



# Children and Young Persons Act 2008

## 2008 CHAPTER 23

### PART 2

#### FUNCTIONS IN RELATION TO CHILDREN AND YOUNG PERSONS

##### *Visiting*

#### 15 Duty of local authority to ensure visits to looked after children and others

After section 23 of the 1989 Act insert—

##### *“Visiting*

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

- (1) This section applies to—
  - (a) a child looked after by a local authority;
  - (b) a child who was looked after by a local authority but who has ceased to be looked after by them as a result of prescribed circumstances.
- (2) It is the duty of the local authority—
  - (a) to ensure that a person to whom this section applies is visited by a representative of the authority (“a representative”);
  - (b) to arrange for appropriate advice, support and assistance to be available to a person to whom this section applies who seeks it from them.
- (3) The duties imposed by subsection (2)—
  - (a) are to be discharged in accordance with any regulations made for the purposes of this section by the appropriate national authority;
  - (b) are subject to any requirement imposed by or under an enactment applicable to the place in which the person to whom this section applies is accommodated.

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- (4) Regulations under this section for the purposes of subsection (3)(a) may make provision about—
- (a) the frequency of visits;
  - (b) circumstances in which a person to whom this section applies must be visited by a representative; and
  - (c) the functions of a representative.
- (5) In choosing a representative a local authority must satisfy themselves that the person chosen has the necessary skills and experience to perform the functions of a representative.”

#### **Commencement Information**

- I1** S. 15 in force at 1.9.2009 for specified purposes for E. by S.I. 2009/2273, art. 2(2)(d)
- I2** S. 15 in force at 26.4.2010 for specified purposes for W. by S.I. 2010/1329, art. 2(d)
- I3** S. 15 in force at 15.11.2010 for specified purposes for E. by S.I. 2010/2714, art. 2(b)
- I4** S. 15 in force at 28.3.2011 for W. so far as not already in force by S.I. 2011/949, art. 3(1)(a)
- I5** S. 15 in force at 1.4.2011 for E. so far as not already in force by S.I. 2010/2981, art. 4(d)

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

- (1) After section 23ZA of the 1989 Act (which is inserted by section 15) insert—

### **“23ZB Independent visitors for children looked after by a local authority**

- (1) A local authority looking after a child must appoint an independent person to be the child's visitor if—
- (a) the child falls within a description prescribed in regulations made by the appropriate national authority; or
  - (b) in any other case, it appears to them that it would be in the child's interests to do so.
- (2) A person appointed under this section must visit, befriend and advise the child.
- (3) A person appointed under this section is entitled to recover from the appointing authority any reasonable expenses incurred by that person for the purposes of that person's functions under this section.
- (4) A person's appointment as a visitor in pursuance of this section comes to an end if—
- (a) the child ceases to be looked after by the local authority;
  - (b) the person resigns the appointment by giving notice in writing to the appointing authority; or
  - (c) the authority give him notice in writing that they have terminated it.
- (5) The ending of such an appointment does not affect any duty under this section to make a further appointment.
- (6) Where a local authority propose to appoint a visitor for a child under this section, the appointment shall not be made if—
- (a) the child objects to it; and

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- (b) the authority are satisfied that the child has sufficient understanding to make an informed decision.
  - (7) Where a visitor has been appointed for a child under this section, the local authority shall terminate the appointment if—
    - (a) the child objects to its continuing; and
    - (b) the authority are satisfied that the child has sufficient understanding to make an informed decision.
  - (8) If the local authority give effect to a child's objection under subsection (6) or (7) and the objection is to having anyone as the child's visitor, the authority does not have to propose to appoint another person under subsection (1) until the objection is withdrawn.
  - (9) The appropriate national authority may make regulations as to the circumstances in which a person is to be regarded for the purposes of this section as independent of the appointing authority.”
- (2) Omit paragraph 17 of Schedule 2 to the 1989 Act.

