



# Children Act 1989

## 1989 CHAPTER 41

### PART III

#### LOCAL AUTHORITY SUPPORT FOR CHILDREN AND FAMILIES

##### *Duties of local authorities in relation to children looked after by them*

#### **22 General duty of local authority in relation to children looked after by them**

- (1) In this Act, any reference to a child who is looked after by a local authority is a reference to a child who is—
  - (a) in their care; or
  - (b) provided with accommodation by the authority in the exercise of any functions (in particular those under this Act) which stand referred to their social services committee under the Local Authority Social Services Act 1970.
- (2) In subsection (1) “accommodation” means accommodation which is provided for a continuous period of more than 24 hours.
- (3) It shall be the duty of a local authority looking after any child—
  - (a) to safeguard and promote his welfare; and
  - (b) to make such use of services available for children cared for by their own parents as appears to the authority reasonable in his case.
- (4) Before making any decision with respect to a child whom they are looking after, or proposing to look after, a local authority shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
  - (a) the child;
  - (b) his parents;
  - (c) any person who is not a parent of his but who has parental responsibility for him; and
  - (d) any other person whose wishes and feelings the authority consider to be relevant,

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regarding the matter to be decided.

- (5) In making any such decision a local authority shall give due consideration—
- (a) having regard to his age and understanding, to such wishes and feelings of the child as they have been able to ascertain;
  - (b) to such wishes and feelings of any person mentioned in subsection (4)(b) to (d) as they have been able to ascertain; and
  - (c) to the child's religious persuasion, racial origin and cultural and linguistic background.
- (6) If it appears to a local authority that it is necessary, for the purpose of protecting members of the public from serious injury, to exercise their powers with respect to a child whom they are looking after in a manner which may not be consistent with their duties under this section, they may do so.
- (7) If the Secretary of State considers it necessary, for the purpose of protecting members of the public from serious injury, to give directions to a local authority with respect to the exercise of their powers with respect to a child whom they are looking after, he may give such directions to the authority.
- (8) Where any such directions are given to an authority they shall comply with them even though doing so is inconsistent with their duties under this section.

### **23 Provision of accommodation and maintenance by local authority for children whom they are looking after**

- (1) It shall be the duty of any local authority looking after a child—
- (a) when he is in their care, to provide accommodation for him; and
  - (b) to maintain him in other respects apart from providing accommodation for him.
- (2) A local authority shall provide accommodation and maintenance for any child whom they are looking after by—
- (a) placing him (subject to subsection (5) and any regulations made by the Secretary of State) with—
    - (i) a family;
    - (ii) a relative of his; or
    - (iii) any other suitable person,
 on such terms as to payment by the authority and otherwise as the authority may determine;
  - (b) maintaining him in a community home;
  - (c) maintaining him in a voluntary home;
  - (d) maintaining him in a registered children's home;
  - (e) maintaining him in a home provided by the Secretary of State under section 82(5) on such terms as the Secretary of State may from time to time determine; or
  - (f) making such other arrangements as—
    - (i) seem appropriate to them; and
    - (ii) comply with any regulations made by the Secretary of State.

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- (3) Any person with whom a child has been placed under subsection (2)(a) is referred to in this Act as a local authority foster parent unless he falls within subsection (4).
- (4) A person falls within this subsection if he is—
  - (a) a parent of the child;
  - (b) a person who is not a parent of the child but who has parental responsibility for him; or
  - (c) where the child is in care and there was a residence order in force with respect to him immediately before the care order was made, a person in whose favour the residence order was made.
- (5) Where a child is in the care of a local authority, the authority may only allow him to live with a person who falls within subsection (4) in accordance with regulations made by the Secretary of State.
- (6) Subject to any regulations made by the Secretary of State for the purposes of this subsection, any local authority looking after a child shall make arrangements to enable him to live with—
  - (a) a person falling within subsection (4); or
  - (b) a relative, friend or other person connected with him,unless that would not be reasonably practicable or consistent with his welfare.
- (7) Where a local authority provide accommodation for a child whom they are looking after, they shall, subject to the provisions of this Part and so far as is reasonably practicable and consistent with his welfare, secure that—
  - (a) the accommodation is near his home; and
  - (b) where the authority are also providing accommodation for a sibling of his, they are accommodated together.
- (8) Where a local authority provide accommodation for a child whom they are looking after and who is disabled, they shall, so far as is reasonably practicable, secure that the accommodation is not unsuitable to his particular needs.
- (9) Part II of Schedule 2 shall have effect for the purposes of making further provision as to children looked after by local authorities and in particular as to the regulations that may be made under subsections (2)(a) and (f) and (5).