

Status: Point in time view as at 01/09/2014.

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School Standards and Framework Act 1998

1998 CHAPTER 31

PART V

NURSERY EDUCATION

Modifications etc. (not altering text)

- C1** Pt. 5: Power to apply (with modifications) conferred (19.12.2002) by [Education Act 2002 \(c. 32\)](#), [ss. 193\(5\), 216](#), (with [ss. 210\(8\), 214\(4\)](#)); [S.I. 2002/3185](#), [art. 4](#), [Sch. Pt. 1](#)

Nursery education

117 Definition of “nursery education”.

In this Part “nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere).

General duty of [^{F1}local authority]

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s [Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [art. 1](#), [Sch. 2 para. 10\(2\)](#) (with [Sch. 2 para. 10\(4\)](#))

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118 Duty of [^{F1}local authority] as respects availability of nursery education.

- (1) A [^{F1}local authority][^{F2}in Wales] shall secure that the provision (whether or not by them) of nursery education for children who—
- (a) have not attained compulsory school age, but
 - (b) have attained such age as may be prescribed,
- is sufficient for their area.
- (2) In determining for the purposes of subsection (1) whether the provision of such education is sufficient for their area a [^{F1}local authority]—
- (a) may have regard to any facilities which they expect to be available outside their area for providing such education; and
 - (b) shall have regard to any guidance given from time to time by [^{F3}the National Assembly for Wales].

Textual Amendments

- F2** Words in s. 118(1) inserted (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 30\(a\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F3** Words in s. 118(2)(b) substituted (1.9.2008) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 30\(b\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)

[^{F4}118A Duties of [^{F1}local authority] in respect of childcare

- [^{F5}(1) A [^{F1}local authority] shall review annually the sufficiency of childcare provision for their area.
- (2) In carrying out a review for the purposes of subsection (1), a [^{F1}local authority]—
- (a) may have regard to any facilities which they expect to be available outside their area for providing childcare; and
 - (b) shall have regard to any guidance given from time to time by the Secretary of State.
- (3) A [^{F1}local authority] shall also establish and maintain a service providing information to the public relating to the provision of childcare and related services in their area.
- (4) In relation to the function, form and content of a service established and maintained under subsection (3), a [^{F1}local authority] shall have regard to any guidance given from time to time by the Secretary of State.]]

Textual Amendments

- F4** S. 118A inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\), ss. 149\(1\), 216 \(with ss. 210\(8\), 214\(4\)\)](#); S.I. 2002/2439, art. 3 (with Sch.); S.I. 2002/3185, art. 5, Sch. Pt. II
- F5** S. 118A repealed (1.4.2007 for E.) by [Childcare Act 2006 \(c. 21\), s. 109\(2\), Sch. 2 para. 31, Sch. 3 Pt. 2](#); S.I. 2007/1019, art. 3

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Early years development [^{F6}and childcare] partnerships

Textual Amendments

- F6** Words in cross-heading before s. 119 inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 150(5)**, 216 (with **ss. 210(8)**, 214(4)); [S.I. 2002/2439](#), **art. 3**, (with Sch.); [S.I. 2002/3185](#), **art. 5**, Sch. Pt. II

119 Early years development [^{F7}and childcare] partnerships.

- (1) Every [^{F1}local authority][^{F8}in Wales] shall establish for their area a body to be known as an early years development [^{F9}and childcare] partnership (“the partnership”).
- (2) In establishing the partnership and determining its constitution the authority shall have regard to any guidance given from time to time by [^{F10}the Assembly].
- (3) The authority may establish a sub-committee of the partnership for any part of their area.
- (4) The authority shall make arrangements—
 - (a) for the meetings and proceedings of the partnership and any such sub-committee, and
 - (b) for the partnership (and any such sub-committee) to be provided with accommodation and with such services as the authority consider appropriate.
- (5) The functions of the partnership shall be to work with the authority—
 - (a) in reviewing the sufficiency of the provision of nursery education for the authority’s area for the purposes of section 118, ^{F11} . . .
 - ^{F12}(ab) [^{F13} in reviewing the sufficiency of childcare provision for the authority’s area for the purposes of section 118A, ^{F14} . . .]
 - ^{F14}(b)
- (6) [^{F15}The Assembly] may by order confer on early years development [^{F16}and childcare] partnerships such additional functions as are specified in the order.

