

Status: Point in time view as at 15/07/2011.

Changes to legislation: Children Act 1989, Part II is up to date with all changes known to be in force on or before 03 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 2

LOCAL AUTHORITY SUPPORT FOR CHILDREN AND FAMILIES

Modifications etc. (not altering text)

- C1** Sch. 2 modified (temp.) (12.2.2009 for E. and 31.3.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(3), 44, [Sch. 2 para. 2](#); S.I. 2009/268, [art. 3\(1\)\(b\)](#); S.I. 2010/749, [art. 2\(a\)](#)

Commencement Information

- II** Sch. 2 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

PART II

CHILDREN LOOKED AFTER BY LOCAL AUTHORITIES

Regulations as to placing of children with local authority foster parents

12

Regulations as to arrangements under section 23(2)(f)

13

Regulations as to conditions under which child in care is allowed to live with parent, etc.

14

[^{F5}Regulations as to conditions under which child in care is allowed to live with parent, etc

Textual Amendments

- F5** Sch. 2 paras. 12A-12G substituted for Sch. 2 paras. 12-14 (1.9.2009 for E., 26.4.2010 for W.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(2), 44, [Sch. 1 para. 4](#); S.I. 2009/2273, [art. 2\(2\)\(b\)](#), S.I. 2010/1329, [art. 2\(b\)](#)

12A Regulations under section 22C may, in particular, impose requirements on a local authority as to—

- (a) the making of any decision by a local authority to allow a child in their care to live with any person falling within section 22C(3) (including requirements as to those who must be consulted before the decision is made and those who must be notified when it has been made);
- (b) the supervision or medical examination of the child concerned;

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- (c) the removal of the child, in such circumstances as may be prescribed, from the care of the person with whom the child has been allowed to live;
- (d) the records to be kept by local authorities.

Regulations as to placements of a kind specified in section 22C(6)(d)

- 12B Regulations under section 22C as to placements of the kind specified in section 22C(6)(d) may, in particular, make provision as to—
- (a) the persons to be notified of any proposed arrangements;
 - (b) the opportunities such persons are to have to make representations in relation to the arrangements proposed;
 - (c) the persons to be notified of any proposed changes in arrangements;
 - (d) the records to be kept by local authorities;
 - (e) the supervision by local authorities of any arrangements made.

Placements out of area

- 12C Regulations under section 22C may, in particular, impose requirements which a local authority must comply with—
- (a) before a child looked after by them is provided with accommodation at a place outside the area of the authority; or
 - (b) if the child's welfare requires the immediate provision of such accommodation, within such period of the accommodation being provided as may be prescribed.

Avoidance of disruption in education

- 12D (1) Regulations under section 22C may, in particular, impose requirements which a local authority must comply with before making any decision concerning a child's placement if he is in the fourth key stage.
- (2) A child is “in the fourth key stage” if he is a pupil in the fourth key stage for the purposes of Part 6 or 7 of the Education 2002 (see section 82 and 103 of that Act).

Regulations as to placing of children with local authority foster parents

- 12E Regulations under section 22C may, in particular, make provision—
- (a) with regard to the welfare of children placed with local authority foster parents;
 - (b) as to the arrangements to be made by local authorities in connection with the health and education of such children;
 - (c) as to the records to be kept by local authorities;
 - (d) for securing that where possible the local authority foster parent with whom a child is to be placed is—
 - (i) of the same religious persuasion as the child; or
 - (ii) gives an undertaking that the child will be brought up in that religious persuasion;
 - (e) for securing the children placed with local authority foster parents, and the premises in which they are accommodated, will be supervised and

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inspected by a local authority and that the children will be removed from those premises if their welfare appears to require it.

