



# Children and Young Persons Act 2008

## 2008 CHAPTER 23

### PART 2

#### FUNCTIONS IN RELATION TO CHILDREN AND YOUNG PERSONS

##### *Education and training*

#### **20 Designated member of staff at school for pupils looked after by a local authority**

- (1) The governing body of a maintained school must designate a member of the staff at the school (“the designated person”) as having responsibility for promoting the educational achievement of registered pupils at the school who—
  - (a) are being looked after by a local authority; or
  - (b) fall within subsection (6).

- (2) The governing body must ensure that the designated person undertakes appropriate training.

[<sup>F1</sup>(2A) If the school is in England, the governing body must ensure that the designated person has regard to any guidance issued by the Secretary of State.]

- (3) The appropriate national authority may by regulations make provision requiring the governing body of a maintained school to ensure that the designated person has qualifications or experience (or both) prescribed by the regulations.

- (4) In exercising its functions under this section a governing body of a maintained school must have regard to any guidance issued by the appropriate national authority.

- (5) For the purposes of subsection (1)(a) a person is “looked after by a local authority” if the person is—

- (a) looked after by a local authority for the purposes of the 1989 Act [<sup>F2</sup>, Part 6 of the 2014 Act] or the Children (Scotland) Act 1995 (c. 36); or
- (b) looked after by an authority for the purposes of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)).

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*Changes to legislation: There are currently no known outstanding effects for the Children and Young Persons Act 2008, Cross Heading: Education and training. (See end of Document for details)*

- (6) A person falls within this subsection if the person—
- (a) is a relevant child within the meaning of section 23A of the 1989 Act or article 34B of the Children (Northern Ireland) Order 1995;
  - (b) is a former relevant child within the meaning of section 23C of the 1989 Act or article 34D of the Children (Northern Ireland) Order 1995; or
  - [<sup>F3</sup>(ba) is a category 2 or 3 young person within the meaning of section 104 of the 2014 Act,]
  - (c) has been looked after by a local authority for the purposes of the Children (Scotland) Act 1995 at any time after attaining the age of 16.
- (7) In this section—
- “appropriate national authority” means—
    - (a) in relation to a governing body of a maintained school in England, the Secretary of State;
    - (b) in relation to a governing body of a maintained school in Wales, the Welsh Ministers;
  - “maintained school” has the same meaning as in Chapter 1 of Part 3 of the Education Act 2002 (c. 32) (see section 39(1) of that Act);
  - “registered pupil” has the same meaning as in the Education Act 1996 (c. 56) (see section 434(5) of that Act).

#### Textual Amendments

- F1** S. 20(2A) inserted (1.9.2018) by [Children and Social Work Act 2017 \(c. 16\), ss. 7, 70\(2\)](#); S.I. 2018/497, reg. 4(a)
- F2** Words in s. 20(5)(a) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\), regs. 2\(1\), 262\(a\)](#)
- F3** S. 20(6)(ba) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\), regs. 2\(1\), 262\(b\)](#)

#### Commencement Information

- I1** S. 20(1)(2)(4)-(7) in force at 1.9.2009 for E. by S.I. 2009/2273, [art. 2\(2\)\(f\)](#)
- I2** S. 20(1)(2) in force at 1.9.2011 for W. by S.I. 2011/949, [art. 3\(2\)](#)
- I3** S. 20(3) in force at 12.2.2009 for E. by S.I. 2009/268, [art. 3\(1\)\(c\)](#)
- I4** S. 20(3) in force at 26.4.2010 for W. by S.I. 2010/1329, [art. 2\(f\)](#)
- I5** S. 20(4)(7) in force at 1.9.2011 for W. by S.I. 2011/949, [art. 3\(2\)](#)

#### [<sup>F4</sup>20A Designated staff member for previously looked after pupils

- (1) The governing body of a maintained school in England must—
- (a) designate a member of the staff at the school (the “designated person”) as having responsibility for promoting the educational achievement of registered pupils within subsection (2), and
  - (b) ensure that the designated person undertakes appropriate training and has regard to any guidance issued by the Secretary of State.
- (2) A registered pupil is within this subsection if the pupil—
- (a) was looked after by a local authority but ceased to be looked after by them as a result of—

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- (i) a child arrangements order (within the meaning given by section 8(1) of the 1989 Act) which includes arrangements relating to with whom the child is to live, or when the child is to live with any person,
  - (ii) a special guardianship order (within the meaning given by section 14A(1) of the 1989 Act), or
  - (iii) an adoption order (within the meaning given by section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002), or
- (b) appears to the governing body—
  - (i) to have been in state care in a place outside England and Wales because he or she would not otherwise have been cared for adequately, and
  - (ii) to have ceased to be in that state care as a result of being adopted.
- (3) The Secretary of State may by regulations require the governing body of a maintained school in England to ensure that the designated person has qualifications or experience (or both) prescribed by the regulations.
- (4) In exercising its functions under this section the governing body of a maintained school in England must have regard to any guidance issued by the Secretary of State.
- (5) For the purposes of this section a person is “looked after by a local authority” if the person is looked after by a local authority for the purposes of the 1989 Act or Part 6 of the 2014 Act.
- (6) For the purposes of this section a person is in “state care” if he or she is in the care of, or accommodated by—
  - (a) a public authority,
  - (b) a religious organisation, or
  - (c) any other organisation the sole or main purpose of which is to benefit society.
- (7) In this section—
  - “maintained school” has the meaning given by section 39(1) of the Education Act 2002;
  - “registered pupil” has the meaning given by section 434(5) of the Education Act 1996.]

