

CHILDREN AND YOUNG PERSONS ACT 2008

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. In June 2007 the Government published a White Paper, *Care Matters: Time for Change*. This set out the Government's plans to improve outcomes for looked after children and care leavers. The White Paper built on the proposals in the Green Paper *Care Matters: Transforming the Lives of Children and Young People in Care* which was published for consultation in November 2006 and the conclusions of four working groups established to investigate best practice in making provision for looked after children. The Green Paper and a summary of the responses to it can be found at www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1406 and the White Paper and working group reports at www.dcsf.gov.uk/publications/timeforchange/. The White Paper included a commitment to amend the legislative and regulatory framework for looked after children and care leavers as well as amending the statutory guidance and National Minimum Standards.
4. The purpose of the Act is to reform the statutory framework for the care system in England and Wales by implementing the proposals in the White Paper that require primary legislation. This forms part of the Government's programme to ensure children and young people receive high quality care and support. The Act also includes provisions in relation to well-being of children and young people, private fostering, child death notification to Local Safeguarding Children Boards and appropriate national authorities, the powers of the Secretary of State to conduct research and applications for the discharge of Emergency Protection Orders.
5. In summary, the Act:
 - makes provision to enable local authorities to delegate local authority functions in relation to looked after children to providers of social work services and (following the pilot stage) to enable regulation of these providers and to require them to be registered under Part 2 of the Care Standards Act 2000;
 - places a general duty on the Secretary of State to promote the well-being of children in England;
 - makes provision for the accommodation and maintenance of children who are looked after and provides powers to make further provision in relation to the placement of looked after children by regulation including a new power to create a mechanism for the independent review of decisions by fostering service providers that a prospective or existing foster parent is not suitable to foster (similar to that which currently exists for prospective adopters);
 - requires local authorities to take steps to secure sufficient accommodation in their area that is appropriate for the needs of children they look after;
 - amends the duties of local authorities in relation to the appointment of independent reviewing officers (IROs); adds to the functions of IROs; and provides powers for the appropriate national authority to establish a new national IRO service independent of local authorities in England and Wales respectively;

*These notes refer to the Children and Young Persons Act 2008
(c.23) which received Royal Assent on 13 November 2008*

- places a new duty on local authorities to appoint a representative to visit all looked after children, wherever they are living and provides a power to extend the duty to other groups of children who were looked after but have ceased to be so;
- extends the duty on local authorities to appoint an independent person to visit, befriend and advise any looked after child if doing so is in the child's interests;
- places a duty on governing bodies of maintained schools to designate a member of staff as having responsibility for promoting the educational achievement of registered pupils at the school who are looked after;
- extends the duty on local authorities to appoint a personal adviser and keep the pathway plan under regular review to young people who are former relevant children (i.e. care leavers who are over 18) and who start or resume a programme of education or training after the age of 21 but under the age of 25 years;
- requires local authorities to pay a bursary to a former relevant child who goes on to Higher Education;
- extends the powers of local authorities to make cash payments to children in need and their families;
- adds the provision of short breaks for those who care for disabled children and services to support family contact for children who are provided with accommodation under health or education legislation to the range of services that local authorities must provide for children and their families;
- makes provision to enable registration authorities to issue compliance notices to children's home providers who are failing to meet required standards and to serve a notice preventing new admissions to establishments where this is deemed appropriate;
- repeals section 45(9) of the 1989 Act to remove the 72-hour moratorium on the court's powers to hear an application to discharge an Emergency Protection Order;
- places a duty on registrars of births and deaths to notify Local Safeguarding Children Boards of the particulars of the death of a child and gives the Registrar General power to supply information about the deceased child to the appropriate national authority for research purposes;
- extends the powers of the Secretary of State to carry out research on the functions of local authorities to functions added under recent legislation, in particular the Adoption and Children Act 2002, the Children Act 2004 and the Children and Young Persons Act 2008;
- extends the period within which a registration scheme may be established for private fostering by three years; and
- extends the rights of relatives who are entitled to apply for a residence order or special guardianship order without leave of the court to those with whom the child has lived for a continuous period of one year; and ensures that where a court makes a residence order the order will normally continue until the child reaches the age of 18.