



# Children (Leaving Care) Act 2000

## 2000 CHAPTER 35

An Act to make provision about children and young persons who are being, or have been, looked after by a local authority; to replace section 24 of the Children Act 1989; and for connected purposes. [30th November 2000]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Further duties of local authorities towards children whom they are looking after**

In Part II of Schedule 2 to the Children Act 1989 (“the 1989 Act”), which contains provision as to children being looked after by local authorities, after paragraph 19 insert—

#### *“Preparation for ceasing to be looked after*

- 19A It is the duty of the local authority looking after a child to advise, assist and befriend him with a view to promoting his welfare when they have ceased to look after him.
- 19B (1) A local authority shall have the following additional functions in relation to an eligible child whom they are looking after.
- (2) In sub-paragraph (1) “eligible child” means, subject to sub-paragraph (3), a child who—
- (a) is aged sixteen or seventeen; and
  - (b) has been looked after by a local authority for a prescribed period, or periods amounting in all to a prescribed period, which began after he reached a prescribed age and ended after he reached the age of sixteen.
- (3) The Secretary of State may prescribe—
- (a) additional categories of eligible children; and

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- (b) categories of children who are not to be eligible children despite falling within sub-paragraph (2).
- (4) For each eligible child, the local authority shall carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for them to provide him under this Act—
  - (a) while they are still looking after him; and
  - (b) after they cease to look after him,
 and shall then prepare a pathway plan for him.
- (5) The local authority shall keep the pathway plan under regular review.
- (6) Any such review may be carried out at the same time as a review of the child's case carried out by virtue of section 26.
- (7) The Secretary of State may by regulations make provision as to assessments for the purposes of sub-paragraph (4).
- (8) The regulations may in particular provide for the matters set out in section 23B(6).

*Personal advisers*

- 19C A local authority shall arrange for each child whom they are looking after who is an eligible child for the purposes of paragraph 19B to have a personal adviser.”.

**2 Additional functions of local authorities in respect of certain children**

- (1) The 1989 Act is amended as follows.
- (2) In section 22 (general duty of local authority in relation to children looked after by them), in subsection (1), at the end of paragraph (b) insert “, apart from functions under sections 23B and 24B”.
- (3) In the heading before section 24, at the end insert “and young persons”.
- (4) After that heading insert the following new sections—

**“23A The responsible authority and relevant children**

- (1) The responsible local authority shall have the functions set out in section 23B in respect of a relevant child.
- (2) In subsection (1) “relevant child” means (subject to subsection (3)) a child who—
  - (a) is not being looked after by any local authority;
  - (b) was, before last ceasing to be looked after, an eligible child for the purposes of paragraph 19B of Schedule 2; and
  - (c) is aged sixteen or seventeen.
- (3) The Secretary of State may prescribe—
  - (a) additional categories of relevant children; and

- (b) categories of children who are not to be relevant children despite falling within subsection (2).
- (4) In subsection (1) the “responsible local authority” is the one which last looked after the child.
- (5) If under subsection (3)(a) the Secretary of State prescribes a category of relevant children which includes children who do not fall within subsection (2) (b) (for example, because they were being looked after by a local authority in Scotland), he may in the regulations also provide for which local authority is to be the responsible local authority for those children.

### **23B Additional functions of the responsible authority in respect of relevant children**

- (1) It is the duty of each local authority to take reasonable steps to keep in touch with a relevant child for whom they are the responsible authority, whether he is within their area or not.
- (2) It is the duty of each local authority to appoint a personal adviser for each relevant child (if they have not already done so under paragraph 19C of Schedule 2).
- (3) It is the duty of each local authority, in relation to any relevant child who does not already have a pathway plan prepared for the purposes of paragraph 19B of Schedule 2—
  - (a) to carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for them to provide him under this Part; and
  - (b) to prepare a pathway plan for him.
- (4) The local authority may carry out such an assessment at the same time as any assessment of his needs is made under any enactment referred to in sub-paragraphs (a) to (c) of paragraph 3 of Schedule 2, or under any other enactment.
- (5) The Secretary of State may by regulations make provision as to assessments for the purposes of subsection (3).
- (6) The regulations may in particular make provision about—
  - (a) who is to be consulted in relation to an assessment;
  - (b) the way in which an assessment is to be carried out, by whom and when;
  - (c) the recording of the results of an assessment;
  - (d) the considerations to which the local authority are to have regard in carrying out an assessment.
- (7) The authority shall keep the pathway plan under regular review.
- (8) The responsible local authority shall safeguard and promote the child’s welfare and, unless they are satisfied that his welfare does not require it, support him by—
  - (a) maintaining him;

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- (b) providing him with or maintaining him in suitable accommodation; and
  - (c) providing support of such other descriptions as may be prescribed.
- (9) Support under subsection (8) may be in cash.
- (10) The Secretary of State may by regulations make provision about the meaning of “suitable accommodation” and in particular about the suitability of landlords or other providers of accommodation.
- (11) If the local authority have lost touch with a relevant child, despite taking reasonable steps to keep in touch, they must without delay—
- (a) consider how to re-establish contact; and
  - (b) take reasonable steps to do so,
- and while the child is still a relevant child must continue to take such steps until they succeed.
- (12) Subsections (7) to (9) of section 17 apply in relation to support given under this section as they apply in relation to assistance given under that section.
- (13) Subsections (4) and (5) of section 22 apply in relation to any decision by a local authority for the purposes of this section as they apply in relation to the decisions referred to in that section.

