ACTS, BILLS AND LEGISLATIONS – What's it all about?

Life may be rushing by you but it's time to stop and take a good look at what is happening to the laws in the UK, and how it affects your and your child. One of my roles is to give you information that will help you get the most help from Social Services, Education and Health services. If you know your rights then it is much easier to get results. But first here is a little background information: -

Legislation – a law or set of laws suggested by the government in power and made official by parliament

White Paper – a statement of Government Policy

Green Paper – a proposal from the Government that is published so that there can be a public debate. Often individuals, voluntary groups, service providers are asked to comment.

Bill - This is a formal statement of a planned new law and is discussed in parliament before it is voted on. Before a Bill becomes an Act it will go through several stages, known as Readings, and will be studied by a Select Committee.

Act – It's a law or formal decision made by Parliament.

In the UK there are laws, which apply to England and Wales, and different (but sometimes similar) laws in Scotland and Northern Ireland.

Most laws that concern people with learning disabilities also apply to other people. Some are only about children; others cover children and adults.

The main laws that are likely to make a difference to the lives of children and adults, with learning or physical disabilities, are about:

- care and protection of children;
- assessment and provision for special educational needs;
- further education and training;
- community care services;
- human rights; and
- discrimination.

The following is a summary of the main Laws that affect children, children and adults. It will mainly apply to England and Wales although there is usually an equivalent law in the other two countries. Most of the recent legislation that affects children emphasises the importance of consultation and working in partnership with parents. This should apply to taking part not only in decisions about their children but also in the planning of services generally.

The Children Act (1989)

Local authorities **must** provide information about the services and support they provide for children that are defined as 'in need' **and their families**. Disabled children, under the Children Act, are 'children in need'. There are many definitions of disability but generally a child is considered 'disabled' if they have a physical or mental impairment (an impairment is where there has been some damage or weakening) and it is likely to have a **long-term** and **substantial** effect on their ability to carry out normal day-to-day activities. Services should aim to **minimise** the way a child's disability affects their opportunity to lead as active a life as possible. Every aspect of the main carer's and child's lives should be considered and possible help provided could cover; after-school and holiday provision; respite care or short-term care to give families a break; opportunities for cultural, social, recreational or occupational activities; help with transport; advice and counselling.

Carers and Disabled Children Act 2000

This Act gives parents and carers a greater right to ask for an assessment of **their own needs** - even when the person they care for does not wish to be assessed. This should mean that if your needs, as a carer or parent, include the need to work, get an education, have a social life, or get medical treatment for example, then the assessment must consider how to meet these needs. Before any of this can happen carers have to be aware of their rights. The government have published a leaflet: *How to get help in looking after someone* - A Carer's Guide to A Carer's Assessment. Local councils should make sure that anyone asking for an assessment gets a copy of this leaflet so that they are aware of what an assessment can offer them. This Act also allows for direct payments or vouchers to be given to parents and carers of disabled children where they have been assessed as needing the service. As the law stands Social Services Departments are still able to charge parents and carers for any service they receive. (Charges are usually means-tested and there is a maximum limit.)

The Carers (Equal Opportunities) Act 2004

The Carers (Equal Opportunities) Act has been passed and will allow carers to take up opportunities which those, without caring responsibilities, take for granted. Carers save the state £57 billion pounds every year and many carers give up work to care and then find it hard to access learning and training opportunites or to combine work with care. When this Act comes into force, prpbably April 2005, it will give carers more choices about how they combine their caring role with other activities.The Act builds on existing carers legislation and Government support for carers. Most importantly the new law places a duty on councils to

- tell carers about their rights and give them information so that they can make informed decisions
- consider a carers outside interests (work, study or leisure) when carrying out an assessment.

And gives local authorities strong powers to enlist the help of health, housing and education authorities to provide support for carers. The new law applies to all carers, including those under the age of 16 yrs. If a brother or sister also has a substantial share of the caring duties then they can also have an assessment of their needs for support to pursue their education, leisure or work activities. (I know there are not many children who 'work' under the age of 16, but they might want to do a paper round, or Saturday job.)

