



# Children Act 1989

## 1989 CHAPTER 41

### PART III **E+W+S**

#### [<sup>F1</sup>SUPPORT FOR CHILDREN AND FAMILIES PROVIDED BY LOCAL AUTHORITIES IN ENGLAND]

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

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

- (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 [<sup>F1</sup>Secretary of State] may by order amend any provision of Part I of Schedule 2 or add any further duty or power to those for the time being mentioned there.
- [<sup>F2</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—

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- (a) ascertain the child's wishes and feelings regarding the provision of those services; and
  - (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 [<sup>F3</sup>it is a function of the authority] to provide by virtue of this section, or section 18, 20, [<sup>F4</sup>[<sup>F5</sup>22A to 22C], 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>F6</sup>providing accommodation and] giving assistance in kind or <sup>F7</sup>. . . 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 [<sup>F8</sup>of universal credit (except in such circumstances as may be prescribed),] of income support [<sup>F9</sup>under][<sup>F10</sup> Part VII of the Social Security Contributions and Benefits Act 1992,][<sup>F11</sup> of any element of child tax credit other than the family element, of working tax credit][<sup>F12</sup>, of an income-based jobseeker's allowance or of an income-related employment and support 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>F13</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.]

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[<sup>F14</sup>(13) The duties imposed on a local authority by virtue of this section do not apply in relation to a child in the authority’s area who is being looked after by a local authority in Wales in accordance with Part 6 of the Social Services and Well-being (Wales) Act 2014.]

#### Textual Amendments

- F1 Words in s. 17(4) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **58(a)**
- F2 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)**
- F3 Words in s. 17(5)(a) substituted (1.4.2011 for E., 6.4.2016 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), s. 44(4), **Sch. 1 para. 1(b)**; S.I. 2010/2981, art. 4(a); S.I. 2016/452, art. 2(b)
- F4 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**
- F5 Words in s. 17(5)(a) substituted (1.4.2011 for E., 6.4.2016 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), s. 44(4), **Sch. 1 para. 1(a)**; S.I. 2010/2981, art. 4(a); S.I. 2016/452, art. 2(b)
- F6 Words in s. 17(6) inserted (7.11.2002) by [2002 c. 38](#), ss. **116(1)**, 148(1) (with Sch. 4 paras. 6-8)
- F7 Words in s. 17(6) repealed (1.4.2011 for E., 19.6.2012 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 24, 44(4), **Sch. 4**; S.I. 2010/2981, art. 4(i)(1); S.I. 2012/1553, art. 2(c)(e)
- F8 Words in s. 17(9) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 2 para. 1(a)**; S.I. 2013/983, **art. 3(1)(b)(i)**
- F9 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)
- F10 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)**.
- F11 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)
- F12 Words in s. 17(9) substituted (27.10.2008) by [Welfare Reform Act 2007 \(c. 5\)](#), ss. 28, 70, **Sch. 3 para. 6(2)**; S.I. 2008/787, **art. 2(4)(f)**
- F13 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)
- F14 S. 17(13) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **58(b)**

#### 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)**

[<sup>F15</sup>17ZA Young carers' needs assessments <sup>F16</sup> ... **E+W+S**

- (1) A local authority <sup>F17</sup> ... must assess whether a young carer within their area has needs for support and, if so, what those needs are, if—
  - (a) it appears to the authority that the young carer may have needs for support, or
  - (b) the authority receive a request from the young carer or a parent of the young carer to assess the young carer's needs for support.
- (2) An assessment under subsection (1) is referred to in this Part as a “young carer's needs assessment”.

