



Sexual Offences Act 2003

2003 CHAPTER 42

PART 1

SEXUAL OFFENCES

Abuse of position of trust

21 Positions of trust

- (1) For the purposes of sections 16 to 19, a person (A) is in a position of trust in relation to another person (B) if—
 - (a) any of the following subsections applies, or
 - (b) any condition specified in an order made by the Secretary of State is met.
- (2) This subsection applies if A looks after persons under 18 who are detained in an institution by virtue of a court order or under an enactment, and B is so detained in that institution.
- (3) This subsection applies if A looks after persons under 18 who are resident in a home or other place in which—
 - (a) accommodation and maintenance are provided by an authority under section 23(2) of the Children Act 1989 (c. 41) or Article 27(2) of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)), or
 - (b) accommodation is provided by a voluntary organisation under section 59(1) of that Act or Article 75(1) of that Order,and B is resident, and is so provided with accommodation and maintenance or accommodation, in that place.
- (4) This subsection applies if A looks after persons under 18 who are accommodated and cared for in one of the following institutions—
 - (a) a hospital,
 - (b) an independent clinic,
 - (c) a care home, residential care home or private hospital,

Status: Point in time view as at 01/04/2005. This version of this provision has been superseded.

Changes to legislation: Sexual Offences Act 2003, Section 21 is up to date with all changes known to be in force on or before 24 June 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)

- (d) a community home, voluntary home or children's home,
 - (e) a home provided under section 82(5) of the Children Act 1989, or
 - (f) a residential family centre,
- and B is accommodated and cared for in that institution.
- (5) This subsection applies if A looks after persons under 18 who are receiving education at an educational institution and B is receiving, and A is not receiving, education at that institution.
- (6) This subsection applies if A is appointed to be the guardian of B under Article 159 or 160 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)).
- (7) This subsection applies if A is engaged in the provision of services under, or pursuant to anything done under—
- (a) sections 8 to 10 of the Employment and Training Act 1973 (c. 50), or
 - (b) section 114 of the Learning and Skills Act 2000 (c. 21),
- and, in that capacity, looks after B on an individual basis.
- (8) This subsection applies if A regularly has unsupervised contact with B (whether face to face or by any other means)—
- (a) in the exercise of functions of a local authority under section 20 or 21 of the Children Act 1989 (c. 41), or
 - (b) in the exercise of functions of an authority under Article 21 or 23 of the Children (Northern Ireland) Order 1995.
- (9) This subsection applies if A, as a person who is to report to the court under section 7 of the Children Act 1989 or Article 4 of the Children (Northern Ireland) Order 1995 on matters relating to the welfare of B, regularly has unsupervised contact with B (whether face to face or by any other means).
- (10) This subsection applies if A is a personal adviser appointed for B under—
- (a) section 23B(2) of, or paragraph 19C of Schedule 2 to, the Children Act 1989, or
 - (b) Article 34A(10) or 34C(2) of the Children (Northern Ireland) Order 1995,
- and, in that capacity, looks after B on an individual basis.
- (11) This subsection applies if—
- (a) B is subject to a care order, a supervision order or an education supervision order, and
 - (b) in the exercise of functions conferred by virtue of the order on an authorised person or the authority designated by the order, A looks after B on an individual basis.
- (12) This subsection applies if A—
- (a) is an officer of the Service [^{F1}or Welsh family proceedings officer (within the meaning given by section 35 of the Children Act 2004)] appointed for B under section 41(1) of the Children Act 1989,
 - (b) is appointed a children's guardian of B under rule 6 or rule 18 of the Adoption Rules 1984 (S.I. 1984/265), or
 - (c) is appointed to be the guardian ad litem of B under rule 9.5 of the Family Proceedings Rules 1991 (S. I. 1991/1247) or under Article 60(1) of the Children (Northern Ireland) Order 1995,

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and, in that capacity, regularly has unsupervised contact with B (whether face to face or by any other means).

(13) This subsection applies if—

- (a) B is subject to requirements imposed by or under an enactment on his release from detention for a criminal offence, or is subject to requirements imposed by a court order made in criminal proceedings, and
- (b) A looks after B on an individual basis in pursuance of the requirements.

Textual Amendments

- F1** Words in s. 21(12)(a) inserted (E.W.) (1.4.2005) by [Children Act 2004 \(c. 31\)](#), ss. 40, 67, [Sch. 3 para. 18](#); [S.I. 2005/700](#), [art. 2\(2\)](#)

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