



Children and Young Persons Act 2008

2008 CHAPTER 23

PART 1

DELIVERY OF SOCIAL WORK SERVICES FOR CHILDREN AND YOUNG PERSONS

1 Power to enter into arrangements for discharge of care functions

- (1) A local authority may enter into arrangements with a body corporate for the discharge by that body of some or all of the relevant care functions of that authority (but subject to section 2).
- (2) The relevant care functions of a local authority are—
 - (a) its social services functions in relation to individual children who are looked after by it; and
 - (b) its functions under sections 23B to 24D of the 1989 Act.
- (3) A party (other than the local authority concerned) to arrangements entered into under this section—
 - (a) may not include any other local authority; and
 - (b) is referred to in this Part as a provider of social work services.
- (4) Arrangements under this section may be framed by reference to—
 - (a) individuals of a particular description;
 - (b) particular localities within the area of the local authority concerned.
- (5) Where an individual child (A) ceases to be looked after by a local authority and a provider of social work services (P) was discharging under arrangements under this Part social services functions of the authority in relation to A at that time, the arrangements may also make provision for P to discharge all or any of the authority's social services functions in relation to A after A ceases to be looked after by the authority.
- (6) The appropriate national authority may by regulations specify—
 - (a) functions not falling within subsection (2) which are to be treated as being relevant care functions for the purposes of this section;

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- (b) functions otherwise falling within that subsection which are to be treated as not being relevant care functions for the purposes of this section.
- (7) The appropriate national authority may by regulations make provision about the bodies corporate which may, or may not, be parties to arrangements under this section.
- (8) The appropriate national authority may by regulations provide that arrangements under this section may not be entered into—
 - (a) for a period shorter than the prescribed minimum period; or
 - (b) for a period exceeding the prescribed maximum period.
- (9) References in this Part to a child looked after by a local authority have the same meaning as they have in the 1989 Act (by virtue of section 22 of that Act).
- (10) “Social services functions” has the meaning given by section 1A of the Local Authority Social Services Act 1970 (c. 42).
- (11) In this Part—
 - “appropriate national authority” means—
 - (a) in relation to England, the Secretary of State; and
 - (b) in relation to Wales, the Welsh Ministers;
 - “function” includes any power to do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of a function;
 - “local authority” means—
 - (a) in relation to England, the council of a county, a metropolitan district or a London Borough or the Common Council of the City of London; and
 - (b) in relation to Wales, the council of a county or a county borough.

2 Restrictions on arrangements under section 1

- (1) A local authority must not enter into arrangements under section 1 for the discharge of an excluded function.
- (2) The excluded functions are—
 - (a) the local authority’s functions in relation to independent reviewing officers; and
 - (b) its functions as an adoption agency (unless the other party to the arrangements is a registered adoption society).
- (3) The functions referred to in subsection (2)(a) are the local authority’s functions under—
 - (a) regulations made under section 26 of the 1989 Act by virtue of subsection (2)(k) of that section (provision for appointment by local authority of a person to carry out certain functions in review of case of child looked after by the authority);
 - (b) section 25A of the 1989 Act (appointment of independent reviewing officer).
- (4) A restriction imposed on a local authority by reference to its area applies to a provider of social work services as if the provider has the same area as the authority.
- (5) A local authority must not enter into arrangements under section 1 unless it is satisfied that the functions to which the arrangements relate will be discharged by, or under the supervision of, registered social workers.

- (6) “Registered social worker” means a person registered as a social worker—
- (a) in a register maintained under section 56 of the 2000 Act;
 - (b) in the register maintained by the Scottish Social Services Council under section 44 of the [Regulation of Care \(Scotland\) Act 2001 \(2001 asp 8\)](#); or
 - (c) in the register maintained by the Northern Ireland Social Care Council under section 3 of the Health and Personal Social Services Act (Northern Ireland) [2001 \(c. 3\)](#).
- (7) “Registered adoption society” has the meaning given by section 2(2) of the Adoption and Children Act [2002 \(c. 38\)](#).

