

Submission of evidence: Children and Families Act 2014

For the House of Lords Select Committee, 25/04/2022

Summary of Recommendations:

Within six-months' time we recommend:

- 1) Reviewing consultation and inquiry processes to ensure children and young people under the age of 18 can contribute to policy discussions (see Part 3.10-11).
- 2) Promoting universal entitlements to free school meals. For example, reversing the order of the webpage '[Applying for Free School Meals](#)' describing universal entitlements, prior to describing the application process that only some parents/carers will need to follow (see Part 2.9).
- 3) Immediate changes be made to ensure that those that may benefit from the provisions within this legislation are able to engage with its content. This should be co-produced with young people of various ages, genders, ethnicities, sexualities, family forms and localities, a diverse group of parents and carers, and a diverse group of individuals with additional needs and disabilities (see Part 2.6-7).
- 4) That once noted barriers to engagement with content are removed, an additional review of the Act should occur; especially Section 3- and its implementation in partnership with young people and their families, including those with additional needs and disabilities (see Part 2.12-14). This could also address questions around capacity definitions (see Part 3.13), consider if/how meaningful co-production may be embedded across provisions, and if/how services may take a more joined-up and inclusive approach to implementation within and across localities (see Part 3.7).
- 5) Increased partnership working between the offices of the Children's Commissioner and localities; increasing opportunities for children and young people's voices to be heard and promoting opportunities for engagement (see Part 3.5-8).
- 6) A review of cross-sector and cross-population co-production approaches (see for e.g. The [Resilience Revolution](#), [Blackpool Beating Bullying](#), the [Academic Resilience Approach](#), the [Resilience Framework](#), [principles of integrated care](#), and approaching '[Health as a Social Movement](#)') to identify implementation best-practices (see Part 2.19).

Within one-years' time we recommend:

- 1) The creation of case study examples of how the legislation is working for people in practice. This may be trialled in one community initially, however should eventually include diverse individuals from across the UK to ensure that children and families better understand "how to take it from paper to reality" (see Part 2.6).
- 2) Provide free school meals to all pupils in areas known to experience high-level of deprivation and disadvantage- removing local burdens on parents/carers to complete application processes (see Part 2.10).
- 3) The creation of a universally recognised disability and/or mental health passport co-designed and co-produced by children, young people, families, and their supporters (see Part 2.15).
- 4) Developing a formal strategy to remove access barriers to entitlements outlined in Part 3: Sections 22/30, produced collaboratively with children, young people, families, and communities (see Part 2.14).
- 5) An addition to the responsibility of a Local Authority officer to be accountable for educational achievements, that the officer is responsible for employment and life-long personal achievements for children who are looked after (see Part 2.21-22).
- 6) That the inclusion of young people and families be legally required within government commissioning processes, with explicit guidance around remuneration (see Part 2.19-22).
- 7) That local authorities co-produce solutions to reduce the numbers of children in long term stay units which are separating children and young people from their families and communities (see Part 2.16-17).
- 8) A review and potential amendments to [Part 10: Section 138](#) of the Act to ensure meaningful co-production and prevention is adequately resourced (see Part 2.12/Part 3.15).

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Centre of Resilience for Social Justice www.brighton.ac.uk/crsj/index.aspx

University of Brighton and Boingboing CIC www.boingboing.org.uk/

Blackpool HeadStart <https://sites.google.com/seaside.blackpool.org.uk/mock/home>

on behalf of the Resilience Revolution <https://www.boingboing.org.uk/resilience/resilience-revolution-resources/>

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Part 1: Introduction

1.1 We are a group of academics, students, parents and carers, practitioners, and young people working together to beat the odds and change the odds in disadvantaged communities. All of us either identify as, or work directly with, children, young people, and families that experience complex life challenges such as additional needs, racism, disability, economic disadvantages, and experiences of government care. Others of us have experienced these things too in the past. Some of us only recently became adults. We have written this submission together and all of us were paid for our time and expertise. This submission begins by summarising our submission's recommendations related to the Children and Families Act 2014 and its implementation.