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- (3) In this Part “young carer” means a person under 18 who provides or intends to provide care for another person (but this is qualified by section 17ZB(3)).
- (4) Subsection (1) does not apply in relation to a young carer if the local authority have previously carried out a care-related assessment of the young carer in relation to the same person cared for.
- (5) But subsection (1) does apply (and so a young carer's needs assessment must be carried out) if it appears to the authority that the needs or circumstances of the young carer or the person cared for have changed since the last care-related assessment.
- (6) “Care-related assessment” means—
- (a) a young carer's needs assessment;
  - (b) an assessment under any of the following—
    - (i) section 1 of the Carers (Recognition and Services) Act 1995;
    - (ii) section 1 of the Carers and Disabled Children Act 2000;
    - <sup>F18</sup>(iii) . . . . .
    - [ Part 1 of the Care Act 2014.]
    - <sup>F19</sup>(iv)
- (7) A young carer's needs assessment must include an assessment of whether it is appropriate for the young carer to provide, or continue to provide, care for the person in question, in the light of the young carer's needs for support, other needs and wishes.
- (8) A local authority, in carrying out a young carer's needs assessment, must have regard to—
- (a) the extent to which the young carer is participating in or wishes to participate in education, training or recreation, and
  - (b) the extent to which the young carer works or wishes to work.
- (9) A local authority, in carrying out a young carer's needs assessment, must involve—
- (a) the young carer,
  - (b) the young carer's parents, and
  - (c) any person who the young carer or a parent of the young carer requests the authority to involve.
- (10) A local authority that have carried out a young carer's needs assessment must give a written record of the assessment to—
- (a) the young carer,
  - (b) the young carer's parents, and
  - (c) any person to whom the young carer or a parent of the young carer requests the authority to give a copy.
- (11) Where the person cared for is under 18, the written record must state whether the local authority consider him or her to be a child in need.
- (12) A local authority <sup>F20</sup>... must take reasonable steps to identify the extent to which there are young carers within their area who have needs for support.

#### Textual Amendments

**F15** Ss. 17ZA-17ZC inserted (1.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), ss. **96(1)**, 139(6); S.I. 2015/375, art. 2(c)

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- F16** Words in s. 17ZA heading omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **59(c)**
- F17** Words in s. 17ZA(1) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **59(a)**
- F18** [S. 17ZA\(6\)\(b\)\(iii\)](#) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 91(4)(b)(i)**, 186(6); [S.I. 2022/734](#), reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)
- F19** [S. 17ZA\(6\)\(b\)\(iv\)](#) added (1.4.2015) by [The Care Act 2014](#) and [Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 44** (with arts. 1(3), 3)
- F20** Words in s. 17ZA(12) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **59(b)**

### **17ZB** Young carers' needs assessments: supplementary **E+W+S**

- (1) This section applies for the purposes of section 17ZA.
- (2) “ Parent ”, in relation to a young carer, includes—
  - (a) a parent of the young carer who does not have parental responsibility for the young carer, and
  - (b) a person who is not a parent of the young carer but who has parental responsibility for the young carer.
- (3) A person is not a young carer if the person provides or intends to provide care—
  - (a) under or by virtue of a contract, or
  - (b) as voluntary work.
- (4) But in a case where the local authority consider that the relationship between the person cared for and the person under 18 providing or intending to provide care is such that it would be appropriate for the person under 18 to be regarded as a young carer, that person is to be regarded as such (and subsection (3) is therefore to be ignored in that case).
- (5) The references in section 17ZA and this section to providing care include a reference to providing practical or emotional support.
- (6) Where a local authority—
  - (a) are required to carry out a young carer's needs assessment, and
  - (b) are required or have decided to carry out some other assessment of the young carer or of the person cared for;the local authority may, subject to subsection (7), combine the assessments.
- (7) A young carer's needs assessment may be combined with an assessment of the person cared for only if the young carer and the person cared for agree.
- (8) The Secretary of State may by regulations make further provision about carrying out a young carer's needs assessment; the regulations may, in particular—
  - (a) specify matters to which a local authority is to have regard in carrying out a young carer's needs assessment;
  - (b) specify matters which a local authority is to determine in carrying out a young carer's needs assessment;
  - (c) make provision about the manner in which a young carer's needs assessment is to be carried out;
  - (d) make provision about the form a young carer's needs assessment is to take.