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1**, **Sch. 2 para. 10(2)** (with **Sch. 2 para. 10(4)**)
- F7** Words in s. 119 sidenote inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 150(5)**, 216 (with **ss. 210(8)**, 214(4)); [S.I. 2002/2439](#), **art. 3**, (with Sch.); [S.I. 2002/3185](#), **art. 5**, Sch. Pt. II
- F8** Words in s. 119(1) inserted (1.10.2007) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), **Sch. 2 para. 32(2)**; [S.I. 2007/2717](#), **art. 2(e)**
- F9** Words in s. 119 inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), **ss. 150(5)**, 216 (with **ss. 210(8)**, 214(4)); [S.I. 2002/2439](#), **art. 3**, (with Sch.); [S.I. 2002/3185](#), **art. 5**, Sch. Pt. II
- F10** Words in s. 119(2) substituted (1.10.2007) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), **Sch. 2 para. 32(3)**; [S.I. 2007/2717](#), **art. 2(e)**

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- F11** Word in s. 119(5)(a) repealed (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216, [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 5](#), Sch. Pt. II
- F12** S. 119(5)(ab) inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. {150(1)}, 216 (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#) (with Sch.); S.I. 2002/3185, [art. 5](#), [Sch. Pt. II](#)
- F13** S. 119(5)(ab) repealed (1.10.2007 for E.) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), Sch. 2 para. 32(4), [Sch. 3 Pt. 2](#); S.I. 2007/2717, [art. 2\(f\)](#)
- F14** S. 119(5)(b) and word repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 1](#); S.I. 2005/394, [art. 2\(1\)\(I\)](#); S.I. 2006/885, [art. 2\(3\)\(b\)](#)
- F15** Words in s. 119(6) substituted (1.10.2007) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 32\(5\)](#); S.I. 2007/2717, [art. 2\(e\)](#)
- F16** Words in s. 119 inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. [150\(5\)](#), 216 (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#), (with Sch.); S.I. 2002/3185, [art. 5](#), Sch. Pt. II

Early years development [^{F17}and childcare] plans

Textual Amendments

- F17** Words in cross-heading before s. 120 inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. [150\(5\)](#), 216 (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#), (with Sch.); S.I. 2002/3185, [art. 5](#), Sch. Pt. II

^{F19}**120 Early years development [^{F18}and childcare] plans.**

Textual Amendments

- F18** Words in s. 120 heading inserted (1.10.2002 for E. and 31.3.2003 for W.) by [Education Act 2002 \(c. 32\)](#), ss. [150\(5\)](#), 216 (with ss. 210(8), 214(4)); S.I. 2002/2439, [art. 3](#), (with Sch.); S.I. 2002/3185, [art. 5](#), Sch. Pt. II
- F19** S. 120 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 1](#); S.I. 2005/394, [art. 2\(1\)\(I\)](#); S.I. 2006/885, [art. 2\(3\)\(b\)](#)

^{F20}**121 Approval, modification and review of statement of proposals.**

Textual Amendments

- F20** S. 121 repealed (1.3.2005 for E., 1.9.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 1](#); S.I. 2005/394, [art. 2\(1\)\(I\)](#); S.I. 2006/885, [art. 2\(3\)\(b\)](#)

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Inspection of nursery education

122 Inspection of nursery education [F21in Wales].

(1) Schedule 26 (inspections, etc. of providers of nursery education [F22in Wales]) shall have effect.

