



# Children Act 1989

## 1989 CHAPTER 41

### PART III **E+W+S**

#### LOCAL AUTHORITY SUPPORT FOR CHILDREN AND FAMILIES

##### *Provision of services for children and their families*

- 17 Provision of services for children in need, their families and others.** **E+W**
- (1) It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part)—
    - (a) to safeguard and promote the welfare of children within their area who are in need; and
    - (b) so far as is consistent with that duty, to promote the upbringing of such children by their families,by providing a range and level of services appropriate to those children's needs.
  - (2) For the purpose principally of facilitating the discharge of their general duty under this section, every local authority shall have the specific duties and powers set out in Part 1 of Schedule 2.
  - (3) Any service provided by an authority in the exercise of functions conferred on them by this section may be provided for the family of a particular child in need or for any member of his family, if it is provided with a view to safeguarding or promoting the child's welfare.
  - (4) The Secretary of State may by order amend any provision of Part 1 of Schedule 2 or add any further duty or power to those for the time being mentioned there.
- [<sup>F1</sup>(4A) Before determining what (if any) services to provide for a particular child in need in the exercise of functions conferred on them by this section, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare—
- (a) ascertain the child's wishes and feelings regarding the provision of those services; and

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- (b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.]
- (5) Every local authority—
- (a) shall facilitate the provision by others (including in particular voluntary organisations) of services which the authority have power to provide by virtue of this section, or section 18, 20, [F2 23, 23B to 23D, 24A or 24B]; and
- (b) may make such arrangements as they see fit for any person to act on their behalf in the provision of any such service.
- (6) The services provided by a local authority in the exercise of functions conferred on them by this section may include [F3 providing accommodation and] giving assistance in kind or, in exceptional circumstances, in cash.
- (7) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part).
- (8) Before giving any assistance or imposing any conditions, a local authority shall have regard to the means of the child concerned and of each of his parents.
- (9) No person shall be liable to make any repayment of assistance or of its value at any time when he is in receipt of income support [F4 under] [F5 Part VII of the Social Security Contributions and Benefits Act 1992] [F6, of any element of child tax credit other than the family element, of working tax credit] [F7, of an income-based jobseeker's allowance or of an income-related employment and support allowance].
- (10) For the purposes of this Part a child shall be taken to be in need if—
- (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) he is disabled,
- and “family”, in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.
- (11) For the purposes of this Part, a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and in this Part—
- “development” means physical, intellectual, emotional, social or behavioural development; and
- “health” means physical or mental health.
- [F8 (12) The Treasury may by regulations prescribe circumstances in which a person is to be treated for the purposes of this Part (or for such of those purposes as are prescribed) as in receipt of any element of child tax credit other than the family element or of working tax credit.]

#### Textual Amendments

- F1** S. 17(4A) inserted (1.3.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), s. 53(1); S.I. 2005/394, art. 2(1)(g); S.I. 2006/885, art. 2(2)

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- F2** Words in s. 17(5)(a) substituted (1.10.2001) by 2000 c. 35, s. 7(2); S.I. 2001/2191, art. 2; S.I. 2001/2878, art. 2
- F3** Words in s. 17(6) inserted (7.11.2002) by 2002 c. 38, ss. 116(1), 148(1) (with Sch. 4 paras. 6-8)
- F4** Words in s. 17(9) substituted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(2)(a); S.I. 2003/962, art. 2(3)(d)(iii) (subject to savings and transitional provisions in arts. 3, 4)
- F5** Words in s. 17(9) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), Sch. 2 para. 108(a).
- F6** Words in s. 17(9) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(2)(b); S.I. 2003/962, art. 2(3)(d)(iii) (subject to savings and transitional provisions in arts. 3, 4)
- F7** Words in s. 17(9) substituted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, Sch. 3 para. 6(2); S.I. 2008/787, art. 2(4)(f)
- F8** S. 17(12) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 16(3); S.I. 2003/962, art. 2(3)(d)(iii) (subject to savings and transitional provisions in arts. 3, 4)

**Modifications etc. (not altering text)**

- C1** s. 17 excluded (6.12.1999) by S.I. 1999/3056, reg. 12
- C2** S. 17 restricted (8.1.2003) by 2002 c. 41, s. 54, Sch. 3 (with s. 159); S.I. 2002/2811, art. 2, Sch.

