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# Children Act 1989

## 1989 CHAPTER 41

### PART III

#### LOCAL AUTHORITY SUPPORT FOR CHILDREN AND FAMILIES

##### *Independent reviewing officers*

#### **[<sup>F1</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.
- (4) An appointee must be of a description prescribed in regulations made by the appropriate national authority.

#### **Textual Amendments**

**F1** 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;

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- (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

**F1** 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](#))

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#### **Referred cases**

- F2** **25C**
- (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.]

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#### Textual Amendments

- F1** 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](#))
- F2** S. 25C inserted (1.4.2011 for E., otherwise prosp) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 10\(2\)](#), 44

## 26 Review of cases and inquiries into representations.

- (1) The [<sup>F3</sup>appropriate national authority] 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>F4</sup>. . . , in the case of a child who is in their care
    - [<sup>F5</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;
  - (f) requiring the authority <sup>F6</sup>. . . , in the case of a child in accommodation provided by the authority
    - [<sup>F7</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;

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- (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>F8</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>F9</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 [<sup>F10</sup>or a Welsh family proceedings officer] , 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.]
- [<sup>F11</sup>(2D) The power to make regulations in subsection (2C) is exercisable in relation to functions of Welsh family proceedings officers only with the consent of the [<sup>F12</sup>“Welsh Ministers] .]
- (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;
  - (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 [<sup>F13</sup>qualifying functions ]in relation to the child.
- [<sup>F14</sup>(3A) The following are qualifying functions for the purposes of subsection (3)—
- (a) functions under this Part,

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- (b) such functions under Part 4 or 5 as are specified by the [F15<sup>c</sup>appropriate national authority] 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 [F16<sup>c</sup>appropriate national authority] in regulations.]
- [F17(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 [F18<sup>c</sup>appropriate national authority] 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[F19]but this subsection is subject to subsection (5A).]
- [F20(4A) Regulations may be made by the [F21<sup>c</sup>appropriate national authority] 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 [F22<sup>c</sup>appropriate national authority] for the purpose of regulating the procedure to be followed.
- [F23(5A) Regulations under subsection (5) may provide that subsection (4) does not apply in relation to any consideration or discussion which takes place as part of a procedure for which provision is made by the regulations for the purpose of resolving informally the matters raised in the representations.]
- (6) The [F24<sup>c</sup>appropriate national authority] 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).
- (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)—

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- (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

- F3** Words in s. 26(1) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(2)**
- F4** 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)**
- F5** 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**
- F6** 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)**
- F7** 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**
- F8** 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**
- F9** S. 26(2A)-(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**
- F10** Words in s. 26(2A)(c) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 8(2)**; S.I. 2005/700, **art. 2(2)**
- F11** S. 26(2D) inserted (1.4.2005) by Children Act 2004 (c. 31), s. 40, **Sch. 3 para. 8(3)**; S.I. 2005/700, **art. 2(2)**
- F12** Words in s. 26(2D) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(3)**
- F13** Words in s. 26(3) substituted (30.12.2005) by 2002 c. 38, ss. 117(5), 148 (with **Sch. 4** paras. 6-8); S.I. 2005/2213, **art. 2(k)**
- F14** 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)**
- F15** Words in s. 26(3A) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**
- F16** Words in s. 26(3B) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**
- F17** 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)**
- F18** Words in s. 26(3C) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**
- F19** Words in s. 26(4) inserted (30.12.2005) by 2002 c. 38, ss. 117(5), 148 (with **Sch. 4** paras. 6-8); S.I. 2005/2213, **art. 2(k)**
- F20** 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)**
- F21** Words in s. 26(4A) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 16(4)**

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- F22** Words in s. 26(5) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, [Sch. 3 para. 16\(4\)](#)
- F23** S. 26(5A) inserted (30.12.2005) by [2002 c. 38](#), ss. 117(7), 148 (with [Sch. 4 paras. 6-8](#)); [S.I. 2005/2213](#), [art. 2\(k\)](#)
- F24** Words in s. 26(6) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, [Sch. 3 para. 16\(4\)](#)

