



Safeguarding Vulnerable Groups Act 2006

2006 CHAPTER 47

Controlled activity

21 Controlled activity relating to children

- (1) A reference to a controlled activity relating to children must be construed in accordance with this section.
- (2) An activity which falls within any of subsections (3) to (7) is a controlled activity to the extent that it is not a regulated activity relating to children.
- (3) An activity falls within this subsection if—
 - (a) it consists in or is carried out in connection with any form of health care, treatment or therapy to which subsection (8) applies,
 - (b) it is carried out frequently by the same person or it is carried out by the same person on more than two days in any period of 30 days, and
 - (c) it gives the person an opportunity mentioned in subsection (9).
- (4) An activity falls within this subsection if—
 - (a) it is carried out in a further education institution (within the meaning of section 140(3) of the Education Act 2002 (c. 32)),
 - (b) it is carried out frequently by the same person or it is carried out by the same person on more than two days in any period of 30 days,
 - (c) it is carried out by the person while engaging in any form of work (whether or not for gain),
 - (d) it is carried out for or in connection with the purposes of the institution, and
 - (e) it gives the person the opportunity mentioned in subsection (9)(a).
- (5) An activity falls within this subsection if—
 - (a) it consists in making payments under section 17A of the Children Act 1989 (c. 41) [^{F1}or section 12A(1), or regulations under section 12A(4), of the National Health Service Act 2006,] or the provision of assistance either in connection with the making of such payments or securing the provision of services paid for out of them,

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- (b) it is carried out frequently by the same person or it is carried out by the same person on more than two days in any period of 30 days, and
 - (c) it gives the person the opportunity mentioned in subsection (9)(a).
- (6) An activity falls within this subsection if it is carried out as mentioned in subsection (10) frequently and it gives a person carrying out the activity the opportunity to have access to—
- (a) health, educational or social services records relating to children;
 - (b) information provided pursuant to [^{F2}section 72 of the Education and Skills Act 2008 relating to children];
 - (c) in the case of a person carrying out an activity mentioned in subsection (10) (b), records of family proceedings (within the meaning of section 8(3) of the Children Act 1989) held by the Children and Family Court Advisory and Support Service;
 - (d) in the case of a person carrying out an activity mentioned in subsection (10) (c), records of family proceedings (within the meaning of section 8(3) of the Children Act 1989) held by the [^{F3}Welsh Ministers].
- (7) An activity falls within this subsection if it consists in or involves on a regular basis the day to day management or supervision of a person carrying out an activity which falls within subsection (3), (4) or (6).
- (8) This subsection applies to health care, treatment or therapy which is provided for a child—
- (a) in pursuance of arrangements made by or under an enactment,
 - [^{F4}(aa) out of direct payments made under section 12A(1), or under regulations under section 12A(4), of the National Health Service Act 2006,]
 - (b) in an establishment in relation to which a requirement to register arises under section 11 of the Care Standards Act 2000 (c. 14), or
 - (c) by an agency in relation to which such a requirement arises.
- (9) The opportunities are—
- (a) opportunity to have any form of contact with children;
 - (b) opportunity to have access to the health records of children.
- (10) The activity is carried out—
- (a) for, or on behalf of, a local authority (in the exercise of its educational or social services functions);
 - (b) for, or on behalf of, the Children and Family Court Advisory and Support Service;
 - (c) for, or on behalf of, the [^{F5}Welsh Ministers] (in the exercise of its functions under Part 4 of the Children Act 2004 (c. 31) (Welsh family proceedings));
 - (d) for, or on behalf of, the Qualifications and Curriculum Authority;
 - (e) for, or on behalf of, Her Majesty's Chief Inspector of Schools in England;
 - [^{F6}(ea) for, or on behalf of, the Welsh Ministers in the exercise of their functions under Part 10A, 11 or 12 of the Children Act 1989, Part 1, 2 or 3 of the Care Standards Act 2000 or section 15 of the Adoption and Children Act 2002;]
 - (f) for, or on behalf of, HM Chief Inspector of Education and Training in Wales;
 - (g) for, or on behalf of, an establishment or agency in respect of which a requirement to register arises under section 11 of the Care Standards Act 2000.