The Children's Bill (soon to become The Children's Act 2004)

After the dreadful case of Victoria Climbé came to light, the government published a Green Paper, "Every Child Matters". In this proposal the government set out one of the most far-reaching reforms of Children's services for 30 years. A large number of people and groups were consulted and for the first time young people themselves were asked for their views about what was most important to them in their lives.

The young people identified five ' most desirable' outcomes they wished to achieve in their lives.

- Being healthy
- Staying safe
- Education and training
- Making a positive contribution
- Economic well being.

The Children's Bill was drawn up to carry out the main proposals that would enable a long-term programme of change. It creates the backbone around which more effective and accessible services can develop. It will focus on the needs of children, young people and their families.

The Bill contains six parts, summarised briefly below:

1. Establish a Children's Commissioner who will carry out enquiries and represent the views of children and young people at Government level;
2. Create a better integrated planning, commissioning and delivery of children's services with clear accountability and a duty to promote co-operation between Health, Education and Social Services (this includes establishing and maintaining an electronic database of information that is relevant to the welfare of children and that will help and support professionals so that they work **together**.) Local authorities in England will appoint a Director of Children's Services who will be accountable for Social Services and Education.

The other four parts refer to Wales or administration of the Bill.

Special Educational Needs and Disability Act 2001

This Act made important changes to the Education Acts 1993 and 1996 (these two acts introduced the SEN Code of practice, SEN tribunals, and a general duty on LEAs to promote inclusive education.) SENDA strengthened the right for inclusive education and introduced new duties on schools and higher education establishments not to discriminate against **prospective** and existing disabled pupils and students, with regard to admissions, exclusions and educational services (See Spring Newsletter 46 for more details).

" Valuing People" White Paper 2001

This was the first White Paper on learning disability for thirty years and it sets out the government's vision and strategy for the lives of people with learning disabilities. It recognised the need to actively promote their rights and social inclusion. The Department of Health has lead responsibility for this but the proposals cross other Government Departments. Although the White Paper covers adults and children with learning disabilities, there will be a separate focus on children in the National Service Framework (NSF). "Valuing People " is about changing not only services but also the attitude and culture of public services towards people with learning disabilities.

There were a number of specific objectives: -

1. Ensuring that disabled children gain maximum life chances
2. Ensuring that the transition from childhood to adulthood is a positive experience and opens up new opportunities to employment and education
3. Increasing choice and control, through promoting rights, strengthened advocacy, increased use of direct payments and a moving towards person centred services
4. Increasing help and support to family carers, including specific targets around older family carers and those from minority communities
5. Improved personal health, through enabling people to access high quality mainstream health services and re-focusing specialist services
6. Enabling people to have greater choice and control; over where and how they live by increasing the range of housing options available - part of which involves closing the remaining long stay hospitals
7. Enabling people to live more fulfilled lives through modernising day services, and increasing access to education, transport and leisure opportunities.
8. Enabling more people to obtain employment, in particular paid employment.
9. Ensuring all agencies commission and provide high quality, evidence based, continually improving services, including a particular focus on people from minority communities and those at risk of abuse.
10. Ensuring the service workforce are properly trained and skilled, in part through the introduction of a new national training framework, and including a focus on awareness amongst the wider public workforce.

Learning Disability Partnership Boards have been set in each local authority and they are responsible for delivering the proposals for adults in the White Paper. The White Paper also created a national support team and a Director to provide leadership and direction to the Partnership Boards. The National Director retains an overview of children's issues but the Support Team is concerned with Transition and adult elements.

One of the most far-reaching effects of the White Paper has been the emphasis on developing a learning disabled dimension in all mainstream policy. One of the roles of VPST is to network with other agencies within the government.

If you want to find out more about what is happening in government and to our laws there is a very helpful web site at www.info4local.gov.uk and at www.direct.gov.uk