



# Children Act 1989

## 1989 CHAPTER 41

### PART III

#### LOCAL AUTHORITY SUPPORT FOR CHILDREN AND FAMILIES

##### *Provision of services for children and their families*

#### **17 Provision of services for children in need, their families and others.**

- (1) It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)—
    - (a) to safeguard and promote the welfare of children within their area who are in need; and
    - (b) so far as is consistent with that duty, to promote the upbringing of such children by their families,by providing a range and level of services appropriate to those children's needs.
  - (2) For the purpose principally of facilitating the discharge of their general duty under this section, every local authority shall have the specific duties and powers set out in Part 1 of Schedule 2.
  - (3) Any service provided by an authority in the exercise of functions conferred on them by this section may be provided for the family of a particular child in need or for any member of his family, if it is provided with a view to safeguarding or promoting the child's welfare.
  - (4) The Secretary of State may by order amend any provision of Part 1 of Schedule 2 or add any further duty or power to those for the time being mentioned there.
- [<sup>F1</sup>(4A) Before determining what (if any) services to provide for a particular child in need in the exercise of functions conferred on them by this section, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare—
- (a) ascertain the child's wishes and feelings regarding the provision of those services; and

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- (b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.]
- (5) Every local authority—
- (a) shall facilitate the provision by others (including in particular voluntary organisations) of services which the authority have power to provide by virtue of this section, or section 18, 20, [<sup>F2</sup>23, 23B to 23D, 24A or 24B]; and
- (b) may make such arrangements as they see fit for any person to act on their behalf in the provision of any such service.
- (6) The services provided by a local authority in the exercise of functions conferred on them by this section may include [<sup>F3</sup>providing accommodation and] giving assistance in kind or, in exceptional circumstances, in cash.
- (7) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part).
- (8) Before giving any assistance or imposing any conditions, a local authority shall have regard to the means of the child concerned and of each of his parents.
- (9) No person shall be liable to make any repayment of assistance or of its value at any time when he is in receipt of income support [<sup>F4</sup>under][<sup>F5</sup> Part VII of the Social Security Contributions and Benefits Act 1992][<sup>F6</sup>, of any element of child tax credit other than the family element, of working tax credit][<sup>F7</sup>or of an income-based jobseeker's allowance].
- (10) For the purposes of this Part a child shall be taken to be in need if—
- (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) he is disabled,
- and “family”, in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.
- (11) For the purposes of this Part, a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part—
- “development” means physical, intellectual, emotional, social or behavioural development; and
- “health” means physical or mental health.
- [<sup>F8</sup>(12) The Treasury may by regulations prescribe circumstances in which a person is to be treated for the purposes of this Part (or for such of those purposes as are prescribed) as in receipt of any element of child tax credit other than the family element or of working tax credit.]

#### Textual Amendments

**F1** S. 17(4A) inserted (1.3.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), s. 53(1); S.I. 2005/394, art. 2(1)(g); S.I. 2006/885, art. 2(2)

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- F2** Words in s. 17(5)(a) substituted (1.10.2001) by 2000 c. 35, s. 7(2); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F3** Words in s. 17(6) inserted (7.11.2002) by 2002 c. 38, ss. 116(1), 148(1) (with Sch. 4 paras. 6-8)
- F4** Words in s. 17(9) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(2)(a); S.I. 2003/962, art. 2(3)(d)(iii) (subject to savings and transitional provisions in arts. 3, 4)
- F5** Words in s. 17(9) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), Sch. 2 para. 108(a).
- F6** Words in s. 17(9) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(2)(b); S.I. 2003/962, art. 2(3)(d)(iii) (subject to savings and transitional provisions in arts. 3, 4)
- F7** Words in s. 17(9) added (7.10.1996) by 1995 c. 18, s. 41(4), Sch. 2 para. 19(2); S.I. 1996/2208, art. 2
- F8** S. 17(12) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(3); S.I. 2003/962, art. 2(3)(d)(iii) (subject to savings and transitional provisions in arts. 3, 4)

**Modifications etc. (not altering text)**

- C1** s. 17 excluded (6.12.1999) by S.I. 1999/3056, reg. 12
- C2** S. 17 restricted (8.1.2003) by 2002 c. 41, s. 54, Sch. 3 (with s. 159); S.I. 2002/2811, art. 2, Sch.

**Commencement Information**

- I1** S. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

**[F9]17A Direct payments**

- (1) The Secretary of State may by regulations make provision for and in connection with requiring or authorising the responsible authority in the case of a person of a prescribed description who falls within subsection (2) to make, with that person's consent, such payments to him as they may determine in accordance with the regulations in respect of his securing the provision of the service mentioned in that subsection.
- (2) A person falls within this subsection if he is—
- (a) a person with parental responsibility for a disabled child,
  - (b) a disabled person with parental responsibility for a child, or
  - (c) a disabled child aged 16 or 17,
- and a local authority (“the responsible authority”) have decided for the purposes of section 17 that the child's needs (or, if he is such a disabled child, his needs) call for the provision by them of a service in exercise of functions conferred on them under that section.
- (3) Subsections (3) to (5) and (7) of section 57 of the 2001 Act shall apply, with any necessary modifications, in relation to regulations under this section as they apply in relation to regulations under that section.
- (4) Regulations under this section shall provide that, where payments are made under the regulations to a person falling within subsection (5)—
- (a) the payments shall be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act (as applied by subsection (3)); and
  - (b) subsection (4)(b) of that section shall not apply.
- (5) A person falls within this subsection if he is—
- (a) a person falling within subsection (2)(a) or (b) and the child in question is aged 16 or 17, or
  - (b) a person who is in receipt of income support<sup>F10</sup> . . . under Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4) , of any element of child

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tax credit other than the family element, of working tax credit ] or of an income-based jobseeker’s allowance.

(6) In this section—

“the 2001 Act” means the Health and Social Care Act 2001;

“disabled” in relation to an adult has the same meaning as that given by section 17(11) in relation to a child;

“prescribed” means specified in or determined in accordance with regulations under this section (and has the same meaning in the provisions of the 2001 Act mentioned in subsection (3) as they apply by virtue of that subsection).

#### Textual Amendments

**F9** S. 17A substituted (16.3.2003 for certain purposes and 8.4.2003 otherwise for E. and 1.11.2004 for W.) by 2001 c. 15, ss. 58, 70(2) (with ss. 64(9), 65(4)); S.I. 2003/850, art. 3(1)(b)(2)(a); S.I. 2004/1754, art. 2(2)(b)

**F10** Words in s. 17A(5)(b) repealed (6.4.2003) by 2002 c. 21, ss. 60, 61, Sch. 6; S.I. 2003/962, art. 2(3)(e) Sch. 1 (subject to savings and transitional provisions in arts. 3, 4)

### [<sup>F11</sup>17B Vouchers for persons with parental responsibility for disabled children.

(1) The [<sup>F12</sup>appropriate national authority] may by regulations make provision for the issue by a local authority of vouchers to a person with parental responsibility for a disabled child.

(2) “Voucher” means a document whereby, if the local authority agrees with the person with parental responsibility that it would help him care for the child if the person with parental responsibility had a break from caring, that person may secure the temporary provision of services for the child under section 17.

(3) The regulations may, in particular, provide—

- (a) for the value of a voucher to be expressed in terms of money, or of the delivery of a service for a period of time, or both;
- (b) for the person who supplies a service against a voucher, or for the arrangement under which it is supplied, to be approved by the local authority;
- (c) for a maximum period during which a service (or a service of a prescribed description) can be provided against a voucher.]

#### Textual Amendments

**F11** S. 17B inserted (30.4.2003 for E. and otherwise prosp.) by 2000 c. 16, ss. 7(1), 12(2); S.I. 2003/1183, art. 2

**F12** Words in s. 17B(1) substituted (retrospective to 30.4.2003 for E., otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44(2)(b)(9), Sch. 3 para. 4

## 18 Day care for pre-school and other children.

(1) Every local authority shall provide such day care for children in need within their area who are—

- (a) aged five or under; and

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- (b) not yet attending schools,  
as is appropriate.
- (2) A local authority may provide day care for children within their area who satisfy the conditions mentioned in subsection (1)(a) and (b) even though they are not in need.
- (3) A local authority may provide facilities (including training, advice, guidance and counselling) for those—
  - (a) caring for children in day care; or
  - (b) who at any time accompany such children while they are in day care.
- (4) In this section “day care” means any form of care or supervised activity provided for children during the day (whether or not it is provided on a regular basis).
- (5) Every local authority shall provide for children in need within their area who are attending any school such care or supervised activities as is appropriate—
  - (a) outside school hours; or
  - (b) during school holidays.
- (6) A local authority may provide such care or supervised activities for children within their area who are attending any school even though those children are not in need.
- (7) In this section “supervised activity” means an activity supervised by a responsible person.

#### Commencement Information

**I2** S. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

### [<sup>F13</sup>19 Review of provision for day care, child minding etc.

- [ Every local authority in England and Wales shall review—
- <sup>F14</sup>(1) (a) the provision which they make under section 18;
  - (b) the extent to which the services of child minders are available within their area with respect to children under the age of eight; and
  - (c) the provision for day care within their area made for children under the age of eight by persons other, than the authority, required to register under [<sup>F15</sup>Part XA].
- (2) A review under subsection (1) shall be conducted—
    - (a) together with the appropriate local education authority; and
    - (b) at least once in every review period.]
  - (3) Every local authority in Scotland shall, at least once in every review period, review—
    - (a) the provision for day care within their area made for children under the age of eight by the local authority and by persons required to register under section 71(1)(b); and
    - (b) the extent to which the services of child minders are available within their area with respect to children under the age of eight.
  - (4) In conducting any such review, [<sup>F16</sup>the two authorities or, in Scotland,]the authority shall have regard to the provision made with respect to children under the age of eight in relevant establishments within their area.

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(5) In this section—

[<sup>F17c</sup>“relevant establishment” means—

- (a) in relation to Scotland, any establishment which is mentioned in paragraphs 3 and 4 of Schedule 9 (establishments exempt from the registration requirements which apply in relation to the provision of day care in Scotland); and
- (b) in relation to England and Wales, any establishment which is mentioned in paragraphs 1 and 2 of Schedule 9A (establishments exempt from the registration requirements which apply in relation to the provision of day care in England and Wales);]

“review period” means the period of one year beginning with the commencement of this section and each subsequent period of three years beginning with an anniversary of that commencement.

(6) Where a local authority have conducted a review under this section they shall publish the result of the review—

- (a) as soon as is reasonably practicable;
- (b) in such form as they consider appropriate; and
- (c) together with any proposals they may have with respect to the matters reviewed.