1.2 Policy makers and communities may find our learning associated with the [Resilience Revolution](#) (RR) helpful for integrating cross-populations into policy design and implementation planning. We have based this submission on our collective learning from the development of this approach. A social movement first piloted in Blackpool, UK, the [Resilience Revolution](#) brings children, young people, families, practitioners, schools, health and social care, and third-sector groups and policy makers together. Drawing on Resilient Therapy (Hart et al., 2007), we collectively aim to orient systems more strongly towards the prevention of mental ill health and the promotion of well-being and resilience.

1.3 This submission begins by expressing how the existing Children and Families Act 2014 is being experienced daily by parents, carers, young people, and those that support them. We consider practices and approaches that may mitigate broader environmental risks to children and families, increase their voices in planning and implementation of policies as well as strengthen accountability. We include immediate and long-term recommendations.

Part 2: Strengthen Existing Policy

2.1 In this section we take an asset-based approach to consider the existing Children and Families Act 2014. We considered how legislation was working daily for us as individuals and as a collective. We thought about the parts of the Children and Families Act 2014 that we found helpful and things that could be improved. This mostly relates to your second question "If there were to be a Children and Families Act 2022, what should it include and what might be the barriers to implementation?".

2.2 We appreciated that the legislation considers a number of areas important to children and families including: [PART 1 Adoption and contact](#), [PART 2 Family justice](#), [PART 3 Children and young people in England with special educational needs or disabilities](#), [PART 4 Childcare etc](#), [PART 5 Welfare of children](#), [PART 6 The Children's Commissioner](#), [PART 7 Statutory rights to leave and pay](#), [PART 8 Time off work: ante-natal care etc](#), [PART 9 Right](#)

[to request flexible working](#), and [PART 10 General provisions](#). However, we question if there is support that ensures people are gaining their full protections under this Act- including if the content of the act is truly accessible to children, young people, and families. We feel this is a large implementation barrier.

2.3 We greatly appreciate that the Department for Education has provided '[The young person's guide to the Children and Families Act 2014](#)' (Sept, 2014). We understand how hard it is to develop such documents. However, young people and young professionals co-writing this submission did not find it accessible.

2.4 Specific considerations included that we found it to be "too long and wordy". We suggest it includes information in a "more visual way" such as infographics and flow charts. We would like to see content added to showcases how the legislation is working day to day. This would help to "bring it to life". We also found it "confusing to navigate between the young person and the adult versions to make sure the points lined up with the right part of the legislation". This made it challenging to "make sure the points lined up with the right part of the legislation" when we were working between versions.

2.5 Considering those of us with additional needs, we were also unable to locate an accessible version of the legislation that was suitable. The current young person's guide for example, does not include picture captions and therefore those of us with visual impairments are excluded from engaging in some of the content. As a group of diverse individuals, we were hindered in responding to this call for evidence because we were unable to locate accessible versions of the Act.

2.6 The Act misses opportunities for case study examples, videos and testimonials that demonstrate how the legislation has been informed by people's personal experiences. Including videos of individuals with Special Education Needs and Disabilities speaking about how provisions may have assisted them to access primary or secondary education or transition to college could be one way to embed people's voices into the Act. Ensuring content is engaging and accessible was seen as especially important when considering people with additional needs being able to understand the benefits and drawbacks of the legislative changes.

2.7 This is important considering the focus in Part 3 is '[Children and young People in England with Special Educational Needs or Disabilities](#)'. Also, as one of our young professionals reminded the rest of us, "Some parents who have children with SEND also have additional needs themselves" (see for e.g., [NICE, 2020](#)). All legislation and consultation processes should be made accessible to those with additional needs or disability of all ages.

2.8 It is not simply formatting that excludes people participating, but also the order of the content. Young people said this was not an easy piece to follow. One example of where our group found this to be the case was in our discussions around free school meal eligibility. Some of us were surprised to learn,

"that all state-funded schools – both maintained schools and Academies– have an obligation to provide free school lunches on request for all pupils in infant classes (i.e reception, year one and year two). It also creates an enabling power for the Secretary of State to extend this obligation to other school year groups or to children in maintained nursery schools and other state-funded early years settings" ([Part 5: Section 106](#)).

2.9 On reviewing the government guidance around '[Applying for Free School Meals](#)', a possible explanation for this confusion was identified. On this webpage, the section on "Infant free school meals in England" indicates all children of these ages are eligible for free school meals. Yet, it comes only AFTER a lengthy section that describes eligibility criteria for accessing free school meals. We suggest that this webpage begin with the section describing open access to free school meals for reception, year 1 and year 2 to make it clear that ALL families are eligible, with references to the legislation provided. This may be followed by the section of any imposed restrictions for other year groups, with references to the guidance provided.