#### Commencement Information

- I6** S. 16(1) in force at 1.9.2009 for specified purposes for E. by S.I. 2009/2273, art. 2(2)(e)
- I7** S. 16(1) in force at 26.4.2010 for specified purposes for W. by S.I. 2010/1329, art. 2(e)
- I8** S. 16(1) in force at 1.4.2011 for E. so far as not already in force by S.I. 2010/2981, art. 4(e)
- I9** S. 16(1) in force at 6.4.2016 for W. in so far as not already in force by S.I. 2016/452, art. 2(d)
- I10** S. 16(2) in force at 1.4.2011 for E. by S.I. 2010/2981, art. 4(e)
- I11** S. 16(2) in force at 6.4.2016 for W. by S.I. 2016/452, art. 2(d)

## 17 Children in long-term care: notification to appropriate officer etc

- (1) Section 85 of the 1989 Act (children accommodated by health bodies or local education authorities) is amended in accordance with subsections (2) to (5).
- (2) In each of subsections (1) and (2), after “notify” insert “ the appropriate officer of ”.
- (3) After subsection (3) insert—
  - “(3A) In this section and sections 86 and 86A “the appropriate officer” means—
    - (a) in relation to a local authority in England, their director of children's services; and
    - (b) in relation to a local authority in Wales, their lead director for children and young people's services.”
- (4) In subsection (4)—
  - (a) for “a local authority have” substitute “ the appropriate officer of a local authority has ”; and
  - (b) for “they”, where it first occurs, substitute “ the local authority ”.
- (5) After that subsection add—
  - “(5) For the purposes of subsection (4)(b), if the child is not in the area of the local authority, they must treat him as if he were in that area.”

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- (6) Section 86 of the 1989 Act (children accommodated in care homes or independent hospitals) is amended in accordance with subsections (7) to (10).
- (7) In subsection (1)—
- (a) for the words “the home”, in the first place where they occur, substitute “ the establishment in question ”;
  - (b) after “notify” insert “ the appropriate officer of ”; and
  - (c) for the words “the home”, in the second place where they occur, substitute “ the establishment ”.
- (8) In subsection (2)—
- (a) for “the home”, in both places, substitute “ the establishment ”; and
  - (b) after “notify” insert “ the appropriate officer of ”.
- (9) In subsection (3)—
- (a) for “a local authority have” substitute “ the appropriate officer of a local authority has ”;
  - (b) for “they”, where it first occurs, substitute “ the local authority ”; and
  - (c) in paragraph (a), for “the home” substitute “ the establishment in question ”.
- (10) In subsection (4) for “home” substitute “ care home or independent hospital ”.

**Commencement Information**

**I12** S. 17 in force at 1.4.2011 by S.I. 2010/2981, art. 2(a)

**18 Visits to children in long-term care**

After section 86 of the 1989 Act insert—

**“86A Visitors for children notified to local authority under section 85 or 86**

- (1) This section applies if the appropriate officer of a local authority—
- (a) has been notified with respect to a child under section 85(1) or 86(1); and
  - (b) has not been notified with respect to that child under section 85(2) or, as the case may be, 86(2).
- (2) The local authority must, in accordance with regulations made under this section, make arrangements for the child to be visited by a representative of the authority (“a representative”).
- (3) It is the function of a representative to provide advice and assistance to the local authority on the performance of their duties under section 85(4) or, as the case may be, 86(3).
- (4) Regulations under this section may make provision about—
- (a) the frequency of visits under visiting arrangements;
  - (b) circumstances in which visiting arrangements must require a child to be visited; and

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- (c) additional functions of a representative.
- (5) Regulations under this section are to be made by the Secretary of State and the Welsh Ministers acting jointly.
- (6) In choosing a representative a local authority must satisfy themselves that the person chosen has the necessary skills and experience to perform the functions of a representative.
- (7) In this section “visiting arrangements” means arrangements made under subsection (2).”

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**Commencement Information**

**I13** S. 18 in force at 1.1.2010 for specified purposes by S.I. 2009/3354, art. 2

**I14** S. 18 in force at 1.4.2011 in so far as not already in force by S.I. 2010/2981, art. 2(b)

**Changes to legislation:**

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