#### **Textual Amendments**

**F4** S. 20A inserted (1.9.2018) by [Children and Social Work Act 2017 \(c. 16\)](#), **ss. 5, 70(2)**; [S.I. 2018/497](#), [reg. 4\(a\)](#)

## **21 Entitlement to payment in respect of higher education**

- (1) Section 23C of the 1989 Act (continuing functions of local authorities in respect of former relevant children) is amended in accordance with subsections (2) and (3).
- (2) After subsection (5) insert—
  - “(5A) It is the duty of the local authority to pay the relevant amount to a former relevant child who pursues higher education in accordance with a pathway plan prepared for that person.

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- (5B) The appropriate national authority may by regulations—
- (a) prescribe the relevant amount for the purposes of subsection (5A);
  - (b) prescribe the meaning of “higher education” for those purposes;
  - (c) make provision as to the payment of the relevant amount;
  - (d) make provision as to the circumstances in which the relevant amount (or any part of it) may be recovered by the local authority from a former relevant child to whom a payment has been made.

(5C) The duty set out in subsection (5A) is without prejudice to that set out in subsection (4)(b).”

(3) In subsection (9) after “subsection (4)(b)” insert “ or who is in receipt of a payment under subsection (5A) ”.

(4) In section 776 of the Income Tax (Trading and Other Income) Act 2005 (c. 5) (scholarship income) after subsection (2) insert—

“(2A) No liability to income tax arises in respect of income from a payment made under section 23C(5A) of the Children Act 1989 (duty to make payments to former relevant children who pursue higher education).”

#### **Commencement Information**

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| <b>I6</b>  | S. 21(1) in force at 22.8.2009 for E. by <a href="#">S.I. 2009/2273, art. 2(1)</a>                                |
| <b>I7</b>  | S. 21(1)(3)(4) in force at 18.3.2011 for specified purposes for W. by <a href="#">S.I. 2011/824, art. 2(a)</a>    |
| <b>I8</b>  | S. 21(2) in force at 12.2.2009 for specified purposes for E. by <a href="#">S.I. 2009/268, art. 3(1)(d)</a>       |
| <b>I9</b>  | S. 21(2) in force at 22.8.2009 for E. so far as not already in force by <a href="#">S.I. 2009/2273, art. 2(1)</a> |
| <b>I10</b> | S. 21(2) in force at 26.4.2010 for specified purposes for W. by <a href="#">S.I. 2010/1329, art. 2(g)</a>         |
| <b>I11</b> | S. 21(2) in force at 18.3.2011 for W. so far as not already in force by <a href="#">S.I. 2011/824, art. 2(b)</a>  |
| <b>I12</b> | S. 21(3)(4) in force at 22.8.2009 for E. by <a href="#">S.I. 2009/2273, art. 2(1)</a>                             |

## **22 Assistance to pursue education or training**

(1) In section 23B of the 1989 Act omit subsections (4) to (7).

(2) After section 23C of the 1989 Act insert—

### **“23CA Further assistance to pursue education or training**

- (1) This section applies to a person if—
- (a) he is under the age of twenty-five or of such lesser age as may be prescribed by the appropriate national authority;
  - (b) he is a former relevant child (within the meaning of section 23C) towards whom the duties imposed by subsections (2), (3) and (4) of that section no longer subsist; and
  - (c) he has informed the responsible local authority that he is pursuing, or wishes to pursue, a programme of education or training.
- (2) It is the duty of the responsible local authority to appoint a personal adviser for a person to whom this section applies.
- (3) It is the duty of the responsible local authority—

