

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 5 – WELFARE OF CHILDREN

Section 101: Local authority functions relating to children etc: intervention

422. This section clarifies the law in relation to the Secretary of State’s power to intervene under section 497A(4A) of the Education Act 1996 and section 50 of the Children Act 2004, where a local authority is failing to deliver services to an adequate standard. The section ensures that these powers would be exercised effectively, in particular in the interests of certainty for children who may be taken into care or placed for adoption.
423. Parallel amendments are also made to the Secretary of State’s power to intervene under section 15 of the Local Government Act 1999 where he or she is satisfied that a best value authority is failing to comply with the requirements of Part 1 of that Act.
424. *Subsection (2)* amends section 497A of the Education Act 1996 to clarify the effect of the power in section 497A(4A) of that Act. This puts beyond doubt that either the Secretary of State or a nominee, exercising functions in place of a local authority pursuant to a direction under section 497A(4A) of the Education Act 1996 can, for example, apply for or be named in care orders under section 31 of the Children Act 1989, exercise the adoption related functions set out in section 92(2) of the Adoption and Children Act 2002 and exercise certain other court-related functions in the same way as a local authority. The section makes it clear that, following such a direction, other relevant references in legislation to a “local authority”, such as in relation to the Chief Inspector’s functions and powers under sections 136 to 141 of the Education and Inspections Act 2006, are to be read as references to the Secretary of State or a nominee.
425. *Subsection (3)* amends section 15 of the Local Government Act 1999 to clarify the effect of the power in section 15(6) of that Act. This clarifies the Secretary of State’s intervention powers under that Act in the same way as *subsection (2)* does in relation to the Secretary of State’s power in section 497A(4A) of the Education Act 1996.