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## SCHEDULES

### SCHEDULE 2

Sections 17, 23 and 29.

#### 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

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

### PART I

#### PROVISION OF SERVICES FOR FAMILIES

##### Commencement Information

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

##### *Identification of children in need and provision of information*

- 1 (1) Every local authority shall take reasonable steps to identify the extent to which there are children in need within their area.
- (2) Every local authority shall—
- (a) publish information—
- (i) about services provided by them under sections 17, 18, <sup>F1</sup>20, 23B to 23D, 24A and 24B]; and
- (ii) where they consider it appropriate, about the provision by others (including, in particular, voluntary organisations) of services which the authority have power to provide under those sections; and
- (b) take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the information relevant to them.

##### Textual Amendments

- F1** Words in [Sch. 2 Pt. I para. 1\(2\)\(a\)\(i\)](#) substituted (1.10.2001) by [2000 c. 35, s. 7\(4\)](#); S.I. 2001/2191, [art. 2](#); S.I. 2001/2878, [art. 2](#)

##### Commencement Information

- I3** Sch. 2 Pt. I para. 1 wholly in force at 14.10.1991 see [s. 108\(2\)\(3\)](#) and S.I. 1991/828, [art. 3\(2\)](#)

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### *[<sup>F2</sup>Children's services plans*

#### **Textual Amendments**

**F2** Sch. 2 para. 1A and cross heading inserted (1.4.1996) by S.I. 1996/785, art. 2

1A <sup>F3</sup> .....]

#### **Textual Amendments**

**F3** Sch. 2 para. 1A repealed (1.3.2005 for E. and 31.7.2008 for W.) by Children Act 2004 (c. 31), s. 64, Sch. 5 Pt. 1; S.I. 2005/394, art. 2(1)(i); S.I. 2008/1904, art. 2(b)

### *Maintenance of a register of disabled children*

- 2 (1) Every local authority shall open and maintain a register of disabled children within their area.
- (2) The register may be kept by means of a computer.

#### **Commencement Information**

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

### *Assessment of children's needs*

- 3 Where it appears to a local authority that a child within their area is in need, the authority may assess his needs for the purposes of this Act at the same time as any assessment of his needs is made under—
- (a) the <sup>M1</sup>Chronically Sick and Disabled Persons Act 1970;
  - (b) [<sup>F4</sup>Part IV of the Education Act 1996];
  - (c) the <sup>M2</sup>Disabled Persons (Services, Consultation and Representation) Act 1986; or
  - (d) any other enactment.

#### **Textual Amendments**

**F4** Words in Sch. 2 para. 3(b) substituted (1.11.1996) by 1996 c. 56, ss. 1(4), 582(1), 583(2), Sch. 37, para. 92

#### **Commencement Information**

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

#### **Marginal Citations**

**M1** 1970 c. 44.  
**M2** 1986 c. 33.

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*Prevention of neglect and abuse*

- 4 (1) Every local authority shall take reasonable steps, through the provision of services under Part III of this Act, to prevent children within their area suffering ill-treatment or neglect.
- (2) Where a local authority believe that a child who is at any time within their area—
- (a) is likely to suffer harm; but
  - (b) lives or proposes to live in the area of another local authority
- they shall inform that other local authority.
- (3) When informing that other local authority they shall specify—
- (a) the harm that they believe he is likely to suffer; and
  - (b) (if they can) where the child lives or proposes to live.

**Commencement Information**

**I6** Sch. 2 Pt. I para. 4 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

*Provision of accommodation in order to protect child*

- 5 (1) Where—
- (a) it appears to a local authority that a child who is living on particular premises is suffering, or is likely to suffer, ill treatment at the hands of another person who is living on those premises; and
  - (b) that other person proposes to move from the premises,
- the authority may assist that other person to obtain alternative accommodation.
- (2) Assistance given under this paragraph may be in cash.
- (3) Subsections (7) to (9) of section 17 shall apply in relation to assistance given under this paragraph as they apply in relation to assistance given under that section.

