



# 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—
- by a [<sup>F1</sup>local 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 [<sup>F2</sup>22C] of the Children Act 1989<sup>[F3]</sup> or section 81 of the Social Services and Well-being (Wales) Act 2014;
  - by a voluntary organisation to any person with whom any child is placed by that organisation under section 59(1)(a) of [<sup>F4</sup>the Children Act 1989].
- (2) In subsection (1)—
- “appropriate person” means—
- the Secretary of State, in relation to a [<sup>F1</sup>local authority] in England;
  - the Assembly, in relation to a [<sup>F1</sup>local authority] in Wales;
- <sup>F5</sup>  
...
- <sup>[F6]</sup>“local authority foster parent” has the same meaning as in section 105(1) of the Children Act 1989;
- “voluntary organisation” has the same meaning 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) ” .

*Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Cross Heading: Local authority services. (See end of Document for details)*

### Textual Amendments

- F1** Words in s. 49(1)(2) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#) , arts. 1 , 5(1) , [Sch. 2 para. 55\(7\)](#)
- F2** Word in s. 49(1)(a) substituted (1.4.2011 for E. and 6.4.2016 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#) , ss. 8(2) , 44 , [Sch. 1 para. 17](#) ; S.I. 2010/2981 , [art. 4\(a\)](#) ; S.I. 2016/452, art. 2(b)
- F3** Words in s. 49(1)(a) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#) , regs. 2(1) , [219\(a\)](#)
- F4** Words in s. 49(1)(b) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#) , regs. 2(1) , [219\(b\)](#)
- F5** Words in s. 49(2) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#) , regs. 2(1) , [219\(c\)](#)
- F6** Words in s. 49(2) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#) , regs. 2(1) , [219\(d\)](#)

## 50 Intervention [<sup>F7</sup> – England ]

[<sup>F8</sup>(1) Section 497A of the Education Act 1996 (power to secure proper performance of a local authority's education functions) applies in relation to the functions of a local authority [<sup>F9</sup>in England ] which are specified in subsection (2) as it applies in relation to a local authority's education functions.

(1A) In subsection (1) “ education functions ” has the meaning given by section 579(1) of the Education Act 1996. ]

(2) [<sup>F10</sup>The functions of a local authority 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 [<sup>F11</sup>, 12C, 12D and 17A] above (in the case of a [<sup>F12</sup>local authority] in England) [<sup>F13</sup>...

(3) In subsection (2)(a) “social services functions” has the same meaning as in the 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 [<sup>F14</sup>functions of a local authority which are specified in subsection (2)].

(5) [<sup>F15</sup>.....]

(6) In subsection (5) of section 497A of that Act, the reference to functions to which that section applies includes (for all purposes) [<sup>F16</sup>the functions of a local authority which are specified in subsection (2)].

[<sup>F17</sup>(7) If any functions of a local authority in England which are specified in subsection (2) are exercisable by a combined authority by virtue of section 105 of the Local Democracy, Economic Development and Construction Act 2009—

- (a) a reference in this section to a local authority includes a reference to the combined authority, and

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- (b) a reference in this section to functions specified in subsection (2) is, in relation to the combined authority, to be read as a reference to those functions so far as exercisable by the combined authority.]

[<sup>F18</sup>(8) If any functions of a local authority in England which are specified in subsection (2) are exercisable by a combined county authority by virtue of section 18 of the Levelling-up and Regeneration Act 2023—

- (a) a reference in this section to a local authority includes a reference to the combined county authority, and
- (b) a reference in this section to functions specified in subsection (2) is, in relation to the combined county authority, to be read as a reference to those functions so far as exercisable by the combined county authority.]

#### Textual Amendments

- F7** Word in s. 50 heading inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\), s. 100\(4\), Sch. 5 para. 7\(2\)\(c\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F8** S. 50(1)(1A) substituted (5.5.2010) for s. 50(1) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\), arts. 1, 5\(1\), Sch. 2 para. 55\(8\)\(a\)](#)
- F9** Words in s. 50(1) inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\), s. 100\(4\), Sch. 5 para. 7\(2\)\(a\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F10** Words in s. 50(2) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\), arts. 1, 5\(1\), Sch. 2 para. 55\(8\)\(b\)\(i\)](#)
- F11** Words in s. 50(2) substituted (1.4.2010) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\), ss. 194\(6\), 269; S.I. 2010/303, art. 3, Sch. 2](#)
- F12** Words in s. 50(2)(c) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\), arts. 1, 5\(1\), Sch. 2 para. 55\(8\)\(b\)\(ii\)](#)
- F13** Words in s. 50(2)(c) omitted (20.2.2014) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\), s. 100\(4\), Sch. 5 para. 7\(2\)\(b\)](#); S.I. 2014/178, art. 2(f) (with art. 3)
- F14** Words in s. 50(4) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\), arts. 1, 5\(1\), Sch. 2 para. 55\(8\)\(c\)](#)
- F15** S. 50(5) repealed (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\), arts. 1, 5\(1\)\(2\), Sch. 2 para. 55\(8\)\(d\), Sch. 3 Pt. 2](#)
- F16** Words in s. 50(6) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\), arts. 1, 5\(1\), Sch. 2 para. 55\(8\)\(e\)](#)
- F17** S. 50(7) inserted (31.10.2017) by [Children and Social Work Act 2017 \(c. 16\), ss. 33\(1\), 70\(2\); S.I. 2017/918, reg. 2\(c\)](#)
- F18** S. 50(8) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\), s. 255\(2\)\(c\), Sch. 4 para. 158 \(with s. 247\)](#)