^{F23}(2)

(3) Any register of nursery education inspectors established by [F24the Chief Inspector for Wales] under Schedule 1 to that Act shall be treated as established by him under Schedule 26 to this Act; and accordingly anything done under Schedule 1 to that Act in connection with the registration of (or any refusal to register) any person in that register shall, if effective immediately before the commencement of this section, continue to have effect as if done under Schedule 26 to this Act.

(4) In subsection (3) [F25“the Chief Inspector for Wales” means “[F26Her Majesty’s Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru].

Textual Amendments

- F21** Words in s. 122 heading inserted (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 33\(2\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F22** Words in s. 122(1) inserted (1.9.2008) by [Childcare Act 2006 \(c. 21\)](#), s. 109(2), [Sch. 2 para. 33\(3\)](#); S.I. 2008/2261, art. 2 (with Sch. 1)
- F23** S. 122(2) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 7](#)
- F24** Words in s. 122(3) substituted (3.10.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 7\(2\)](#) (with s. 119); S.I. 2005/2034, art. 6; S.I. 2006/1338, art. 3, Sch. 1
- F25** Words in s. 122(4) substituted (3.10.2005 for E., 1.9.2006 for W.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 7 para. 7\(3\)](#) (with s. 119); S.I. 2005/2034, art. 6; S.I. 2006/1338, art. 3, Sch. 1
- F26** Words in s. 122(4) substituted (W.) (1.1.2001) by [2000 c. 21](#), s. 73(3)(a); S.I. 2000/3230, art. 2, [Sch.](#)

Further provisions relating to nursery education

123 Children with special educational needs.

(1) It shall be the duty of—
(a) any [F1local authority] or other person providing [F27relevant nursery education][F27relevant early years education], and
(b) any person employed by such an authority or other person, or otherwise engaged to provide his services, in the provision of such education,

[F28to have regard to the provisions of the code of practice issued under section 77 of the Children and Families Act 2014 (in the case of education in England) or section 313(2) of the Education Act 1996 (in the case of education in Wales).]

[F29(1A) Subsection (1) does not apply in so far as the person in question is already under a duty to have regard to the provisions of the code of practice in question.]

(2) [F30The code of practice in question] may include practical guidance in respect of the provision of [F31relevant nursery education][F31relevant early years education] for children with special educational needs in circumstances where functions under

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[^{F32}Part 3 of the Children and Families Act 2014 or (as the case may be)] Part IV of the ^{M1}Education Act 1996 do not fall to be discharged.

(3) But unless [^{F33}the code of practice in question] includes provision made by virtue of subsection (2)—

- (a) the Secretary of State shall publish a document explaining how the practical guidance contained in that code applies in circumstances where functions under [^{F34}Part 3 of the Children and Families Act 2014 or (as the case may be)] Part IV of the ^{M2}Education Act 1996 do not fall to be discharged, and
- (b) the duty imposed by subsection (1) includes a duty to have regard to the provisions of that document.

[^{F35}(3A) Subsection (3B) applies if—

- (a) a [^{F1}local authority] or other person providing [^{F36}relevant nursery education][^{F36}relevant early years education] for a child makes special educational provision for him because it is considered that he has special educational needs;
- (b) no [^{F37}EHC plan or] statement under section 324 of the Education Act 1996 is maintained for the child; and
- (c) his parent has not previously been informed under subsection (3B) of the special educational provision made for him.

(3B) The [^{F1}local authority] or other person concerned must inform the child’s parent that special educational provision is being made for him because it is considered that he has special educational needs.]

[^{F38}(4) In this section “relevant early years education” means—

- (a) in relation to England, early years provision as defined by section 20 of the Childcare Act 2006 which is provided under arrangements made by a local authority in England in pursuance of the duty imposed by section 7 of that Act (whether or not the local authority provides the early years provision);
- (b) in relation to Wales, nursery education which is provided—
 - (i) by a [^{F1}local authority] in Wales, or
 - (ii) by any other person who is in receipt of financial assistance given by such an authority under arrangements made by them in pursuance of the duty imposed by section 118.]