**Commencement Information**

**I7** Sch. 2 Pt. I para. 5 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

*Provision for disabled children*

- 6 [F<sup>5</sup>( 1 )] Every local authority shall provide services designed—
- (a) to minimise the effect on disabled children within their area of their disabilities; <sup>F<sup>6</sup></sup>...
  - (b) to give such children the opportunity to lead lives which are as normal as possible. [F<sup>7</sup>; and
  - (c) to assist individuals who provide care for such children to continue to do so, or to do so more effectively, by giving them breaks from caring.]
- [F<sup>8</sup>( 2 )] The duty imposed by sub-paragraph (1)(c) shall be performed in accordance with regulations made by the appropriate national authority.]

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### Textual Amendments

- F5** Sch. 2 para. 6(1): Sch. 2 para. 6 renumbered as Sch. 2 para. 6(1) (1.4.2011 for E., 19.6.2012 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 25(2)**, 44(4); S.I. 2010/2981, art. 4(j); S.I. 2012/1553, art. 2(d)
- F6** Word in Sch. 2 para. 6(1) repealed (1.4.2011 for E., 19.6.2012 for W.) by Children and Young Persons Act 2008 (c. 23), s. 44(4), **Sch. 4**; S.I. 2010/2981, art. 4(l); S.I. 2012/1553, art. 2(e)
- F7** Sch. 2 para. 6(1)(c) and word inserted (1.4.2011 for E., 19.6.2012 for W.) by Children and Young Persons Act 2008 (c. 23), **ss. 25(3)**, 44(4); S.I. 2010/2981, art. 4(j); S.I. 2012/1553, art. 2(d)
- F8** Sch. 2 para. 6(2) inserted (1.9.2009 for E. for specified purposes, 26.4.2010 for W. for specified purposes, 1.4.2011 for E. in so far as not already in force, 19.6.2012 for W. in so far as not already in force) by Children and Young Persons Act 2008 (c. 23), **ss. 25(4)**, 44(4); S.I. 2009/2273, art. 2(2)(h); S.I. 2010/1329, art. 2(j); S.I. 2010/2981, art. 4(j); S.I. 2012/1553, art. 2(d)

### Commencement Information

- I8** Sch. 2 Pt. I para. 6 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

### *Provision to reduce need for care proceedings etc.*

- 7 Every local authority shall take reasonable steps designed—
- (a) to reduce the need to bring—
    - (i) proceedings for care or supervision orders with respect to children within their area;
    - (ii) criminal proceedings against such children;
    - (iii) any family or other proceedings with respect to such children which might lead to them being placed in the authority's care; or
    - (iv) proceedings under the inherent jurisdiction of the High Court with respect to children;
  - (b) to encourage children within their area not to commit criminal offences; and
  - (c) to avoid the need for children within their area to be placed in secure accommodation.

### Commencement Information

- I9** Sch. 2 Pt. I para. 7 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

### *Provision for children living with their families*

- 8 Every local authority shall make such provision as they consider appropriate for the following services to be available with respect to children in need within their area while they are living with their families—
- (a) advice, guidance and counselling;
  - (b) occupational, social, cultural or recreational activities;
  - (c) home help (which may include laundry facilities);
  - (d) facilities for, or assistance with, travelling to and from home for the purpose of taking advantage of any other service provided under this Act or of any similar service;
  - (e) assistance to enable the child concerned and his family to have a holiday.

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### Commencement Information

**I10** Sch. 2 Pt. I para. 8 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

### *[<sup>F9</sup>Provision for accommodated children*

### Textual Amendments

**F9** Sch. 2 para. 8A and cross-heading inserted (28.3.2011 for W., 1.4.2011 for E.) by Children and Young Persons Act 2008 (c. 23), ss. 19, 44; S.I. 2010/2981, art. 4(f); S.I. 2011/949, art. 3(1)(b)

- 8A (1) Every local authority shall make provision for such services as they consider appropriate to be available with respect to accommodated children.
- (2) “Accommodated children” are those children in respect of whose accommodation the local authority have been notified under section 85 or 86.
- (3) The services shall be provided with a view to promoting contact between each accommodated child and that child's family.
- (4) The services may, in particular, include—
- (a) advice, guidance and counselling;
  - (b) services necessary to enable the child to visit, or to be visited by, members of the family;
  - (c) assistance to enable the child and members of the family to have a holiday together.
- (5) Nothing in this paragraph affects the duty imposed by paragraph 10.]