**Commencement Information**

- I1** S. 17 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

**[<sup>F9</sup>17A Direct payments E+W**

- (1) The Secretary of State may by regulations make provision for and in connection with requiring or authorising the responsible authority in the case of a person of a prescribed description who falls within subsection (2) to make, with that person's consent, such payments to him as they may determine in accordance with the regulations in respect of his securing the provision of the service mentioned in that subsection.
- (2) A person falls within this subsection if he is—
- (a) a person with parental responsibility for a disabled child,
  - (b) a disabled person with parental responsibility for a child, or
  - (c) a disabled child aged 16 or 17,
- and a local authority (“the responsible authority”) have decided for the purposes of section 17 that the child's needs (or, if he is such a disabled child, his needs) call for the provision by them of a service in exercise of functions conferred on them under that section.
- (3) Subsections (3) to (5) and (7) of section 57 of the 2001 Act shall apply, with any necessary modifications, in relation to regulations under this section as they apply in relation to regulations under that section.
- (4) Regulations under this section shall provide that, where payments are made under the regulations to a person falling within subsection (5)—
- (a) the payments shall be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act (as applied by subsection (3)); and
  - (b) subsection (4)(b) of that section shall not apply.
- (5) A person falls within this subsection if he is—
- (a) a person falling within subsection (2)(a) or (b) and the child in question is aged 16 or 17, or

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- (b) a person who is in receipt of income support <sup>F10</sup>. . . under Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4) , of any element of child tax credit other than the family element, of working tax credit <sup>F11</sup>, of an income-based jobseeker's allowance or of an income-related employment and support allowance] .
- (6) In this section—
- “the 2001 Act” means the Health and Social Care Act 2001;
- “disabled” in relation to an adult has the same meaning as that given by section 17(11) in relation to a child;
- “prescribed” means specified in or determined in accordance with regulations under this section (and has the same meaning in the provisions of the 2001 Act mentioned in subsection (3) as they apply by virtue of that subsection).

#### Textual Amendments

- F9** S. 17A substituted (16.3.2003 for certain purposes and 8.4.2003 otherwise for E. and 1.11.2004 for W.) by 2001 c. 15, ss. 58, 70(2) (with ss. 64(9), 65(4)); S.I. 2003/850, **art. 3(1)(b)(2)(a)**; S.I. 2004/1754, **art. 2(2)(b)**
- F10** Words in s. 17A(5)(b) repealed (6.4.2003) by 2002 c. 21, ss. 60, 61, Sch. 6; S.I. 2003/962, **art. 2(3)(e)** Sch. 1 (subject to savings and transitional provisions in arts. 3, 4)
- F11** Words in s. 17A(5)(b) substituted (27.10.2008) by Welfare Reform Act 2007 (c. 5), ss. 28, 70, **Sch. 3 para. 6(3)**; S.I. 2008/787, **art. 2(4)(f)**

#### <sup>F12</sup>17B Vouchers for persons with parental responsibility for disabled children. **E+W**

- (1) The [<sup>F13</sup>appropriate national authority] may by regulations make provision for the issue by a local authority of vouchers to a person with parental responsibility for a disabled child.
- (2) “Voucher” means a document whereby, if the local authority agrees with the person with parental responsibility that it would help him care for the child if the person with parental responsibility had a break from caring, that person may secure the temporary provision of services for the child under section 17.
- (3) The regulations may, in particular, provide—
- (a) for the value of a voucher to be expressed in terms of money, or of the delivery of a service for a period of time, or both;
  - (b) for the person who supplies a service against a voucher, or for the arrangement under which it is supplied, to be approved by the local authority;
  - (c) for a maximum period during which a service (or a service of a prescribed description) can be provided against a voucher.]

#### Textual Amendments

- F12** S. 17B inserted (30.4.2003 for E. and otherwise prosp.) by 2000 c. 16, ss. 7(1), 12(2); S.I. 2003/1183, **art. 2**
- F13** Words in s. 17B(1) substituted (retrospective to 30.4.2003 for E., otherwise prosp.) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44(2)(b)(9), **Sch. 3 para. 4**

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## 18 Day care for pre-school and other children. **E+W**

- (1) Every local authority shall provide such day care for children in need within their area who are—
  - (a) aged five or under; and
  - (b) not yet attending schools,as is appropriate.
- (2) A local authority [<sup>F14</sup>in Wales] may provide day care for children within their area who satisfy the conditions mentioned in subsection (1)(a) and (b) even though they are not in need.
- (3) A local authority may provide facilities (including training, advice, guidance and counselling) for those—
  - (a) caring for children in day care; or
  - (b) who at any time accompany such children while they are in day care.
- (4) In this section “day care” means any form of care or supervised activity provided for children during the day (whether or not it is provided on a regular basis).
- (5) Every local authority shall provide for children in need within their area who are attending any school such care or supervised activities as is appropriate—
  - (a) outside school hours; or
  - (b) during school holidays.
- (6) A local authority [<sup>F15</sup>in Wales] may provide such care or supervised activities for children within their area who are attending any school even though those children are not in need.
- (7) In this section “supervised activity” means an activity supervised by a responsible person.