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- (a) to carry out an assessment of the needs of a person to whom this section applies with a view to determining what assistance (if any) it would be appropriate for them to provide to him under this section; and
    - (b) to prepare a pathway plan for him.
  - (4) It is the duty of the responsible local authority to give assistance of a kind referred to subsection (5) to a person to whom this section applies to the extent that his educational or training needs require it.
  - (5) The kinds of assistance are—
    - (a) contributing to expenses incurred by him in living near the place where he is, or will be, receiving education or training; or
    - (b) making a grant to enable him to meet expenses connected with his education and training.
  - (6) If a person to whom this section applies pursues a programme of education or training in accordance with the pathway plan prepared for him, the duties of the local authority under this section (and under any provision applicable to the pathway plan prepared under this section for that person) subsist for as long as he continues to pursue that programme.
  - (7) For the purposes of subsection (6), the local authority may disregard any interruption in the person's pursuance of a programme of education or training if they are satisfied that he will resume it as soon as is reasonably practicable.
  - (8) Subsections (7) to (9) of section 17 apply to assistance given to a person under this section as they apply to assistance given to or in respect of a child under that section, but with the omission in subsection (8) of the words “and of each of his parents”.
  - (9) Subsection (5) of section 24B applies to a person to whom this section applies as it applies to a person to whom subsection (3) of that section applies.
  - (10) Nothing in this section affects the duty imposed by subsection (5A) of section 23C to the extent that it subsists in relation to a person to whom this section applies; but the duty to make a payment under that subsection may be taken into account in the assessment of the person's needs under subsection (3) (a).
  - (11) In this section “the responsible local authority” means, in relation to a person to whom this section applies, the local authority which had the duties provided for in section 23C towards him.”
- (3) Section 23E (pathway plans) of the 1989 Act is amended in accordance with subsections (4) and (5).
  - (4) In subsection (1)(b) after “23B” insert “ or 23CA ”.
  - (5) After subsection (1) insert—
    - “(1A) A local authority may carry out an assessment under section 23B(3) or 23CA(3) of a person's needs at the same time as any assessment of his needs is made under—
      - (a) the Chronically Sick and Disabled Persons Act 1970;

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- (b) Part 4 of the Education Act 1996 (in the case of an assessment under section 23B(3));
  - (c) the Disabled Persons (Services, Consultation and Representation) Act 1986; or
  - (d) any other enactment.
- (1B) The appropriate national authority may by regulations make provision as to assessments for the purposes of section 23B(3) or 23CA.
- (1C) Regulations under subsection (1B) may in particular make provision about—
- (a) who is to be consulted in relation to an assessment;
  - (b) the way in which an assessment is to be carried out, by whom and when;
  - (c) the recording of the results of an assessment;
  - (d) the considerations to which a local authority are to have regard in carrying out an assessment.
- (1D) A local authority shall keep each pathway plan prepared by them under section 23B or 23CA under review.”
- (6) In paragraph 1 of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 (c. 41) (ineligibility for support) in sub-paragraph (1)(g), after “23C,” insert “23CA,”.

#### Commencement Information

- I13** S. 22(1)(2)(4) in force at 1.4.2011 for E. by [S.I. 2010/2981](#), [art. 4\(g\)](#) (with [art. 6](#))
- I14** S. 22(1)(2)(4)(6) in force at 19.6.2012 for W. by [S.I. 2012/1553](#), [art. 2\(a\)](#) (with [art. 3](#))
- I15** S. 22(3)(5) in force at 1.9.2009 for specified purposes for E. by [S.I. 2009/2273](#), [art. 2\(2\)\(g\)](#)
- I16** S. 22(3)(5) in force at 26.4.2010 for specified purposes for W. by [S.I. 2010/1329](#), [art. 2\(h\)](#)
- I17** S. 22(3)(5) in force at 1.4.2011 for E. so far as not already in force by [S.I. 2010/2981](#), [art. 4\(g\)](#) (with [art. 6](#))
- I18** S. 22(3)(5) in force at 19.6.2012 for W. so far as not already in force by [S.I. 2012/1553](#), [art. 2\(a\)](#) (with [art. 3](#))
- I19** S. 22(6) in force at 1.4.2011 for E. by [S.I. 2010/2981](#), [art. 4\(g\)](#) (with [art. 6](#))

## 23 Extension of entitlements to personal adviser and to assistance in connection with education or training

- (1) In section 23D(1) of the 1989 Act (power to make provision for personal advisers for certain young persons)—
- (a) for “twenty-one” substitute “twenty-five”; and
  - (b) after paragraph (c) insert “; or  
 (“) persons to whom section 23CA applies.”
- (2) In section 24B of that Act (assistance in connection with employment, education and training), in subsection (3)(a) for “twenty-four” substitute “twenty-five”.

#### Commencement Information

- I20** S. 23(1) in force at 1.1.2010 for E. by [S.I. 2009/3354](#), [art. 3\(1\)](#)
- I21** S. 23(1) in force at 26.4.2010 for W. by [S.I. 2010/1329](#), [art. 2\(i\)](#)
- I22** S. 23(2) in force at 1.4.2011 for E. by [S.I. 2010/2981](#), [art. 4\(h\)](#)

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**Changes to legislation:** *There are currently no known outstanding effects for the Children and Young Persons Act 2008, Cross Heading: Education and training. (See end of Document for details)*

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**I23** S. 23(2) in force at 19.6.2012 for W. by S.I. 2012/1553, **art. 2(b)**

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There are currently no known outstanding effects for the Children and Young Persons Act 2008,  
Cross Heading: Education and training.