2.10 The translation of the Act in Blackpool is that the procedures for applying for free school meals remains fragmented. Some schools' Free School Meal (FSM) provision is administered by Blackpool Council and some schools

administer the offer themselves. Westminster School has a FSM eligibility rate of over 75% for its pupils, and was noted by young professionals as a best-practice example of local schools around provision of FSM. We recommend a review of how free school meals are applied for and accessed by known disadvantaged groups and within known deprived areas and localities, building on best practice examples (see for e.g., [Eat for Free initiative, Newham London, 01.2021](#)).

2.11 We have used ‘access to free school meals’ as an exemplar of why in our collective discussions around the Act, we heard things like “It sounds good, but is it actually working in practice in Blackpool?” and across all our respective communities. We know some are disproportionately economically disadvantaged, including children, families, households experiencing disability, certain localities and racialised communities (see for e.g. [House of Commons, Poverty in the UK Statistics, 13.04.2022](#)). This [Inequalities Video](#) made by young people and young professionals could help those of you developing policy to better understand how disadvantage is viewed and experienced by our younger generations. We would very much welcome your feedback on it.

2.12 This Act is intrinsically linked to providing support and resources to children and families and therefore its implementation requires adequate and efficient resourcing (linking to [Part 10: Section 138](#)). The promotion and accessibility of available resources is also required. This is particularly relevant when communicating the Government’s response to the cost-of-living crisis. Although the content of the Act was appreciated, our young professionals especially felt that it “seems to place much of the heavy lifting on parents” to access entitlements. This was especially seen as a barrier when collectively discussing [PART 3 Children and young people in England with special educational needs or disabilities](#).

2.13 The Westminster Commission on Autism identified access challenges in their report ‘[Support Surrounding Diagnosis: An Inquiry into Pre- and Post- support for the Autism Diagnosis Pathway](#)’. Here, long wait times between seeking an autism diagnosis for a child and receiving an assessment were identified, with parents reporting high levels of stress and low levels of support in the meantime. Additionally, it identified limited support following a diagnosis, with parents reporting a lack of support or information around how to obtain an Education and Health Care Plan (EHCP) for their child. Recommendations include to treat a child on a long diagnostic pathway ‘as if’ they are autistic in terms of being eligible for SEND support and accommodations within school, adequate information about the process of obtaining an EHCP and ancillary support services (such as relevant and affordable counselling services or autistic-led peer support). Gendered inequalities around accessing services and support have also been identified (see for e.g., National Inclusion Institute, [Absent Autistic Girls](#), 2021).

2.14 Our collective experiences suggests that delays in accessing diagnoses across all conditions, administration burdens, and a lack of understanding around disabilities and other special education needs have posed barriers to accessing entitlements under the Act such as those described in Part 3: Sections 22/30. This is especially in relation to intersectionality. We mirror recommendations from The Westminster Commission on Autism. However, we extend ours to all special education needs and disabilities, recommending children and young people with disabilities and their families are involved in creating strategies and support systems to remove access barriers and make the content of information more accessible and processes more streamlined. We recommend improved training for educational staff around disabilities, long-term health conditions, intersectionality, and universal design. More thoughtful consideration of young people under the age of five that are suspected of special education needs or disability is also recommended. This was emphasised especially by the younger members of our team.

2.15 Post diagnosis- many of us experienced challenges around information sharing access services with one of us saying, “so you go to the doctor and you have to tell them your story and then you have to go somewhere else and tell your story again, and again”. We suggest ways to reduce the burden on children, young people and families having to repeat their story. We know that as you repeat your circumstances to different audiences, you edit the details, and it is not always easy to recall the full picture / highlight the most relevant details. Furthermore, constantly retelling your story can be traumatic for us. To help make sure full details are shared, our young

professionals recommended the creation of a universally recognised disability and/or mental health passport “like a passport but like a diary kind of thing that you can bring to appointments” that would be recognised and reviewed (by request) across systems. A [joint initiative between Enable Ireland and Microsoft around an Assistive Technology Passport](#) may provide some direction here. As recommended by others, passport approaches should also consider transitions to adult services (see for e.g., [the Higher Education Commission in the 2020 report, ‘Arriving and Thriving: Learning from Disabled Students to ensure access for all’](#)). Likewise, these pathways may aid in addressing known challenges around disability related data monitoring (see for e.g., [The National Disability Strategy, 18.07.2020](#)).