(7) The authorities conducting any review under this section shall have regard to—

- (a) any representations made to any one of them by any relevant [<sup>F18</sup>Health Authority, Special Health Authority][<sup>F19</sup>, Primary Care Trust]or health board; and
- (b) any other representations which they consider to be relevant.

(8) In the application of this section to Scotland, “day care” has the same meaning as in section 79 and “health board” has the same meaning as in the <sup>M1</sup>National Health Service (Scotland) Act 1978.]

#### Textual Amendments

- F13** S. 19 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)
- F14** S. 19(1)(2) repealed (1.10.2002 for E. and 31.3.2003 for W.) by 2002 c. 32, ss. 149, 215(2), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 5, **Sch. Pt. 2**
- F15** Words in s. 19(1)(c) substituted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(2)(a)**; S.I. 2001/2041, **art. 2(d)(ii)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (subject to art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F16** In s. 19(4) words repealed (1.10.2002 for E. and 31.3.2003 for W.) by 2002 c. 32, s. 215(2), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 5, **Sch. Pt. 2**
- F17** S. 19(5): definition of “relevant establishment” substituted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(2)(b)**; S.I. 2001/2041, **art. 2(d)(ii)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (subject to art. 3(4)-(10) and transitional provisions in Schs. 1-3)
- F18** Words in s. 19(7)(a) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(2)(with Sch. 2 para. 6)
- F19** Words in s. 19(7)(a) inserted (E.W.) (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(2)**

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#### Commencement Information

**I3** S. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

#### Marginal Citations

**M1** 1978 c. 29.

### *Provision of accommodation for children*

## **20 Provision of accommodation for children: general.**

- (1) Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of—
  - (a) there being no person who has parental responsibility for him;
  - (b) his being lost or having been abandoned; or
  - (c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.
- (2) Where a local authority provide accommodation under subsection (1) for a child who is ordinarily resident in the area of another local authority, that other local authority may take over the provision of accommodation for the child within—
  - (a) three months of being notified in writing that the child is being provided with accommodation; or
  - (b) such other longer period as may be prescribed.
- (3) Every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation.
- (4) A local authority may provide accommodation for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child's welfare.
- (5) A local authority may provide accommodation for any person who has reached the age of sixteen but is under twenty-one in any community home which takes children who have reached the age of sixteen if they consider that to do so would safeguard or promote his welfare.
- (6) Before providing accommodation under this section, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare—
  - (a) ascertain the child's wishes [<sup>F20</sup>and feelings] regarding the provision of accommodation; and
  - (b) give due consideration (having regard to his age and understanding) to such wishes [<sup>F20</sup>and feelings] of the child as they have been able to ascertain.
- (7) A local authority may not provide accommodation under this section for any child if any person who—
  - (a) has parental responsibility for him; and
  - (b) is willing and able to—
    - (i) provide accommodation for him; or



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- (ii) arrange for accommodation to be provided for him, objects.
- (8) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the local authority under this section.
- (9) Subsections (7) and (8) do not apply while any person—
  - (a) in whose favour a residence order is in force with respect to the child; or
  - (b) who has care of the child by virtue of an order made in the exercise of the High Court’s inherent jurisdiction with respect to children,
 agrees to the child being looked after in accommodation provided by or on behalf of the local authority.
- (10) Where there is more than one such person as is mentioned in subsection (9), all of them must agree.
- (11) Subsections (7) and (8) do not apply where a child who has reached the age of sixteen agrees to being provided with accommodation under this section.

#### Textual Amendments

**F20** Words in s. 20(6)(a)(b) inserted (1.3.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\), s. 53\(2\)](#); [S.I. 2005/394, art. 2\(1\)\(g\)](#); [S.I. 2006/885, art. 2\(2\)](#)

#### Commencement Information

**I4** S. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

## 21 Provision of accommodation for children in police protection or detention or on remand, etc.

- (1) Every local authority shall make provision for the reception and accommodation of children who are removed or kept away from home under Part V.
- (2) Every local authority shall receive, and provide accommodation for, children—
  - (a) in police protection whom they are requested to receive under section 46(3)(f);
  - (b) whom they are requested to receive under section 38(6) of the <sup>M2</sup>Police and Criminal Evidence Act 1984;
  - (c) who are—
    - (i) on remand under [<sup>F21</sup>paragraph 7(5) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 or section] 23(1) of the <sup>M3</sup>Children and Young Persons Act 1969; or
    - (ii) the subject of a supervision order imposing a [<sup>F22</sup>local authority residence requirement under paragraph 5 of Schedule 6 to that Act of 2000][<sup>F23</sup>or a foster parent residence requirement under paragraph 5A of that Schedule] ,
 and with respect to whom they are the designated authority.
- (3) Where a child has been—
  - (a) removed under Part V; or
  - (b) detained under section 38 of the Police and Criminal Evidence Act 1984,



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and he is not being provided with accommodation by a local authority or in a hospital vested in the Secretary of State [<sup>F24</sup>or a Primary Care Trust,]<sup>F25</sup> or otherwise made available pursuant to arrangements made by a [<sup>F26</sup>Health Authority]]] or a Primary Care Trust], any reasonable expenses of accommodating him shall be recoverable from the local authority in whose area he is ordinarily resident.

#### Textual Amendments

- F21** Words in s. 21(2)(c)(i) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 126(a)**
- F22** Words in s. 21(2)(c)(ii) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 126(b)**
- F23** Words in s. 21(2)(c)(ii) inserted (30.9.2004) by Anti-social Behaviour Act 2003 (c. 38), s. 88, **Sch. 2 para. 5**; S.I. 2004/2168, **art. 2(a)(ii)(iii)**
- F24** Words in s. 21(3) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch.1 para. 24(3)(a)(b)**
- F25** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 36(1)**
- F26** Words in s. 21(3) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(3) (with **Sch. 2 para. 6**)

#### Commencement Information

- I5** S. 21 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

- M2** 1984 c. 60.
- M3** 1969 c. 54.

*Duties of local authorities in relation to children looked after by them*

## 22 General duty of local authority in relation to children looked after by them.

- (1) In this Act, any reference to a child who is looked after by a local authority is a reference to a child who is—
- in their care; or
  - provided with accommodation by the authority in the exercise of any functions (in particular those under this Act) which [<sup>F27</sup>are social services functions within the meaning of] the <sup>M4</sup>Local Authority Social Services Act 1970 [<sup>F28</sup>, apart from functions under sections [<sup>F29</sup>17] 23B and 24B].
- (2) In subsection (1) “accommodation” means accommodation which is provided for a continuous period of more than 24 hours.
- (3) It shall be the duty of a local authority looking after any child—
- to safeguard and promote his welfare; and
  - to make such use of services available for children cared for by their own parents as appears to the authority reasonable in his case.
- (4) Before making any decision with respect to a child whom they are looking after, or proposing to look after, a local authority shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
- the child;
  - his parents;

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- (c) any person who is not a parent of his but who has parental responsibility for him; and
  - (d) any other person whose wishes and feelings the authority consider to be relevant,
- regarding the matter to be decided.
- (5) In making any such decision a local authority shall give due consideration—
- (a) having regard to his age and understanding, to such wishes and feelings of the child as they have been able to ascertain;
  - (b) to such wishes and feelings of any person mentioned in subsection (4)(b) to (d) as they have been able to ascertain; and
  - (c) to the child’s religious persuasion, racial origin and cultural and linguistic background.
- (6) If it appears to a local authority that it is necessary, for the purpose of protecting members of the public from serious injury, to exercise their powers with respect to a child whom they are looking after in a manner which may not be consistent with their duties under this section, they may do so.
- (7) If the Secretary of State considers it necessary, for the purpose of protecting members of the public from serious injury, to give directions to a local authority with respect to the exercise of their powers with respect to a child whom they are looking after, he may give such directions to the authority.
- (8) Where any such directions are given to an authority they shall comply with them even though doing so is inconsistent with their duties under this section.

#### Textual Amendments

- F27** Words in s. 22(1)(b) substituted (26.10.2000 for E. and otherwise 28.7.2001) by 2000 c. 22, ss. 107, 108(4), **Sch. 5 para. 19**; S.I. 2000/2849, **art. 2(f)**
- F28** Words in s. 22(1)(b) inserted (1.10.2001) by 2000 c. 35, **s. 2(2)**; S.I. 2001/2191, **art. 2**; S.I. 2001/2878, **art. 2**
- F29** Word in s. 22(1) inserted (7.11.2002) by 2002 c. 38, **ss. 116, 148** (with **Sch. 4 paras. 6-8**)

#### Modifications etc. (not altering text)

- C3** S. 22 applied (1.10.1992) by **Children and Young Persons Act 1969** (c. 54, SIF 20), **s. 23(13)(a)** (as substituted (1.10.1992) by **Criminal Justice Act 1991** (c. 53, SIF 39:1), **s. 60(1)**; S.I. 1992/333, **art. 2(2)**, **Sch. 2**.
- C4** S. 22(4)(b)-(d)(5)(b): power to apply with modifications or exclude conferred (7.2.2004 for W. and 7.12.2004 for E.) by 2002 c. 38, **ss. 53(1)(2), 148** (with **Sch. 4 paras. 6-8**); S.I. 2004/252, **art. 2(b)**; S.I. 2004/3203, **art. 2(1)(h)**

#### Commencement Information

- I6** S. 22 wholly in force at 14.10.1991 see 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

- M4** 1970 c. 42.

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*Status:* Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.

*Changes to legislation:* Children Act 1989, Part III is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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**23** <sup>F30</sup> **Provision of accommodation and maintenance by local authority for children whom they are looking after.**

- (1) It shall be the duty of any local authority looking after a child—
  - (a) when he is in their care, to provide accommodation for him; and
  - (b) to maintain him in other respects apart from providing accommodation for him.
- (2) A local authority shall provide accommodation and maintenance for any child whom they are looking after by—
  - (a) placing him (subject to subsection (5) and any regulations made by the Secretary of State) with—
    - (i) a family;
    - (ii) a relative of his; or
    - (iii) any other suitable person,on such terms as to payment by the authority and otherwise as the authority may determine [<sup>F31</sup>(subject to section 49 of the Children Act 2004)];
  - [<sup>F32</sup>(aa) maintaining him in an appropriate children’s home;]
  - (f) making such other arrangements as—
    - (i) seem appropriate to them; and
    - (ii) comply with any regulations made by the Secretary of State.
- [<sup>F33</sup>(2A) Where under subsection (2)(aa) a local authority maintains a child in a home provided, equipped and maintained by the Secretary of State under section 82(5), it shall do so on such terms as the Secretary of State may from time to time determine.]
- (3) Any person with whom a child has been placed under subsection (2)(a) is referred to in this Act as a local authority foster parent unless he falls within subsection (4).
- (4) A person falls within this subsection if he is—
  - (a) a parent of the child;
  - (b) a person who is not a parent of the child but who has parental responsibility for him; or
  - (c) where the child is in care and there was a residence order in force with respect to him immediately before the care order was made, a person in whose favour the residence order was made.
- (5) Where a child is in the care of a local authority, the authority may only allow him to live with a person who falls within subsection (4) in accordance with regulations made by the Secretary of State.
- [<sup>F34</sup>(5A) For the purposes of subsection (5) a child shall be regarded as living with a person if he stays with that person for a continuous period of more than 24 hours]
- (6) Subject to any regulations made by the Secretary of State for the purposes of this subsection, any local authority looking after a child shall make arrangements to enable him to live with—
  - (a) a person falling within subsection (4); or
  - (b) a relative, friend or other person connected with him,unless that would not be reasonably practicable or consistent with his welfare.

