

*These notes refer to the Autism Act 2009 (c.15)
which received Royal Assent on 12 November 2009*

AUTISM ACT 2009

EXPLANATORY NOTES

COMMENTARY

Section 3: Local authorities and NHS bodies: duty to act under guidance

Local authorities

24. Section 7 of the Local Authority Social Services Act 1970 (“the LASS Act”) requires local authorities, in exercising their social services functions, to act under the general guidance of the Secretary of State (“section 7 guidance”). Case law has established that complying with this requirement involves more than simply taking account of the guidance. Rather, local authorities must “follow the path charted by the guidance, with liberty to deviate from it where the authority judges on admissible grounds that there is good reason to do so, but without freedom to take a substantially different course” (*R v Islington Borough Council, ex parte Rixon* (1998 ICCLR 119)). A local authority which failed to comply with section 7 guidance without a compelling reason for doing so would be acting unlawfully and could find itself subject to judicial review or default action by the Secretary of State.
25. Subsection (2) of this section provides for guidance issued under section 2 to be treated as section 7 guidance, so that local authorities will be under the same duty to act under that guidance as they would be in the case of any other section 7 guidance.