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- (9) The Secretary of State may by regulations amend the list in section 17ZA(6)(b) so as to—
- (a) add an entry,
  - (b) remove an entry, or
  - (c) vary an entry.

#### Textual Amendments

**F15** Ss. 17ZA-17ZC inserted (1.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), ss. **96(1)**, 139(6); S.I. [2015/375](#), art. 2(c)

### 17ZC Consideration of young carers' needs assessments **E+W+S**

A local authority that carry out a young carer's needs assessment must consider the assessment and decide—

- (a) whether the young carer has needs for support in relation to the care which he or she provides or intends to provide;
- (b) if so, whether those needs could be satisfied (wholly or partly) by services which the authority may provide under section 17; and
- (c) if they could be so satisfied, whether or not to provide any such services in relation to the young carer.]

#### Textual Amendments

**F15** Ss. 17ZA-17ZC inserted (1.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), ss. **96(1)**, 139(6); S.I. [2015/375](#), art. 2(c)

### [<sup>F21</sup>17ZD Parent carers' needs assessments <sup>F22</sup> ... **E+W+S**

- (1) A local authority <sup>F23</sup> ... must, if the conditions in subsections (3) and (4) are met, assess whether a parent carer within their area has needs for support and, if so, what those needs are.
- (2) In this Part “parent carer” means a person aged 18 or over who provides or intends to provide care for a disabled child for whom the person has parental responsibility.
- (3) The first condition is that—
  - (a) it appears to the authority that the parent carer may have needs for support, or
  - (b) the authority receive a request from the parent carer to assess the parent carer's needs for support.
- (4) The second condition is that the local authority are satisfied that the disabled child cared for and the disabled child's family are persons for whom they may provide or arrange for the provision of services under section 17.
- (5) An assessment under subsection (1) is referred to in this Part as a “parent carer's needs assessment”.

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- (6) Subsection (1) does not apply in relation to a parent carer if the local authority have previously carried out a care-related assessment of the parent carer in relation to the same disabled child cared for.
- (7) But subsection (1) does apply (and so a parent carer's needs assessment must be carried out) if it appears to the authority that the needs or circumstances of the parent carer or the disabled child cared for have changed since the last care-related assessment.
- (8) “Care-related assessment” means—
- (a) a parent carer's needs assessment;
  - (b) an assessment under any of the following—
    - (i) section 1 of the Carers (Recognition and Services) Act 1995;
    - (ii) section 6 of the Carers and Disabled Children Act 2000;
    - <sup>F24</sup>(iii) . . . . .
    - [ Part 1 of the Care Act 2014.]
    - <sup>F25</sup>(iv)
- (9) A parent carer's needs assessment must include an assessment of whether it is appropriate for the parent carer to provide, or continue to provide, care for the disabled child, in the light of the parent carer's needs for support, other needs and wishes.
- (10) A local authority in carrying out a parent carer's needs assessment must have regard to—
- (a) the well-being of the parent carer, and
  - (b) the need to safeguard and promote the welfare of the disabled child cared for and any other child for whom the parent carer has parental responsibility.
- (11) In subsection (10) “well-being” has the same meaning as in Part 1 of the Care Act 2014.
- (12) A local authority, in carrying out a parent carer's needs assessment, must involve—
- (a) the parent carer,
  - (b) any child for whom the parent carer has parental responsibility, and
  - (c) any person who the parent carer requests the authority to involve.
- (13) A local authority that have carried out a parent carer's needs assessment must give a written record of the assessment to—
- (a) the parent carer, and
  - (b) any person to whom the parent carer requests the authority to give a copy.
- (14) A local authority <sup>F26</sup> ... must take reasonable steps to identify the extent to which there are parent carers within their area who have needs for support.

