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STATUTORY INSTRUMENTS

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**2004 No. 615**

**CHILDREN AND YOUNG PERSONS, ENGLAND  
SOCIAL CARE, ENGLAND**

The Commission for Social Care Inspection  
(Children's Rights Director) Regulations 2004

<i>Made</i>	- - - -	<i>8th March 2004</i>
<i>Laid before Parliament</i>		<i>11th March 2004</i>
<i>Coming into force</i>	- -	<i>1st April 2004</i>

The Secretary of State for Health, in exercise of the powers conferred upon him by section 195(1) of, and paragraph 5(2) of Schedule 7 to, the Health and Social Care (Community Health and Standards) Act 2003<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Commission for Social Care Inspection (Children's Rights Director) Regulations 2004 and shall come into force on 1st April 2004.

(2) These Regulations apply to England only.

**Interpretation**

2.—(1) In these Regulations—

“the 1989 Act” means the Children Act 1989<sup>(2)</sup>;

“the 2000 Act” means the Care Standards Act 2000<sup>(3)</sup>;

“the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003;

“national minimum standards” means statements of national minimum standards published under section 23 of the 2000 Act or section 87C of the 1989 Act<sup>(4)</sup>;

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(1) 2003 c. 43, (“the 2003 Act”). See section 148 of the 2003 Act for the definition of “prescribed”.

(2) 1989 c. 41.

(3) 2000 c. 14.

(4) Section 87C was inserted in the Children Act 1989 (“the 1989 Act”) by section 107 of the Care Standards Act 2000 (c. 14) (“the 2000 Act”).

“a Part 2 undertaking” means an establishment or agency in respect of which a person is for the time being required to be registered by the CSCI(5) under Part 2 of the 2000 Act;

“relevant services” means—

- (a) services provided by or in a Part 2 undertaking which are provided, or are to be provided, in respect of a child;
- (b) English local authority social services(6) provided in respect of a child (including services provided for his family where those services are provided with a view to safeguarding or promoting the child’s welfare(7));
- (c) services provided in respect of a person aged 18 or over (“a young person”) pursuant to sections 23B to 23D and 24 to 24D of the 1989 Act(8);
- (d) accommodation provided by a school, or by an institution within the further education sector (as defined in section 91 of the Further and Higher Education Act 1992(9)), in so far as it is provided in respect of a child;

“relevant regulations” means any regulations made under the 1989 Act or the 2000 Act and applicable to relevant services.

- (2) For the purposes of regulation 3(1)(i), the person providing relevant services is—
  - (a) in relation to services provided by or in a Part 2 undertaking, the person who carries on the establishment or agency concerned;
  - (b) in relation to accommodation provided by a school or college, the relevant person as defined in section 87(11) of the 1989 Act(10).

### **Functions of the Children’s Rights Director**

- 3.—(1) The functions of the Children’s Rights Director are—
  - (a) to secure, so far as possible, that the CSCI in exercising its functions—
    - (i) safeguards and promotes the rights and welfare of children and young persons who are provided with relevant services;
    - (ii) gives proper consideration to the views of children and young persons to whom relevant services are provided and to the views of the parents of such children and young persons;
  - (b) subject to paragraph (2), to advise the CSCI as to—
    - (i) the procedure to be followed by the CSCI when considering an application for registration under section 12 of the 2000 Act in respect of a Part 2 undertaking by or in which relevant services for children are provided;
    - (ii) the methodology to be followed by the CSCI, for inspection by persons authorised by its in respect of—
      - (aa) premises used for the purposes of relevant services;
      - (bb) relevant services provided at such premises;

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(5) See section 102(1) and (3) of the 2003 Act which provides for the transfer of functions of the National Care Standards Commission under the 2000 Act to the Commission for Social Care Inspection. The Commission for Social Care Inspection is established pursuant to section 42 of the 2003 Act.

(6) See section 148 of the 2003 Act for the definition of English local authority social services.