*Status: Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Children Act 1989, Part III is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (7) Where a local authority provide accommodation for a child whom they are looking after, they shall, subject to the provisions of this Part and so far as is reasonably practicable and consistent with his welfare, secure that—
- (a) the accommodation is near his home; and
  - (b) where the authority are also providing accommodation for a sibling of his, they are accommodated together.
- (8) Where a local authority provide accommodation for a child whom they are looking after and who is disabled, they shall, so far as is reasonably practicable, secure that the accommodation is not unsuitable to his particular needs.
- (9) Part II of Schedule 2 shall have effect for the purposes of making further provision as to children looked after by local authorities and in particular as to the regulations that may be made under subsections (2)(a) and (f) and (5).

[<sup>F35</sup>(10) In this Act—

“appropriate children’s home” means a children’s home in respect of which a person is registered under Part II of the Care Standards Act 2000; and  
 “children’s home” has the same meaning as in that Act.]

#### Textual Amendments

- F30** Ss. 22A-22F substituted (1.9.2009 for E. "in so far as it inserts" ss. 22C(11), 22F and otherwise prosp.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 8\(1\)](#), 44; S.I. 2009/2273, [art. 2\(2\)\(a\)](#)
- F31** Words in s. 23(2)(a) inserted (15.1.2005) by [Children Act 2004 \(c. 31\)](#), [ss. 49\(3\)](#), 67(7)(d)
- F32** S. 23(2)(aa) substituted for s. 23(2)(b)-(e) (1.4.2002) by 2000 c. 14, s. 116, [Sch. 4 para. 14\(3\)\(a\)](#); S.I. 2001/4150, [art. 3\(3\)\(a\)](#) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, [art. 6](#)); S.I. 2002/920, [art. 3\(3\)\(d\)](#) (with art. 3(4)-(10) and transitional provisions in [Schs. 1-3](#))
- F33** S. 23(2A) inserted (1.4.2002) by 2000 c. 14, s. 116, [Sch. 4 para. 14\(3\)\(b\)](#); S.I. 2001/4150, [art. 3\(3\)\(a\)](#) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, [art. 6](#)); S.I. 2002/920, [art. 3\(3\)\(d\)](#) (with art. 3(4)-(10) and transitional provisions in [Schs. 1-3](#))
- F34** S. 23(5A) inserted (14.10.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 116, [Sch. 16 para. 12\(2\)](#); S.I. 1991/1883, art. 3, [Sch. 16 para. 12\(2\)](#); S.I. 1991/1883, art. 3, [Sch. 16 para. 12\(2\)](#)
- F35** S. 23(10) inserted (1.4.2002) by 2000 c. 14, s. 116, [Sch. 4 para. 14\(3\)\(c\)](#); S.I. 2001/4150, [art. 3\(3\)\(a\)](#) (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, [art. 6](#)); S.I. 2002/920, [art. 3\(3\)\(d\)](#) (with art. 3(4)-(10) and transitional provisions in [Schs. 1-3](#))

#### Modifications etc. (not altering text)

- C5** S. 23(2)(a) applied (1.4.2002 (E.) and 30.1.2003 (W.)) by 2000 c. 14, [ss. 46\(7\)\(a\)](#), 122; S.I. 2001/3852, [art. 3\(7\)\(g\)](#) (subject to transitional provision in [Sch. 1](#) (as amended by S.I. 2001/4150, [art. 5](#); S.I. 2002/1493, [art. 5](#); S.I. 2002/1790, [art. 2](#); S.I. 2002/2001, [arts. 2, 3](#); S.I. 2002/3210, [art. 2](#) (with [art. 4](#)); S.I. 2005/3397, [art. 2](#)); S.I. 2003/152, [art. 2\(b\)](#))

#### Commencement Information

- I7** S. 23 in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and S.I. 1991/828, [art. 3\(2\)](#)

**Status:** Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Children Act 1989, Part III is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/04/2011

## **[<sup>F36</sup>22A Provision of accommodation for children in care**

When a child is in the care of a local authority, it is their duty to provide the child with accommodation.

### **Textual Amendments**

**F36** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44; S.I. 2009/2273, **art. 2(2)(a)**; S.I. 2010/1329, **art. 2(a)**; S.I. 2010/2981, **art. 4(a)**

VALID FROM 01/04/2011

## **22B Maintenance of looked after children**

It is the duty of a local authority to maintain a child they are looking after in other respects apart from the provision of accommodation.

### **Textual Amendments**

**F36** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44; S.I. 2009/2273, **art. 2(2)(a)**; S.I. 2010/1329, **art. 2(a)**; S.I. 2010/2981, **art. 4(a)**

VALID FROM 01/09/2009

## **22C Ways in which looked after children are to be accommodated and maintained**

- (1) This section applies where a local authority are looking after a child (“C”).
- (2) The local authority must make arrangements for C to live with a person who falls within subsection (3) (but subject to subsection (4)).
- (3) A person (“P”) falls within this subsection if—
  - (a) P is a parent of C;
  - (b) P is not a parent of C but has parental responsibility for C; or
  - (c) in a case where C is in the care of the local authority and there was a residence order in force with respect to C immediately before the care order was made, P was a person in whose favour the residence order was made.
- (4) Subsection (2) does not require the local authority to make arrangements of the kind mentioned in that subsection if doing so—
  - (a) would not be consistent with C's welfare; or
  - (b) would not be reasonably practicable.

*Status: Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.*

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- (5) If the local authority are unable to make arrangements under subsection (2), they must place C in the placement which is, in their opinion, the most appropriate placement available.
- (6) In subsection (5) “placement” means—
  - (a) placement with an individual who is a relative, friend or other person connected with C and who is also a local authority foster parent;
  - (b) placement with a local authority foster parent who does not fall within paragraph (a);
  - (c) placement in a children's home in respect of which a person is registered under Part 2 of the Care Standards Act 2000; or
  - (d) subject to section 22D, placement in accordance with other arrangements which comply with any regulations made for the purposes of this section.
- (7) In determining the most appropriate placement for C, the local authority must, subject to the other provisions of this Part (in particular, to their duties under section 22)—
  - (a) give preference to a placement falling within paragraph (a) of subsection (6) over placements falling within the other paragraphs of that subsection;
  - (b) comply, so far as is reasonably practicable in all the circumstances of C's case, with the requirements of subsection (8); and
  - (c) comply with subsection (9) unless that is not reasonably practicable.
- (8) The local authority must ensure that the placement is such that—
  - (a) it allows C to live near C's home;
  - (b) it does not disrupt C's education or training;
  - (c) if C has a sibling for whom the local authority are also providing accommodation, it enables C and the sibling to live together;
  - (d) if C is disabled, the accommodation provided is suitable to C's particular needs.
- (9) The placement must be such that C is provided with accommodation within the local authority's area.
- (10) The local authority may determine—
  - (a) the terms of any arrangements they make under subsection (2) in relation to C (including terms as to payment); and
  - (b) the terms on which they place C with a local authority foster parent (including terms as to payment but subject to any order made under section 49 of the Children Act 2004).
- (11) The appropriate national authority may make regulations for, and in connection with, the purposes of this section.
- (12) In this Act “local authority foster parent” means a person who is approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2.

**Status:** Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.  
**Changes to legislation:** Children Act 1989, Part III is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F36** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44; S.I. 2009/2273, **art. 2(2)(a)**; S.I. 2010/1329, **art. 2(a)**; S.I. 2010/2981, **art. 4(a)**

VALID FROM 01/04/2011

#### 22D Review of child's case before making alternative arrangements for accommodation

- (1) Where a local authority are providing accommodation for a child (“C”) other than by arrangements under section 22C(6)(d), they must not make such arrangements for C unless they have decided to do so in consequence of a review of C's case carried out in accordance with regulations made under section 26.
- (2) But subsection (1) does not prevent a local authority making arrangements for C under section 22C(6)(d) if they are satisfied that in order to safeguard C's welfare it is necessary—
  - (a) to make such arrangements; and
  - (b) to do so as a matter of urgency.

#### Textual Amendments

**F36** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44; S.I. 2009/2273, **art. 2(2)(a)**; S.I. 2010/1329, **art. 2(a)**; S.I. 2010/2981, **art. 4(a)**

VALID FROM 01/04/2011

#### 22E Children's homes provided by appropriate national authority

Where a local authority place a child they are looking after in a children's home provided, equipped and maintained by an appropriate national authority under section 82(5), they must do so on such terms as that national authority may from time to time determine.

#### Textual Amendments

**F36** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44; S.I. 2009/2273, **art. 2(2)(a)**; S.I. 2010/1329, **art. 2(a)**; S.I. 2010/2981, **art. 4(a)**



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VALID FROM 01/09/2009

## 22F Regulations as to children looked after by local authorities

Part 2 of Schedule 2 has effect for the purposes of making further provision as to children looked after by local authorities and in particular as to the regulations which may be made under section 22C(11).]

### Textual Amendments

**F36** Ss. 22A-22F substituted (1.9.2009 for E. and 26.4.2010 for W. for the insertion of ss. 22C(11), 22F, 1.4.2011 otherwise for E.) for s. 23 by [Children and Young Persons Act 2008 \(c. 23\)](#), **ss. 8(1)**, 44; [S.I. 2009/2273](#), **art. 2(2)(a)**; [S.I. 2010/1329](#), **art. 2(a)**; [S.I. 2010/2981](#), **art. 4(a)**

VALID FROM 01/04/2011

## [<sup>F37</sup> 22G General duty of local authority to secure sufficient accommodation for looked after children

- (1) It is the general duty of a local authority to take steps that secure, so far as reasonably practicable, the outcome in subsection (2).
- (2) The outcome is that the local authority are able to provide the children mentioned in subsection (3) with accommodation that—
  - (a) is within the authority's area; and
  - (b) meets the needs of those children.
- (3) The children referred to in subsection (2) are those—
  - (a) that the local authority are looking after,
  - (b) in respect of whom the authority are unable to make arrangements under section 22C(2), and
  - (c) whose circumstances are such that it would be consistent with their welfare for them to be provided with accommodation that is in the authority's area.
- (4) In taking steps to secure the outcome in subsection (2), the local authority must have regard to the benefit of having—
  - (a) a number of accommodation providers in their area that is, in their opinion, sufficient to secure that outcome; and
  - (b) a range of accommodation in their area capable of meeting different needs that is, in their opinion, sufficient to secure that outcome.
- (5) In this section “accommodation providers” means—
  - local authority foster parents; and
  - children's homes in respect of which a person is registered under Part 2 of the Care Standards Act 2000.]