### *Family centres*

- 9 (1) Every local authority shall provide such family centres as they consider appropriate in relation to children within their area.
- (2) “Family centre” means a centre at which any of the persons mentioned in subparagraph (3) may—
- (a) attend for occupational, social, cultural or recreational activities;
  - (b) attend for advice, guidance or counselling; or
  - (c) be provided with accommodation while he is receiving advice, guidance or counselling.
- (3) The persons are—
- (a) a child;
  - (b) his parents;
  - (c) any person who is not a parent of his but who has parental responsibility for him;
  - (d) any other person who is looking after him.

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**Commencement Information**

**I11** Sch. 2 Pt. I para. 9 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

*Maintenance of the family home*

- 10 Every local authority shall take such steps as are reasonably practicable, where any child within their area who is in need and whom they are not looking after is living apart from his family—
  - (a) to enable him to live with his family; or
  - (b) to promote contact between him and his family,
 if, in their opinion, it is necessary to do so in order to safeguard or promote his welfare.

**Commencement Information**

**I12** Sch. 2 Pt. I para. 10 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, art. 3(2)

*Duty to consider racial groups to which children in need belong*

- 11 Every local authority shall, in making any arrangements—
  - (a) for the provision of day care within their area; or
  - (b) designed to encourage persons to act as local authority foster parents,
 have regard to the different racial groups to which children within their area who are in need belong.

**Commencement Information**

**I13** Sch. 2 Pt. I para. 11 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 .....

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*[<sup>F14</sup>Regulations as to conditions under which child in care is allowed to live with parent, etc*

**Textual Amendments**

**F14** 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;
  - (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).

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*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 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.



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- (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.
- (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.

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- (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
  - (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)**

- C3** 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**
- C4** 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**

- I17** 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

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- (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.

#### Commencement Information

**118** 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 [F15(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.

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- (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 [<sup>F16</sup>appropriate 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.]

#### Textual Amendments

- F15** 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\(1\)](#)
- F16** 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

- I19** 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

- I20** 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.

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- (3) The court shall not give its approval under sub-paragraph (1) unless it is satisfied that—
- (a) living outside England and Wales would be in the child’s best interests;
  - (b) suitable arrangements have been, or will be, made for his reception and welfare in the country in which he will live;
  - (c) the child has consented to living in that country; and
  - (d) 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, [<sup>F17</sup>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—
- (a) cannot be found;
  - (b) is incapable of consenting; or
  - (c) is withholding his consent unreasonably.
- (6) [<sup>F18</sup>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.
- [<sup>F19</sup>(9) This paragraph does not apply to a local authority placing a child for adoption with prospective adopters.]

#### Textual Amendments

- F17** 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)
- F18** 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)
- F19** 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

- I21** 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)

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*f<sup>F20</sup> Preparation for ceasing to be looked after*

**Textual Amendments**

**F20** 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

<sup>F21</sup>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**

**F21** 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

<sup>F22</sup>19B(1) A local authority shall have the following additional functions in relation to an eligible child whom they are looking after.

- (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 [<sup>F23</sup>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 [<sup>F24</sup>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**

**F22** 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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**F23** 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)

**F24** 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)**

**C5** Sch. 2 pt. II para. 19B(2) restricted (W.) (1.10.2001) by S.I. 2001/2189, reg. 3(2)

<sup>F25</sup>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**

**F25** 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

*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 [<sup>F26</sup>appropriate national authority][<sup>F27</sup>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.