Textual Amendments

- F1** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 10(2)** (with Sch. 2 para. 10(4))
- F27** Words in s. 123(1)(a) substituted (1.9.2008 for E.) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 34(a)**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F28** Words in s. 123(1) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 69(2)**; S.I. 2014/889, art. 7(a)
- F29** S. 123(1A) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 69(3)**; S.I. 2014/889, art. 7(a)
- F30** Words in s. 123(2) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 69(4)(a)**; S.I. 2014/889, art. 7(a)
- F31** Words in s. 123(2) substituted (1.9.2008 for E.) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 34(a)**; S.I. 2008/2261, art. 2 (with Sch. 1)

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- F32** Words in s. 123(2) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 69(4)(b)**; S.I. 2014/889, art. 7(a)
- F33** Words in s. 123(3) substituted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 69(5)(a)**; S.I. 2014/889, art. 7(a)
- F34** Words in s. 123(3) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 69(5)(b)**; S.I. 2014/889, art. 7(a)
- F35** S. 123(3A)(3B) inserted (1.1.2002 for E. and 1.4.2002 for W.) by 2001 c. 10, ss. 7(2), 43(3) (with s. 43(13)); S.I. 2001/2217, art. 5, Sch. Pt. II (which S.I. was amended by S.I. 2001/2614, art. 4); S.I. 2002/74, art. 5, Sch. Pt. II
- F36** Words in s. 123(3A) substituted (1.9.2008 for E.) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 34(a)**; S.I. 2008/2261, art. 2 (with Sch. 1)
- F37** Words in s. 123(3A)(b) inserted (1.9.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 3 para. 69(6)**; S.I. 2014/889, art. 7(a)
- F38** S. 123(4) substituted (1.9.2008 for E.) by Childcare Act 2006 (c. 21), s. 109(2), **Sch. 2 para. 34(b)**; S.I. 2008/2261, art. 2 (with Sch. 1)

Marginal Citations

- M1** 1996 c. 56.
M2 1996 c. 56.

124 Travel arrangements for children receiving nursery education otherwise than at school.

After section 509 of the ^{M3}Education Act 1996 there shall be inserted—

“509A Travel arrangements for children receiving nursery education otherwise than at school.

- (1) A local education authority may provide a child with assistance under this section if they are satisfied that, without such assistance, he would be prevented from attending at any premises—
 - (a) which are not a school or part of a school, but
 - (b) at which relevant nursery education is provided,for the purpose of receiving such education there.
- (2) The assistance which may be provided for a child under this section consists of either—
 - (a) making arrangements (whether for the provision of transport or otherwise) for the purpose of facilitating the child’s attendance at the premises concerned, or
 - (b) paying the whole or any part of his reasonable travel expenses.
- (3) When considering whether to provide a child with assistance under this section in connection with his attendance at any premises, a local education authority may have regard (among other things) to whether it would be reasonable to expect alternative arrangements to be made for him to receive relevant nursery education at any other premises (whether nearer to his home or otherwise).
- (4) Where the assistance to be provided for a child under this section consists of making arrangements for the provision of transport, the authority may, if they consider it appropriate to do so, determine that the assistance shall not be so provided unless—

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- (a) the child’s parent, or
 - (b) the person providing the relevant nursery education concerned,
- agrees to make to the authority such payments in respect of the provision of the transport (not exceeding the cost to the authority of its provision) as they may determine.
- (5) In this section “relevant nursery education” means nursery education which is provided—
- (a) by a local education authority, or
 - (b) by any other person—
 - (i) who is in receipt of financial assistance given by such an authority and whose provision of nursery education is taken into account by the authority in formulating proposals for the purposes of section 120(2)(a) of the School Standards and Framework Act 1998, or
 - (ii) who is in receipt of grants under section 1 of the ^{M4}Nursery Education and Grant-Maintained Schools Act 1996.”

Marginal Citations

M3 1996 c. 56.

M4 1996 c. 50.

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