**Status:** Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.

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### Textual Amendments

- F37** S. 22G inserted (1.4.2011 for E.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 9, 44](#); S.I. 2010/2981, [art. 4\(b\)](#)

VALID FROM 01/09/2009

## *F38* Visiting

### Textual Amendments

- F38** S. 23ZA and cross-heading inserted (1.9.2009 and 15.11.2010 for certain purposes for E., 26.4.2010 for certain purposes for W., 28.3.2011 for W. otherwise, 1.4.2011 for E. otherwise) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 15, 44](#); S.I. 2009/2273, [art. 2\(2\)\(d\)](#); S.I. 2010/1326, [art. 2\(d\)](#); S.I. 2010/2714, [art. 2\(d\)](#); S.I. 2010/2981, [art. 4\(d\)](#) (with art. 5); S.I. 2011/949, [art. 3\(1\)\(a\)](#)

### **23ZA Duty of local authority to ensure visits to, and contact with, looked after children and others**

- (1) This section applies to—
  - (a) a child looked after by a local authority;
  - (b) a child who was looked after by a local authority but who has ceased to be looked after by them as a result of prescribed circumstances.
- (2) It is the duty of the local authority—
  - (a) to ensure that a person to whom this section applies is visited by a representative of the authority (“a representative”);
  - (b) to arrange for appropriate advice, support and assistance to be available to a person to whom this section applies who seeks it from them.
- (3) The duties imposed by subsection (2)—
  - (a) are to be discharged in accordance with any regulations made for the purposes of this section by the appropriate national authority;
  - (b) are subject to any requirement imposed by or under an enactment applicable to the place in which the person to whom this section applies is accommodated.
- (4) Regulations under this section for the purposes of subsection (3)(a) may make provision about—
  - (a) the frequency of visits;
  - (b) circumstances in which a person to whom this section applies must be visited by a representative; and
  - (c) the functions of a representative.
- (5) In choosing a representative a local authority must satisfy themselves that the person chosen has the necessary skills and experience to perform the functions of a representative.

*Status: Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.*

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### **Independent visitors for children looked after by a local authority**

**F39 23ZB**

- (1) A local authority looking after a child must appoint an independent person to be the child's visitor if—
  - (a) the child falls within a description prescribed in regulations made by the appropriate national authority; or
  - (b) in any other case, it appears to them that it would be in the child's interests to do so.
- (2) A person appointed under this section must visit, befriend and advise the child.
- (3) A person appointed under this section is entitled to recover from the appointing authority any reasonable expenses incurred by that person for the purposes of that person's functions under this section.
- (4) A person's appointment as a visitor in pursuance of this section comes to an end if—
  - (a) the child ceases to be looked after by the local authority;
  - (b) the person resigns the appointment by giving notice in writing to the appointing authority; or
  - (c) the authority give him notice in writing that they have terminated it.
- (5) The ending of such an appointment does not affect any duty under this section to make a further appointment.
- (6) Where a local authority propose to appoint a visitor for a child under this section, the appointment shall not be made if—
  - (a) the child objects to it; and
  - (b) the authority are satisfied that the child has sufficient understanding to make an informed decision.
- (7) Where a visitor has been appointed for a child under this section, the local authority shall terminate the appointment if—
  - (a) the child objects to its continuing; and
  - (b) the authority are satisfied that the child has sufficient understanding to make an informed decision.
- (8) If the local authority give effect to a child's objection under subsection (6) or (7) and the objection is to having anyone as the child's visitor, the authority does not have to propose to appoint another person under subsection (1) until the objection is withdrawn.
- (9) The appropriate national authority may make regulations as to the circumstances in which a person is to be regarded for the purposes of this section as independent of the appointing authority.]]

#### **Textual Amendments**

- F39** S. 23ZB inserted (1.9.2009 for E. for certain purposes, 26.4.2010 for W. for certain purposes, 1.4.2011 otherwise for E. and otherwise prosp.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 16\(1\), 44](#); S.I. 2009/2273, [art. 2\(2\)\(e\)](#); S.I. 2010/1329, [art. 2\(e\)](#); S.I. 2010/2981, [art. 4\(e\)](#)

*Status: Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.*

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### *Advice and assistance for certain children <sup>F40</sup> and young persons*

#### **Textual Amendments**

**F40** Words in heading before s. 24 inserted (1.10.2001) by 2000 c. 35, ss. 2(3); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

#### **<sup>F41</sup>23A The responsible authority and relevant children.**

- (1) The responsible local authority shall have the functions set out in section 23B in respect of a relevant child.
- (2) In subsection (1) “relevant child” means (subject to subsection (3)) a child who—
  - (a) is not being looked after by any local authority;
  - (b) was, before last ceasing to be looked after, an eligible child for the purposes of paragraph 19B of Schedule 2; and
  - (c) is aged sixteen or seventeen.
- (3) The Secretary of State may prescribe—
  - (a) additional categories of relevant children; and
  - (b) categories of children who are not to be relevant children despite falling within subsection (2).
- (4) In subsection (1) the “responsible local authority” is the one which last looked after the child.
- (5) If under subsection (3)(a) the Secretary of State prescribes a category of relevant children which includes children who do not fall within subsection (2)(b) (for example, because they were being looked after by a local authority in Scotland), he may in the regulations also provide for which local authority is to be the responsible local authority for those children.]

#### **Textual Amendments**

**F41** Ss. 23A, 23B, 23C inserted (1.10.2001) by 2000 c. 35, s. 2(4); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

#### **Modifications etc. (not altering text)**

**C6** S. 23A(2) modified (W.) (1.10.2001) by S.I. 2001/2189, reg. 4(4)(5) (as amended (1.8.2002) by S.I. 2002/1855, reg. 2(b)(i))

#### **<sup>F42</sup>23B Additional functions of the responsible authority in respect of relevant children.**

- (1) It is the duty of each local authority to take reasonable steps to keep in touch with a relevant child for whom they are the responsible authority, whether he is within their area or not.
- (2) It is the duty of each local authority to appoint a personal adviser for each relevant child (if they have not already done so under paragraph 19C of Schedule 2).

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- (3) It is the duty of each local authority, in relation to any relevant child who does not already have a pathway plan prepared for the purposes of paragraph 19B of Schedule 2—
  - (a) to carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for them to provide him under this Part; and
  - (b) to prepare a pathway plan for him.
- (4) The local authority may carry out such an assessment at the same time as any assessment of his needs is made under any enactment referred to in sub-paragraphs (a) to (c) of paragraph 3 of Schedule 2, or under any other enactment.
- (5) The Secretary of State may by regulations make provision as to assessments for the purposes of subsection (3).
- (6) The regulations may in particular make provision about—
  - (a) who is to be consulted in relation to an assessment;
  - (b) the way in which an assessment is to be carried out, by whom and when;
  - (c) the recording of the results of an assessment;
  - (d) the considerations to which the local authority are to have regard in carrying out an assessment.
- (7) The authority shall keep the pathway plan under regular review.
- (8) The responsible local authority shall safeguard and promote the child’s welfare and, unless they are satisfied that his welfare does not require it, support him by—
  - (a) maintaining him;
  - (b) providing him with or maintaining him in suitable accommodation; and
  - (c) providing support of such other descriptions as may be prescribed.
- (9) Support under subsection (8) may be in cash.
- (10) The Secretary of State may by regulations make provision about the meaning of “suitable accommodation” and in particular about the suitability of landlords or other providers of accommodation.
- (11) If the local authority have lost touch with a relevant child, despite taking reasonable steps to keep in touch, they must without delay—
  - (a) consider how to re-establish contact; and
  - (b) take reasonable steps to do so,and while the child is still a relevant child must continue to take such steps until they succeed.
- (12) Subsections (7) to (9) of section 17 apply in relation to support given under this section as they apply in relation to assistance given under that section.
- (13) Subsections (4) and (5) of section 22 apply in relation to any decision by a local authority for the purposes of this section as they apply in relation to the decisions referred to in that section.]

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### Textual Amendments

**F42** Ss. 23A, 23B, 23C inserted (1.10.2001) by 2000 c. 35, s. 2(4); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

## [<sup>F43</sup>23C Continuing functions in respect of former relevant children.

- (1) Each local authority shall have the duties provided for in this section towards—
  - (a) a person who has been a relevant child for the purposes of section 23A (and would be one if he were under eighteen), and in relation to whom they were the last responsible authority; and
  - (b) a person who was being looked after by them when he attained the age of eighteen, and immediately before ceasing to be looked after was an eligible child,and in this section such a person is referred to as a “former relevant child”.
- (2) It is the duty of the local authority to take reasonable steps—
  - (a) to keep in touch with a former relevant child whether he is within their area or not; and
  - (b) if they lose touch with him, to re-establish contact.
- (3) It is the duty of the local authority—
  - (a) to continue the appointment of a personal adviser for a former relevant child; and
  - (b) to continue to keep his pathway plan under regular review.
- (4) It is the duty of the local authority to give a former relevant child—
  - (a) assistance of the kind referred to in section 24B(1), to the extent that his welfare requires it;
  - (b) assistance of the kind referred to in section 24B(2), to the extent that his welfare and his educational or training needs require it;
  - (c) other assistance, to the extent that his welfare requires it.
- (5) The assistance given under subsection (4)(c) may be in kind or, in exceptional circumstances, in cash.
- (6) Subject to subsection (7), the duties set out in subsections (2), (3) and (4) subsist until the former relevant child reaches the age of twenty-one.
- (7) If the former relevant child’s pathway plan sets out a programme of education or training which extends beyond his twenty-first birthday—
  - (a) the duty set out in subsection (4)(b) continues to subsist for so long as the former relevant child continues to pursue that programme; and
  - (b) the duties set out in subsections (2) and (3) continue to subsist concurrently with that duty.
- (8) For the purposes of subsection (7)(a) there shall be disregarded any interruption in a former relevant child’s pursuance of a programme of education or training if the local authority are satisfied that he will resume it as soon as is reasonably practicable.
- (9) Section 24B(5) applies in relation to a person being given assistance under subsection (4)(b) as it applies in relation to a person to whom section 24B(3) applies.