- 12F (1) Regulations under section 22C may, in particular, also make provision—
- (a) for securing that a child is not placed with a local authority foster parent unless that person is for the time being approved as a local authority foster parent by such local authority as may be prescribed;
 - (b) establishing a procedure under which any person in respect of whom a qualifying determination has been made may apply to the appropriate national authority for a review of that determination by a panel constituted by that national authority.
- (2) A determination is a qualifying determination if—
- (a) it relates to the issue of whether a person should be approved, or should continue to be approved, as a local authority foster parent; and
 - (b) it is of a prescribed description.
- (3) Regulations made by virtue of sub-paragraph (1)(b) may include provision as to—
- (a) the duties and powers of a panel;
 - (b) the administration and procedures of a panel;
 - (c) the appointment of members of a panel (including the number, or any limit on the number, of members who may be appointed and any conditions for appointment);
 - (d) the payment of fees to members of a panel;
 - (e) the duties of any person in connection with a review conducted under the regulations;
 - (f) the monitoring of any such reviews.
- (4) Regulations made by virtue of sub-paragraph (3)(e) may impose a duty to pay to the appropriate national authority such sum as that national authority may determine; but such a duty may not be imposed upon a person who has applied for a review of a qualifying determination.
- (5) The appropriate national authority must secure that, taking one financial year with another, the aggregate of the sums which become payable to it under regulations made by virtue of sub-paragraph (4) does not exceed the cost to it of performing its independent review functions.
- (6) The appropriate national authority may make an arrangement with an organisation under which independent review functions are performed by the organisation on the national authority's behalf.
- (7) If the appropriate national authority makes such an arrangement with an organisation, the organisation is to perform its functions under the arrangement in accordance with any general or special directions given by that national authority.
- (8) The arrangement may include provision for payments to be made to the organisation by the appropriate national authority.
- (9) Payments made by the appropriate national authority in accordance with such provision shall be taken into account in determining (for the purpose of sub-paragraph (5)) the cost to that national authority of performing its independent review functions.

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- (10) Where the Welsh Ministers are the appropriate national authority, sub-paragraphs (6) and (8) also apply as if references to an organisation included references to the Secretary of State.
- (11) In this paragraph—
“financial year” means a period of twelve months ending with 31st March;
“independent review function” means a function conferred or imposed on a national authority by regulations made by virtue of sub-paragraph (1)(b);
“organisation” includes a public body and a private or voluntary organisation.
- 12G Regulations under section 22C may, in particular, also make provision as to the circumstances in which local authorities may make arrangements for duties imposed on them by the regulations to be discharged on their behalf.]

Promotion and maintenance of contact between child and family

- 15 (1) Where a child is being looked after by a local authority, the authority shall, unless it is not reasonably practicable or consistent with his welfare, endeavour to promote contact between the child and—
- (a) his parents;
 - (b) any person who is not a parent of his but who has parental responsibility for him; and
 - (c) any relative, friend or other person connected with him.
- (2) Where a child is being looked after by a local authority—
- (a) the authority shall take such steps as are reasonably practicable to secure that—
 - (i) his parents; and
 - (ii) any person who is not a parent of his but who has parental responsibility for him,
are kept informed of where he is being accommodated; and
 - (b) every such person shall secure that the authority are kept informed of his or her address.
- (3) Where a local authority (“the receiving authority”) take over the provision of accommodation for a child from another local authority (“the transferring authority”) under section 20(2)—
- (a) the receiving authority shall (where reasonably practicable) inform—
 - (i) the child’s parents; and
 - (ii) any person who is not a parent of his but who has parental responsibility for him;
 - (b) sub-paragraph (2)(a) shall apply to the transferring authority, as well as the receiving authority, until at least one such person has been informed of the change; and
 - (c) sub-paragraph (2)(b) shall not require any person to inform the receiving authority of his address until he has been so informed.
- (4) Nothing in this paragraph requires a local authority to inform any person of the whereabouts of a child if—
- (a) the child is in the care of the authority; and

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- (b) the authority has reasonable cause to believe that informing the person would prejudice the child's welfare.
- (5) Any person who fails (without reasonable excuse) to comply with sub-paragraph (2) (b) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (6) It shall be a defence in any proceedings under sub-paragraph (5) to prove that the defendant was residing at the same address as another person who was the child's parent or had parental responsibility for the child and had reasonable cause to believe that the other person had informed the appropriate authority that both of them were residing at that address.

Modifications etc. (not altering text)

- C2** Sch. 2 para. 15: power to apply with modifications or exclude conferred (7.2.2004 (W.) and 7.12.2004 (E.)) by 2002 c. 38, ss. 53(1)(2), 148 (with Sch. 4 paras. 1, 6-8); S.I. 2004/3203, **art. 2(1)(h)**; S.I. 2004/252, **art. 2**
- C3** Sch. 2 para. 15 excluded (30.12.2005) by: **The Adoption Agencies Regulations 2005 (S.I. 2005/389), reg. 45(2)(d)**; **The Adoption Agencies (Wales) Regulations 2005 (S.I. 2005/1313), reg. 46(2)(d)**