**Textual Amendments**

- F21** Ss. 17ZD-17ZF inserted (1.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 97(1)**, 139(6); S.I. 2015/375, art. 2(c)
- F22** Word in s. 17ZD heading omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **60(c)**
- F23** Words in s. 17ZD(1) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **60(a)**

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- F24** S. 17ZD(8)(b)(iii) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 91(4)(b)(ii)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F25** S. 17ZD(8)(b)(iv) added (1.4.2015) by The Care Act 2014 and Children and Families Act 2014 (Consequential Amendments) Order 2015 (S.I. 2015/914), art. 1(2), **Sch. para. 45** (with arts. 1(3), 3)
- F26** Words in s. 17ZD(14) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **60(b)**

## 17ZE Parent carers' needs assessments: supplementary **E+W+S**

- (1) This section applies for the purposes of section 17ZD.
- (2) The references in section 17ZD to providing care include a reference to providing practical or emotional support.
- (3) Where a local authority—
  - (a) are required to carry out a parent carer's needs assessment, and
  - (b) are required or have decided to carry out some other assessment of the parent carer or of the disabled child cared for,
 the local authority may combine the assessments.
- (4) The Secretary of State may by regulations make further provision about carrying out a parent carer's needs assessment; the regulations may, in particular—
  - (a) specify matters to which a local authority is to have regard in carrying out a parent carer's needs assessment;
  - (b) specify matters which a local authority is to determine in carrying out a parent carer's needs assessment;
  - (c) make provision about the manner in which a parent carer's needs assessment is to be carried out;
  - (d) make provision about the form a parent carer's needs assessment is to take.
- (5) The Secretary of State may by regulations amend the list in section 17ZD(8)(b) so as to—
  - (a) add an entry,
  - (b) remove an entry, or
  - (c) vary an entry.

### Textual Amendments

- F21** Ss. 17ZD-17ZF inserted (1.4.2015) by Children and Families Act 2014 (c. 6), **ss. 97(1)**, 139(6); S.I. 2015/375, art. 2(c)

## 17ZF Consideration of parent carers' needs assessments **E+W+S**

A local authority that carry out a parent carer's needs assessment must consider the assessment and decide—

- (a) whether the parent carer has needs for support in relation to the care which he or she provides or intends to provide;
- (b) whether the disabled child cared for has needs for support;
- (c) if paragraph (a) or (b) applies, whether those needs could be satisfied (wholly or partly) by services which the authority may provide under section 17; and



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- (d) if they could be so satisfied, whether or not to provide any such services in relation to the parent carer or the disabled child cared for.]

#### Textual Amendments

**F21** Ss. 17ZD-17ZF inserted (1.4.2015) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 97(1)**, 139(6); S.I. 2015/375, art. 2(c)

### [<sup>F27</sup>17ZG] **Section 17 services: continued provision where EHC plan maintained** **E+W+S**

- (1) This section applies where, immediately before a child in need reaches the age of 18—
- a local authority <sup>F28</sup> ... is providing services for the child in the exercise of functions conferred by section 17, and
  - an EHC plan is maintained for the child.
- (2) The local authority may continue to provide services for the child in the exercise of those functions after the child reaches the age of 18, but may not continue to do so after the EHC plan has ceased to be maintained [<sup>F29</sup>, except in so far as the authority is required to do so under section 17ZH or 17ZI].
- (3) In this section “ EHC plan ” means a plan within section 37(2) of the Children and Families Act 2014. ]

#### Textual Amendments

**F27** S. 17ZG inserted (1.9.2014) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 50**, 139(6); S.I. 2014/889, art. 7(a) (with savings and transitional provisions in S.I. 2014/2270 (as amended (1.4.2015) by S.I. 2015/505))

**F28** Words in s. 17ZG(1)(a) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **61**

**F29** Words in s. 17ZG(2) inserted (1.4.2015) by [Care Act 2014 \(c. 23\)](#), **ss. 66(2)**, 127(1); S.I. 2015/993, art. 2(q) (with transitional provisions in S.I. 2015/995)