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- (10) Subsections (7) to (9) of section 17 apply in relation to assistance given under this section as they apply in relation to assistance given under that section.]

#### Textual Amendments

**F43** Ss. 23A, 23B, 23C inserted (1.10.2001) by 2000 c. 35, s. 2(4); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

#### Modifications etc. (not altering text)

**C7** S. 23C restricted (8.1.2003) by 2002 c. 41, s. 54, Sch. 3 (with s. 159); S.I. 2002/2811, art. 2, Sch.

VALID FROM 01/04/2011

### <sup>F44</sup>23CAF Further assistance to pursue education or training

- (1) This section applies to a person if—
  - (a) he is under the age of twenty-five or of such lesser age as may be prescribed by the appropriate national authority;
  - (b) he is a former relevant child (within the meaning of section 23C) towards whom the duties imposed by subsections (2), (3) and (4) of that section no longer subsist; and
  - (c) he has informed the responsible local authority that he is pursuing, or wishes to pursue, a programme of education or training.
- (2) It is the duty of the responsible local authority to appoint a personal adviser for a person to whom this section applies.
- (3) It is the duty of the responsible local authority—
  - (a) to carry out an assessment of the needs of a person to whom this section applies with a view to determining what assistance (if any) it would be appropriate for them to provide to him under this section; and
  - (b) to prepare a pathway plan for him.
- (4) It is the duty of the responsible local authority to give assistance of a kind referred to subsection (5) to a person to whom this section applies to the extent that his educational or training needs require it.
- (5) The kinds of assistance are—
  - (a) contributing to expenses incurred by him in living near the place where he is, or will be, receiving education or training; or
  - (b) making a grant to enable him to meet expenses connected with his education and training.
- (6) If a person to whom this section applies pursues a programme of education or training in accordance with the pathway plan prepared for him, the duties of the local authority under this section (and under any provision applicable to the pathway plan prepared under this section for that person) subsist for as long as he continues to pursue that programme.



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- (7) For the purposes of subsection (6), the local authority may disregard any interruption in the person's pursuance of a programme of education or training if they are satisfied that he will resume it as soon as is reasonably practicable.
- (8) Subsections (7) to (9) of section 17 apply to assistance given to a person under this section as they apply to assistance given to or in respect of a child under that section, but with the omission in subsection (8) of the words “and of each of his parents”.
- (9) Subsection (5) of section 24B applies to a person to whom this section applies as it applies to a person to whom subsection (3) of that section applies.
- (10) Nothing in this section affects the duty imposed by subsection (5A) of section 23C to the extent that it subsists in relation to a person to whom this section applies; but the duty to make a payment under that subsection may be taken into account in the assessment of the person's needs under subsection (3)(a).
- (11) In this section “the responsible local authority” means, in relation to a person to whom this section applies, the local authority which had the duties provided for in section 23C towards him.]

#### Textual Amendments

**F44** S. 23CA inserted (1.4.2011 for E., 19.6.2012 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 22\(2\)](#), 44; [S.I. 2010/2981](#), [art. 4\(g\)](#) (with [art. 6](#)); [S.I. 2012/1553](#), [art. 2\(a\)](#) (with [art. 3](#))

*[<sup>F45</sup> Personal advisers and pathway plans]*

#### Textual Amendments

**F45** Ss. 23D, 23E and cross-heading inserted (1.10.2001) by [2000 c. 35, s. 3](#); [S.I. 2001/2191](#), [art. 2](#); [S.I. 2001/2878](#), [art. 2](#)

#### <sup>F46</sup> 23D Personal advisers.

- (1) The Secretary of State may by regulations require local authorities to appoint a personal adviser for children or young persons of a prescribed description who have reached the age of sixteen but not the age of twenty-one who are not—
  - (a) children who are relevant children for the purposes of section 23A;
  - (b) the young persons referred to in section 23C; or
  - (c) the children referred to in paragraph 19C of Schedule 2.
- (2) Personal advisers appointed under or by virtue of this Part shall (in addition to any other functions) have such functions as the Secretary of State prescribes.]

#### Textual Amendments

**F46** Ss. 23D, 23E and cross-heading inserted (1.10.2001) by [2000 c. 35, s. 3](#); [S.I. 2001/2191](#), [art. 2](#); [S.I. 2001/2878](#), [art. 2](#)

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### [<sup>F47</sup>23E Pathway plans.

- (1) In this Part, a reference to a “pathway plan” is to a plan setting out—
  - (a) in the case of a plan prepared under paragraph 19B of Schedule 2—
    - (i) the advice, assistance and support which the local authority intend to provide a child under this Part, both while they are looking after him and later; and
    - (ii) when they might cease to look after him; and
  - (b) in the case of a plan prepared under section 23B, the advice, assistance and support which the local authority intend to provide under this Part, and dealing with such other matters (if any) as may be prescribed.
- (2) The Secretary of State may by regulations make provision about pathway plans and their review.]

#### Textual Amendments

**F47** Ss. 23D, 23E and cross-heading inserted (1.10.2001) by 2000 c. 35, s. 3; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

### [<sup>F48</sup>24 Persons qualifying for advice and assistance.

- (1) In this Part “a person qualifying for advice and assistance” means a person who—
  - (a) is under twenty-one; and
  - (b) at any time after reaching the age of sixteen but while still a child was, but is no longer, looked after, accommodated or fostered.
- (2) In subsection (1)(b), “looked after, accommodated or fostered” means—
  - (a) looked after by a local authority;
  - (b) accommodated by or on behalf of a voluntary organisation;
  - (c) accommodated in a private children’s home;
  - (d) accommodated for a consecutive period of at least three months—
    - (i) by any Health Authority, Special Health Authority, Primary Care Trust or local education authority, or
    - (ii) in any care home or independent hospital or in any accommodation provided by a National Health Service trust [<sup>F49</sup>or an NHS foundation trust] ; or
  - (e) privately fostered.
- (3) Subsection (2)(d) applies even if the period of three months mentioned there began before the child reached the age of sixteen.
- (4) In the case of a person qualifying for advice and assistance by virtue of subsection (2)
  - (a), it is the duty of the local authority which last looked after him to take such steps as they think appropriate to contact him at such times as they think appropriate with a view to discharging their functions under sections 24A and 24B.
- (5) In each of sections 24A and 24B, the local authority under the duty or having the power mentioned there (“the relevant authority”) is—
  - (a) in the case of a person qualifying for advice and assistance by virtue of subsection (2)(a), the local authority which last looked after him; or

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- (b) in the case of any other person qualifying for advice and assistance, the local authority within whose area the person is (if he has asked for help of a kind which can be given under section 24A or 24B).]

#### Textual Amendments

- F48** Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, s. 4(1); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F49** Words in s. 24(2)(d)(ii) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, Sch. 4 para. 76; S.I. 2004/759, art. 2

#### Modifications etc. (not altering text)

- C8** S. 24(2)(c)(d)(ii) amended (*temp.* from 1.10.2001) by 2000 c. 35, s. 4(2)(a)(b); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

### [<sup>F50</sup>24A Advice and assistance.

- (1) The relevant authority shall consider whether the conditions in subsection (2) are satisfied in relation to a person qualifying for advice and assistance.
- (2) The conditions are that—
- (a) he needs help of a kind which they can give under this section or section 24B; and
- (b) in the case of a person who was not being looked after by any local authority, they are satisfied that the person by whom he was being looked after does not have the necessary facilities for advising or befriending him.
- (3) If the conditions are satisfied—
- (a) they shall advise and befriend him if he was being looked after by a local authority or was accommodated by or on behalf of a voluntary organisation; and
- (b) in any other case they may do so.
- (4) Where as a result of this section a local authority are under a duty, or are empowered, to advise and befriend a person, they may also give him assistance.
- (5) The assistance may be in kind [<sup>F51</sup>and, in exceptional circumstances, assistance may be given—
- (a) by providing accommodation, if in the circumstances assistance may not be given in respect of the accommodation under section 24B, or
- (b) in cash].
- (6) Subsections (7) to (9) of section 17 apply in relation to assistance given under this section or section 24B as they apply in relation to assistance given under that section.]

#### Textual Amendments

- F50** Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, s. 4(1); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F51** Words in s. 24A(5) substituted (7.11.2002) by 2002 c. 38, ss. 116(3), 148 (with Sch. 4 paras. 6-8)

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**Modifications etc. (not altering text)**

**C9** S. 24A restricted (8.1.2002) by 2002 c. 41, s. 54, **Sch. 3** (with s. 159); S.I. 2002/2811, art. 2, **Sch.**

[<sup>F52</sup>**24B Employment, education and training.**

- (1) The relevant local authority may give assistance to any person who qualifies for advice and assistance by virtue of section 24(2)(a) by contributing to expenses incurred by him in living near the place where he is, or will be, employed or seeking employment.
- (2) The relevant local authority may give assistance to a person to whom subsection (3) applies by—
  - (a) contributing to expenses incurred by the person in question in living near the place where he is, or will be, receiving education or training; or
  - (b) making a grant to enable him to meet expenses connected with his education or training.
- (3) This subsection applies to any person who—
  - (a) is under twenty-four; and
  - (b) qualifies for advice and assistance by virtue of section 24(2)(a), or would have done so if he were under twenty-one.
- (4) Where a local authority are assisting a person under subsection (2) they may disregard any interruption in his attendance on the course if he resumes it as soon as is reasonably practicable.
- (5) Where the local authority are satisfied that a person to whom subsection (3) applies who is in full-time further or higher education needs accommodation during a vacation because his term-time accommodation is not available to him then, they shall give him assistance by—
  - (a) providing him with suitable accommodation during the vacation; or
  - (b) paying him enough to enable him to secure such accommodation himself.
- (6) The Secretary of State may prescribe the meaning of “full-time”, “further education”, “higher education” and “vacation” for the purposes of subsection (5).]

**Textual Amendments**

**F52** Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35, s. 4(1); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

**Modifications etc. (not altering text)**

**C10** S. 24B restricted (8.1.2003) by 2002 c. 41, s. 54, **Sch. 3** (with s. 159); S.I. 2002/2811, art. 2, **Sch.**

[<sup>F53</sup>**24C Information.**

- (1) Where it appears to a local authority that a person—
  - (a) with whom they are under a duty to keep in touch under section 23B, 23C or 24; or
  - (b) whom they have been advising and befriending under section 24A; or
  - (c) to whom they have been giving assistance under section 24B,

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proposes to live, or is living, in the area of another local authority, they must inform that other authority.