### **23C Continuing functions in respect of former relevant children**

- (1) Each local authority shall have the duties provided for in this section towards—
- (a) a person who has been a relevant child for the purposes of section 23A (and would be one if he were under eighteen), and in relation to whom they were the last responsible authority; and
  - (b) a person who was being looked after by them when he attained the age of eighteen, and immediately before ceasing to be looked after was an eligible child,
- and in this section such a person is referred to as a “former relevant child”.
- (2) It is the duty of the local authority to take reasonable steps—
- (a) to keep in touch with a former relevant child whether he is within their area or not; and
  - (b) if they lose touch with him, to re-establish contact.
- (3) It is the duty of the local authority—
- (a) to continue the appointment of a personal adviser for a former relevant child; and
  - (b) to continue to keep his pathway plan under regular review.
- (4) It is the duty of the local authority to give a former relevant child—
- (a) assistance of the kind referred to in section 24B(1), to the extent that his welfare requires it;
  - (b) assistance of the kind referred to in section 24B(2), to the extent that his welfare and his educational or training needs require it;
  - (c) other assistance, to the extent that his welfare requires it.

- (5) The assistance given under subsection (4)(c) may be in kind or, in exceptional circumstances, in cash.
- (6) Subject to subsection (7), the duties set out in subsections (2), (3) and (4) subsist until the former relevant child reaches the age of twenty-one.
- (7) If the former relevant child's pathway plan sets out a programme of education or training which extends beyond his twenty-first birthday—
  - (a) the duty set out in subsection (4)(b) continues to subsist for so long as the former relevant child continues to pursue that programme; and
  - (b) the duties set out in subsections (2) and (3) continue to subsist concurrently with that duty.
- (8) For the purposes of subsection (7)(a) there shall be disregarded any interruption in a former relevant child's pursuance of a programme of education or training if the local authority are satisfied that he will resume it as soon as is reasonably practicable.
- (9) Section 24B(5) applies in relation to a person being given assistance under subsection (4)(b) as it applies in relation to a person to whom section 24B(3) applies.
- (10) Subsections (7) to (9) of section 17 apply in relation to assistance given under this section as they apply in relation to assistance given under that section.”.

### **3 Personal advisers and pathway plans**

In the 1989 Act, after section 23C insert—

#### *“Personal advisers and pathway plans*

##### **23D Personal advisers**

- (1) The Secretary of State may by regulations require local authorities to appoint a personal adviser for children or young persons of a prescribed description who have reached the age of sixteen but not the age of twenty-one who are not—
  - (a) children who are relevant children for the purposes of section 23A;
  - (b) the young persons referred to in section 23C; or
  - (c) the children referred to in paragraph 19C of Schedule 2.
- (2) Personal advisers appointed under or by virtue of this Part shall (in addition to any other functions) have such functions as the Secretary of State prescribes.

##### **23E Pathway plans**

- (1) In this Part, a reference to a “pathway plan” is to a plan setting out—
  - (a) in the case of a plan prepared under paragraph 19B of Schedule 2—
    - (i) the advice, assistance and support which the local authority intend to provide a child under this Part, both while they are looking after him and later; and
    - (ii) when they might cease to look after him; and

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(b) in the case of a plan prepared under section 23B, the advice, assistance and support which the local authority intend to provide under this Part, and dealing with such other matters (if any) as may be prescribed.

(2) The Secretary of State may by regulations make provision about pathway plans and their review.”.