3 Effect of arrangements under section 1

- (1) Anything done or omitted to be done by or in relation to a provider of social work services in, or in connection with, the exercise or purported exercise of a function which is the subject of the arrangements under section 1 to which the provider is a party is to be treated as done or omitted to be done by or in relation to the local authority which entered into the arrangements.
- (2) Subsection (1)—
- (a) does not affect the rights and liabilities of the parties to the arrangements as between one another;
 - (b) does not make the local authority liable under section 6 of the Human Rights Act [1998 \(c. 42\)](#) in respect of any act (within the meaning of that section) of a provider of social work services if the act is one of a private nature;
 - (c) does not prevent any civil proceedings which could otherwise be brought by or against the provider of social work services from being brought; and
 - (d) does not apply for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the provider of social work services.
- (3) A reference in this section to anything done or omitted to be done by or in relation to a provider of social work services includes a reference to anything done or omitted to be done by or in relation to an employee or agent of the provider.
- (4) In this section—
- “civil proceedings” includes a claim for judicial review; and
 - “employee”, in relation to a body corporate, includes any director or other officer of that body.

4 Regulation of providers of social work services

- (1) In section 4 of the 2000 Act (basic definitions for the purposes of the Act), after subsection (9), insert—
- “(10) This Act applies to a provider of social work services as it applies to an agency, except in so far as the undertaking of that provider consists of or includes the carrying on of an establishment; and “provider of social work services” has the same meaning as in Part 1 of the Children and Young Persons Act 2008.”
- (2) In section 5 of that Act (registration authorities)—
- (a) if when this section comes into force the amendment made by paragraph 6(3) of Schedule 5 to the Health and Social Care Act [2008 \(c. 14\)](#) has not come into

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- force, in subsection (1)(a)(iii), for “and adoption support agencies” substitute “, adoption support agencies and providers of social work services”; and
- (b) if that amendment has come into force at that time or subsequently comes into force, in subsection (1A) after paragraph (e) insert “and,
- (f) providers of social work services in England or, where the activities of a provider of social work services are carried on from two or more branches, the branches in England.”

(3) In section 121 of that Act (interpretation) after subsection (4) insert—

“(4A) For the purposes of this Act as it applies to a provider of social work services, the person who carries on that body corporate is the body corporate itself.”

(4) In section 148(2) of the Education and Inspections Act 2006 (c. 41) (Chief Inspector to make available information about services provided by those for whom that Inspector is the registration authority under Part 2 of the 2000 Act), omit “(in accordance with subsection (1))”.

5 Functions under this Part to be social services functions

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

“Children and Young Persons Act 2008

<p>Part 1, in so far as it confers functions on a local authority in England or Wales within the meaning of that Part</p>	<p>Making arrangements for the discharge of relevant care functions in relation to certain children and young persons.”</p>
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6 Piloting and expiry of arrangements under this Part

(1) The piloting period—

- (a) begins on the day on which section 1(1) comes into force; and
- (b) ends on the earlier of—
- (i) the day on which section 4 comes into force; or
- (ii) the end of the period of five years beginning with the day on which this Act is passed.

(2) An order bringing section 1 into force may do so by reference to particular local authorities or local authorities of a particular description.

(3) If the piloting period comes to an end in accordance with subsection (1)(b)(ii), sections 1 to 5 cease to have effect at that time.

(4) If the period of five years beginning with the day on which this Act is passed ends without an order to bring section 1(1) into force having been made by the Secretary of State, sections 1 to 5 cease to have effect in relation to England at that time.

(5) If the period of five years beginning with the day on which this Act is passed ends without an order to bring section 1(1) into force having been made by the Welsh Ministers, sections 1 to 5 cease to have effect in relation to Wales at that time.

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- (6) No regulations under section 1(8) may be made so as to come into force before the end of the piloting period; and arrangements entered into during the piloting period must not be for a duration which lasts beyond the end of the period mentioned in subsection (1)(b)(ii).