

National legislation and guidance

“A young carer may be a child in need under the Children Act. The key issue is whether the child’s welfare or development might suffer if support is not provided to the child or family.”¹

Who is this chapter for?

- School lead or school staff interested in becoming/establishing a school lead within your school
- School leadership team
- Governing body

Please note that some of the information in this chapter is now out of date. We will be updating this chapter soon.

This chapter will support schools to:

- inform staff of the most recent legislation and guidance in your nation as it applies to pupils who are young carers.

Synopsis

There exists a great deal of legislation and guidance concerning young carers which affects schools. Young carers are at particular risk of not achieving the five *Every Child Matters* outcomes and, increasingly, guidance issued from government departments and local authorities cites that the delivery of these outcomes requires a planned and coordinated approach. The *Children Act 2004*, the *Children’s Plan* and the *Children’s Act 1989* are thus highly relevant alongside further legislation specific to carers.

Ofsted reports that councils and partners should²:

- ensure that professionals within universal services are aware of the needs of young carers so they can be identified and supported.
- consider ways to ensure that adults’ and children’s services work together to deliver holistic assessments and services that meet the needs of the whole family.

As part of a joint commitment to help take forward the National Carers Strategy 2008, the Association of Directors of Adult Services (ADASS) and the Association of Directors of Children’s Services Ltd. (ADCS) have developed a *Model Memorandum of Understanding*³ on working together to support young carers. The Model encourages schools to:

- have a named staff member with lead responsibility for young carers and to recognise this role within continuing professional development.



- establish a policy to encourage practice that identifies and supports young carers, such as adapting school arrangements if needed, provision for personal tutors and private discussions and access to local young carers' projects.

UK-wide legislation

The following pieces of legislation are UK-wide whilst nation-specific guidance can be found below.

Carers and Disabled Children Combined Policy Guidance Act 2000 and Carers (Equal Opportunities) Act 2004⁴

These acts provide young carers with varying rights to an assessment of their needs, which must take into account their right to an education.

Carers (Recognition and Services) Act 1995⁵

Highlights that an assessment of a young carer's needs must take into account the right to education.

Children Act 1989⁶

If a child does not have the opportunity or is unable to achieve or maintain a reasonable standard of health or development, then they are regarded as being in need. This in turn means they are eligible for a range of support services.

The *Framework for Assessment of Children in Need and their Families*, which gives guidance on S.17 of the Act, includes a section on young carers stating that effective support will require "good quality joint work between adult and children's social services as well as co-operation from schools and health workers...Young carers can receive help from both local and health authorities." See paragraphs 3.61-3.63.

Guidance: England

Carers at the heart of 21st century families and communities: A caring system on your side, a life of your own⁷

The Government's strategy sets out a vision for carers and states that 'children and young people will be protected from inappropriate caring and have the support they need to learn, develop and thrive, to enjoy positive childhoods and to achieve against all the *Every Child Matters* outcomes'.

Children Missing Education⁸

This guidance highlights good practice, which already exists in Local Education Authorities, for identifying children missing from education, those at risk of going missing, helping them move back into education (or alternative provision) and maintaining contact to prevent them slipping through the net again. This will help ensure all children and young people receive the universal services they are entitled to.

Department of Children, Schools and Families (DCSF) Advice and guidance to schools and local authorities in England on managing behaviour and attendance⁹



Schools can help young carers by helping the family to contact appropriate community care or adult services to provide more support for the person being cared for to help reduce the responsibilities of the young carer, and by providing flexible and sensitive support to the young carer.

Delivering every child matters for young carers¹⁰

The barriers faced by young carers in achieving the *Every Child Matters* outcomes are outlined and support structures to minimise those barriers are identified.

Drug Strategy¹¹

This recognises that children and young people in families affected by substance misuse face particular challenges. Some risk falling into inappropriate caring roles and it is vital that the welfare of these children is protected and that they can access appropriate support. Mainstream children's services need to be equipped to spot the symptoms of substance misuse in a child's family.