#### **4 Advice and assistance for certain children and young persons aged 16 or over**

(1) For section 24 of the 1989 Act (advice and assistance for certain children), substitute the following sections—

##### **“24 Persons qualifying for advice and assistance**

- (1) In this Part “a person qualifying for advice and assistance” means a person who—
- (a) is under twenty-one; and
  - (b) at any time after reaching the age of sixteen but while still a child was, but is no longer, looked after, accommodated or fostered.
- (2) In subsection (1)(b), “looked after, accommodated or fostered” means—
- (a) looked after by a local authority;
  - (b) accommodated by or on behalf of a voluntary organisation;
  - (c) accommodated in a private children’s home;
  - (d) accommodated for a consecutive period of at least three months—
    - (i) by any Health Authority, Special Health Authority, Primary Care Trust or local education authority, or
    - (ii) in any care home or independent hospital or in any accommodation provided by a National Health Service trust; or
  - (e) privately fostered.
- (3) Subsection (2)(d) applies even if the period of three months mentioned there began before the child reached the age of sixteen.
- (4) In the case of a person qualifying for advice and assistance by virtue of subsection (2)(a), it is the duty of the local authority which last looked after him to take such steps as they think appropriate to contact him at such times as they think appropriate with a view to discharging their functions under sections 24A and 24B.
- (5) In each of sections 24A and 24B, the local authority under the duty or having the power mentioned there (“the relevant authority”) is—
- (a) in the case of a person qualifying for advice and assistance by virtue of subsection (2)(a), the local authority which last looked after him; or
  - (b) in the case of any other person qualifying for advice and assistance, the local authority within whose area the person is (if he has asked for help of a kind which can be given under section 24A or 24B).

## **24A Advice and assistance**

- (1) The relevant authority shall consider whether the conditions in subsection (2) are satisfied in relation to a person qualifying for advice and assistance.
- (2) The conditions are that—
  - (a) he needs help of a kind which they can give under this section or section 24B; and
  - (b) in the case of a person who was not being looked after by any local authority, they are satisfied that the person by whom he was being looked after does not have the necessary facilities for advising or befriending him.
- (3) If the conditions are satisfied—
  - (a) they shall advise and befriend him if he was being looked after by a local authority or was accommodated by or on behalf of a voluntary organisation; and
  - (b) in any other case they may do so.
- (4) Where as a result of this section a local authority are under a duty, or are empowered, to advise and befriend a person, they may also give him assistance.
- (5) The assistance may be in kind or, in exceptional circumstances, in cash.
- (6) Subsections (7) to (9) of section 17 apply in relation to assistance given under this section or section 24B as they apply in relation to assistance given under that section.

## **24B Employment, education and training**

- (1) The relevant local authority may give assistance to any person who qualifies for advice and assistance by virtue of section 24(2)(a) by contributing to expenses incurred by him in living near the place where he is, or will be, employed or seeking employment.
- (2) The relevant local authority may give assistance to a person to whom subsection (3) applies by—
  - (a) contributing to expenses incurred by the person in question in living near the place where he is, or will be, receiving education or training; or
  - (b) making a grant to enable him to meet expenses connected with his education or training.
- (3) This subsection applies to any person who—
  - (a) is under twenty-four; and
  - (b) qualifies for advice and assistance by virtue of section 24(2)(a), or would have done so if he were under twenty-one.
- (4) Where a local authority are assisting a person under subsection (2) they may disregard any interruption in his attendance on the course if he resumes it as soon as is reasonably practicable.

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- (5) Where the local authority are satisfied that a person to whom subsection (3) applies who is in full-time further or higher education needs accommodation during a vacation because his term-time accommodation is not available to him then, they shall give him assistance by—
- (a) providing him with suitable accommodation during the vacation; or
  - (b) paying him enough to enable him to secure such accommodation himself.
- (6) The Secretary of State may prescribe the meaning of “full-time”, “further education”, “higher education” and “vacation” for the purposes of subsection (5).

### **24C Information**

- (1) Where it appears to a local authority that a person—
- (a) with whom they are under a duty to keep in touch under section 23B, 23C or 24; or
  - (b) whom they have been advising and befriending under section 24A; or
  - (c) to whom they have been giving assistance under section 24B,
- proposes to live, or is living, in the area of another local authority, they must inform that other authority.
- (2) Where a child who is accommodated—
- (a) by a voluntary organisation or in a private children’s home;
  - (b) by any Health Authority, Special Health Authority, Primary Care Trust or local education authority; or
  - (c) in any care home or independent hospital or any accommodation provided by a National Health Service trust,
- ceases to be so accommodated, after reaching the age of sixteen, the organisation, authority or (as the case may be) person carrying on the home shall inform the local authority within whose area the child proposes to live.
- (3) Subsection (2) only applies, by virtue of paragraph (b) or (c), if the accommodation has been provided for a consecutive period of at least three months.”.
- (2) If subsection (1) comes into force before the commencement of section 11 of the Care Standards Act 2000—
- (a) until that commencement, the references to a “private children’s home” in sections 24(2)(c) and 24C(2)(a) of the 1989 Act as substituted by subsection (1) are to be read as references to a registered children’s home; and
  - (b) until that commencement, the references to any “care home or independent hospital” in sections 24(2)(d)(ii) and 24C(2)(c), as so substituted, are to be read as references to any residential care home, nursing home or mental nursing home,
- and paragraph 14(4) of Schedule 4 to the Care Standards Act 2000 (which amends section 24 of the 1989 Act) is repealed.