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### Textual Amendments

- F26** 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)
- F27** 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

- I22** 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)

## PART III

### CONTRIBUTIONS TOWARDS MAINTENANCE OF CHILDREN LOOKED AFTER BY LOCAL AUTHORITIES

### Modifications etc. (not altering text)

- C6** Sch. 2 Pt. III modified (30.12.2005) by 2002 c. 38, ss. 53(4)-(6), 148 (with Sch. 4 paras. 1, 6-8); S.I. 2005/2213, {art. 2(c)}

#### *Liability to contribute*

- 21 (1) Where a local authority are looking after a child (other than in the cases mentioned in sub-paragraph (7)) they shall consider whether they should recover contributions towards the child's maintenance from any person liable to contribute ("a contributor").
- (2) An authority may only recover contributions from a contributor if they consider it reasonable to do so.
- (3) The persons liable to contribute are—
- (a) where the child is under sixteen, each of his parents;
  - (b) where he has reached the age of sixteen, the child himself.
- (4) A parent is not liable to contribute during any period when he is in receipt [F28 of universal credit (except in such circumstances as may be prescribed), ] of income support [F29 under][F30 Part VII of the Social Security Contributions and Benefits Act 1992,][F31 of any element of child tax credit other than the family element, of working tax credit][F32[F33, of an income-based jobseeker's allowance or of an income-related employment and support allowance]].
- (5) A person is not liable to contribute towards the maintenance of a child in the care of a local authority in respect of any period during which the child is [F34c]living with, under arrangements made by the authority in accordance with section 22C,] a parent of his.
- (6) A contributor is not obliged to make any contribution towards a child's maintenance except as agreed or determined in accordance with this Part of this Schedule.
- (7) The cases are where the child is looked after by a local authority under—



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- (a) section 21;
- (b) an interim care order;
- (c) [<sup>F35</sup>section 92 of the Powers of Criminal Courts (Sentencing) Act 2000].

#### Textual Amendments

- F28** Words in Sch. 2 para. 21(4) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 2 para. 1\(d\)](#); S.I. 2013/983, [art. 3\(1\)\(b\)\(i\)](#)
- F29** Words in Sch. 2 para. 21(4) substituted (6.4.2003) by [2002 c. 21](#), ss. 47, 61, [Sch. 3 para. 20\(a\)](#); S.I. 2003/962, [art. 2\(3\)\(d\)\(iii\)](#) (subject to transitional savings and provisions in arts. 3 and 4)
- F30** Words in Sch. 2 Pt. III para. 21(4) substituted (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), ss. 4, 7(2), [Sch. 2 para. 108\(c\)](#)
- F31** Words in Sch. 2 para. 21(4) inserted (6.4.2003) by [2002 c. 21](#), ss. 47, 61, [Sch. 3 para. 20\(b\)](#); S.I. 2003/962, [art. 2\(3\)\(d\)\(iii\)](#) (subject to transitional provisions and savings in arts. 3 and 4)
- F32** Words in Sch. 2 para. 21(4) added (7.10.1996) by [1995 c. 18](#), s. 41(4), [Sch. 2 para. 19\(5\)](#); S.I. 1996/2208, [art. 2](#)
- F33** Words in Sch. 2 para. 21(4) substituted (27.10.2008) by [Welfare Reform Act 2007 \(c. 5\)](#), ss. 28, 70, [Sch. 3 para. 6\(6\)](#); S.I. 2008/787, [art. 2\(4\)\(f\)](#)
- F34** Words in Sch. 2 para. 21(5) substituted (1.4.2011 for E., otherwise prosp.) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 8(2), 44, [Sch. 1 para. 5](#); S.I. 2010/2981, [art. 4\(a\)](#)
- F35** Words in Sch. 2 Pt. III para. 21(7)(c) substituted (25.8.2000) by [2000 c. 6](#), ss. 165(1), 168(1), [Sch. 9 para. 130](#)

