



Childcare Act 2006

2006 CHAPTER 21

PART 1

GENERAL FUNCTIONS OF LOCAL AUTHORITY: ENGLAND

Improvement of young children's well-being

1 General duties of local authority in relation to well-being of young children

- (1) An English local authority must—
 - (a) improve the well-being of young children in their area, and
 - (b) reduce inequalities between young children in their area in relation to the matters mentioned in subsection (2).
- (2) In this Act “well-being”, in relation to children, means their well-being so far as relating to—
 - (a) physical and mental health and emotional well-being;
 - (b) protection from harm and neglect;
 - (c) education, training and recreation;
 - (d) the contribution made by them to society;
 - (e) social and economic well-being.
- (3) The Secretary of State may, in accordance with regulations, set targets for—
 - (a) the improvement of the well-being of young children in the area of an English local authority;
 - (b) the reduction of inequalities between young children in the area of an English local authority in relation to the matters mentioned in subsection (2).
- (4) In exercising their functions, an English local authority must act in the manner that is best calculated to secure that any targets set under subsection (3) (so far as relating to the area of the local authority) are met.

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- (5) In performing their duties under this section, an English local authority must have regard to any guidance given from time to time by the Secretary of State.

2 Meaning of “early childhood services” for purposes of section 3

- (1) In section 3 “early childhood services”, in relation to an English local authority, means—
- (a) early years provision;
 - (b) the social services functions of the local authority, so far as relating to young children, parents or prospective parents;
 - (c) health services relating to young children, parents or prospective parents;
 - (d) the provision, under arrangements made under section 2 of the Employment and Training Act 1973 (c. 50), of assistance to parents or prospective parents;
 - (e) the service provided by the local authority under section 12 (duty to provide information and assistance) so far as relating to parents or prospective parents.
- (2) In this section—
- “parent” means a parent of a young child, and includes any individual who—
 - (a) has parental responsibility for a young child, or
 - (b) has care of a young child;
 - “prospective parent” means a pregnant woman or any other person who is likely to become, or is planning to become, a parent;
 - “social services functions”, in relation to a local authority, has the same meaning as in the Local Authority Social Services Act 1970 (c. 42).

3 Specific duties of local authority in relation to early childhood services

- (1) For the purpose of their general duty under section 1(1), an English local authority have the further duties imposed by subsections (2) and (3).
- (2) The authority must make arrangements to secure that early childhood services in their area are provided in an integrated manner which is calculated to—
- (a) facilitate access to those services, and
 - (b) maximise the benefit of those services to parents, prospective parents and young children.
- (3) The authority must take steps—
- (a) to identify parents or prospective parents in the authority’s area who would otherwise be unlikely to take advantage of early childhood services that may be of benefit to them and their young children, and
 - (b) to encourage those parents or prospective parents to take advantage of those services.
- (4) An English local authority must take all reasonable steps to encourage and facilitate the involvement in the making and implementation of arrangements under this section of—
- (a) parents and prospective parents in their area,
 - (b) early years providers in their area, including those in the private and voluntary sectors, and

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- (c) other persons engaged in activities which may improve the well-being of young children in their area.
- (5) In discharging their duties under this section, an English local authority must have regard to such information about the views of young children as is available to the local authority and appears to them to be relevant to the discharge of those duties.
- (6) In discharging their duties under this section, an English local authority must have regard to any guidance given from time to time by the Secretary of State.
- (7) In this section—
 - “early years provider” has the same meaning as in Part 3;
 - “parent” and “prospective parent” have the same meaning as in section 2.

4 Duty of local authority and relevant partners to work together

- (1) For the purposes of this section each of the following is a relevant partner of an English local authority—
 - (a) a Strategic Health Authority or Primary Care Trust for an area any part of which falls within the area of the local authority;³
 - (b) the Secretary of State, in relation to his functions under section 2 of the Employment and Training Act 1973 (c. 50).
- (2) An English local authority must make arrangements to work with each of the authority’s relevant partners in the performance by the authority of their duties under sections 1 and 3.
- (3) Each of the relevant partners of an English local authority must work with the authority and with the other relevant partners in the making of the arrangements.
- (4) An English local authority and each of their relevant partners may for the purposes of arrangements under this section—
 - (a) provide staff, goods, services, accommodation or other resources;
 - (b) establish and maintain a pooled fund.
- (5) For the purposes of subsection (4) a pooled fund is a fund—
 - (a) which is made up of contributions by the authority and the relevant partner or partners concerned, and
 - (b) out of which payments may be made towards expenditure incurred in the discharge of functions of the authority and functions of the relevant partner or partners.
- (6) An English local authority and each of their relevant partners falling within subsection (1)(a) must, in exercising their functions under this section, have regard to any guidance given from time to time by the Secretary of State.