Commencement Information

- I4** Sch. 2 Pt. II para. 15 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

Visits to or by children: expenses

- 16 (1) This paragraph applies where—
 - (a) a child is being looked after by a local authority; and
 - (b) the conditions mentioned in sub-paragraph (3) are satisfied.
- (2) The authority may—
 - (a) make payments to—
 - (i) a parent of the child;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) any relative, friend or other person connected with him,in respect of travelling, subsistence or other expenses incurred by that person in visiting the child; or
 - (b) make payments to the child, or to any person on his behalf, in respect of travelling, subsistence or other expenses incurred by or on behalf of the child in his visiting—
 - (i) a parent of his;
 - (ii) any person who is not a parent of his but who has parental responsibility for him; or
 - (iii) any relative, friend or other person connected with him.
- (3) The conditions are that—
 - (a) it appears to the authority that the visit in question could not otherwise be made without undue financial hardship; and
 - (b) the circumstances warrant the making of the payments.

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Commencement Information

I5 Sch. 2 Pt. II para. 16 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

Appointment of visitor for child who is not being visited

- 17 [F⁶(1) Where it appears to a local authority in relation to any child that they are looking after that—
- (a) communication between the child and—
 - (i) a parent of his, or
 - (ii) any person who is not a parent of his but who has parental responsibility for him,
 has been infrequent; or
 - (b) he has not visited or been visited by (or lived with) any such person during the preceding twelve months,
- and that it would be in the child’s best interests for an independent person to be appointed to be his visitor for the purposes of this paragraph, they shall appoint such a visitor.
- (2) A person so appointed shall—
 - (a) have the duty of visiting, advising and befriending the child; and
 - (b) be entitled to recover from the authority who appointed him any reasonable expenses incurred by him for the purposes of his functions under this paragraph.
 - (3) A person’s appointment as a visitor in pursuance of this paragraph shall be determined if—
 - (a) he gives notice in writing to the authority who appointed him that he resigns the appointment; or
 - (b) the authority give him notice in writing that they have terminated it.
 - (4) The determination of such an appointment shall not prejudice any duty under this paragraph to make a further appointment.
 - (5) Where a local authority propose to appoint a visitor for a child under this paragraph, the appointment shall not be made if—
 - (a) the child objects to it; and
 - (b) the authority are satisfied that he has sufficient understanding to make an informed decision.
 - (6) Where a visitor has been appointed for a child under this paragraph, the local authority shall determine the appointment if—
 - (a) the child objects to its continuing; and
 - (b) the authority are satisfied that he has sufficient understanding to make an informed decision.
 - (7) The [F⁷appropriate national authority] may make regulations as to the circumstances in which a person appointed as a visitor under this paragraph is to be regarded as independent of the local authority appointing him.]

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Textual Amendments

- F6** Sch. 2 para. 17 repealed (1.4.2011 for E., otherwise prosp.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 16(2), 42, 44, [Sch. 4](#); S.I. 2010/2981, [art. 4\(1\)](#)
- F7** Words in [Sch. 2 para. 17\(7\)](#) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, [Sch. 3 para. 27\(2\)](#)

Commencement Information

- I6** Sch. 2 Pt. II para. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Power to guarantee apprenticeship deeds etc.

- 18 (1) While a child is being looked after by a local authority, or is a person qualifying for advice and assistance, the authority may undertake any obligation by way of guarantee under any deed of apprenticeship or articles of clerkship which he enters into.
- (2) Where a local authority have undertaken any such obligation under any deed or articles they may at any time (whether or not they are still looking after the person concerned) undertake the like obligation under any supplemental deed or articles.

Commencement Information

- I7** Sch. 2 Pt. II para. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

Arrangements to assist children to live abroad

- 19 (1) A local authority may only arrange for, or assist in arranging for, any child in their care to live outside England and Wales with the approval of the court.
- (2) A local authority may, with the approval of every person who has parental responsibility for the child arrange for, or assist in arranging for, any other child looked after by them to live outside England and Wales.
- (3) The court shall not give its approval under sub-paragraph (1) unless it is satisfied that—
- living outside England and Wales would be in the child's best interests;
 - suitable arrangements have been, or will be, made for his reception and welfare in the country in which he will live;
 - the child has consented to living in that country; and
 - every person who has parental responsibility for the child has consented to his living in that country.
- (4) Where the court is satisfied that the child does not have sufficient understanding to give or withhold his consent, it may disregard sub-paragraph (3)(c) and give its approval if the child is to live in the country concerned with a parent, guardian, [^{F8}special guardian,] or other suitable person.
- (5) Where a person whose consent is required by sub-paragraph (3)(d) fails to give his consent, the court may disregard that provision and give its approval if it is satisfied that that person—

