



Children Act 2004

2004 CHAPTER 31

PART 5

MISCELLANEOUS

Local authority services

49 Payments to foster parents

- (1) The appropriate person may by order make provision as to the payments to be made—
 - (a) by a children's services authority in England or Wales or a person exercising functions on its behalf to a local authority foster parent with whom any child is placed by that authority or person under section 23(2)(a) of the Children Act 1989;
 - (b) by a voluntary organisation to any person with whom any child is placed by that organisation under section 59(1)(a) of that Act.
- (2) In subsection (1)—
 - "appropriate person" means—
 - (a) the Secretary of State, in relation to a children's services authority in England;
 - (b) the Assembly, in relation to a children's services authority in Wales;
 - "local authority foster parent" and "voluntary organisation" have the same meanings as in the Children Act 1989.
- (3) In section 23(2)(a) of the Children Act 1989, at the end insert "(subject to section 49 of the Children Act 2004)".
- (4) In section 59(1)(a) of that Act, at the end insert "(subject to section 49 of the Children Act 2004)".

50 Intervention

- (1) Section 497A of the Education Act 1996 (c. 56) (power to secure proper performance of a local education authority's functions) applies in relation to—
 - (a) the relevant functions of a children's services authority in England, and
 - (b) the relevant functions of a children's services authority in Wales,
 as it applies in relation to the functions of a local education authority referred to in subsection (1) of that section.
- (2) For the purposes of this section, the relevant functions of a children's services authority in England or Wales are—
 - (a) functions conferred on or exercisable by the authority which are social services functions, so far as those functions relate to children;
 - (b) the functions conferred on the authority under sections 23C to 24D of the Children Act 1989 (so far as not falling within paragraph (a)); and
 - (c) the functions conferred on the authority under sections 10, 12 and 17 above (in the case of a children's services authority in England) or under sections 25, 26 and 29 above (in the case of a children's services authority in Wales).
- (3) In subsection (2)(a) "social services functions" has the same meaning as in the Local Authority Social Services Act 1970 (c. 42).
- (4) Sections 497AA and 497B of the Education Act 1996 apply accordingly where powers under section 497A of that Act are exercised in relation to any of the relevant functions of a children's services authority in England or Wales.
- (5) In the application of sections 497A(2) to (7), 497AA and 497B of that Act in relation to the relevant functions of a children's services authority in England or Wales, references to the local education authority are to be read as references to the children's services authority in England or Wales.
- (6) In subsection (5) of section 497A of that Act, the reference to functions to which that section applies includes (for all purposes) relevant functions of a children's services authority in England or Wales.

51 Inspection of local education authorities

In section 38 of the Education Act 1997 (c. 44) (inspection of LEAs), for subsection (2) substitute—

- “(2) An inspection of a local education authority in England under this section shall consist of a review of the way in which the authority are performing any function conferred on them in their capacity as a local education authority, other than a function falling within the remit of the Adult Learning Inspectorate under section 53 of the Learning and Skills Act 2000 (c. 21).
- (2A) An inspection of a local education authority in Wales under this section shall consist of a review of the way in which the authority are performing—
 - (a) any function conferred on them in their capacity as a local education authority; and
 - (b) the functions conferred on them under sections 25 and 26 so far as relating to education, training or youth support services (within the meaning of section 123 of the Learning and Skills Act 2000).”

52 Duty of local authorities to promote educational achievement

In section 22 of the Children Act 1989 (c. 41) (general duty of local authority in relation to children looked after by them), after subsection (3) insert—

“(3A) The duty of a local authority under subsection (3)(a) to safeguard and promote the welfare of a child looked after by them includes in particular a duty to promote the child’s educational achievement.”

53 Ascertaining children’s wishes

- (1) In section 17 of the Children Act 1989 (provision of services to children), after subsection (4) insert—

“(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—

- (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.”

- (2) In section 20 of that Act (provision of accommodation for children: general), in subsection (6)(a) and (b), after “wishes” insert “and feelings”.

- (3) In section 47 of that Act (local authority’s duty to investigate), after subsection (5) insert—

“(5A) For the purposes of making a determination under this section as to the action to be taken with respect to a child, a local authority shall, so far as is reasonably practicable and consistent with the child’s welfare—

- (a) ascertain the child’s wishes and feelings regarding the action to be taken with respect to him; 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.”

54 Information about individual children

In section 83 of the Children Act 1989 (c. 41) (research and returns of information), after subsection (4) insert—

“(4A) Particulars required to be transmitted under subsection (3) or (4) may include particulars relating to and identifying individual children.”

55 Social services committees

- (1) Sections 2 to 5 of the Local Authority Social Services Act 1970 (c. 42) (social services committees) shall cease to have effect.

- (2) In Schedule 1 to that Act (enactments conferring functions assigned to social services committees), for the heading substitute “SOCIAL SERVICES FUNCTIONS”.

Status: This is the original version (as it was originally enacted).

- (3) In section 63(8) of the Health Services and Public Health Act 1968 (c. 46) (instruction), in paragraph (a) of the definition of “relevant enactments”, for the words from “for the time being” to “section 2” substitute “are social services functions within the meaning”.
- (4) In Schedule 1 to the Local Government and Housing Act 1989 (c. 42) (political balance on committees), in paragraph 4(1), in paragraph (a) of the definition of “ordinary committee”, for the words from “the authority's” to “any other committee” substitute “any committee”.
- (5) In section 102 of the Local Government Act 2000 (c. 22) (social services functions)—
 - (a) omit subsection (1);
 - (b) in subsection (2), for “that Act” substitute “the Local Authority Social Services Act 1970”.

56 Social services functions

In Schedule 1 to the Local Authority Social Services Act 1970 (c. 42) (functions which are social services functions), at the end insert—

“Children Act 2004

Sections 13 to 16 and 31 to 34

Functions relating to Local Safeguarding
Children Boards.”