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

- C7** Sch. 2 para. 21: power to apply with modifications or exclude conferred (7.2.2004 for W. and 7.12.2004 for E.) by [2002 c. 38](#), ss. 53(2)(b), 148 (with [Sch. 4 paras. 1, 6-8](#)); S.I. 2004/252, [art. 2\(b\)](#); S.I. 2004/3203, [art. 2\(1\)\(h\)](#)
- C8** Sch. 2 para. 21 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\(2\)\(d\)](#)
- C9** Sch. 2 para. 21 excluded (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Children Act 1989\) \(Children Remanded to Youth Detention Accommodation\) Regulations 2012 \(S.I. 2012/2813\)](#), regs. 1(1), [2\(d\)](#), 5

#### Commencement Information

- I23** Sch. 2 Pt. III para. 21 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, [art. 3\(2\)](#)

#### *Agreed contributions*

- 22 (1) Contributions towards a child's maintenance may only be recovered if the local authority have served a notice ("a contribution notice") on the contributor specifying—
- (a) the weekly sum which they consider that he should contribute; and
  - (b) arrangements for payment.
- (2) The contribution notice must be in writing and dated.
- (3) Arrangements for payment shall, in particular, include—
- (a) the date on which liability to contribute begins (which must not be earlier than the date of the notice);
  - (b) the date on which liability under the notice will end (if the child has not before that date ceased to be looked after by the authority); and

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- (c) the date on which the first payment is to be made.
- (4) The authority may specify in a contribution notice a weekly sum which is a standard contribution determined by them for all children looked after by them.
- (5) The authority may not specify in a contribution notice a weekly sum greater than that which they consider—
  - (a) they would normally be prepared to pay if they had placed a similar child with local authority foster parents; and
  - (b) it is reasonably practicable for the contributor to pay (having regard to his means).
- (6) An authority may at any time withdraw a contribution notice (without prejudice to their power to serve another).
- (7) Where the authority and the contributor agree—
  - (a) the sum which the contributor is to contribute; and
  - (b) arrangements for payment,
 (whether as specified in the contribution notice or otherwise) and the contributor notifies the authority in writing that he so agrees, the authority may recover summarily as a civil debt any contribution which is overdue and unpaid.
- (8) A contributor may, by serving a notice in writing on the authority, withdraw his agreement in relation to any period of liability falling after the date of service of the notice.
- (9) Sub-paragraph (7) is without prejudice to any other method of recovery.

#### **Commencement Information**

**I24** Sch. 2 Pt. III para. 22 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

#### *Contribution orders*

- 23 (1) Where a contributor has been served with a contribution notice and has—
- (a) failed to reach any agreement with the local authority as mentioned in paragraph 22(7) within the period of one month beginning with the day on which the contribution notice was served; or
  - (b) served a notice under paragraph 22(8) withdrawing his agreement,
- the authority may apply to the court for an order under this paragraph.
- (2) On such an application the court may make an order (“a contribution order”) requiring the contributor to contribute a weekly sum towards the child’s maintenance in accordance with arrangements for payment specified by the court.
- (3) A contribution order—
- (a) shall not specify a weekly sum greater than that specified in the contribution notice; and
  - (b) shall be made with due regard to the contributor’s means.
- (4) A contribution order shall not—
- (a) take effect before the date specified in the contribution notice; or

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- (b) have effect while the contributor is not liable to contribute (by virtue of paragraph 21); or
  - (c) remain in force after the child has ceased to be looked after by the authority who obtained the order.
- (5) An authority may not apply to the court under sub-paragraph (1) in relation to a contribution notice which they have withdrawn.
- (6) Where—
- (a) a contribution order is in force;
  - (b) the authority serve another contribution notice; and
  - (c) the contributor and the authority reach an agreement under paragraph 22(7) in respect of that other contribution notice,
- the effect of the agreement shall be to discharge the order from the date on which it is agreed that the agreement shall take effect.
- (7) Where an agreement is reached under sub-paragraph (6) the authority shall notify the court—
- (a) of the agreement; and
  - (b) of the date on which it took effect.
- (8) A contribution order may be varied or revoked on the application of the contributor or the authority.
- (9) In proceedings for the variation of a contribution order, the authority shall specify—
- (a) the weekly sum which, having regard to paragraph 22, they propose that the contributor should contribute under the order as varied; and
  - (b) the proposed arrangements for payment.
- (10) Where a contribution order is varied, the order—
- (a) shall not specify a weekly sum greater than that specified by the authority in the proceedings for variation; and
  - (b) shall be made with due regard to the contributor's means.
- (11) An appeal shall lie in accordance with rules of court from any order made under this paragraph.