#### Commencement Information

- I1** S. 26 wholly in force at 14.10.1991, see s. 108(2)(3) and [S.I. 1991/828](#), [art. 3\(2\)](#)

### [<sup>F25</sup> **26ZA** <sup>F26</sup> .....]

#### Textual Amendments

- F1** 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](#))
- F25** 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
- F26** S. 26ZA repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 157, 184, 188, [Sch. 14 para. 10](#), [Sch. 18 Pt. 5](#); [S.I. 2007/935](#), [art. 5\(gg\)\(ii\)](#)

### [<sup>F27</sup> **26ZB** <sup>F28</sup> **Representations: further consideration (Wales)**]

- (1) The [<sup>F28</sup>Welsh Ministers] 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—
- for the further consideration of a representation by an independent panel established under the regulations;
  - about the procedure to be followed on the further consideration of a representation;
  - for the making of recommendations about the action to be taken as the result of a representation;
  - about the making of reports about a representation;
  - about the action to be taken by the local authority concerned as a result of the further consideration of a representation;
  - for a representation to be referred back to the local authority concerned for reconsideration by the authority.
- (3) The regulations may require—
- 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;
  - any such payment to be—
    - made to such person or body as may be specified in the regulations;

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- (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.]

#### Textual Amendments

- F1** Ss. 25A, 25B and cross-heading inserted (1.9.2009 for certain purposes for E., 26.4.2010 for certain purposes for W., 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](#))
- F27** 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\(2\)\(b\)](#)
- F28** Words in s. 26ZB(1) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 39, 44](#), [Sch. 3 para. 17](#)

#### [<sup>F29</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.
- [ The duty under subsection (1) includes a duty to make arrangements for the provision
- <sup>F30</sup>(2A) of assistance where representations under section 24D or 26 are further considered under section <sup>F31</sup>. . . 26ZB.]
- (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 [<sup>F32</sup>appropriate national authority]; and
  - (b) shall comply with any other provision made by the regulations in relation to the arrangements.
- (4) The [<sup>F33</sup>appropriate national authority] 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).



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- (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

- F1** 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)
- F29** 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\(3\)\(4\)\(b\)](#)
- F30** S. 26A(2A) inserted (1.4.2006 for W. and otherwise prosp.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), [ss. 116\(3\)](#), 199; S.I. 2005/3285, [art. 2\(2\)\(c\)](#)
- F31** Words in s. 26A(2A) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), [ss. 157](#), 184, 188, [Sch. 14 para. 11](#), [Sch. 18 Pt. 5](#); S.I. 2007/935, [art. 5\(gg\)\(ii\)](#)
- F32** Words in s. 26A(3)(a) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 39](#), 44, [Sch. 3 para. 18](#)
- F33** Words in s. 26A(4) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 39](#), 44, [Sch. 3 para. 18](#)

## 27 Co-operation between authorities.

- (1) Where it appears to a local authority that any authority <sup>F34</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>F34</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>F35</sup>authorities] are—
- any local authority;
  - any local education authority;
  - any local housing authority;
  - any [<sup>F36</sup>[<sup>F37</sup>Local Health Board], Special Health Authority][<sup>F38</sup>, Primary Care Trust][<sup>F39</sup>, National Health Service trust or NHS foundation trust]; and
  - any person authorised by the [<sup>F40</sup>appropriate national authority] for the purposes of this section.

<sup>F41</sup>(4) . . . . .

#### Textual Amendments

- F34** 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.](#)
- F35** 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.](#)
- F36** 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](#))

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- F37** Words in s. 27(3)(d) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), **arts. 2, 3** {Sch. para. 20(2)(d)}  
**F38** Words in s. 27(3)(d) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 24(5)**  
**F39** 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**  
**F40** Words in s. 27(3)(e) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 19**  
**F41** 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

- I2** 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 [F42Part IV of the Education Act 1996], the local education authority who maintain the statement.