### [<sup>F30</sup>17ZH] **Section 17 services: transition for children to adult care and support** **E+W+S**

- (1) Subsections (2) to (4) apply where a local authority <sup>F31</sup> ... providing services for a child in need in the exercise of functions conferred by section 17—
- are required by section 58(1) or 63(1) of the Care Act 2014 to carry out a child's needs assessment or young carer's assessment in relation to the child, or
  - are required by section 60(1) of that Act to carry out a child's carer's assessment in relation to a carer of the child.
- (2) If the local authority carry out the assessment before the child reaches the age of 18 and decide to treat it as a needs or carer's assessment in accordance with section 59(6), 61(6) or 64(7) of the Care Act 2014 (with Part 1 of that Act applying to the assessment as a result), the authority must continue to comply with section 17 after the child reaches the age of 18 until they reach a conclusion in his case.
- (3) If the local authority carry out the assessment before the child reaches the age of 18 but decide not to treat it as a needs or carer's assessment in accordance with section 59(6), 61(6) or 64(7) of the Care Act 2014—

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- (a) they must carry out a needs or carer's assessment (as the case may be) after the child reaches the age of 18, and
  - (b) they must continue to comply with section 17 after he reaches that age until they reach a conclusion in his case.
- (4) If the local authority do not carry out the assessment before the child reaches the age of 18, they must continue to comply with section 17 after he reaches that age until—
- (a) they decide that the duty under section 9 or 10 of the Care Act 2014 (needs or carer's assessment) does not apply, or
  - (b) having decided that the duty applies and having discharged it, they reach a conclusion in his case.
- (5) Subsection (6) applies where a local authority <sup>F32</sup>... providing services for a child in need in the exercise of functions conferred by section 17—
- (a) receive a request for a child's needs assessment or young carer's assessment to be carried out in relation to the child or for a child's carer's assessment to be carried out in relation to a carer of the child, but
  - (b) have yet to be required by section 58(1), 60(1) or 63(1) of the Care Act 2014 to carry out the assessment.
- (6) If the local authority do not decide, before the child reaches the age of 18, whether or not to comply with the request, they must continue to comply with section 17 after he reaches that age until—
- (a) they decide that the duty under section 9 or 10 of the Care Act 2014 does not apply, or
  - (b) having decided that the duty applies and having discharged it, they reach a conclusion in his case.
- (7) A local authority reach a conclusion in a person's case when—
- (a) they conclude that he does not have needs for care and support or for support (as the case may be), or
  - (b) having concluded that he has such needs and that they are going to meet some or all of them, they begin to do so, or
  - (c) having concluded that he has such needs, they conclude that they are not going to meet any of those needs (whether because those needs do not meet the eligibility criteria or for some other reason).
- (8) In this section, “child's needs assessment”, “child's carer's assessment”, “young carer's assessment”, “needs assessment”, “carer's assessment” and “eligibility criteria” each have the same meaning as in Part 1 of the Care Act 2014.

#### Textual Amendments

- F30** Ss. 17ZH, 17ZI inserted (1.4.2015) by [Care Act 2014 \(c. 23\)](#), [ss. 66\(1\)](#), 127(1); [S.I. 2015/993](#), [art. 2\(q\)](#) (with transitional provisions in [S.I. 2015/995](#))
- F31** Words in s. 17ZH(1) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), [regs. 2\(1\)](#), [62\(a\)](#)
- F32** Words in s. 17ZH(5) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), [regs. 2\(1\)](#), [62\(b\)](#)

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## **17ZI Section 17 services: provision after EHC plan no longer maintained** **E+W+S**

