



Centre for Professional Practice

LEGISLATION

LOOKED AFTER CHILDREN

Please note that this is only an easy access guide to where a Social Worker can find the relevant legislation. It is not intended to be a comprehensive statement of the law, it simply guides you to where in the law specific provisions relating to the powers and duties of the LA can be found.

- Admission to Care/Accommodation
 - Accommodation under s20 etc.
 - Care Order
 - Young Person on Remand
- Powers and Duties of the LA in Respect of Looked After Children
 - General
 - Preparation for Adulthood (Eligible Children)
- Placement and Termination of Placement
 - Choice of Placement and Change of Placement
 - Notification of Placement
 - Termination of Placement
- Care Planning for Looked After Children
 - Care Plan
 - Placement Plan
 - Ceasing to Look After a Child
 - Records
- Statutory Reviews and the IRO
 - Review of Care Plans
 - Independent Reviewing Officer
- Social Work Visits to a Looked After Child



ADMISSION TO CARE/ACCOMMODATION

Children Act 1989 [Section 20](#), [Section 21](#), [Section 31](#), [Section 33](#)

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO): [Section 92](#), [Section 104](#)

Accommodation under Section 20 etc.	
<ul style="list-style-type: none"> Duty to provide accommodation for children in need 	S20(1), (3)
<ul style="list-style-type: none"> Power to provide accommodation for a child if this would safeguard and promote the child's welfare 	S20(4), (5)
<ul style="list-style-type: none"> Parent's power to refuse offer of accommodation for child, or to discharge child from LA accommodation. 	S20(7), (8), (9)
<ul style="list-style-type: none"> Power of young person aged 16 – 17 to agree to accommodation against wishes of a parent 	S20(11)
<ul style="list-style-type: none"> Duty to consult the child before accommodating him/her 	S20(6)
<ul style="list-style-type: none"> Duty to accommodate children who are in police protection or are the subject of an Emergency Protection Order. 	S21(1), (2)
<ul style="list-style-type: none"> Duty to accommodate children in police detention, remanded to LA accommodation or the subject of a Youth Rehabilitation Order with a local authority residence requirement or a fostering requirement. 	S21(2)
Care Order	
<ul style="list-style-type: none"> Power to apply to Court for a Care Order or Supervision Order 	S31(2), (3), (10)
<ul style="list-style-type: none"> Duty, while a Care Order is in force, to receive the child into local authority care 	S33(1)
<ul style="list-style-type: none"> Power, while a Care Order is in force, to exercise parental responsibility, and to limit the exercise of parental responsibility by others who hold it. 	S33(3)
<ul style="list-style-type: none"> Limits on the exercise of parental responsibility by the local authority 	S33(4), (6), (7), (8)
Young Person on Remand	
<ul style="list-style-type: none"> Duty to accommodate a child remanded to local authority accommodation 	LASPO S92(4)
<ul style="list-style-type: none"> Power to detain a child remanded to local authority accommodation 	LASPO S92(5)

<ul style="list-style-type: none"> Duty to treat a child remanded to youth detention accommodation as a looked after child 	LASPO S104
---	------------

POWERS AND DUTIES OF THE LOCAL AUTHORITY IN RESPECT OF LOOKED AFTER CHILDREN

Children Act 1989 [Section 22](#), [Section 23ZA](#), [Section 23ZB](#), [Section 26](#), [Section 34](#);

Children Act 1989 Schedule 2 [Para 15](#), [Para 16](#), [Para 19](#), [Para 19A](#), [Para 19B](#), [Para 19BA](#), [Para 19C](#), [Para 20](#)

The Care Planning, Placement and Case Review Regulations 2010

<ul style="list-style-type: none"> General duty to safeguard and promote the child's welfare 	S22(3)
<ul style="list-style-type: none"> Duty to carry out an assessment of the child's health on first admission 	Reg. 7(1), (2), (4)
<ul style="list-style-type: none"> Duty to ensure that the child is provided with appropriate health care services 	Reg. 7(5)
<ul style="list-style-type: none"> Duty to establish a procedure for dealing with complaints made by a looked after child, their parent or another person with an interest in the child's welfare, or a foster carer. 	Section 26(3), (7)
<ul style="list-style-type: none"> Duty to ensure social work visits to the child 	S23ZA(2), (5)
<ul style="list-style-type: none"> Duty to promote contact between a looked after child and his/her parents, relatives, friends and other persons connected with him/her – unless this is not reasonably practicable or not consistent with his/her welfare 	Sch 2.15(1)
<ul style="list-style-type: none"> Duty to allow a child in care (Care Order) to have reasonable contact with parents, other persons who have parental responsibility, and persons who lost PR through the making of a Care Order. 	S34(1)
<ul style="list-style-type: none"> Duty, in considering contact arrangements between a child and a parent, relative, friend etc., to have regard to the care plan. 	Reg.8ZA
<ul style="list-style-type: none"> Duty to consult the child, parents and other relevant persons before making a decision relating to the child. 	S34(4), (5)
<ul style="list-style-type: none"> Duty to promote the child's educational achievement 	S34(3A)
<ul style="list-style-type: none"> Duty to inform parents of where the child is accommodated 	Sch2 Para 15(2)
<ul style="list-style-type: none"> Power to make payments to enable a parent, relative or friend to visit a looked after child 	Sch2 Para 16

