

the Children Act 2004 the Domestic Violence and Crime and Victims Act 2002 and the Children and Adoption Act 2006 (the latter having received Royal Assent but not yet in force).

Task 1

Go to www.opsi.gov.uk and locate the **Children Act 1989**. Download this and save it to your computer as you will need to refer to this throughout this programme and during your own day-to-day practice.

The Children Act 1989 coincided with the United Nations Convention on the Rights of the Child (UNCRC) in 1989 and both were followed in 1998 by the Human Rights Act 1998 (HRA), which incorporated the European Convention on Human Rights (ECHR) into the domestic courts. We will consider human rights later in this Unit.

In order to understand and apply the key principles of the Children Act 1989 to both private and public law cases, we need to briefly examine the history of the legislation and how various public inquiries prior to the Children Act 1989 had called for a thorough review of children law.

There was a growing call for reform of legislation and there was one report in particular which pushed forward the agenda for reform. This was the report by Lady Justice Butler-Sloss of the Inquiry into Child Abuse in Cleveland in 1987. This report followed earlier inquiries into the deaths of vulnerable children, including Jasmine Beckford (1985), Tyra Henry (1987) and Kimberley Carlile (1987). These reports, together with the House of Lords' decision in *Gillick v West Norfolk and Wisbech Area Health Authority* [1986] 1 AC 112 (see later in this Unit), were a major influence on the shape of the Children Act 1989. The Children Act 1989 established 'parenthood' as the primary legal status in relation to children and introduced 'parental responsibility' as the central concept and promoted the child's welfare as the 'paramount consideration' in disputes concerning a child. The Children Act 1989 gave the courts flexible powers and altered the powers and duties of local authorities in respect of children. It established a new basis for care and supervision orders and brought in new procedures for protecting children in emergencies. It replaced all existing private law, removing the terms 'custody' and 'access'.

3 The Rules and Practice Directions

The procedure for making applications under the Children Act 1989 is governed by:

- the Family Proceedings Rules 1991 (as amended) in the county court or High Court; and
- the Family Proceedings Courts (Children Act 1989) Rules 1991, SI 1991/1395 in the family proceedings court.