- (1) This section applies where a local authority<sup>F33</sup> ... providing services for a person in the exercise, by virtue of section 17ZG, of functions conferred by section 17 are required to carry out a needs assessment in that person's case.
- (2) If the EHC plan for the person ceases to be maintained before the local authority reach a conclusion in the person's case, they must continue to comply with section 17 until they do reach a conclusion in his case.
- (3) The references to the local authority reaching a conclusion in a person's case are to be read with section 17ZH(7).
- (4) In this section, “needs assessment” has the same meaning as in Part 1 of the Care Act 2014. ]

### **Textual Amendments**

**F30** Ss. 17ZH, 17ZI inserted (1.4.2015) by Care Act 2014 (c. 23), ss. 66(1), 127(1); S.I. 2015/993, art. 2(q) (with transitional provisions in S.I. 2015/995)

**F33** Words in s. 17ZI(1) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), 63

## **[<sup>F34</sup>17A Direct payments** **E+W**

- (1) The [<sup>F35</sup>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.
- [<sup>F36</sup>(3) Regulations under this section may, in particular, make provision—
  - (a) specifying circumstances in which the responsible authority are not required or authorised to make any payments under the regulations to a person, whether those circumstances relate to the person in question or to the particular service mentioned in subsection (2);
  - (b) for any payments required or authorised by the regulations to be made to a person by the responsible authority (“direct payments”) to be made to that person (“the payee”) as gross payments or alternatively as net payments;
  - (c) for the responsible authority to make for the purposes of subsection (3A) or (3B) such determination as to—
    - (i) the payee's means, and

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- (ii) the amount (if any) which it would be reasonably practicable for the payee to pay to the authority by way of reimbursement or contribution,  
as may be prescribed;
  - (d) as to the conditions falling to be complied with by the payee which must or may be imposed by the responsible authority in relation to the direct payments (and any conditions which may not be so imposed);
  - (e) specifying circumstances in which the responsible authority—
    - (i) may or must terminate the making of direct payments,
    - (ii) may require repayment (whether by the payee or otherwise) of the whole or part of the direct payments;
  - (f) for any sum falling to be paid or repaid to the responsible authority by virtue of any condition or other requirement imposed in pursuance of the regulations to be recoverable as a debt due to the authority;
  - (g) displacing functions or obligations of the responsible authority with respect to the provision of the service mentioned in subsection (2) only to such extent, and subject to such conditions, as may be prescribed;
  - (h) authorising direct payments to be made to any prescribed person on behalf of the payee;
  - (j) as to matters to which the responsible authority must, or may, have regard when making a decision for the purposes of a provision of the regulations;
  - (k) as to steps which the responsible authority must, or may, take before, or after, the authority makes a decision for the purposes of a provision of the regulations;
  - (l) specifying circumstances in which a person who has fallen within subsection (3D) but no longer does so (whether because of fluctuating capacity, or regaining or gaining of capacity) is to be treated, or may be treated, as falling within subsection (3D) for purposes of this section or for purposes of regulations under this section.
- (3A) For the purposes of subsection (3)(b) “gross payments” means payments—
- (a) which are made at such a rate as the authority estimate to be equivalent to the reasonable cost of securing the provision of the service concerned; but
  - (b) which may be made subject to the condition that the payee pays to the responsible authority, by way of reimbursement, an amount or amounts determined under the regulations.
- (3B) For the purposes of subsection (3)(b) “net payments” means payments—
- (a) which are made on the basis that the payee will pay an amount or amounts determined under the regulations by way of contribution towards the cost of securing the provision of the service concerned; and
  - (b) which are accordingly made at such a rate below that mentioned in subsection (3A)(a) as reflects any such contribution by the payee.
- (3C) Regulations made for the purposes of subsection (3)(a) may provide that direct payments shall not be made in respect of the provision of residential accommodation for any person for a period in excess of a prescribed period.
- (3D) A person falls within this subsection if the person lacks capacity, within the meaning of the Mental Capacity Act 2005, to consent to the making of direct payments.]