- (2) Where a child who is accommodated—
- (a) by a voluntary organisation or in a private children’s home;
  - (b) by any Health Authority, Special Health Authority, Primary Care Trust or local education authority; or
  - (c) in any care home or independent hospital or any accommodation provided by a National Health Service trust [<sup>F54</sup>or an NHS foundation trust] ,
- ceases to be so accommodated, after reaching the age of sixteen, the organisation, authority or (as the case may be) person carrying on the home shall inform the local authority within whose area the child proposes to live.
- (3) Subsection (2) only applies, by virtue of paragraph (b) or (c), if the accommodation has been provided for a consecutive period of at least three months.]

#### Textual Amendments

**F53** Ss. 24, 24A, 24B, 24C substituted for s. 24 (1.10.2001) by 2000 c. 35 , s. 4(1) ; S.I. 2001/2191 , art. 2 ; S.I. 2001/2878 , art. 2

**F54** Words in s. 24C(2)(c) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, Sch. 4 para. 77; S.I. 2004/759, art. 2

#### Modifications etc. (not altering text)

**C11** S. 24C(2)(a)(c) amended (*temp.* from 1.10.2001) by 2000 c. 35, s. 4(2)(a)(b); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

#### [<sup>F55</sup>24D Representations: sections 23A to 24B.

- (1) Every local authority shall establish a procedure for considering representations (including complaints) made to them by—
- (a) a relevant child for the purposes of section 23A or a young person falling within section 23C;
  - (b) a person qualifying for advice and assistance; or
  - (c) a person falling within section 24B(2),
- about the discharge of their functions under this Part in relation to him.

[ Regulations may be made by the Secretary of State imposing time limits on the making <sup>F56</sup>(1A) of representations under subsection (1).]

- (2) In considering representations under subsection (1), a local authority shall comply with regulations (if any) made by the Secretary of State for the purposes of this subsection.]

#### Textual Amendments

**F55** S. 24D inserted (1.10.2001) by 2000 c. 35, s. 5; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

**F56** S. 24D(1A) inserted (7.12.2004) by 2002 c. 38, ss. 117(1), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, art. 2(m)(xi)

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### *Secure accommodation*

## **25 Use of accommodation for restricting liberty.**

- (1) Subject to the following provisions of this section, a child who is being looked after by a local authority may not be placed, and, if placed, may not be kept, in accommodation provided for the purpose of restricting liberty (“secure accommodation”) unless it appears—
  - (a) that—
    - (i) he has a history of absconding and is likely to abscond from any other description of accommodation; and
    - (ii) if he absconds, he is likely to suffer significant harm; or
  - (b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.
- (2) The Secretary of State may by regulations—
  - (a) specify a maximum period—
    - (i) beyond which a child may not be kept in secure accommodation without the authority of the court; and
    - (ii) for which the court may authorise a child to be kept in secure accommodation;
  - (b) empower the court from time to time to authorise a child to be kept in secure accommodation for such further period as the regulations may specify; and
  - (c) provide that applications to the court under this section shall be made only by local authorities.
- (3) It shall be the duty of a court hearing an application under this section to determine whether any relevant criteria for keeping a child in secure accommodation are satisfied in his case.
- (4) If a court determines that any such criteria are satisfied, it shall make an order authorising the child to be kept in secure accommodation and specifying the maximum period for which he may be so kept.
- (5) On any adjournment of the hearing of an application under this section, a court may make an interim order permitting the child to be kept during the period of the adjournment in secure accommodation.
- (6) No court shall exercise the powers conferred by this section in respect of a child who is not legally represented in that court unless, having been informed of his right to apply for <sup>F57</sup>representation funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service] and having had the opportunity to do so, he refused or failed to apply.
- (7) The Secretary of State may by regulations provide that—
  - (a) this section shall or shall not apply to any description of children specified in the regulations;
  - (b) this section shall have effect in relation to children of a description specified in the regulations subject to such modifications as may be so specified;
  - (c) such other provisions as may be so specified shall have effect for the purpose of determining whether a child of a description specified in the regulations may be placed or kept in secure accommodation.

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(8) The giving of an authorisation under this section shall not prejudice any power of any court in England and Wales or Scotland to give directions relating to the child to whom the authorisation relates.

(9) This section is subject to section 20(8).

#### Extent Information

**E1** S. 25 extends to England and Wales with the exception of s. 25(8) which extends to Great Britain. See s. 108(11)(12).

#### Textual Amendments

**F57** Words in s. 25(6) substituted (1.4.2000) by 1999 c. 22, s. 24, **Sch. 4 para. 45** (with 107, Sch. 14 para. 7(2)); S.I. 2000/774, **art. 2(a)(ii)** (subject to arts. 3, 4 and with art. 5)

#### Modifications etc. (not altering text)

**C12** S. 25 excluded (14.10.1991) by S.I. 1991/1505, **reg. 5(1)**.  
S. 25 excluded (14.10.1991) by S.I. 1991/1505, **reg. 5(2)**.  
S. 25 modified (14.10.1991) by S.I. 1991/1505, **reg. 6(1)**.  
S. 25 modified (14.10.1991) by S.I. 1991/1505, **reg. 7(1)**.

#### Commencement Information

**I8** S. 25 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 26 Review of cases and inquiries into representations.

(1) The Secretary of State may make regulations requiring the case of each child who is being looked after by a local authority to be reviewed in accordance with the provisions of the regulations.

(2) The regulations may, in particular, make provision—

- (a) as to the manner in which each case is to be reviewed;
- (b) as to the considerations to which the local authority are to have regard in reviewing each case;
- (c) as to the time when each case is first to be reviewed and the frequency of subsequent reviews;
- (d) requiring the authority, before conducting any review, to seek the views of—
  - (i) the child;
  - (ii) his parents;
  - (iii) any person who is not a parent of his but who has parental responsibility for him; and
  - (iv) any other person whose views the authority consider to be relevant, including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review;
- (e) requiring the authority<sup>F58</sup>. . . , in the case of a child who is in their care
  - [<sup>F59</sup>(i) to keep the section 31A plan for the child under review and, if they are of the opinion that some change is required, to revise the plan, or make a new plan, accordingly,
  - (ii) to consider], whether an application should be made to discharge the care order;



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- (f) requiring the authority<sup>F60</sup> . . . , in the case of a child in accommodation provided by the authority
    - [<sup>F61</sup>(i) if there is no plan for the future care of the child, to prepare one,
    - (ii) if there is such a plan for the child, to keep it under review and, if they are of the opinion that some change is required, to revise the plan or make a new plan, accordingly,
    - (iii) to consider], whether the accommodation accords with the requirements of this Part;
  - (g) requiring the authority to inform the child, so far as is reasonably practicable, of any steps he may take under this Act;
  - (h) requiring the authority to make arrangements, including arrangements with such other bodies providing services as it considers appropriate, to implement any decision which they propose to make in the course, or as a result, of the review;
  - (i) requiring the authority to notify details of the result of the review and of any decision taken by them in consequence of the review to—
    - (i) the child;
    - (ii) his parents;
    - (iii) any person who is not a parent of his but who has parental responsibility for him; and
    - (iv) any other person whom they consider ought to be notified;
  - (j) requiring the authority to monitor the arrangements which they have made with a view to ensuring that they comply with the regulations.
  - [<sup>F62</sup>(k) for the authority to appoint a person in respect of each case to carry out in the prescribed manner the functions mentioned in subsection (2A) and any prescribed function]
- [<sup>F63</sup>(2A) The functions referred to in subsection (2)(k) are—
- (a) participating in the review of the case in question,
  - (b) monitoring the performance of the authority’s functions in respect of the review,
  - (c) referring the case to an officer of the Children and Family Court Advisory and Support Service, if the person appointed under subsection (2)(k) considers it appropriate to do so.
- (2B) A person appointed under subsection (2)(k) must be a person of a prescribed description.
- (2C) In relation to children whose cases are referred to officers under subsection (2A)(c), the Lord Chancellor may by regulations—
- (a) extend any functions of the officers in respect of family proceedings (within the meaning of section 12 of the Criminal Justice and Court Services Act 2000) to other proceedings,
  - (b) require any functions of the officers to be performed in the manner prescribed by the regulations.]
- (3) Every local authority shall establish a procedure for considering any representations (including any complaint) made to them by—
- (a) any child who is being looked after by them or who is not being looked after by them but is in need;
  - (b) a parent of his;

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- (c) any person who is not a parent of his but who has parental responsibility for him;
  - (d) any local authority foster parent;
  - (e) such other person as the authority consider has a sufficient interest in the child's welfare to warrant his representations being considered by them,
- about the discharge by the authority of any of their functions under this Part in relation to the child.

[<sup>F64</sup>(3A) The following are qualifying functions for the purposes of subsection (3)—

- (a) functions under this Part,
- (b) such functions under Part 4 or 5 as are specified by the Secretary of State in regulations.

(3B) The duty under subsection (3) extends to representations (including complaints) made to the authority by—

- (a) any person mentioned in section 3(1) of the Adoption and Children Act 2002 (persons for whose needs provision is made by the Adoption Service) and any other person to whom arrangements for the provision of adoption support services (within the meaning of that Act) extend,
- (b) such other person as the authority consider has sufficient interest in a child who is or may be adopted to warrant his representations being considered by them,

about the discharge by the authority of such functions under the Adoption and Children Act 2002 as are specified by the Secretary of State in regulations.]

[<sup>F65</sup>(3C) The duty under subsection (3) extends to any representations (including complaints) which are made to the authority by—

- (a) a child with respect to whom a special guardianship order is in force,
- (b) a special guardian or a parent of such a child,
- (c) any other person the authority consider has a sufficient interest in the welfare of such a child to warrant his representations being considered by them, or
- (d) any person who has applied for an assessment under section 14F(3) or (4),

about the discharge by the authority of such functions under section 14F as may be specified by the Secretary of State in regulations.]

(4) The procedure shall ensure that at least one person who is not a member or officer of the authority takes part in—

- (a) the consideration; and
- (b) any discussions which are held by the authority about the action (if any) to be taken in relation to the child in the light of the consideration.

[<sup>F66</sup>(4A) Regulations may be made by the Secretary of State imposing time limits on the making of representations under this section.]

(5) In carrying out any consideration of representations under this section a local authority shall comply with any regulations made by the Secretary of State for the purpose of regulating the procedure to be followed.

(6) The Secretary of State may make regulations requiring local authorities to monitor the arrangements that they have made with a view to ensuring that they comply with any regulations made for the purposes of subsection (5).