5 Power to amend sections 2 and 4

The Secretary of State may by order—

- (a) amend the definition of “early childhood services” in section 2(1), and
- (b) in connection with any amendment of that definition, make such other amendments of section 2 or 4 as appear to him to be necessary or expedient.

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Provision of childcare

6 Duty to secure sufficient childcare for working parents

- (1) An English local authority must secure, so far as is reasonably practicable, that the provision of childcare (whether or not by them) is sufficient to meet the requirements of parents in their area who require childcare in order to enable them—
 - (a) to take up, or remain in, work, or
 - (b) to undertake education or training which could reasonably be expected to assist them to obtain work.
- (2) In determining for the purposes of subsection (1) whether the provision of childcare is sufficient to meet those requirements, a local authority—
 - (a) must have regard to the needs of parents in their area for—
 - (i) the provision of childcare in respect of which the child care element of working tax credit is payable, and
 - (ii) the provision of childcare which is suitable for disabled children, and
 - (b) may have regard to any childcare which they expect to be available outside their area.
- (3) In discharging their duty under subsection (1), a local authority must have regard to any guidance given from time to time by the Secretary of State.
- (4) The Secretary of State may by order amend subsection (2) (and subsection (6) so far as relating to that subsection) so as to modify the matters to which a local authority must or may have regard in determining whether the provision of childcare is sufficient.
- (5) Except in relation to a disabled child, this section does not apply in relation to childcare for a child on or after the 1st September next following the date on which he attains the age of 14.
- (6) In this section—

“child care element”, in relation to working tax credit, is to be read in accordance with section 12 of the Tax Credits Act 2002 (c. 21);

“disabled child” means a child who has a disability for the purposes of the Disability Discrimination Act 1995 (c. 50);

“parent” includes any individual who—
 - (a) has parental responsibility for a child, or
 - (b) has care of a child.

7 Duty to secure prescribed early years provision free of charge

- (1) An English local authority must secure that early years provision of a prescribed description is available free of charge for such periods as may be prescribed for each young child in their area who—
 - (a) has attained such age as may be prescribed, but
 - (b) is under compulsory school age.
- (2) In discharging their duty under subsection (1), a local authority must have regard to any guidance given from time to time by the Secretary of State.

8 Powers of local authority in relation to the provision of childcare

- (1) An English local authority may—
 - (a) assist any person who provides or proposes to provide childcare;
 - (b) make arrangements with any other person for the provision of childcare;
 - (c) subject to subsection (3), provide childcare.
- (2) The assistance which a local authority may give under subsection (1)(a) includes financial assistance; and the arrangements which a local authority may make under subsection (1)(b) include arrangements involving the provision of financial assistance by the authority.
- (3) An English local authority may not provide childcare for a particular child or group of children unless the local authority are satisfied—
 - (a) that no other person is willing to provide the childcare (whether in pursuance of arrangements made with the authority or otherwise), or
 - (b) if another person is willing to do so, that in the circumstances it is appropriate for the local authority to provide the childcare.
- (4) Subsection (3) does not affect the provision of childcare by the governing body of a maintained school.
- (5) Subsection (3) does not apply in relation to the provision of childcare under section 18(1) or (5) of the Children Act 1989 (c. 41) (day care for children in need).
- (6) In exercising their functions under this section, an English local authority must have regard to any guidance given from time to time by the Secretary of State.

9 Arrangements between local authority and childcare providers

- (1) This section applies where an English local authority make arrangements with a person (other than the governing body of a maintained school) for the provision by that person of childcare in consideration of financial assistance provided by the authority under the arrangements.
- (2) The local authority must exercise their functions with a view to securing that the provider of the childcare meets any requirements imposed on him by the arrangements.
- (3) The requirements imposed by the arrangements may, in particular, if any specified conditions are not satisfied, require the repayment of the whole or any part of any financial assistance provided by the local authority under the arrangements.

10 Charges where local authority provide childcare

- (1) An English local authority may enter into an agreement under which payments are made to the authority for the provision by the authority of childcare for a child.
- (2) Subsection (1) does not apply—
 - (a) to childcare provided in pursuance of the duty imposed by section 7, or
 - (b) to childcare provided under section 18(1) or (5) of the Children Act 1989 (c. 41) (day care for children in need), provision as to charges for such care being made by section 29 of that Act.