Healthy Schools Programme (NHSP)¹²

This is a joint initiative between the Department of Children, Schools and Families (DCSF) and the Department of Health which promotes a whole-school/whole-child approach to health. It aims to help schools increase the support offered through identification and awareness raising.

Supporting young carers: Identifying, assessing and meeting the needs of young carers and their families¹³

This examines the assessment and delivery of services for young carers and their families.

The Children's Plan¹⁴

This contains many of the key issues for young carers and their families and looks at all aspects of a child's wellbeing through the lens of the *Every Child Matters* outcomes. It also outlines the guiding principles that all children and families deserve services that work together for them and that it is always better to prevent failure than tackle a crisis later.

Your child, your schools, our future: Building a 21st century school system¹⁵

This White Paper expands on the key aims of the *Children's Plan* to ensure that the well-being and the *Every Child Matters* agendas are fully incorporated within schools.

Many of the proposals within the White Paper should improve support for young carers and their families and these are very much in line with the recommendations within this resource.

Guidance: *Scotland*

Getting It Right for Every Child (GIRFEC)¹⁶

GIRFEC is the overarching approach to supporting children and young people in Scotland and to effective inter-agency working to deliver the right support at the right time for every child in Scotland.

→ [Getting It Right For Young Carers: The Young Carers Strategy for Scotland: 2010-2015 Summary](#)

www.scotland.gov.uk



Education (Additional Support for Learning) (Scotland) Act 2004/2009¹⁷

This lies within the principles of *GIRFEC* and ensures that every pupil who has a support need within the education system is identified and supported with that need.

The Act promoted a multi-agency approach and recognises that problems encountered at school are not necessarily based in education; further support can be required due to a caring role for example.

Curriculum for Excellence¹⁸

The curriculum in Scotland has been revised and a new approach implemented through the *Curriculum for Excellence*, the purpose of which is encapsulated in the four capacities: enable each child or young person to be a successful learner, a confident individual, a responsible citizen, and an effective contributor.

Health and well-being are one of the building blocks of this new curriculum and so there will be a more active approach to mental health and emotional well-being. Young carers are expected to benefit from this 'whole-school' approach.

Guidance: Northern Ireland

Department of Education, Northern Ireland¹⁹

The Department of Education in Northern Ireland recognises that young carers may experience difficulties in reaching their full potential due to their personal circumstances.

In partnership with the Department of Health, Social Services and Public Safety, the Department of Education in Northern Ireland has issued a DVD for schools to raise awareness of the issues confronting pupils when coping with a caring role. The DVD has been used in training and awareness-raising seminars for school principals and staff.

Schools are encouraged to refer any pupil experiencing difficulties because of caring responsibilities to the Education Welfare Service so that access to additional supports can be secured.

Other developments within education, which are seeking to address barriers to learning, will benefit young carers. The Department has been working in partnership with all key statutory, voluntary and community sector stakeholders and interested parties to develop a *Pupils Emotional Health and Well-being Programme*. The agreed Programme will focus initially on the post primary sector and address how a pupil's emotional health and well-being is promoted by the school, what supports are available for a pupil under stress and what support is available to a school in the event of a crisis. The Programme will contribute to the building of resilient emotional health and well-being. It will provide the framework for integrating a range of current activities, policies and systems within schools, such as curriculum work on personal development, counselling, anti-bullying work, suicide prevention, promoting good behaviour, healthy schools initiative and pastoral care into a coherent and consistent approach.

