* inserts new subsections (10) and (11) into section 10 of the 2004 Act. New subsection (10) will require a children's services authority and the governing body of a further education institution (FEI) which is spread over several sites to have regard to the Secretary of State's guidance when determining of which authority the FEI will be a "relevant partner".
579. New *subsection (11)* defines key terms used in the amendments to section 10 of the 2004 Act.

### ***Section 194: Children's Trust Boards***

580. This section requires children's services authorities, as part of the arrangements made under section 10 of the 2004 Act, to set up Children's Trusts Boards ("CTBs"). The section also transfers to CTBs the duty currently imposed on children's services authorities to prepare and review a Children and Young People's Plan ("CYPP").
581. *Subsection (2)* inserts new section 12A into the 2004 Act. This new section requires each children's services authority in England to establish a CTB for its area as part of the arrangements made under section 10 of the 2004 Act. The CTB must include representatives of the authority and of its "relevant partners", unless they are "relevant partners" of a type prescribed in regulations (subject to the negative resolution procedure) as not needing to be included on the CTB (subsection (4) of new section 12A). The Government's intention is that a description of relevant partner might be prescribed in regulations under subsection (4) if circumstances made it unlikely that they could easily take on the more strategic and involved role of member of a CTB. For example, a body that is more regional than local would not be well placed to be a member of all the CTBs its region covered. The CTB may also include other persons or bodies that the authority thinks appropriate following consultation with its relevant partners (subsection (3) of new section 12A). Subsection (5) of new section 12A allows one or more people to represent more than one CTB member or group of CTB members.
582. The effect of subsection (1)(a) of new section 12B of the 2004 Act (inserted by subsection (2)) is that a CTB's functions are those of preparing, publishing and reviewing the CYPP, and monitoring and reporting annually on the extent to which CTB members are acting in accordance with strategies for cooperation set out in the CYPP (see new sections 17 and 17A of the 2004 Act, as inserted by *subsection (3)*). New section 12B(1)(b) creates a power for the Secretary of State to confer further functions on CTBs by regulations subject to affirmative resolution.
583. Subsection (2) of new section 12B of the 2004 Act requires that any function conferred by the Secretary of State under subsection (1)(b) must relate to improving the well-being of children and relevant young persons in the local area. "Well-being" in this context is defined in subsection (3) as well-being relating to one or more of the five Every Child Matters outcomes listed in section 10(2)(a) to (e) of the 2004 Act. Subsection (4) of new section 12B requires CTBs to have regard to guidance issued by the Secretary of State relating to CTB procedures and the exercise of their functions.
584. Subsection (5) of new section 12B defines "relevant young persons", referring back to section 10 of the 2004 Act. The term "relevant young persons" includes people aged 18 and 19, care-leavers over the age of 19, and people over the age of 19 but under the age of 25 who have a learning difficulty within the meaning of section 13 of the Learning and Skills Act 2000 and who are receiving services under that Act.
585. New section 12C (inserted by *subsection (2)*) sets out the arrangements for the provision of funds and resources relating to the work of a CTB. It also allows two or more CTBs to pool funds for the purposes of their work.
586. New section 12D requires the members of a CTB to provide information to the CTB, if requested to do so for the purpose of enabling or assisting the CTB to perform its functions.