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- (7) Where any representation has been considered under the procedure established by a local authority under this section, the authority shall—
- (a) have due regard to the findings of those considering the representation; and
  - (b) take such steps as are reasonably practicable to notify (in writing)—
    - (i) the person making the representation;
    - (ii) the child (if the authority consider that he has sufficient understanding); and
    - (iii) such other persons (if any) as appear to the authority to be likely to be affected,
 of the authority’s decision in the matter and their reasons for taking that decision and of any action which they have taken, or propose to take.
- (8) Every local authority shall give such publicity to their procedure for considering representations under this section as they consider appropriate.

#### Textual Amendments

- F58** Words in s. 26(2)(e) omitted (21.5.2004) and repealed (30.12.2005) by virtue of 2002 c. 38, ss. 118(1)(a), 139, 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**; S.I. 2005/2897, **art. 2(b)**
- F59** Words in s. 26(2)(e) inserted (21.5.2004) by 2002 c. 38, ss. 118(1)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**
- F60** Words in s. 26(2)(f) omitted (21.5.2004) and repealed (30.12.2005) by virtue of 2002 c. 38, ss. 118(1)(a), 139, 148, Sch. 5 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**; S.I. 2005/2897, **art. 2(b)**
- F61** Words in s. 26(2)(f) inserted (21.5.2004) by 2002 c. 38, ss. 118(1)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**
- F62** S. 26(2)(k) inserted (21.5.2004) by 2002 c. 38, ss. 118(1)(c), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**
- F63** S. 26(2A)(2B)(2C) inserted (21.5.2004) by 2002 c. 38, ss. 118(2), 148 (with Sch. 4 paras. 6-8); S.I. 2004/1403, **art. 2**
- F64** S.26(3A)(3B) inserted (7.12.2004 for specified purposes and otherwise 30.12.2005) by 2002 c. 38, ss. 117(4), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(1)(m)(xi)**; S.I. 2005/2213, **art. 2(k)**
- F65** S. 26(3C) inserted (17.1.2005 for E. and 30.12.2005 for W.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. **117(1)**; S.I. 2005/38, **art. 2(a)**; S.I. 2005/2925, art. 8; S.I. 2005/3285, **art. 2(1)**
- F66** S. 26(4A) inserted (7.12.2004) by 2002 c. 38, ss. 117(6), 148 (with Sch. 4 paras. 6-8); S.I. 2004/3203, **art. 2(1)(m)(xi)**

#### Commencement Information

- I9** S. 26 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### [<sup>F67</sup>26ZA] Representations: further consideration

- (1) The Secretary of State may by regulations make provision for the further consideration of representations which have been considered by a local authority in England under section 24D or section 26.
- (2) The regulations may in particular make provision—
  - (a) for the further consideration of a representation by the Commission for Social Care Inspection (“the CSCIP”);

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- (b) for a representation to be referred by the CSCI for further consideration by an independent panel established under the regulations;
  - (c) about the procedure to be followed on the further consideration of a representation;
  - (d) for the making of recommendations about the action to be taken as the result of a representation;
  - (e) about the making of reports about a representation;
  - (f) about the action to be taken by the local authority concerned as a result of the further consideration of a representation;
  - (g) for a representation to be referred by the CSCI back to the local authority concerned for reconsideration by the authority;
  - (h) for a representation or any matter raised by the representation to be referred by the CSCI—
    - (i) to a Local Commissioner in England for him to consider whether to investigate the representation or matter under Part 3 of the Local Government Act 1974 as if it were a complaint duly made under section 26 of that Act; or
    - (ii) to any other person or body for him or it to consider whether to take any action otherwise than under the regulations.
- (3) The regulations may require—
- (a) the making of a payment, in relation to the further consideration of a representation under this section, by any local authority in respect of whose functions the representation is made;
  - (b) any such payment to be—
    - (i) made to such person or body as may be specified in the regulations;
    - (ii) of such amount as may be specified in, or calculated or determined under, the regulations;
  - (c) an independent panel to review the amount chargeable under paragraph (a) in any particular case and, if the panel thinks fit, to substitute a lesser amount.
- (4) The regulations may also—
- (a) provide for different parts or aspects of a representation to be treated differently;
  - (b) require the production of information or documents in order to enable a representation to be properly considered;
  - (c) authorise the disclosure of information or documents relevant to a representation—
    - (i) to a person or body who is further considering a representation under the regulations; or
    - (ii) to a Local Commissioner in England (when a representation is referred to him under the regulations);and any such disclosure may be authorised notwithstanding any rule of common law that would otherwise prohibit or restrict the disclosure.
- (5) In this section, “Local Commissioner in England” means a Local Commissioner under Part 3 of the Local Government Act 1974 (c. 7), who is a member of the Commission for Local Administration in England.]

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### Textual Amendments

**F67** S. 26ZA inserted (20.11.2003 for certain purposes and otherwise prosp.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), [ss. 116\(1\)](#), 199

VALID FROM 01/04/2006

### [<sup>F68</sup>26ZB] **Representations: further consideration (Wales)**

- (1) The Secretary of State may by regulations make provision for the further consideration of representations which have been considered by a local authority in Wales under section 24D or section 26.
- (2) The regulations may in particular make provision—
  - (a) for the further consideration of a representation by an independent panel established under the regulations;
  - (b) about the procedure to be followed on the further consideration of a representation;
  - (c) for the making of recommendations about the action to be taken as the result of a representation;
  - (d) about the making of reports about a representation;
  - (e) about the action to be taken by the local authority concerned as a result of the further consideration of a representation;
  - (f) for a representation to be referred back to the local authority concerned for reconsideration by the authority.
- (3) The regulations may require—
  - (a) the making of a payment, in relation to the further consideration of a representation under this section, by any local authority in respect of whose functions the representation is made;
  - (b) any such payment to be—
    - (i) made to such person or body as may be specified in the regulations;
    - (ii) of such amount as may be specified in, or calculated or determined under, the regulations; and
  - (c) for an independent panel to review the amount chargeable under paragraph (a) in any particular case and, if the panel thinks fit, to substitute a lesser amount.
- (4) The regulations may also—
  - (a) provide for different parts or aspects of a representation to be treated differently;
  - (b) require the production of information or documents in order to enable a representation to be properly considered;
  - (c) authorise the disclosure of information or documents relevant to a representation to a person or body who is further considering a representation under the regulations;

and any such disclosure may be authorised notwithstanding any rule of common law that would otherwise prohibit or restrict the disclosure.]

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#### Textual Amendments

**F68** S. 26ZB inserted (1.4.2006) by [Health and Social Care \(Community Health and Standards\) Act 2003](#) (c. 43), s. 116(2); S.I. 2005/3285, art. 2(2)(b)

### [<sup>F69</sup>26A Advocacy services

- (1) Every local authority shall make arrangements for the provision of assistance to—
  - (a) persons who make or intend to make representations under section 24D; and
  - (b) children who make or intend to make representations under section 26.
- (2) The assistance provided under the arrangements shall include assistance by way of representation.
- (3) The arrangements—
  - (a) shall secure that a person may not provide assistance if he is a person who is prevented from doing so by regulations made by the Secretary of State; and
  - (b) shall comply with any other provision made by the regulations in relation to the arrangements.
- (4) The Secretary of State may make regulations requiring local authorities to monitor the steps that they have taken with a view to ensuring that they comply with regulations made for the purposes of subsection (3).
- (5) Every local authority shall give such publicity to their arrangements for the provision of assistance under this section as they consider appropriate.]

#### Textual Amendments

**F69** S. 26A inserted (30.1.2004 for certain purposes and otherwise 1.4.2004) by [2002 c. 38, ss. 119, 148](#) (with [Sch. 4 paras. 6-8](#)); S.I. 2003/3079, art. 2(3)(4)(b)

### 27 Co-operation between authorities.

- (1) Where it appears to a local authority that any authority <sup>F70</sup> . . . mentioned in subsection (3) could, by taking any specified action, help in the exercise of any of their functions under this Part, they may request the help of that other authority <sup>F70</sup> . . . specifying the action in question.
- (2) An authority whose help is so requested shall comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.
- (3) The [<sup>F71</sup>authorities] are—
  - (a) any local authority;
  - (b) any local education authority;
  - (c) any local housing authority;
  - (d) any [<sup>F72</sup>Health Authority, Special Health Authority][<sup>F73</sup>, Primary Care Trust][<sup>F74</sup>, National Health Service trust or NHS foundation trust] ; and
  - (e) any person authorised by the Secretary of State for the purposes of this section.

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F75(4) .....

#### Textual Amendments

- F70** Words in s. 27(1) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 14(a), **Sch. 20**; S.I. 1991/1883, art. 3, **Sch.**
- F71** Word in s. 27(3) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 14(b)**; S.I. 1991/1883, art. 3, **Sch.**
- F72** Words in s. 27(3)(d) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(5)(with Sch. 2, para. 6)
- F73** Words in s. 27(3)(d) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(5)**
- F74** Words in s. 27(3)(d) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 34, **Sch. 4 para. 78**; S.I. 2004/759, **art. 2**
- F75** S. 27(4) repealed (1.9.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 147, **Sch. 21 Pt. II**; S.I. 1994/2038, art. 3, **Sch. 2**, Appendix

#### Commencement Information

- I10** S. 27 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 28 Consultation with local education authorities.

- (1) Where—
- (a) a child is being looked after by a local authority; and
  - (b) the authority propose to provide accommodation for him in an establishment at which education is provided for children who are accommodated there, they shall, so far as is reasonably practicable, consult the appropriate local education authority before doing so.
- (2) Where any such proposal is carried out, the local authority shall, as soon as is reasonably practicable, inform the appropriate local education authority of the arrangements that have been made for the child's accommodation.
- (3) Where the child ceases to be accommodated as mentioned in subsection (1)(b), the local authority shall inform the appropriate local education authority.
- (4) In this section “the appropriate local education authority” means—
- (a) the local education authority within whose area the local authority's area falls; or,
  - (b) where the child has special educational needs and a statement of his needs is maintained under [F76Part IV of the Education Act 1996], the local education authority who maintain the statement.

#### Textual Amendments

- F76** Words in s. 28(4) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 84**(with s. 1(4))

#### Commencement Information

- I11** S. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**



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## 29 Recoupment of cost of providing services etc.

- (1) Where a local authority provide any service under section 17 or 18, other than advice, guidance or counselling, they may recover from a person specified in subsection (4) such charge for the service as they consider reasonable.
- (2) Where the authority are satisfied that that person's means are insufficient for it to be reasonably practicable for him to pay the charge, they shall not require him to pay more than he can reasonably be expected to pay.

- (3) No person shall be liable to pay any charge under subsection (1) [<sup>F77</sup>for a service provided under section 17 or section 18(1) or (5)] at any time when he is in receipt of income support [<sup>F78</sup>under]<sup>F79</sup>Part VII of the Social Security Contributions and Benefits Act 1992]<sup>F80</sup>, of any element of child tax credit other than the family element, of working tax credit]<sup>F81</sup> or of an income-based jobseeker's allowance].