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(11) In this section—

“educational records” includes individual child information within the meaning of—

- (a) section 99 of Childcare Act 2006 (c. 21),
- (b) that section as modified by section 100 of that Act, or
- (c) section 101 of that Act;

“local authority”—

- (a) in relation to the education functions of a local authority, has the same meaning as in section 579(1) of the Education Act 1996 (c. 56);
- (b) in any other case, has the meaning given by section 1 of the Local Authority Social Services Act 1970 (c. 42);

“social services functions” has the meaning given by section 1A of that Act;

“social services records” means records obtained or held by a local authority in the exercise of its social services functions.

(12) The Secretary of State may, by order, amend subsections (2) to (11) (including by adding new subsections or omitting or varying any of the subsections or anything contained in them).

Textual Amendments

- F1** Words in s. 21(5)(a) inserted (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), **Sch. 1 para. 14(2)**; S.I. 2010/30, art. 2(b)
- F2** Words in s. 21(6)(b) substituted (26.1.2009) by [Education and Skills Act 2008 \(c. 25\)](#), s. 173(4), **Sch. 1 para. 89**; S.I. 2008/3077, art. 4(g)
- F3** Words in s. 21(6)(d) substituted (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\)](#), arts. 1(1), **30(a)**
- F4** S. 21(8)(aa) inserted (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), **Sch. 1 para. 14(3)**; S.I. 2010/30, art. 2(b)
- F5** Words in s. 21(10)(c) substituted (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\)](#), arts. 1(1), **30(a)**
- F6** S. 21(10)(ea) inserted (12.10.2009) by [The Safeguarding Vulnerable Groups Act 2006 \(Regulated Activity, Miscellaneous and Transitional Provisions and Commencement No. 5\) Order 2009 \(S.I. 2009/2610\)](#), arts. 1(1), **28**

Commencement Information

- I1** S. 21 in force at 20.1.2009 for specified purposes by [S.I. 2009/39](#), **art. 2(1)(e)(2)**
- I2** S. 21 in force at 12.10.2009 for specified purposes by [S.I. 2009/2611](#), art. 2, **Sch.**
- I3** S. 21 in force at 30.3.2010 in so far as not already in force by [S.I. 2010/1101](#), **art. 3**

22 Controlled activity relating to vulnerable adults

- (1) A reference to a controlled activity relating to vulnerable adults must be construed in accordance with this section.
- (2) An activity which is ancillary to or is carried out wholly or mainly in relation to an activity which falls within subsection (4) is a controlled activity to the extent that it is not a regulated activity relating to vulnerable adults if—