Further information on support provision for carers in Northern Ireland can be found at:

→ [Nldirect government services: Caring for someone](http://nidirect.gov.uk/index/caring-for-someone)
www.nidirect.gov.uk/index/caring-for-someone.htm



→ [Department of Health Social Services and Public Safety: Review of the support provision for carers](#)

www.dhsspsni.gov.uk/review-of-support.pdf

Guidance: *Wales*

Children and Young People: Rights to Action²⁰

Children and Young People: Rights to Action contain the seven core aims to supporting children and young people in Wales based on the principles set out in the *United Nations Convention on the Rights of the Child (UNCRC)*. The Welsh Assembly Government has shown its commitment to the Convention by adopting it as the basis for policy making for children and young people in Wales in 2004. The Welsh Assembly Government believes that working in partnership is the most effective approach to realising the desired outcome of securing the well-being of every child and young person in Wales and across the UK and supporting them to realise their rights and achieve their full potential.

Education and skills in Wales is the responsibility of the Department for Children, *Education, Lifelong Learning and Skills (DCELLS)*, within the Welsh Assembly Government.

Cymry Ifanc Young Wales²¹

The Government is currently consulting on this *Statutory Guidance for Youth Support Services 11-25* and *Learner Support Services 14-19*. This revised Guidance reinforces the Welsh Assembly Government's commitment to young people, first set out in *Extending Entitlement: Supporting Young People 11-25* in Wales in 2000 and 2002, which still receives wide approval and admiration in the UK and across Europe.

The new Guidance sets out entitlements for all 14-19 year-olds in a maintained school or further education college, several elements of which will be of particular importance to young carers, including:

- an entitlement to personal support as part of their learning pathway.
- an individual plan for his or her learning. It should be their major personal planning and self-reflection tool and should include, where relevant, experiences, activities or support in any part of their life.

For more information about the above, please use the links below:

→ [14-19 Learning Pathways²²](#)

Learning Pathways is based on the fundamental principle that our young people should be given every opportunity to realise their potential and leave school better prepared for life and work.

→ [Extending Entitlement: Support for 11 to 25 year olds in Wales, Direction and Guidance, July 2002²³](#)

This provides an underpinning structure within which the principles of *Extending Entitlement: Supporting Young People in Wales* and the *Green Paper Learning is for Everyone* can be put into practice at local level.



Other chapters to help you understand this topic

- 4** Barriers to learning faced by young carers
- 5** Attendance
- 6** Behaviour
- 7** Addressing bullying
- 10** How can school governors help?
- 11** School leadership teams
- 13** Developing a school lead for young carers and their families

Key resources

→ Children Act 2004: Guidance on the 'duty to cooperate'

Legal underpinning for the transformation of children's services as set out in the (*Every Child Matters: Change for Children*) programme.

www.dcsf.gov.uk/everychildmatters/about/guidance/dutytooperate

→ Every Child Matters

Resources for schools to achieve (*Every Child Matters*) outcomes.

www.dcsf.gov.uk/everychildmatters/ete/

→ Behaviour and Attendance

www.dfes.gov.uk/behaviourandattendance

www.dfes.gov.uk/schoolattendance

www.teachernet.gov.uk/wholeschool/behaviour

→ Bullying

Department for Children, Schools and Families (DCSF) guidance.

www.teachernet.gov.uk/wholeschool/behaviour/tacklingbullying/safetolearn

→ National Carers Strategy 2008

Carers at the heart of 21st century families and communities.

www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085345

→ Rights and inclusion

Disability Discrimination Act 1995 (DDA).

www.opsi.gov.uk/acts/acts1995/1995050.htm

The United Nations Convention on the Rights of the Child.

www.unicef.org/crc

→ SCIE Guide 9: Implementing the Carers (Equal Opportunities) Act 2004

Offers quick and easy access to information that will aid the implementation of the 2004



Act alongside previous related legislation.

www.scie.org.uk/publications/guides/guide09/index.asp

→ **Targeted Youth Support: Young carers after school club**

Description of an after-school club set up for young carers in greater London.

www.dcsf.gov.uk/everychildmatters/resources-and-practice/EP00224/

¹*The Children's Act Report 1995 - 1999*. (2000). Department of Health: www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4081933.pdf