[<sup>F82</sup>(3A) No person shall be liable to pay any charge under subsection (1) for a service provided under section 18(2) or (6) at any time when he is in receipt of income support under Part VII of the Social Security Contributions and Benefits Act 1992 or of an income-based jobseeker's allowance.]

[<sup>F83</sup>(3B) No person shall be liable to pay any charge under subsection (1) for a service provided under section 18(2) or (6) at any time when—

- (a) he is in receipt of guarantee state pension credit under section 1(3)(a) of the State Pension Credit Act 2002, or
- (b) he is a member of a married or unmarried couple (within the meaning of that Act) the other member of which is in receipt of guarantee state pension credit.]

- (4) The persons are—
  - (a) where the service is provided for a child under sixteen, each of his parents;
  - (b) where it is provided for a child who has reached the age of sixteen, the child himself; and
  - (c) where it is provided for a member of the child's family, that member.

- (5) Any charge under subsection (1) may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

- (6) Part III of Schedule 2 makes provision in connection with contributions towards the maintenance of children who are being looked after by local authorities and consists of the re-enactment with modifications of provisions in Part V of the <sup>M5</sup>Child Care Act 1980.

- (7) Where a local authority provide any accommodation under section 20(1) for a child who was (immediately before they began to look after him) ordinarily resident within the area of another local authority, they may recover from that other authority any reasonable expenses incurred by them in providing the accommodation and maintaining him.

- (8) Where a local authority provide accommodation under section 21(1) or (2)(a) or (b) for a child who is ordinarily resident within the area of another local authority and they are not maintaining him in—

- (a) a community home provided by them;
- (b) a controlled community home; or
- (c) a hospital vested in the Secretary of State [<sup>F84</sup>or a Primary Care Trust]<sup>F85</sup> or any other hospital made available pursuant to arrangements made by [<sup>F86</sup>a

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Strategic Health Authority,] a [<sup>F87</sup>Health Authority][<sup>F84</sup>or a Primary Care Trust,]],

they may recover from that other authority any reasonable expenses incurred by them in providing the accommodation and maintaining him.

- (9) [<sup>F88</sup>Except where subsection (10) applies,] Where a local authority comply with any request under section 27(2) in relation to a child or other person who is not ordinarily resident within their area, they may recover from the local authority in whose area the child or person is ordinarily resident any [<sup>F89</sup>reasonable expenses] incurred by them in respect of that person.

[<sup>F90</sup>(10) Where a local authority (“authority A”) comply with any request under section 27(2) from another local authority (“authority B”) in relation to a child or other person—

- (a) whose responsible authority is authority B for the purposes of section 23B or 23C; or
- (b) whom authority B are advising or befriending or to whom they are giving assistance by virtue of section 24(5)(a),

authority A may recover from authority B any reasonable expenses incurred by them in respect of that person.]

#### Textual Amendments

- F77** Words in s. 29(3) inserted (25.8.2000 in relation to E. and otherwise 28.7.2001) by 2000 c. 22, ss. **103(1), 108(4); S.I. 2000/2420, art. 2**
- F78** Words in s. 29(3) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 18(a); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F79** Words in s. 29(3) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para 108(b)**.
- F80** Words in s. 29(3) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 18(b); S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F81** Words in s. 29(3) added (7.10.1996) by 1995 c. 18, s. 41(4), **Sch. 2 para. 19(3); S.I. 1996/2208, art. 2**
- F82** S. 29(3A) inserted (25.8.2000 in relation to E. and otherwise 28.7.2001) by 2000 c. 22, ss. **103(1), 108(4); S.I. 2000/2420, art. 2**
- F83** S. 29(3B) inserted (2.7.2002 for certain purposes, otherwise 6.10.2003) by 2002 c. 16, s. 14, Sch. 2 para. 30; S.I. 2002/1691, art. 2; S.I. 2003/1766, **art. 2(a)**
- F84** Words in s. 29(8)(c) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(6)**
- F85** Words in s. 29(8)(c) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 36(3)**
- F86** Words in s. 29(8)(c) inserted (1.10.2002) by S.I. 2002/2469, **reg. 4 Sch. 1 Pt. 1 para. 16(2)**
- F87** Words in s. 29(8)(c) substituted (1.4.1996) by 1995 c. 17, ss. 2(1), 2(3), **Sch. 1 para. 118(6)**(with Sch. 2 para. 6)
- F88** Words in s. 29(9) inserted (1.10.2001) by 2000 c. 35, s. **7(3)(a); S.I. 2001/2191, art. 2; 2001/2878, art. 2**
- F89** Words in s. 29(9) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. **116, Sch. 16 para. 15; S.I. 1991/1883, art. 3, Sch.**
- F90** S. 29(10) inserted (1.10.2001) by 2000 c. 35, s. **7(3)(b); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2**

#### Commencement Information

- I12** S. 29 in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

- M5** 1980 c. 5.

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### 30 Miscellaneous.

- (1) Nothing in this Part shall affect any duty imposed on a local authority by or under any other enactment.
- (2) Any question arising under section 20(2), 21(3) or 29(7) to (9) as to the ordinary residence of a child shall be determined by agreement between the local authorities concerned or, in default of agreement, by the Secretary of State.
- (3) Where the functions conferred on a local authority by this Part and the functions of a local education authority are concurrent, the Secretary of State may by regulations provide by which authority the functions are to be exercised.
- (4) The Secretary of State may make regulations for determining, as respects any local education authority functions specified in the regulations, whether a child who is being looked after by a local authority is to be treated, for purposes so specified, as a child of parents of sufficient resources or as a child of parents without resources.

#### Commencement Information

**I13** S. 30 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

VALID FROM 13/11/2008

#### [<sup>F91</sup>30A Meaning of appropriate national authority

In this Part “the appropriate national authority” means—

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers.]

#### Textual Amendments

**F91** S. 30A inserted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 22

VALID FROM 01/09/2009

#### *Independent reviewing officers*

#### [<sup>F92</sup>25A Appointment of independent reviewing officer

- (1) If a local authority are looking after a child, they must appoint an individual as the independent reviewing officer for that child's case.
- (2) The initial appointment under subsection (1) must be made before the child's case is first reviewed in accordance with regulations made under section 26.
- (3) If a vacancy arises in respect of a child's case, the local authority must make another appointment under subsection (1) as soon as is practicable.

*Status: Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Children Act 1989, Part III is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) An appointee must be of a description prescribed in regulations made by the appropriate national authority.

#### Textual Amendments

**F92** Ss. 25A, 25B and cross-heading inserted (1.9.2009 for certain purposes for E., 26.4.2010 for certain purposes for W., and and 1.4.2011 otherwise for E.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 10\(1\)](#), 44; [S.I. 2009/2273](#), [art. 2\(2\)\(c\)](#); [S.I. 2010/1329](#), [art. 2\(c\)](#); [S.I. 2010/2981](#), [art. 4\(c\)](#) (with [art. 5](#))

### 25B Functions of the independent reviewing officer

- (1) The independent reviewing officer must—
- (a) monitor the performance by the local authority of their functions in relation to the child's case;
  - (b) participate, in accordance with regulations made by the appropriate national authority, in any review of the child's case;
  - (c) ensure that any ascertained wishes and feelings of the child concerning the case are given due consideration by the local authority;
  - (d) perform any other function which is prescribed in regulations made by the appropriate national authority.
- (2) An independent reviewing officer's functions must be performed—
- (a) in such manner (if any) as may be prescribed in regulations made by the appropriate national authority; and
  - (b) having regard to such guidance as that authority may issue in relation to the discharge of those functions.
- (3) If the independent reviewing officer considers it appropriate to do so, the child's case may be referred by that officer to—
- (a) an officer of the Children and Family Court Advisory and Support Service; or
  - (b) a Welsh family proceedings officer.
- (4) If the independent reviewing officer is not an officer of the local authority, it is the duty of the authority—
- (a) to co-operate with that individual; and
  - (b) to take all such reasonable steps as that individual may require of them to enable that individual's functions under this section to be performed satisfactorily.

#### Textual Amendments

**F92** Ss. 25A, 25B and cross-heading inserted (1.9.2009 for certain purposes for E., 26.4.2010 for certain purposes for W., and and 1.4.2011 otherwise for E.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 10\(1\)](#), 44; [S.I. 2009/2273](#), [art. 2\(2\)\(c\)](#); [S.I. 2010/1329](#), [art. 2\(c\)](#); [S.I. 2010/2981](#), [art. 4\(c\)](#) (with [art. 5](#))

**Status:** Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Children Act 1989, Part III is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 01/04/2011

[<sup>F93</sup> **25C** **Referred cases**

- (1) In relation to children whose cases are referred to officers under section 25B(3), the Lord Chancellor may by regulations—
- (a) extend any functions of the officers in respect of family proceedings (within the meaning of section 12 of the Criminal Justice and Court Services Act 2000) to other proceedings;
  - (b) require any functions of the officers to be performed in the manner prescribed by the regulations.
- (2) The power to make regulations in this section is exercisable in relation to functions of Welsh family proceedings officers only with the consent of the Welsh Ministers.]]

**Textual Amendments**

- F92** Ss. 25A, 25B and cross-heading inserted (1.9.2009 for certain purposes for E., 26.4.2010 for certain purposes for W., and and 1.4.2011 otherwise for E.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 10\(1\)](#), 44; [S.I. 2009/2273](#), [art. 2\(2\)\(c\)](#); [S.I. 2010/1329](#), [art. 2\(c\)](#); [S.I. 2010/2981](#), [art. 4\(c\)](#) (with [art. 5](#))
- F93** S. 25C inserted (1.4.2011 for E., otherwise prosp) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 10\(2\)](#), 44

VALID FROM 13/11/2008

[<sup>F94</sup> **30A** **Meaning of appropriate national authority**

- In this Part “the appropriate national authority” means—
- (a) in relation to England, the Secretary of State; and
  - (b) in relation to Wales, the Welsh Ministers.]]

**Textual Amendments**

- F92** Ss. 25A, 25B and cross-heading inserted (1.9.2009 for certain purposes for E., 26.4.2010 for certain purposes for W., and and 1.4.2011 otherwise for E.) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 10\(1\)](#), 44; [S.I. 2009/2273](#), [art. 2\(2\)\(c\)](#); [S.I. 2010/1329](#), [art. 2\(c\)](#); [S.I. 2010/2981](#), [art. 4\(c\)](#) (with [art. 5](#))
- F94** S. 30A inserted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 39](#), 44, [Sch. 3 para. 22](#)

**Status:**

Point in time view as at 01/03/2005. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

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