(7) See Part 3 of the 1989 Act (local authority support for children and families).

(8) Sections 23B to 23D and 24A to 24D were inserted in the 1989 Act, and section 24 substituted, by the Children (Leaving Care) Act 2000 (c. 35), sections 2(4), 3 and 4.

(9) 1992 (c. 13).

(10) Section 87 is amended by section 105 of the Care Standards Act 2000.

- (c) to monitor and advise the CSCI about the effectiveness of the procedure and methodology mentioned in sub-paragraph (b);
- (d) to advise the CSCI from time to time on the numbers, qualifications and experience of staff it is likely to require to discharge its functions in relation to relevant services, and to assist the CSCI in the appointment of such staff;
- (e) to monitor action taken by the CSCI to enforce the requirements of the relevant regulations;
- (f) to monitor action taken by the CSCI pursuant to section 81 of the 2003 Act in relation to relevant services;
- (g) to monitor the effectiveness of measures taken by local authorities<sup>(11)</sup> for the purposes of safeguarding the rights and welfare of children and young persons;
- (h) to ascertain—
  - (i) the views of children and young persons about relevant services provided to them, and
  - (ii) where appropriate, the views of their parents about those services,and to report such views to the CSCI in so far as they are relevant to the discharge by the CSCI of its functions;
- (i) to monitor and review the effectiveness of the arrangements made by the person providing relevant services in accordance with relevant regulations, any national minimum standards and any guidance given by a Minister of the Crown in relation to—
  - (i) dealing with complaints and representations made by or on behalf of children and young persons about such services;
  - (ii) the raising of concerns by employees of the providers of relevant services about the safety and welfare of children and young persons using such services;
  - (iii) ascertaining and responding to the views and wishes of children and young persons about the services provided to them;
- (j) to report, to a police officer or an officer of the local authority for the area in which the service is provided or situated, any cases where he has reasonable cause to suspect that any child to whom relevant services are provided is suffering, or is likely to suffer, significant harm;
- (k) to advise the CSCI about its procedures for dealing with complaints received from children or young persons about relevant services;
- (l) to report to the CSCI any significant matters relating to the rights and welfare of children and young persons who are provided with relevant services;
- (m) to discuss matters relating to the provision of relevant services with such bodies, including voluntary organisations, as appear to him to be appropriate;
- (n) to report to the CSCI about—
  - (i) the availability of, and access to, relevant services, and
  - (ii) the quality and effectiveness of relevant services;
- (o) to report to the CSCI on the effectiveness of the relevant regulations, of any national minimum standards and of any guidance given by a Minister of the Crown, applicable to relevant services;
- (p) to publicise the office of the Children’s Rights Director and his functions;
- (q) to assist the CSCI from time to time in the preparation of reports, including its annual report, in so far as they concern relevant services.

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<sup>(11)</sup> See section 148 of the 2003 Act for the definition of local authority.

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(2) The functions set out in paragraph (1)(b) and (k) are subject to the requirements of regulations relating to the functions of the CSCI made under the 1989 Act or the 2000 Act<sup>(12)</sup>.

**Revocation**

4. The National Care Standards Commission (Children's Rights Director) Regulations 2002<sup>(13)</sup> are hereby revoked.

Signed by authority of the Secretary of State for Health

8th March 2004

*Stephen Ladyman,*  
Parliamentary Under Secretary of State,  
Department of Health

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<sup>(12)</sup> Certain functions of the National Care Standards Commission under the 2000 Act are transferred to the CSCI by section 102(1) and (3) of the 2003 Act.

<sup>(13)</sup> S.I.2002/1250.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made under section 195(1) of, and paragraph 5(2) of Schedule 7 to, the Health and Social Care (Community Health and Standards) Act 2003. They prescribe the functions of the Children's Rights Director who is to be appointed by, and to be an employee of, the Commission for Social Care Inspection.