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- (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 [F37(3A)(a)]; and
  - (b) subsection [F38(3A)(b)] 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 [F39 of universal credit (except in such circumstances as may be prescribed),] income support [F40 ... under Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4) , of any element of child tax credit other than the family element, of working tax credit][F41, of an income-based jobseeker's allowance or of an income-related employment and support allowance] .
- (6) In this section—
- F42 ...
- “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 F43 ...

#### Textual Amendments

- F34** 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)**
- F35** Words in s. 17A(1) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016](#) (S.I. 2016/413), regs. 2(1), **64**
- F36** S. 17A(3)-(3D) substituted for s. 17A(3) (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015](#) (S.I. 2015/914), art. 1(2), **Sch. para. 46(2)** (with arts. 1(3), 3)
- F37** Word in s. 17A(4)(a) substituted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015](#) (S.I. 2015/914), art. 1(2), **Sch. para. 46(3)(a)** (with arts. 1(3), 3)
- F38** Word in s. 17A(4)(b) substituted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015](#) (S.I. 2015/914), art. 1(2), **Sch. para. 46(3)(b)** (with arts. 1(3), 3)
- F39** Words in s. 17A(5)(b) inserted (29.4.2013) by [Welfare Reform Act 2012](#) (c. 5), s. 150(3), **Sch. 2 para. 1(b)**; S.I. 2013/983, art. 3(1)(b)(i)
- F40** 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)
- F41** Words in s. 17A(5)(b) substituted (27.10.2008) by [Welfare Reform Act 2007](#) (c. 5), ss. 28, 70, **Sch. 3 para. 6(3)**; S.I. 2008/787, **art. 2(4)(f)**
- F42** Words in s. 17A(6) omitted (1.4.2015) by virtue of [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015](#) (S.I. 2015/914), art. 1(2), **Sch. para. 46(4)(a)** (with arts. 1(3), 3)
- F43** Words in s. 17A(6) omitted (1.4.2015) by virtue of [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015](#) (S.I. 2015/914), art. 1(2), **Sch. para. 46(4)(b)** (with arts. 1(3), 3)

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**F45 17B Vouchers for persons with parental responsibility for disabled children [F44: Wales]. E+W**

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**Textual Amendments**

**F44** Word in s. 17B heading inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 47(2)** (with arts. 1(3), 3)

**F45** S. 17B omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **65**

**18 Day care for pre-school and other children. E+W**

- (1) Every local authority shall provide such day care for children in need within their area who are—
- (a) aged five or under; and
  - (b) not yet attending schools,
- as is appropriate.

<sup>F46</sup>(2) .....

- (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.

<sup>F47</sup>(6) .....

- (7) In this section “supervised activity” means an activity supervised by a responsible person.

**Textual Amendments**

**F46** S. 18(2) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **66(a)**

**F47** S. 18(6) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **66(b)**

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**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)**

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[<sup>F48</sup> 19 **Review of provision for day care, child minding etc.** **E+W**

- [ Every local authority in England and Wales shall review—
- <sup>F49</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>F50</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>F51</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.
- (5) In this section—  
[<sup>F52</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>F53</sup>Health Authority, Special Health Authority][<sup>F54</sup>, Primary Care Trust]or health board; and  
(b) any other representations which they consider to be relevant.

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- (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

- F48** 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)
- F49** 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**
- F50** 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)
- F51** 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**
- F52** 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)
- F53** 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)
- F54** 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)**

#### 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.



**Changes to legislation:**

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[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(1A)(aa) inserted by 2009 c. 24 Sch. 6 para. 21(3)
- s. 4(1C) inserted by 2009 c. 24 Sch. 6 para. 21(4)
- s. 4ZA(2)(aa) inserted by 2009 c. 24 Sch. 6 para. 22(3)
- s. 4ZA(3A) inserted by 2009 c. 24 Sch. 6 para. 22(4)
- s. 8(4)(k) inserted by 2021 c. 17 s. 52(1)
- s. 31A(4A) inserted by 2014 c. 6 s. 15(2)(b)