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11 Duty to assess childcare provision

- (1) An English local authority must prepare assessments of the sufficiency of the provision of childcare (whether or not by them) in their area (“childcare assessments”).
- (2) The first childcare assessment must be prepared before the end of the period of one year beginning with the commencement of this section.
- (3) Subsequent childcare assessments must be prepared at intervals not exceeding three years.
- (4) The authority must keep a childcare assessment prepared by them under review until the childcare assessment is superseded by a further childcare assessment.
- (5) Regulations may make provision requiring a childcare assessment—
 - (a) to deal with prescribed matters or be prepared according to prescribed criteria;
 - (b) to be in the prescribed form;
 - (c) to be published in the prescribed manner.
- (6) In preparing a childcare assessment and keeping it under review, an English local authority must—
 - (a) consult such persons, or persons of such a description, as may be prescribed, and
 - (b) have regard to any guidance given from time to time by the Secretary of State.
- (7) Subsection (5) of section 6 applies for the purposes of this section as it applies for the purposes of that section.

Information, advice and assistance

12 Duty to provide information, advice and assistance

- (1) An English local authority must establish and maintain a service providing information, advice and assistance in accordance with this section.
- (2) The service must provide to parents or prospective parents information which is of a prescribed description and relates to any of the following—
 - (a) the provision of childcare in the area of the local authority;
 - (b) any other services or facilities, or any publications, which may be of benefit to parents or prospective parents in their area;
 - (c) any other services or facilities, or any publications, which may be of benefit to children or young persons in their area.
- (3) In prescribing information for the purpose of subsection (2), the Secretary of State must have regard to the needs of the parents of disabled children or young persons for information relating to—
 - (a) the provision of childcare which is suitable for disabled children, and
 - (b) other services or facilities, or publications, which may be of particular benefit to the parents of disabled children or young persons or to disabled children or young persons.
- (4) The service may, in addition to providing information which it is required to provide under subsection (2), provide information relating to any of the matters mentioned in

paragraphs (a) to (c) of that subsection to such persons as the local authority consider appropriate.

- (5) The service must provide advice and assistance to parents or prospective parents who use, or propose to use, childcare provided in the area of the local authority.
- (6) The service must be established and maintained in the manner which is best calculated to facilitate access to the service by persons in the local authority's area who may benefit from it, including, in particular, persons who might otherwise have difficulty in taking advantage of the service.
- (7) In exercising their functions under this section, a local authority must have regard to any guidance given from time to time by the Secretary of State.
- (8) For the purposes of this section, a child or young person is disabled if he has a disability for the purposes of the Disability Discrimination Act 1995 (c. 50).
- (9) In this section—
 - “parent” means a parent of a child or young person and includes any individual who—
 - (a) has parental responsibility for a child, or
 - (b) has care of a child;
 - “prospective parent” means a pregnant woman or any other person who is likely to become, or is planning to become, a parent;
 - “young person” means a person who has attained the age of 18 but has not attained the age of 20.

13 Duty to provide information, advice and training to childcare providers

- (1) An English local authority must, in accordance with regulations, secure the provision of information, advice and training to—
 - (a) persons providing childcare in their area who are registered under Part 3;
 - (b) persons who intend to provide childcare in their area in respect of which they will be required to be registered under Part 3;
 - (c) persons who provide childcare at any of the following schools in their area (whether or not they are required to be registered under Part 3)—
 - (i) a maintained school,
 - (ii) a school approved by the Secretary of State under section 342 of the Education Act 1996 (c. 56) (approval of non-maintained special schools),
 - (iii) an independent school;
 - (d) persons who intend to provide childcare at any such school (whether or not they would be required to be registered under Part 3);
 - (e) persons who are employed to assist any such persons as are mentioned in paragraph (a) or (c) in the provision of childcare or persons who intend to obtain such employment.
- (2) An English local authority may, in addition to securing the provision of information, advice and training which they are required to secure under subsection (1), provide other information, advice and training to any persons mentioned in paragraphs (a) to (e) of that subsection.

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- (3) An English local authority may provide information, advice and training to persons who do not fall within any of paragraphs (a) to (e) of subsection (1) but who—
 - (a) provide or intend to provide childcare in their area, or
 - (b) are employed to assist in the provision of childcare in their area or who intend to obtain such employment.
- (4) An English local authority may impose such charges as they consider reasonable for the provision of information, advice or training provided by them in pursuance of subsection (1), (2) or (3).
- (5) In exercising their functions under this section, an English local authority must have regard to any guidance given from time to time by the Secretary of State.

Miscellaneous

14 Inspection

For the purposes of section 38 of the Education Act 1997 (c. 44) (inspection of local education authorities), the functions conferred on an English local authority by or under this Part are to be regarded as functions conferred on a local education authority in their capacity as such.