## **5 Representations**

In the 1989 Act, after section 24C insert—



**“24D Representations: sections 23A to 24B**

- (1) Every local authority shall establish a procedure for considering representations (including complaints) made to them by—
  - (a) a relevant child for the purposes of section 23A or a young person falling within section 23C;
  - (b) a person qualifying for advice and assistance; or
  - (c) a person falling within section 24B(2),about the discharge of their functions under this Part in relation to him.
- (2) In considering representations under subsection (1), a local authority shall comply with regulations (if any) made by the Secretary of State for the purposes of this subsection.”.

**6 Exclusion from benefits**

- (1) No person is entitled to income-based jobseekers allowance under the Jobseekers Act 1995, or to income support or housing benefit under the Social Security Contributions and Benefits Act 1992, while he is a person to whom this section applies.
- (2) Subject to subsection (3), this section applies to—
  - (a) an eligible child for the purposes of paragraph 19B of Schedule 2 to the Children Act 1989;
  - (b) a relevant child for the purposes of section 23A of that Act; and
  - (c) any person of a description prescribed in regulations under subsection (4).
- (3) The Secretary of State may by regulations provide that this section does not apply to a person who falls within subsection (2)(a) or (b) but who also falls within such category or description, or satisfies such conditions, as may be prescribed in the regulations.
- (4) The Secretary of State may make regulations prescribing descriptions of person who do not fall within subsection (2)(a) or (b) but who—
  - (a) have been looked after by a local authority in Scotland (within the meaning of section 17(6) of the Children (Scotland) Act 1995); and
  - (b) otherwise correspond (whether or not exactly) to eligible or relevant children.
- (5) The Secretary of State may in regulations make such transitional, consequential and saving provision as he considers necessary or expedient in connection with the coming into force of this section.
- (6) Section 175(3) to (5) of the Social Security Contributions and Benefits Act 1992 (supplemental power in relation to regulations) applies to regulations made under this section as it applies to regulations made under that Act.
- (7) Powers to make regulations under this section include power to make different provision for different areas.
- (8) Powers to make regulations under this section are exercisable by statutory instrument.
- (9) No statutory instrument containing regulations under subsection (4) is to be made unless a draft of the instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

- (10) A statutory instrument containing regulations under subsection (3) or (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 7 Minor and consequential amendments

- (1) The 1989 Act is amended as follows.
- (2) In section 17 (provision of services for children in need, their families and others), in subsection (5)(a), for “23 or 24” substitute “23, 23B to 23D, 24A or 24B”.
- (3) In section 29 (recoupment of cost of providing services etc.)—
- (a) at the beginning of subsection (9), insert “Except where subsection (10) applies,”; and
  - (b) after subsection (9) insert—
 

“(10) Where a local authority (“authority A”) comply with any request under section 27(2) from another local authority (“authority B”) in relation to a child or other person—

    - (a) whose responsible authority is authority B for the purposes of section 23B or 23C; or
    - (b) whom authority B are advising or befriending or to whom they are giving assistance by virtue of section 24(5)(a), authority A may recover from authority B any reasonable expenses incurred by them in respect of that person.”.
- (4) In Part I of Schedule 2 (provision of services for families), in paragraph 1(2)(a)(i), for “20 and 24” substitute “20, 23B to 23D, 24A and 24B”.
- (5) In the Care Standards Act 2000, in Schedule 4 (minor and consequential amendments) —
- (a) in paragraph 14(4), the words “, as it has effect before the commencement of section 4 of the Children (Leaving Care) Act 2000”; and
  - (b) paragraph 14(5) and (6),
- are repealed.

## 8 Interpretation, commencement, extent, Wales and short title

- (1) In this Act, “the 1989 Act” means the Children Act 1989.
- (2) Apart from section 7(5) and this section, this Act comes into force on such day as may be appointed by order made by statutory instrument.
- (3) An order under subsection (2) is to be made—
- (a) as respects section 6, by the Secretary of State;
  - (b) as respects other provisions so far as they relate to England, by the Secretary of State; and
  - (c) as respects those other provisions so far as they relate to Wales, by the National Assembly for Wales.
- (4) Different days may be appointed under this section for different provisions and for different purposes.

- (5) Any such order may make such transitional, consequential or saving provision as the Secretary of State or (as the case may be) the National Assembly for Wales considers necessary or expedient.
- (6) This Act extends only to England and Wales, except for section 6 and this section, which also extend to Scotland.
- (7) The reference to the 1989 Act in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 is to be treated as referring to that Act as amended by this Act.
- (8) Subsection (7) does not affect the power to make further Orders varying or omitting that reference.
- (9) This Act may be cited as the Children (Leaving Care) Act 2000.