<ul style="list-style-type: none"> Duty to arrange an independent visitor for a child if this would be in the child's interests. 	S23ZB(1); Reg. 47
<ul style="list-style-type: none"> Power to arrange for a looked after child who is not the subject of a Care Order to live outside England and Wales (if the child is the subject of a Care Order this requires the approval of the court) 	Sch2 Para 19(2)
<ul style="list-style-type: none"> Duty, when arranging for a looked after child to live outside England and Wales, to ensure that appropriate requirements are applied, and to include details of the supervision arrangements in the care plan. 	Reg. 12
Preparation for Adulthood – Eligible Children	
<ul style="list-style-type: none"> Duty to prepare the child for the time when s/he will no longer be looked after by the local authority 	Sch2 Para 19A
<ul style="list-style-type: none"> Duty to carry out an assessment of needs for an “eligible child” 	Sch2 Para 19B(4), (5); Reg. 41; Reg. 42
<ul style="list-style-type: none"> Duty to maintain a pathway plan for an “eligible child” 	Sch2 Para 19B(4), (5); Reg. 41; Reg. 43
<ul style="list-style-type: none"> Duty to arrange for an eligible child to have a personal adviser 	Sch2 Para 19C; Reg. 44
<ul style="list-style-type: none"> Duty to consider whether the LA should facilitate a “staying put” arrangement for an “eligible child”. 	Sch2 Para 19BA(2), (3)
<ul style="list-style-type: none"> Power to act in a way inconsistent with these duties where that is necessary to protect the public from serious injury 	S22(6), (7), (8); Sch2 Para 15(4)
<ul style="list-style-type: none"> Duty, on the death of a looked after child, to notify the parents, the Secretary of State and Ofsted. Power to make payments to parents, relatives or friends to enable them to attend the funeral. 	Sch2 Para 20(1)

PLACEMENT AND TERMINATION OF PLACEMENT

Children Act 1989 [Section 22C](#), [Schedule 2 Paragraph 19](#)

The Care Planning, Placement and Case Review Regulations 2010

Choice of Placement and Change of Placement	
<ul style="list-style-type: none"> • Duty to consider whether the child’s placement meets his/her needs 	Reg.4(3)
<ul style="list-style-type: none"> • Duty to give preference to placement with parent. 	S22C(2), (3), (4)
<ul style="list-style-type: none"> ○ Local authority must not place child with parent if this is incompatible with a court order under s34. 	Reg. 16
<ul style="list-style-type: none"> ○ Duty to assess parent’s suitability to care for child, and to review child’s case, before placing child with her/him 	Reg.17
<ul style="list-style-type: none"> ○ Power to allow child to remain with parent during assessment of her/his suitability to care 	Reg. 15(2)
<ul style="list-style-type: none"> ○ Power to place child with parent before assessment is complete 	Reg. 19
<ul style="list-style-type: none"> ○ Decision to place child with parent must be made by a nominated officer 	Reg. 18
<ul style="list-style-type: none"> ○ Duty to provide services and support for placement with parents 	Reg. 20
<ul style="list-style-type: none"> • Duty, where placement with parent would not be practicable or would be inconsistent with the child’s welfare, to give preference to placement with a connected person. 	S22C(7)
<ul style="list-style-type: none"> • Power to give temporary approval as a foster carer to a connected person while assessing their suitability to foster. 	Reg. 24
<ul style="list-style-type: none"> • Power to extend temporary approval of a connected person as a foster carer (requires approval by a nominated officer) 	Reg. 25
<ul style="list-style-type: none"> • Duty, when considering adoption as an option for a child, to consider fostering for adoption. 	S22C(9A), (9B)
<ul style="list-style-type: none"> • Power to give temporary approval as a foster carer to an approved prospective adopter. 	Reg. 25A
<ul style="list-style-type: none"> • Duty to ensure that any fostering for adoption placement is approved by a nominated officer. 	Reg. 22A