²*Supporting young carers: Identifying, assessing and meeting the needs of young carers and their families*. (2009) Ofsted: [www.ofsted.gov.uk/Ofsted-home/Publications-and-research/Browse-all-by/Documents-by-type/Thematic-reports/Supporting-young-carers/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Publications-and-research/Browse-all-by/Documents-by-type/Thematic-reports/Supporting-young-carers/(language)/eng-GB)

³*Model Memorandum of Understanding*. (2009). Association of Directors of Adult Services (ADASS) & Association of Directors of Children's Services Ltd. (ADCS): www.youngcarer.com/pdfs/AMOU.%20youngcarers.pdf

⁴*Carers and Disabled Children Combined Policy Guidance Act 2000 and Carers (Equal Opportunities) Act 2004*. Department of Health: www.carersnet.org.uk/acts/equalact/combined.pdf

⁵*Carers (Recognition and Services) Act 1995*. Office of Public Sector Information: www.opsi.gov.uk/ACTS/acts1995/ukpga_19950012_en_1

⁶*Children Act 1989*. Office of Public Sector Information: www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm

⁷*Carers at the heart of 21st century families and communities: a caring system on your side, a life of your own*. Department of Health: www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085345

⁸*Every Child Matters: Children Missing Education*. Department for Children, Schools and Families: <http://www.dcsf.gov.uk/everychildmatters/ete/schools/childrenmissingeducation/childrenmissingeducation>

⁹*The National Strategies: Advice and guidance to schools and local authorities on managing behaviour and attendance*. Department for Children, Schools and Families: <http://nationalstrategies.standards.dcsf.gov.uk/node/154426>

¹⁰*Delivering Every Child Matters for Young Carers*. (2006). The Princess Royal Trust for Carers: <http://static.carers.org/files/trust-guidance-delivering-every-child-matters-for-young-carers-2177.doc>

¹¹*Tackling drugs, saving lives*. The Home Office: <http://drugs.homeoffice.gov.uk>

¹²Healthy Schools: <http://home.healthyschools.gov.uk>

¹³*Supporting young carers: Identifying, assessing and meeting the needs of young carers and their families*. (2009). Ofsted: www.ofsted.gov.uk/Ofsted-home/Publications-and-research/Browse-all-by/Documents-by-type/Thematic-reports/Supporting-young-carers

¹⁴*The Children's Plan*. (2007). Department for Children, Schools and Families: www.dcsf.gov.uk/childrensplan

¹⁵*Your child, your schools, our future: Building a 21st century schools system*. Department of Children, Schools and Families: www.dcsf.gov.uk/21stcenturyschoolssystem

¹⁶*Getting it right for every child*. The Scottish Government: www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec/programme-overview

¹⁷*Education (Additional Support for Learning) (Scotland) Act 2004*. The Scottish Government: www.scotland.gov.uk/Topics/Education/Schools/welfare/ASL

¹⁸*Curriculum for Excellence*: www.ltscotland.org.uk/curriculumforexcellence/index.asp

¹⁹Department of Education, Northern Ireland: www.deni.gov.uk

²⁰Children and Young People: Rights to Action: <http://wales.gov.uk/topics/childrenyoungpeople/publications/rightstoaction/?lang=en>

²¹*Cymry Ifanc Young Wales - Statutory Guidance for Youth Support Services 11–25 and Learner Support Services 14–19*. Welsh Assembly Government: <http://wales.gov.uk/docs/dcells/consultation/101209youthsupporten.pdf>

²²*Learning Pathways 14 - 19*. Welsh Assembly Government: <http://new.wales.gov.uk/topics/educationandskills/learningproviders/learningpathways1419/?lang=en>

²³*Extending Entitlement: support for 11 to 25 year olds in Wales Direction and Guidance*. (2002). Welsh Assembly Government: http://new.wales.gov.uk/docrepos/40382/4038232/4038211/extending_entitlement/DGEE.pdf?lang=en