

## Education Act 2002:

### Safeguarding and promoting the welfare of children

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The Education Act 2002 received Royal Assent on 24 July 2002. An amendment made during the final stages of the Bill will broaden teachers' responsibilities in relation to child protection. Teachers and other staff in the education service have day-to-day contact with individual children. They are, therefore, particularly well placed to observe outward signs of abuse, changes in behaviour or failure to develop. Thus, following the tragic case of Lauren Wright, and extensive lobbying by the NSPCC and the former education secretary, Gillian Shephard, schools and local education authorities (LEAs) are now under a legal duty to promote and safeguard the welfare of their pupils.

### Background

Lauren Wright died in May 2000 after being struck so hard in the stomach by her stepmother that her digestive system collapsed. Norfolk Health Authority commissioned an Inquiry into Lauren's death, the report of which was published in March 2001. The Inquiry discovered a catalogue of errors across the broad range of services that had come into contact with Lauren, including the education service. The headteacher and other staff at Lauren's school had failed to report their concerns about Lauren to the education welfare service, and the school did not have a teacher trained in child protection, contrary to the guidelines set out in Department for Education and Skills (DfES) Circular 10/95. However, because the guidelines had no statutory footing, the teachers could not be disciplined. In the weeks before she died, Lauren was still attending school despite weighing a little over two stone. She was also covered in bruises and her hair was falling out due to malnutrition. Although the school was concerned about Lauren, her stepmother – a playground assistant at the school – lied to teachers, convincing them that Lauren's injuries were a result of her clumsiness.

### Circular 10/95

DfES Circular 10/95, Protecting children from abuse: The role of the education service, provides advice on action that should be taken within the education service to enable cases of suspected or identified child abuse to be properly considered and pursued. Sections 27 and 47 Children Act 1989 place duties on a number of agencies, including LEAs, to assist local authority social services departments acting on behalf of children in need or enquiring into allegations of child abuse.

In addition to this general statutory duty, schools have a pastoral responsibility toward their pupils. According to the Circular,

*'[e]very school and college should ... develop a child protection policy which reflects its statutory duties and pastoral responsibilities and refers to the procedures to be followed ...'.*

*'The key element in ensuring that proper procedures are followed in schools is that the headteacher or another senior member of staff is designated as having responsibility for liaising with the local social services department and other agencies over cases of abuse'.*

In all cases where abuse is suspected or a sustainable allegation is made, teachers and other members of staff should report the information to the designated teacher. The designated teacher should refer these cases to, or discuss them with, the investigating agencies according to the procedures established by the local Area Child Protection Committee and, in the case of LEA-maintained schools, by the LEA.

## **The new duty**

Section 175 Education Act 2002 provides that:

- A local education authority shall make arrangements for ensuring that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children (s.175(1));
- The governing body of a maintained school shall make arrangements for ensuring that their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school (s.175(2));
- The governing body of an institution within the further education sector shall make arrangements for ensuring that their functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution (s.175(3)); and
- An authority or body mentioned in any of subsections (1) to (3) shall, in considering what arrangements are required to be made by them under that subsection, have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales (s.175(4)).

Thus, LEAs and governing bodies of maintained schools and further education institutions will now be required, under s.175(4), to have regard to Circular 10/95, and any other guidance issued. Circular 10/95 has essentially been given statutory effect, strengthening child protection measures and offering further safeguards against child abuse.

When the new provisions were proposed for insertion in the Education Bill, their sponsor, Baroness Ashton of Upholland, stated that the welfare of the child is defined as 'the health, happiness, prosperity and well-being in general of a person'.

Section 175 applies to all children under the age of 18.

## **Conclusion**

The underlying aim of the new provisions is to place the education service's responsibilities for making child protection arrangements on a statutory footing and to provide further safeguards against child abuse. Clearly, while such measures are welcome, they will only prove successful if the Government, LEAs and schools ensure that teachers are aware of their new duties and that they receive training in recognising the signs of child abuse. The new provisions also place a wider duty on schools, further education institutions and LEAs. These bodies now have a duty to safeguard and promote the welfare of children in relation to all functions relating to the conduct of a school. It is not as yet clear, how this will be interpreted by the DfES and the courts.