587. Subsection (3) replaces section 17 of the 2004 Act (which places responsibility for preparing and publishing a CYPP on a children's services authority) with a new section 17 (which places responsibility for preparing and publishing a CYPP on a CTB), and adds a new section 17A (which makes provision about the implementation and monitoring of a CYPP).
588. Subsection (1) of new section 17 provides a power for the Secretary of State, through regulations, to require a CTB to prepare and publish a CYPP. The CYPP must set out the CTB members' strategy for co-operating with each other in order to improve the well-being of local children and young people (subsection (2)). The Government intends that regulations made under new section 17 will broadly mirror the structure of the regulations made under the existing section 17, and that the CYPP will continue to be the single strategic overarching plan for all local services for children and young people. However, the new regulations will apply to the whole CTB and not, as is currently the case, only to the local authority. The regulations will be subject to the negative resolution procedure.
589. Subsection (3) of new section 17 defines "well-being" as relating to the five Every Child Matters outcomes as set out in section 10(2) of the 2004 Act:
- physical and mental health and emotional well-being;
  - protection from harm and neglect;
  - education, training and recreation;
  - the contribution made by them to society;
  - social and economic well-being.
590. Subsection (4) of new section 17 provides for regulations to cover the preparation, consultation, publication, review and revision of the CYPP. The regulations will cover matters to be dealt with in the plan and may additionally be used to require CTB members to set out their resourcing and budgetary commitments to meet the priorities of the plan. Under current CYPP regulations only the local authority must state how its budget will be used to contribute to improved outcomes.
591. Subsection (5) of new section 17 ensures that the CYPP also covers those young people who are included in arrangements made under section 10 of the 2004 Act. These are persons aged 18 and 19, persons over 19 receiving services as care leavers under the Children Act 1989 and persons over 19 but under 25 who have a learning difficulty within the meaning of section 13 of the Learning and Skills Act 2000 and who are receiving services under that Act.
592. New section 17A of the 2004 Act introduces a new statutory requirement for the members of a CTB to "have regard" to the CYPP prepared by the CTB when they exercise their functions (subsection (2)). Currently, "relevant partners" under section 10 of the 2004 Act, for example PCTs and police authorities, are not required to have regard to the CYPP. Extending the duty to have regard to the CYPP brings the "relevant partners" represented on the CTB in line with maintained schools which under section 38 of the Education and Inspections Act 2006 are already placed under a duty to "have regard" to the CYPP.
593. Monitoring the CYPP will form an integral part of the CYPP's development and implementation. Subsection (3) of new section 17A requires the CTB to monitor its members' progress in implementing the CYPP and to prepare and publish an annual report on the extent to which CTB members have acted in accordance with the strategies set out in the CYPP. The Government intends to issue statutory guidance under new section 12B(4) to outline what processes should be undertaken in monitoring the plan following implementation.

*These notes refer to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) which received Royal Assent on 12 November 2009*

594. *Subsection (4)* amends subsection 18(2) of the 2004 Act to ensure that the new functions relating to CTBs and CYPPs are added to the list of functions of a Director of Children's Services.
595. *Subsection (5)* extends the meaning of the term "children's services" used in sections 20-22 of the 2004 Act to include the functions and procedures of CTBs (including all functions in relation to the preparation and review of the CYPP, and CTB members' compliance with the CYPP), the funding of CTBs and supply of information to CTBs. Sections 20-22 of the 2004 Act address the joint inspection of children's services. By expanding the meaning of the term "children's services", this subsection ensures that the CTB-related activities listed may be inspected under an inspection of children's services.
596. *Subsection (6)* extends the list of relevant functions of a children's services authority, for the purposes of section 50 of the 2004 Act, to include the funding of CTBs, the supply of information to CTBs and the need to have regard to the CYPP when exercising its functions. Section 50 addresses the powers of the Secretary of State to intervene in children's services authorities. By expanding the list of functions, this subsection allows the Secretary of State to intervene in children's services authorities in connection with their CTB and CYPP activities described above.
597. *Subsection (7)* amends subsection 66(3) of the 2004 Act with the effect that any regulations produced under new section 12B(1)(b) (conferring further functions on CTBs) must be subject to the affirmative resolution procedure.
598. *Subsection (8)* adds to section 47A of the School Standards and Framework Act 1998 to place a duty on schools forums to have regard to the CYPP produced by their local CTB.
599. *Subsection (9)* amends section 21 of the Education Act 2002, which states that the governing bodies of maintained schools must have regard to their local area's CYPP. This duty needs to be revised to reflect the fact that responsibility for preparing the CYPP is moving to the CTB. Governing bodies of maintained schools will be CTB partners and where they have set out their strategy for co-operating with other Board partners in the CYPP, they are under a duty to have regard to that CYPP. However, should a governing body of a maintained school ever not set out such a strategy in the CYPP, section 21 is amended so that the governing body must still have regard to the local CYPP. Subsection (9) also alters section 21 so that it does not provide for a scenario where there would be no CYPP for a local area in England.