### Textual Amendments

**F14** Words in s. 18(2) inserted (1.10.2007) by [Childcare Act 2006 \(c. 21\)](#), ss. 103(1), 109, [Sch. 2 para. 4\(a\)](#); [S.I. 2007/2717](#), [art. 2\(e\)](#)

**F15** Words in s. 18(6) inserted (1.10.2007) by [Childcare Act 2006 \(c. 21\)](#), ss. 103(1), 109, [Sch. 2 para. 4\(b\)](#); [S.I. 2007/2717](#), [art. 2\(e\)](#)

### Commencement Information

**I2** S. 18 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828](#), [art. 3\(2\)](#)

## [<sup>F16</sup>19 Review of provision for day care, child minding etc. **E+W**

- [ Every local authority in England and Wales shall review—
- <sup>F17</sup>(1)
    - (a) the provision which they make under section 18;
    - (b) the extent to which the services of child minders are available within their area with respect to children under the age of eight; and
    - (c) the provision for day care within their area made for children under the age of eight by persons other, than the authority, required to register under [<sup>F18</sup>Part XA].
  - (2) A review under subsection (1) shall be conducted—

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- (a) together with the appropriate local education authority; and
  - (b) at least once in every review period.]
- (3) Every local authority in Scotland shall, at least once in every review period, review—
- (a) the provision for day care within their area made for children under the age of eight by the local authority and by persons required to register under section 71(1)(b); and
  - (b) the extent to which the services of child minders are available within their area with respect to children under the age of eight.
- (4) In conducting any such review, [<sup>F19</sup>the two authorities or, in Scotland,]the authority shall have regard to the provision made with respect to children under the age of eight in relevant establishments within their area.
- (5) In this section—
- [<sup>F20</sup>“relevant establishment” means—
  - (a) in relation to Scotland, any establishment which is mentioned in paragraphs 3 and 4 of Schedule 9 (establishments exempt from the registration requirements which apply in relation to the provision of day care in Scotland); and
  - (b) in relation to England and Wales, any establishment which is mentioned in paragraphs 1 and 2 of Schedule 9A (establishments exempt from the registration requirements which apply in relation to the provision of day care in England and Wales);]
  - “review period” means the period of one year beginning with the commencement of this section and each subsequent period of three years beginning with an anniversary of that commencement.
- (6) Where a local authority have conducted a review under this section they shall publish the result of the review—
- (a) as soon as is reasonably practicable;
  - (b) in such form as they consider appropriate; and
  - (c) together with any proposals they may have with respect to the matters reviewed.
- (7) The authorities conducting any review under this section shall have regard to—
- (a) any representations made to any one of them by any relevant [<sup>F21</sup>Health Authority, Special Health Authority][<sup>F22</sup>, Primary Care Trust]or health board; and
  - (b) any other representations which they consider to be relevant.
- (8) In the application of this section to Scotland, “day care” has the same meaning as in section 79 and “health board” has the same meaning as in the <sup>M1</sup>National Health Service (Scotland) Act 1978.]

#### Textual Amendments

**F16** S. 19 repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.I. 2002/162, **art. 2(g)(i)** (subject to arts. 3-13)

**F17** S. 19(1)(2) repealed (1.10.2002 for E. and 31.3.2003 for W.) by 2002 c. 32, ss. 149, 215(2), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, art. 5, **Sch. Pt. 2**

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- F18** Words in s. 19(1)(c) substituted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(2)(a)**; S.I. 2001/2041, **art. 2(d)(ii)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (subject to **art. 3(4)-(10)** and transitional provisions in Schs. 1-3)
- F19** In s. 19(4) words repealed (1.10.2002 for E. and 31.3.2003 for W.) by 2002 c. 32, s. 215(2), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2002/3185, **art. 5**, **Sch. Pt. 2**
- F20** S. 19(5): definition of “relevant establishment”  
substituted (2.7.2001 (E.) and 1.4.2002 (W.)) by 2000 c. 14, ss. 116, 122, **Sch. 4 para. 14(2)(b)**; S.I. 2001/2041, **art. 2(d)(ii)** (with transitional provisions and savings in Sch); S.I. 2002/920, **art. 3(3)(d)** (subject to **art. 3(4)-(10)** and transitional provisions in Schs. 1-3)
- F21** Words in s. 19(7)(a) substituted (1.4.1996) by 1995 c. 17, ss. 1(2), 2(1)(3), **Sch. 1**, Pt. III, para. 118(2)(with Sch. 2 para. 6)
- F22** Words in s. 19(7)(a) inserted (E.W.) (8.2.2000) by S.I. 2000/90, **art. 3(1)**, **Sch. 1 para. 24(2)**

#### **Commencement Information**

- I3** S. 19 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### **Marginal Citations**

- M1** 1978 c. 29.

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