2.16 Regarding Part 3, we also feel this section be amended to ensure suitable care for young people with special education needs outside of long-term stay units. We are aware over many years of continuing reports of too many children being held for unnecessarily long periods of time in long term stay units, separating children and young people from their families and communities (see for e.g. [Transforming Care Fail, 2019](#)). Furthermore, there seems to be no mention of Care Education and Treatment Reviews (see [NHS England, 03/2017](#)). These are the responsibility of local authorities for young people in their jurisdiction receiving in-patient mental health care. Linkages made between legislations are recommended. A review of Care and Education Treatment Reviews may be undertaken considering criticism of this approach (see for e.g., [My Life My Choice, 05/04/2022](#)).

2.17 We have felt little progress in improving residential care and the current speed and results from Education and Treatment Reviews are inadequate. Having a co-produced approach within residential care settings is necessary. This should have a specific remit of systems change, social justice, explanations of and transparency in relation to funding of residential care, and explicit consideration of the lifelong benefits and disbenefits for care experienced young people. This is a potential way to improve residential care for young people and their families in a sustainable and empowering way. This would also go some way to challenge and be fully transparent about the truly shocking levels of profit-making for private companies in relation to the provision of residential care (see for e.g., [BBC, 18.11.2019](#); [Brown, 01.03.2022](#)).

2.18 We appreciate the promotion of integration (see [Part 3, Section 25](#)), however, suggest that service integration is done universally. We feel that the lack of integration of services within and across sectors was a safeguarding concern. This is especially problematic for those of us supporting children and families. For example, children’s homes were mentioned in our group discussions, as “not joined up and not working well- makes it more challenging to understand the story of a young person moving in and out of locality multiple times” because often only information on the “last move” can be accessed. Others spoke of safeguarding limitations when children and families move frequently.

2.19 We recommend that the integration of services be approached more broadly across all services. This should be explicitly promoted throughout all subsections of the Act. The conceptualisation of integration may also be broadened to consider cross-sector co-production, aligning with principles of integrated care ([The Kings Fund, July 2021](#)) and, taking a similar approach to the NHS’s ‘[Health as a Social Movement](#)’. Within the existing act, we appreciate that there is an opening emphasis on children and their parents/caregivers being central to decision making for example in relation to local authority provision (see for e.g., [Part 3, Section 19](#)). This lays a positive foundation for meaningful co-production with children and families, at the community level. However, we recommend youth and family voice be made more explicit throughout all sub-sections of the Act. A greater emphasis on partnership working between and across diverse individuals, sectors and communities is also recommended. Furthermore, specific policies regarding appropriate payment for the expertise of children and families should be developed and be made explicit. Here, elements of good practice may be found within the ‘Expert by Experience’ policy ([Social Work England, 2020](#)) and from payment guidance from the National Institute for Health Research ([NICE, 05.04.2021](#)).

2.20 Commissioning with young people and families sitting on contract review panels has been successful in Blackpool and Fylde. In the Resilience Revolution, for example, this is the case for a self-harm support programme that has

seen changes and improvements that better fit the needs of young people and families after youth voice was integrated into the commissioning process.

2.21 The Act highlights the Local Authority's responsibility for the promotion of education of children in care- known in Blackpool Council as 'Our Children'. Whilst it is welcomed that the Act ensures educational achievement is a priority for this group of young people and that the Act enforces at least one person charged with responsibility for ensuring this is promoted. Those of us in our group who are young people asked; "what about non-educational achievements- should there be someone who is responsible by law for promoting achievements in other areas of young people's lives too"?

2.22 In Blackpool, the Friendship Model of Volunteering supports **life-long** intergenerational friendships that promote both educational achievements, but also personal, employment achievements (see [Friendship Model of Volunteering, 2022](#)). A co-production group is changing the odds in Blackpool ensuring Our Children receive job opportunities 'with the family firm' ([Blackpool Council, 30.01.2019, p.4](#)). If private companies are to continue to profit from running children's homes ([BBC, 18.11.2019](#); [Brown, 01.03.2022](#)) at the very least policies regarding this concept of a job in the 'family firm' for care leavers could be mandated through commissioning processes. Furthermore, collaboration with parents and carers with experiences of being separated from their children have led to best-practice recommendations (see for e.g., [Nuffield Family Justice Observatory, 2022](#)).