15 Powers of Secretary of State to secure proper performance etc.

- (1) Section 496 of the 1996 Act (powers of Secretary of State to prevent unreasonable exercise of functions) applies in relation to an English local authority and the powers conferred or duties imposed on them by or under this Part as it applies in relation to a local education authority in England and the powers conferred or duties imposed on them by or under the 1996 Act.
- (2) Section 497 of the 1996 Act (general default powers) applies in relation to the duties imposed on an English local authority by or for the purposes of this Part as it applies in relation to the duties imposed on a local education authority in England by or for the purposes of the 1996 Act.
- (3) Section 497A of the 1996 Act (power to secure proper performance of LEA's functions) applies in relation to an English local authority's functions under this Part as it applies in relation to the functions of a local education authority in England mentioned in subsection (1) of that section.
- (4) Sections 497AA and 497B of the 1996 Act apply accordingly where powers under section 497A of that Act are exercised in relation to any of the functions of an English local authority under this Part.
- (5) In the application of sections 497A(2) to (7), 497AA and 497B of the 1996 Act in relation to an English local authority's functions under this Part, references to the local education authority are to be read as references to the local authority.
- (6) In subsection (5) of section 497A of the 1996 Act, the reference to functions to which that section applies includes (for all purposes) functions of an English local authority under this Part.
- (7) In this section, "the 1996 Act" means the Education Act 1996 (c. 56).

16 Amendments of Children Act 2004

- (1) The Children Act 2004 (c. 31) is amended as follows.
- (2) In section 18 (director of children’s services), in subsection (2)—
 - (a) omit the “and” at the end of paragraph (d), and
 - (b) after paragraph (e) insert “; and
 - (f) the functions conferred on the authority under Part 1 of the Childcare Act 2006.”
- (3) In section 23 (interpretation), in subsection (3) (which defines “children’s services”)—
 - (a) omit the “and” at the end of paragraph (b), and
 - (b) after paragraph (c) insert “; and
 - (d) any function conferred on a local authority under Part 1 of the Childcare Act 2006.”

17 Charges for early years provision at maintained school

- (1) Section 451 of the Education Act 1996 (prohibition of charges for provision of education) is amended as follows.
- (2) After subsection (2) insert—

“(2A) Regulations may, in relation to England, prescribe circumstances in which subsection (2) does not apply in relation to education which is early years provision (as defined by section 20 of the Childcare Act 2006) other than —

 - (a) early years provision provided in pursuance of the duty imposed by section 7 of that Act, or
 - (b) early years provision for a pupil who is of compulsory school age.”
- (3) In subsection (4) after paragraph (b) insert “or
- (c) provided in pursuance of the duty imposed by section 7 of the Childcare Act 2006.”

Interpretation

18 Meaning of childcare

- (1) This section applies for the purposes of this Part and Part 3.
- (2) “Childcare” means any form of care for a child and, subject to subsection (3), care includes—
 - (a) education for a child, and
 - (b) any other supervised activity for a child.
- (3) “Childcare” does not include—
 - (a) education (or any other supervised activity) provided by a school during school hours for a registered pupil who is not a young child, or
 - (b) any form of health care for a child.
- (4) “Childcare” does not include care provided for a child by—
 - (a) a parent or step-parent of the child;

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- (b) a person with parental responsibility for the child;
 - (c) a relative of the child;
 - (d) a person who is a local authority foster parent in relation to the child;
 - (e) a person who is a foster parent with whom the child has been placed by a voluntary organisation;
 - (f) a person who fosters the child privately.
- (5) “Childcare” does not include care provided for a child if the care—
- (a) is provided in any of the following establishments as part of the establishment’s activities—
 - (i) an appropriate children’s home,
 - (ii) a care home,
 - (iii) a hospital in which the child is a patient,
 - (iv) a residential family centre, and
 - (b) is so provided by the person carrying on the establishment or a person employed to work at the establishment.
- (6) The reference in subsection (5)(b) to a person who is employed includes a reference to a person who is employed under a contract for services.
- (7) “Childcare” does not include care provided for a child who is detained in—
- (a) a young offender institution, or
 - (b) a secure training centre.
- (8) In this section—
- (a) “appropriate children’s home”, “local authority foster parent”, “to foster a child privately” and “voluntary organisation” have the same meaning as in the Children Act 1989 (c. 41);
 - (b) “care home”, “hospital” and “residential family centre” have the same meaning as in the Care Standards Act 2000 (c. 14);
 - (c) “relative”, in relation to a child, means a grandparent, aunt, uncle, brother or sister, whether of the full blood or half blood or by marriage or civil partnership.

19 **Meaning of “young child”**

For the purposes of this Part and Part 3, a child is a “young child” during the period—

- (a) beginning with his birth, and
- (b) ending immediately before the 1st September next following the date on which he attains the age of five.

20 **Meaning of “early years provision”**

In this Part “early years provision” means the provision of childcare for a young child.

21 **Interpretation of Part 1**

In this Part—

- “childcare” has the meaning given by section 18;
- “early years provision” has the meaning given by section 20;

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“prescribed” means prescribed by regulations;
“regulations” means regulations made by the Secretary of State;
“young child” has the meaning given by section 19.