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- (a) cannot be found;
 - (b) is incapable of consenting; or
 - (c) is withholding his consent unreasonably.
- (6) [^{F9}Section 85 of the Adoption and Children Act 2002 (which imposes restrictions on taking children out of the United Kingdom)] shall not apply in the case of any child who is to live outside England and Wales with the approval of the court given under this paragraph.
- (7) Where a court decides to give its approval under this paragraph it may order that its decision is not to have effect during the appeal period.
- (8) In sub-paragraph (7) “the appeal period” means—
- (a) where an appeal is made against the decision, the period between the making of the decision and the determination of the appeal; and
 - (b) otherwise, the period during which an appeal may be made against the decision.
- [^{F10}(9) This paragraph does not apply to a local authority placing a child for adoption with prospective adopters.]

Textual Amendments

- F8** Words in Sch. 2 para. 19(4) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 72(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F9** Words in Sch. 2 para. 19(6) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 72 (b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F10** Sch. 2 para. 19(9) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 72(c) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)

Commencement Information

- I8** Sch. 2 Pt. II para. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

[^{F11} Preparation for ceasing to be looked after

Textual Amendments

- F11** Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, s. 1; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

- ^{F12}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.

Textual Amendments

- F12** Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, s. 1; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

- ^{F13}19B(1) A local authority shall have the following additional functions in relation to an eligible child whom they are looking after.

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- (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 [^{F14}appropriate national authority] may prescribe—
- (a) additional categories of eligible children; and
 - (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 [^{F15}appropriate national authority] 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).

Textual Amendments

- F13** Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, s. 1; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F14** Words in Sch. 2 para. 19B(3) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 27(3)
- F15** Words in Sch. 2 para. 19B(7) substituted (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, Sch. 3 para. 27(3)

Modifications etc. (not altering text)

- C4** Sch. 2 pt. II para. 19B(2) restricted (W.) (1.10.2001) by S.I. 2001/2189, reg. 3(2)

^{F16}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.]

Textual Amendments

- F16** Sch. 2 Pt. II paras. 19A-19C and preceding cross-headings inserted (1.10.2001) by 2000 c. 35, s. 1; S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2

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Death of children being looked after by local authorities

- 20 (1) If a child who is being looked after by a local authority dies, the authority—
- (a) shall notify the [^{F17}appropriate national authority][^{F18}and (in the case of a local authority in England) Her Majesty's Chief Inspector of Education, Children's Services and Skills] ;
 - (b) shall, so far as is reasonably practicable, notify the child's parents and every person who is not a parent of his but who has parental responsibility for him;
 - (c) may, with the consent (so far as it is reasonably practicable to obtain it) of every person who has parental responsibility for the child, arrange for the child's body to be buried or cremated; and
 - (d) may, if the conditions mentioned in sub-paragraph (2) are satisfied, make payments to any person who has parental responsibility for the child, or any relative, friend or other person connected with the child, in respect of travelling, subsistence or other expenses incurred by that person in attending the child's funeral.
- (2) The conditions are that—
- (a) it appears to the authority that the person concerned could not otherwise attend the child's funeral without undue financial hardship; and
 - (b) that the circumstances warrant the making of the payments.
- (3) Sub-paragraph (1) does not authorise cremation where it does not accord with the practice of the child's religious persuasion.
- (4) Where a local authority have exercised their power under sub-paragraph (1)(c) with respect to a child who was under sixteen when he died, they may recover from any parent of the child any expenses incurred by them.
- (5) Any sums so recoverable shall, without prejudice to any other method of recovery, be recoverable summarily as a civil debt.
- (6) Nothing in this paragraph affects any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person.

Textual Amendments

F17 Words in Sch. 2 para. 20(1)(a) substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, 44, [Sch. 3 para. 27\(4\)](#)

F18 Words in Sch. 2 para. 20(1)(a) substituted (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), ss. 175, 188, [Sch. 14 para. 17](#); S.I. 2007/935; [art. 5\(gg\)](#)

Commencement Information

I9 Sch. 2 Pt. II para. 20 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

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