Part 3: Meaningful co-production & prevention

3.1 This section considers the meaningful inclusion of children, young people, families, and communities in designing, implementing and sharing good practice within the Act. We then consider broad reaching and tailored interventions that have proved successful in supporting those children, young people, and families- even those that experience complex and multiple challenges.

3.2 As we stated in our introduction, we have used our experiences in developing the Resilience Revolution to inform this submission. Adopting a similar approach in other communities may remove barriers associated with the implementation of this Act. Despite the myriad complexities and challenges, the benefits of working this way have been tested and proven. These include, improved wellbeing, confidence, civic engagement, aspiration, school attendance, sense of pride in Blackpool employability as well as a greater commitment to social justice ([Resilience Revolution, 02.02.2021](#)).

3.3 In our collective discussions, we concluded that the way the content of the legislation has been made available excludes some people, including those with special needs and disabilities and younger youth. Those of us who are younger professionals also felt the Act itself "seems really focused on certain age groups", like "16 and up, and there needs to be more thinking around the younger groups". We also felt some aspects of the Act may pose barriers to younger youth benefiting from it, with young professionals saying things like "certainly they shouldn't wait to get an assessment till they are moving into adulthood". We recommend taking additional steps to enable younger youth to contribute to policy directions, like "the creation of this Act".

3.4 There were other aspects of our collective discussions where young people felt actively excluded from conversations relevant to this Act. Some shared examples of trying to engage with others around improving outcomes for children and families. For example, one said, "I contacted the head of Children's commissioner at the end of lockdown and they didn't even reply back". It is concerning that our youngest contributors reported challenges around making contact. They questioned the use of webform when contacting things like the office of the Children's Commissioner "because you have no record that you contacted them", suggesting that this limited accountability. Others within our team had had positive experiences in communicating with the Children's Commissioner. It is notable that through effective joint working, the Office of the Children's Commissioner was accessible to professionals working with families and young people, which is very welcome, but in Blackpool the office felt less visible and answerable to parents and young people directly.

3.5 This shows why cross-sector partnership also requires cross-population involvement. For example, the Children's Commissioner has visibly championed the use of NHS ID for data linkage across the life course of services and championed changes that support siblings to live together through foster care. These echo campaigns in Blackpool that have been led by community co-production processes that have resulted in skills building and paid opportunities for parents/carers and young people (see for e.g., [Same Pay for the Same Day Campaign, 2019; Sessional Parent & Carer Engagement Workers, 24.04.2021](#)).

3.6 However, our experiences do not always concur with those found to generally be the case by the Children's Commissioner. The biggest survey of young people run by the Office of the Children's Commissioner highlighted that young people liked the opportunity to engage with mental health services online ([Children's Commissioner, 09.2021](#)). It was unclear if young people with additional needs and/or disabilities were included, and if they had different opinions than others. Locally Blackpool co-researchers surveyed young people and families and found the opposite was true, and we included diverse young people experiencing multiple and complex challenges. There is an issue of homogeneity within the Children's Commissioner's communication role that could lead to some communities being underserved and drowned out. Evidently, more needs to be done to instil trust in the accountability processes associated with this legislation.

3.7 This may be improved via increased emphasis on co-production with young people, and closer working partnerships with local communities. For example, in Blackpool we have found creating meaningful youth employment opportunities across organisations, and via creating networks of young people to feed into policy decisions aids cross-partnership working practices (see for e.g., [URPotential](#), and the development of this submission indeed). This aligns with recommendations associated with supporting young people around economic impacts associated with the COVID-19 pandemic (see for e.g., [APPG, 04/05/2021](#)).