#### **Commencement Information**

**I25** Sch. 2 Pt. III para. 23 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

#### *Enforcement of contribution orders etc.*

- 24 (1) A contribution order made by a magistrates' court shall be enforceable as a magistrates' court maintenance order (within the meaning of section 150(1) of the <sup>M3</sup>Magistrates' Courts Act 1980).
- (2) Where a contributor has agreed, or has been ordered, to make contributions to a local authority, any other local authority within whose area the contributor is for the time being living may—
- (a) at the request of the local authority who served the contribution notice; and

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- (b) subject to agreement as to any sum to be deducted in respect of services rendered,  
 collect from the contributor any contributions due on behalf of the authority who served the notice.
- (3) In sub-paragraph (2) the reference to any other local authority includes a reference to—
- (a) a local authority within the meaning of section 1(2) of the <sup>M4</sup>Social Work (Scotland) Act 1968; and
- (b) a Health and Social Services Board established under Article 16 of the <sup>M5</sup>Health and Personal Social Services (Northern Ireland) Order 1972.
- (4) The power to collect sums under sub-paragraph (2) includes the power to—
- (a) receive and give a discharge for any contributions due; and
- (b) (if necessary) enforce payment of any contributions,  
 even though those contributions may have fallen due at a time when the contributor was living elsewhere.
- (5) Any contribution collected under sub-paragraph (2) shall be paid (subject to any agreed deduction) to the local authority who served the contribution notice.
- (6) In any proceedings under this paragraph, a document which purports to be—
- (a) a copy of an order made by a court under or by virtue of paragraph 23; and
- (b) certified as a true copy by the [<sup>F36</sup>[<sup>F37</sup>designated officer for]] the court,  
 shall be evidence of the order.
- (7) In any proceedings under this paragraph, a certificate which—
- (a) purports to be signed by the clerk or some other duly authorised officer of the local authority who obtained the contribution order; and
- (b) states that any sum due to the authority under the order is overdue and unpaid,  
 shall be evidence that the sum is overdue and unpaid.

#### Textual Amendments

- F36** Words in Sch. 2 para. 24(6) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 162** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**
- F37** Words in Sch. 2 para. 24(6) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 190(1), **Sch. 8 para. 340**; S.I. 2005/910, **art. 3(y)**

#### Commencement Information

- I26** Sch. 2 Pt. III para. 24 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

#### Marginal Citations

- M3** 1980 c. 43.  
**M4** 1968 c. 49.  
**M5** S.I. 1972/1265 (N.I.14).

#### *Regulations*

- 25 The [<sup>F38</sup>appropriate national authority] may make regulations—

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- (a) as to the considerations which a local authority must take into account in deciding—
  - (i) whether it is reasonable to recover contributions; and
  - (ii) what the arrangements for payment should be;
- (b) as to the procedures [<sup>F39</sup>a local authority] must follow in reaching agreements with—
  - (i) contributors (under paragraphs 22 and 23); and
  - (ii) any other local authority (under paragraph 23).

#### **Textual Amendments**

**F38** Words in Sch. 2 para. 25 substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, [Sch. 3 para. 27\(5\)\(a\)](#)

**F39** Words in Sch. 2 para. 25 substituted (13.11.2008) by [Children and Young Persons Act 2008 \(c. 23\)](#), ss. 39, [Sch. 3 para. 27\(5\)\(b\)](#)

#### **Commencement Information**

**I27** Sch. 2 Pt. III para. 25 wholly in force at 14.10.1991 see s. 108(2)(3) and [S.I. 1991/828, art. 3\(2\)](#)

**Status:**

Point in time view as at 29/04/2013.

**Changes to legislation:**

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