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- (a) it is carried out frequently by the same person or it is carried out by the same person on more than two days in any period of 30 days, and
 - (b) it gives the person an opportunity mentioned in subsection (5).
- (3) An activity which consists in or involves on a regular basis the day to day management or supervision of a person carrying out an activity mentioned in subsection (2) is also a controlled activity relating to vulnerable adults.
- (4) Each of the following falls within this subsection—
- (a) the provision of primary care services;
 - (b) the provision of hospital services;
 - (c) the provision of domiciliary care;
 - (d) the making of arrangements in connection with an adult placement scheme;
 - (e) the provision of community care services;
 - (f) the making of payments under section 57 of the Health and Social Care Act 2001 (c. 15);
 - (g) such other activity as is prescribed.
- (5) The opportunities are—
- (a) opportunity to have any form of contact with a vulnerable adult;
 - (b) opportunity to have access to the health records or social services records (within the meaning of section 21(11)) of a vulnerable adult;
 - (c) opportunity to have access to such other information as may be prescribed relating to a vulnerable adult.
- (6) In this section—
- “adult placement scheme” means a scheme—
 - (a) under which an individual agrees with the person carrying on the scheme to provide care or support (which may include accommodation) to an adult who is in need of it, and
 - (b) in respect of which a requirement to register arises under section 11 of the Care Standards Act 2000 (c. 14);
 - “community care services” has the same meaning as in section 46(3) of the National Health Service and Community Care Act 1990 (c. 19);
 - “domiciliary care” must be construed in accordance with section 59(4) and (5);
 - “hospital services” means in-patient or out-patient services provided by—
 - (a) a National Health Service trust;
 - (b) an NHS foundation trust;
 - (c) a Local Health Board;
 - (d) a Primary Care Trust;
 - (e) an independent hospital (within the meaning of section 2 of the Care Standards Act 2000);
 - (f) an independent clinic (within the meaning of that section);
 - (g) an independent medical agency (within the meaning of that section);
 - “primary care services” means any of the following—
 - (a) primary medical services or primary dental services provided under the National Health Service Act 2006 (c. 41) (“the NHS Act”) or the National Health Service (Wales) Act 2006 (c. 42) (“the NHS (Wales) Act”);

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- (b) general ophthalmic services provided under Part 6 of the NHS (Wales) Act;
- (c) general ophthalmic services provided in accordance with section 38 of the National Health Service Act 1977 (c. 49);
- (d) pharmaceutical services provided in pursuance of arrangements made under section 126 or 127 of the NHS Act or section 80 or 81 of the NHS (Wales) Act, or local pharmaceutical services provided under section 134 of, or Schedule 12 to, the NHS Act or under section 92 of, or Schedule 7 to, the NHS (Wales) Act;
- (e) a service which corresponds to a service mentioned in any of paragraphs (a) to (d) but which is provided otherwise than by virtue of arrangements made pursuant to an enactment mentioned in that paragraph.

Commencement Information

- I4** S. 22 in force at 12.10.2009 for specified purposes by [S.I. 2009/2611](#), [art. 2](#), [Sch.](#) (as amended (30.3.2010) by [S.I. 2010/1101](#), [art. 11\(2\)\(a\)](#))
- I5** S. 22 in force at 30.3.2010 in so far as not already in force by [S.I. 2010/1101](#), [art. 3](#)
- I6** S. 22(1)-(4)(5)(a)(b)(6) in force at 20.1.2009 for specified purposes by [S.I. 2009/39](#), [art. 2\(1\)\(e\)\(2\)](#)

23 Controlled activity: regulations

- (1) The Secretary of State may, by regulations, make provision as to—
 - (a) the persons who are permitted to engage in controlled activity;
 - (b) the steps which must be taken by a responsible person in connection with permitting another to engage in controlled activity;
 - (c) circumstances in which a responsible person must not permit another to engage in controlled activity.
- (2) The regulations may—
 - (a) include provision for a responsible person who contravenes any provision of the regulations to be guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale;
 - (b) in relation to such an offence, make provision corresponding to sections 18, 19 and 20.
- (3) A person is a responsible person if—
 - (a) he is responsible for the management or control of a controlled activity, and
 - (b) if the controlled activity is carried out for the purposes of an organisation, his exercise of that responsibility is not subject to supervision or direction by any other person for those purposes.

Commencement Information

- I7** S. 23(1)(2) in force at 12.10.2009 by [S.I. 2009/2611](#), [art. 2](#), [Sch.](#)
- I8** S. 23(3) in force at 20.1.2009 for specified purposes by [S.I. 2009/39](#), [art. 2\(1\)\(e\)\(2\)](#)
- I9** S. 23(3) in force at 12.10.2009 for specified purposes by [S.I. 2009/2611](#), [art. 2](#), [Sch.](#)
- I10** [S. 23\(3\)](#) in force at 30.3.2010 in so far as not already in force by [S.I. 2010/1101](#), [art. 3](#)

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