3.8 Relevant offices such as the Children's Commissioner, and local authorities may benefit from creating meaningful employment opportunities for children, young people, and families. In the Resilience Revolution, we found barriers are removed by creating a variety of supervised, paid and volunteer positions, for children, young people and parents and carers (see for e.g., [Boingboing, 01.01.2021 regarding apprenticeships; Boingboing, 24.04.2021 regarding sessional workers](#)). We have also found dedicated support roles, and ring fenced opportunities for certain groups such as Our Children create more equitable opportunities (see for e.g., [Blackpool Council, 30.01.2019, p.4](#)). We suggest changes to [The Children's Commissioner for England, 2022 webpage](#) to promote forthcoming opportunities and more clearly describe how children and families may contribute.

3.9 We know young people want to be involved. For example, in a recent focus group with 22 young people around youth voice, they said things like "co-production makes services better" (young person) and "young people see things differently and see different options. We can help adults and share decisions with them by using our creativity" (young person). They spoke of the importance of involving adults in co-production, saying things like "we are less safe and experienced than them, but we still need a say, just not all the say" (young person).

3.10 Regarding this submission however, those of us who are younger contributors shared multiple examples of being left out of important conversations, suggesting systemic exclusion. For example, one of us gave an example of being unable to contribute to a consultation held by the Department of Education (Ofqual) around exams decisions during national lockdowns. They were unable to contribute because they were under the age of 18, and this age barrier meant that there "was no representation for GSCs". We notice that this inquiry- like most- did not provide a separate process to include the voices of younger youth. We understand that such initiatives are difficult to achieve but they are crucial.

3.11 We argue that all inquiries, consultations and planning relevant to children and families provide information in formats to allow those of all ages and capacities to contribute. Specific processes to safely include the voices of those under the age of 18, and/or include options for submissions to remain anonymous should also be considered.

This may be especially important for those with protected characteristics, as some say they associate sharing their experiences with increased risk of discrimination.

3.12 We know parents want to be involved too. For example, in a recent focus group with 7 parents around parent voice one parent said, “I must admit the bit that people are most shocked at is when I say I was interviewing social workers and the Director of Children’s Services. They say, ‘oh did you?’” “and I never say that’s the right person for the job, I always say, that’s the person I’d most like have on my couch supporting me and my family.” ([National Children’s Bureau, 01.10.2021](#)).

3.13 Related to meaningful co-production, we collectively had questions around references to parents and young people lacking capacity within the Act. We shared concerns around providing opportunities for those that are non-verbal to contribute to decisions important to them. We were unable to identify clear details of what constitutes ‘capacity’ within the terms of this Act or how it would be assessed. Evidence rather suggests that assessment of capacity is inconsistent and therefore potentially inadequate (Jayes, Palmer, Enderby & Sutton, 2020). Important perhaps to underscore that capacity should always be assumed and supported (as per Mental Capacity Act), particularly in reference to non-speaking individuals, those with learning disabilities, and those who are not native speakers of English. We recommend this be clarified quickly as this information informs implementation and inclusion processes. Co-production with these groups and their supporters around these amendments is strongly suggested.

3.14 We have experienced that it takes resources to include those often excluded in meaningful ways. Having shared resources that can aid conversations, such as the use of [‘The young person’s guide to the Children and Families Act 2014’](#) (Sept, 2014) in the case of this submission. In a similar way, we have found adopting shared frameworks helpful to promote cross-partnership/cross-population approaches. In Blackpool, we have adopted the use of the [Resilience Framework](#) (Hart et al., 2007); a framework for building resilience across systems that is available in multiple formats and languages. In a similar way, all 45 Blackpool Schools adopted the Academic Resilience Approach (ARA) (Hart and Williams, 2014), a strategic approach where the whole school community is actively involved in building pupil resilience (Hart et al, 2018, Kourkoutas et al., 2015). Demonstrating how co-production builds innovation and improves youth voice, young people themselves later developed **Error! Hyperlink reference not valid.** This youth-led approach was adopted across schools.

3.15 Lastly, we recognise that providing relational, recreational, and community-based activities is essential to build individual and collective confidence and capacity- especially within disadvantaged communities. We have found that children, young people, and families need support and resourcing to “beat the odds, and change the odds” (Hart et al, 2007). Thus, we recommend that [Part 10: Section 138](#) be amended to enable adequate resourcing to enable children, young people and families to both connect to their communities, and contribute to matters that are important to them. In-line with previous recommendations, we recommend involving young people and families in the design, delivery, evaluation and resourcing of this policy and its implementation. Furthermore, they should be recompensed appropriately for their expertise.

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