#### Textual Amendments

- F42** 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

- I3** S. 28 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

## 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.

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- (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>F43</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>F44</sup>under <sup>F45</sup>Part VII of the Social Security Contributions and Benefits Act 1992 <sup>F46</sup>, of any element of child tax credit other than the family element, of working tax credit <sup>F47</sup>, of an income-based jobseeker's allowance or of an income-related employment and support allowance].  
<sup>F48</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 <sup>F47</sup>, of an income-based jobseeker's allowance or of an income-related employment and support allowance].]
- <sup>F49</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 <sup>F50</sup>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>M1</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>F51</sup>, the Welsh Ministers <sup>F52</sup>or a Primary Care Trust <sup>F53</sup>or any other hospital made available pursuant to arrangements made by <sup>F54</sup>a Strategic Health Authority,] a <sup>F55</sup>Local Health Board <sup>F52</sup>or a Primary Care Trust,]],

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

- (9) [<sup>F56</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>F57</sup>reasonable expenses] incurred by them in respect of that person.

- [ Where a local authority (“authority A”) comply with any request under section 27(2)  
<sup>F58</sup>(10) 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

- F1** 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](#))
- F43** 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](#)
- F44** 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)
- F45** 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\(b\)](#).
- F46** 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)
- F47** Words in s. 29(3)(3A) substituted (27.10.2008) by [Welfare Reform Act 2007 \(c. 5\)](#), [ss. 28](#), 70, {[Sch. 3 para. 6\(4\)](#)}; [S.I. 2008/787](#), [art. 2\(4\)\(f\)](#)
- F48** 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](#)
- F49** 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\(a\)](#)
- F50** Words in s. 29(3B) substituted (5.12.2005) by [The Civil Partnership Act 2004 \(Overseas Relationships and Consequential, etc. Amendments\) Order 2005 \(S.I. 2005/3129\)](#), [art. 4\(4\)](#), [Sch. 4 para. 9](#)
- F51** Words in s. 29(8)(c) inserted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), [ss. 39](#), 44, [Sch. 3 para. 20](#)
- F52** Words in s. 29(8)(c) inserted (8.2.2000) by [S.I. 2000/90](#), [art. 3\(1\)](#), [Sch. 1 para. 24\(6\)](#)
- F53** 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\(3\)](#)
- F54** Words in s. 29(8)(c) inserted (1.10.2002) by [S.I. 2002/2469](#), [reg. 4 Sch. 1 Pt. 1 para. 16\(2\)](#)
- F55** Words in s. 29(8)(c) substituted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961\)](#), [arts. 2](#), 3 {[Sch. para. 20\(2\)\(e\)](#)}
- F56** 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](#)
- F57** 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.](#)

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**F58** 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

**I4** S. 29 in force at 14.10.1991, see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

#### Marginal Citations

**M1** 1980 c. 5.

### 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 [<sup>F59</sup>determining authority].

[<sup>F60</sup>(2A) For the purposes of subsection (2) “the determining authority” is—

- (a) in a case where all the local authorities concerned are in Wales, the Welsh Ministers;
- (b) in any other case, the Secretary of State.

(2B) In a case where—

- (a) the determining authority is the Secretary of State, and
- (b) one or more of the local authorities concerned are in Wales,

the Secretary of State must consult the Welsh Ministers before making a determination for the purposes of subsection (2).]

(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 [<sup>F61</sup>appropriate national authority] 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.

#### Textual Amendments

**F59** Words in s. 30(2) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 21(2)

**F60** Words in s. 30(2A)(2B) inserted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 21(3)

**F61** Words in s. 30(4) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 21(4)

#### Commencement Information

**I5** S. 30 wholly in force at 14.10.1991, see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

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## **I<sup>F62</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**

- F1** 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)
- F62** S. 30A inserted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, [Sch. 3 para. 22](#)

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