

CHILDREN (LEAVING CARE) ACT 2000

EXPLANATORY NOTES

OUTLINE OF THE EXISTING LAW

10. All statutory references are to the Children Act 1989. A child is a person under the age of 18 (section 105).
11. A “looked after” child is a child who is provided with accommodation by a local authority in the exercise of its social services functions, or who is in its care under a care order (section 22(1)). There are many social services functions which may involve the accommodation of a child, but the most important are contained in sections 20 (general powers and duties to accommodate children in need) and 21 (duty to accommodate children on remand or in police protection).
12. There is a general duty under section 20(1) to accommodate all children in need of accommodation. Additionally, by section 20(3) a local authority is under a duty to accommodate any child in need in its area over the age of 16 whose welfare the local authority consider is likely to be seriously prejudiced if they do not provide him with accommodation, and by section 20(5), a local authority has the power to provide accommodation in a community home for those aged over 16 and under 21 if it considers that to do so would safeguard and promote their welfare.
13. The general duties of local authorities towards children in need are set out in section 17, and their duties towards children in need they are looking after are set out in sections 22, 23, and 26 of the Act. In a nutshell, the duties towards looked after children are to safeguard and promote their welfare (section 22(3)(a)), to provide them with accommodation and maintenance (section 23(1)), to review their cases regularly (section 26(1)) and to provide a system for dealing with complaints (section 26(3)). Before making any decision about a looked after child a local authority must consider the wishes and feelings of the child and his family, and his background characteristics (section 22(4) and (5)).
14. Aftercare duties towards formerly looked after young people and other “qualifying persons” aged 16 and over are contained in section 24. Local authorities may (or in some cases must) advise, befriend and assist these young people, and help certain of them with education, employment and training. If a qualifying person is under the age of eighteen, section 24 after care duties may overlap with the general duty under section 17 towards children in need. Once they are over 18, only section 24 (and section 20 (5)) duties apply.