



# Children Act 1989

## 1989 CHAPTER 41

### PART IV

#### CARE AND SUPERVISION

##### *Care orders*

#### **34 Parental contact etc. with children in care.**

- (1) Where a child is in the care of a local authority, the authority shall (subject to the provisions of this section) [<sup>F1</sup>and their duty under section 22(3)(a)] [<sup>F2</sup>or, where the local authority is in Wales, under section 78(1)(a) of the Social Services and Well-being (Wales) Act 2014] allow the child reasonable contact with—
- (a) his parents;
  - (b) any guardian [<sup>F3</sup>or special guardian] of his;
  - [<sup>F4</sup>(ba) any person who by virtue of section 4A has parental responsibility for him;]
  - (c) where there was a [<sup>F5</sup>child arrangements] order in force with respect to the child immediately before the care order was made, [<sup>F6</sup>any person named in the child arrangements order as a person with whom the child was to live ]; and
  - (d) where, immediately before the care order was made, a person had care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children, that person.
- (2) On an application made by the authority or the child, the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and any named person.
- (3) On an application made by—
- (a) any person mentioned in paragraphs (a) to (d) of subsection (1); or
  - (b) any person who has obtained the leave of the court to make the application,
- the court may make such order as it considers appropriate with respect to the contact which is to be allowed between the child and that person.

*Status: Point in time view as at 01/09/2021.*

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- (4) On an application made by the authority or the child, the court may make an order authorising the authority to refuse to allow contact between the child and any person who is mentioned in paragraphs (a) to (d) of subsection (1) and named in the order.
- (5) When making a care order with respect to a child, or in any family proceedings in connection with a child who is in the care of a local authority, the court may make an order under this section, even though no application for such an order has been made with respect to the child, if it considers that the order should be made.
- (6) An authority may refuse to allow the contact that would otherwise be required by virtue of subsection (1) or an order under this section if—
  - (a) they are satisfied that it is necessary to do so in order to safeguard or promote the child’s welfare; and
  - (b) the refusal—
    - (i) is decided upon as a matter of urgency; and
    - (ii) does not last for more than seven days.
- [<sup>F7</sup>(6A) Where (by virtue of an order under this section, or because subsection (6) applies) a local authority in England are authorised to refuse to allow contact between the child and a person mentioned in any of paragraphs (a) to (c) of paragraph 15(1) of Schedule 2, paragraph 15(1) of that Schedule does not require the authority to endeavour to promote contact between the child and that person.]
- [<sup>F8</sup>(6B) Where (by virtue of an order under this section, or because subsection (6) applies) a local authority in Wales is authorised to refuse contact between the child and a person mentioned in any of paragraphs (a) to (c) of section 95(1) of the Social Services and Well-being (Wales) Act 2014, section 95(1) of that Act does not require the authority to promote contact between the child and that person.]
- (7) An order under this section may impose such conditions as the court considers appropriate.
- (8) The Secretary of State may by regulations make provision as to—
  - [<sup>F9</sup>(za) what a local authority in England must have regard to in considering whether contact between a child and a person mentioned in any of paragraphs (a) to (d) of subsection (1) is consistent with safeguarding and promoting the child's welfare;]
  - (a) the steps to be taken by a local authority who have exercised their powers under subsection (6);
  - (b) the circumstances in which, and conditions subject to which, the terms of any order under this section may be departed from by agreement between the local authority and the person in relation to whom the order is made;
  - (c) notification by a local authority of any variation or suspension of arrangements made (otherwise than under an order under this section) with a view to affording any person contact with a child to whom this section applies.
- (9) The court may vary or discharge any order made under this section on the application of the authority, the child concerned or the person named in the order.
- (10) An order under this section may be made either at the same time as the care order itself or later.
- (11) Before [<sup>F10</sup>making, varying or discharging an order under this section or] making a care order with respect to any child the court shall—

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- (a) consider the arrangements which the authority have made, or propose to make, for affording any person contact with a child to whom this section applies; and
- (b) invite the parties to the proceedings to comment on those arrangements.

#### Textual Amendments

- F1** Words in s. 34(1) inserted (25.7.2014) by Children and Families Act 2014 (c. 6), **ss. 8(2)**, 139(6); S.I. 2014/889, art. 6(d)
- F2** Words in s. 34(1) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **98(a)**
- F3** Words in s. 34(1)(b) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 64(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F4** S. 34(1)(ba) inserted (30.12.2005) by 2002 c. 38, ss. 139, 148, Sch. 3 para. 64(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F5** Words in s. 34(1)(c) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 31(a)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F6** Words in s. 34(1)(c) substituted (22.4.2014) by Children and Families Act 2014 (c. 6), s. 139(6), **Sch. 2 para. 31(b)**; S.I. 2014/889, art. 4(f) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F7** S. 34(6A) inserted (25.7.2014) by Children and Families Act 2014 (c. 6), **ss. 8(3)**, 139(6); S.I. 2014/889, art. 6(d)
- F8** S. 34(6B) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **98(b)**
- F9** S. 34(8)(za) inserted (25.7.2014) by Children and Families Act 2014 (c. 6), **ss. 8(4)**, 139(6); S.I. 2014/889, art. 6(d)
- F10** Words in s. 34(11) inserted (25.7.2014) by Children and Families Act 2014 (c. 6), **ss. 8(5)**, 139(6); S.I. 2014/889, art. 6(d)

#### Commencement Information

- I1** S. 34 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

**Status:**

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