#### Commencement Information

- II** S. 50 wholly in force at 1.10.2006; s. 50 not in force at Royal Assent see s. 67(7); s. 50 in force for E. at 1.3.2005 by [S.I. 2005/394, art. 2\(1\)](#); s. 50 in force for W. at 1.10.2006 by [S.I. 2006/885, art. 2\(4\)](#)

#### [<sup>F19</sup>50A Intervention – Wales

- (1) Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in local authorities) applies in relation to the functions of a local authority

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in Wales which are specified in subsection (2) as it applies in relation to a local authority's education functions but as if the only relevant ground for intervention were ground 3 in section 21 of that Act.

(2) The functions of a local authority are—

<sup>F20</sup>(a) .....

<sup>F20</sup>(b) .....

(c) the functions conferred on the authority under sections 25 <sup>F21</sup> ... and 29 above.

(3) In the application of Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 by virtue of this section, section 27 of that Act (power to direct exercise of other education functions) has effect as if the reference to education functions included (for all purposes) the functions of the local authority which are specified in subsection (2).

(4) In this section—

“ education functions ” has the meaning given by section 579(1) of the Education Act 1996; ]

<sup>F22</sup>  
...

#### Textual Amendments

**F19** S. 50A inserted (20.2.2014) by [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 7(3)**; S.I. 2014/178, art. 2(f) (with art. 3)

**F20** S. 50A(2)(a)(b) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#), regs. 2(1), **220(a)**

**F21** Words in s. 50A(2)(c) repealed (1.4.2016) by [Well-being of Future Generations \(Wales\) Act 2015 \(anaw 2\)](#), s. 56(2), **Sch. 4 para. 16**; S.I. 2016/86, art. 3

**F22** Words in s. 50A(4) omitted (6.4.2016) by virtue of [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#), regs. 2(1), **220(b)**

## 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).”

*Changes to legislation: There are currently no known outstanding effects for the Children Act 2004, Cross Heading: Local authority services. (See end of Document for details)*

#### Commencement Information

- I2** S. 51 wholly in force at 31.7.2008; s. 51 not in force at Royal Assent see s. 67(7); s. 51 in force for E. at 1.4.2005 by [S.I. 2005/394](#), [art. 2\(2\)](#); s. 51 in force for W. at 31.7.2008 by [S.I. 2008/1904](#), [art. 2](#)

### 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.”

#### Commencement Information

- I3** S. 52 wholly in force at 1.10.2006; s. 52 not in force at Royal Assent see s. 67(7); s. 52 in force for E. at 1.7.2005 by [S.I. 2005/394](#), [art. 2\(3\)](#); s. 52 in force for W. at 1.10.2006 by [S.I. 2006/885](#), [art. 2\(4\)](#)

### 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.”

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#### Commencement Information

- I4** S. 53 wholly in force at 1.4.2006; s. 53 not in force at Royal Assent see s. 67(7); s. 53 in force for E. at 1.3.2005 by [S.I. 2005/394](#), [art. 2\(1\)](#); s. 53 in force for W. at 1.4.2006 by [S.I. 2006/885](#), [art. 2\(2\)](#)

#### 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.”

#### Commencement Information

- I5** S. 54 wholly in force at 1.4.2006; s. 54 not in force at Royal Assent see s. 67(7); s. 54 in force for E. at 1.3.2005 by [S.I. 2005/394](#), [art. 2\(1\)](#); s. 54 in force for W. at 1.4.2006 by [S.I. 2006/885](#), [art. 2\(2\)](#)

#### 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”.
- (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”.

#### Commencement Information

- I6** S. 55 wholly in force at 1.4.2006; s. 55 not in force at Royal Assent see s. 67(7); s. 55 in force for E. at 1.4.2005 by [S.I. 2005/394](#), [art. 2\(2\)](#); s. 55 in force for W. at 1.4.2006 by [S.I. 2006/885](#), [art. 2\(2\)](#)

#### <sup>F23</sup>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—

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**Changes to legislation:** There are currently no known outstanding effects for the Children Act 2004, Cross Heading: Local authority services. (See end of Document for details)

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“Children Act 2004  
Sections 13 to 16 and 31 to 34

Functions relating to Local Safeguarding  
Children Boards.”

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**Textual Amendments**

**F23** S. 56 partly in force; s. 56 not in force at Royal Assent see s. 67(7); s. 56 in force for E. for certain purposes at 1.4.2006 by [S.I. 2006/927](#), [art. 2\(b\)](#); s. 56 in force for W. at 1.10.2006 by [S.I. 2006/885](#), [art. 2\(4\)](#)

**Changes to legislation:**

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