<ul style="list-style-type: none"> • Duty to place child near to home 	S22C(8)
<ul style="list-style-type: none"> • Duty to avoid disruption to the child's education or training 	S22C(8)
<ul style="list-style-type: none"> • Duty to place siblings together 	S22C(8)
<ul style="list-style-type: none"> • Duty to ensure that accommodation provided for a disabled child is suitable. 	S22C(8)
<ul style="list-style-type: none"> • Duty to place within the local authority's area 	S22C(9)
<ul style="list-style-type: none"> • Duty to ensure that any placement outside the local authority area is approved by a nominated officer. 	Reg. 11(1), (4)
<ul style="list-style-type: none"> • Duty to ensure that any placement outside the local authority area and "at a distance" is approved by the Director of Children's Services 	Reg.11(1), (4), (5)
<ul style="list-style-type: none"> • Duty to ensure that any change of placement which would disrupt arrangements for education for a child at Key Stage 4 is approved by a nominated officer. 	Reg.10(1), (3)
<ul style="list-style-type: none"> • Duty to ensure that plans for any change of placement which would disrupt arrangements for education for a child not at Key Stage 4 include appropriate arrangements for education or training. 	Reg. 10(4)
<ul style="list-style-type: none"> • Duty to make foster placements only with carers approved by a fostering service provider. 	Reg. 22(2), (2)
<ul style="list-style-type: none"> • Power to make an emergency foster placement which is not consistent with the carer's terms of approval. 	Reg. 23
<ul style="list-style-type: none"> • Duty, before placing a looked after child in unregulated accommodation, to confirm that the accommodation is suitable, arrange for child to visit it, and notify the IRO. 	
<ul style="list-style-type: none"> • Power to arrange for a looked after child who is not the subject of a Care Order to live outside England and Wales (if the child is the subject of a Care Order this requires the approval of the court) 	Sch2 Para 19(2)
<ul style="list-style-type: none"> • Duty, when arranging for a looked after child to live outside England and Wales, to ensure that appropriate requirements are applied, and to include details of the supervision arrangements in the care plan. 	Reg. 12

Notification of Placement	
<ul style="list-style-type: none"> Duty to notify relevant individuals and agencies of intention to place child 	Reg. 13 (1), (2), (3)
<ul style="list-style-type: none"> Duty to notify the area authority of any out of authority placement 	Reg. 13(4)
Termination of Placement	
<ul style="list-style-type: none"> Duty to review child's case before terminating placement 	Reg. 14(1), (3), (5)
<ul style="list-style-type: none"> Duty to make alternative arrangements for accommodation of the child before terminating placement 	Reg. 14(2)
<ul style="list-style-type: none"> Duty to notify IRO and other individuals and agencies of intention to terminate placement 	Reg. 14(2), (4)

CARE PLANNING FOR LOOKED AFTER CHILDREN

Children Act 1989 [Section 31A](#)

The Care Planning, Placement and Case Review Regulations 2010

Care Plan	
<ul style="list-style-type: none"> Duty to assess the child's needs for services 	Reg. 4(1), (2)
<ul style="list-style-type: none"> Duty to draw up a care plan during care proceedings, and to keep it under review 	S31A(1), (2)
<ul style="list-style-type: none"> Duty to draw up a care plan other than during care proceedings 	Reg. 4(1)
<ul style="list-style-type: none"> Duty to agree the care plan with the parents or the young person 	Reg. 4(4), (5)
<ul style="list-style-type: none"> Required content of a care plan 	Reg. 5
<ul style="list-style-type: none"> Duty to give a copy of the care plan to the child, parents etc. 	Reg. 6(3)
Placement Plan	
<ul style="list-style-type: none"> Duty to draw up a placement plan 	Reg. 9(1), (2)

<ul style="list-style-type: none"> Duty to consult child about placement plan 	Reg. 9(1)
<ul style="list-style-type: none"> Duty to inform IRO about placement plan 	Reg. 9(1)
Ceasing to Look After a Child	
<ul style="list-style-type: none"> Duty to assess the suitability of the arrangements for accommodation and maintenance of the child after discharge 	Reg. 39(2)(a)
<ul style="list-style-type: none"> Duty to assess the child's need for support and services after discharge, and to detail the support to be provided in the child's care plan 	Reg. 39(2)(b); Reg. 39(3)
<ul style="list-style-type: none"> Duty to consult the child about discharge plans 	Reg. 39(2)(c)
<ul style="list-style-type: none"> Duty to consider whether discharge will safeguard and promote the child's welfare 	Reg. 39(2)(d)
<ul style="list-style-type: none"> Duty to ensure that a nominated officer approves any plan for discharge of a child who has been looked after for 20 working days 	Reg. 39(4)
<ul style="list-style-type: none"> Duty to ensure that a the Director of Children's Services approves any plan for discharge of a child aged 16/17 	Reg. 39(5), (6)
Records	
Duty to maintain a written case record for each looked after child	Reg. 49
Duty to retain child's case record	Reg. 50(1)
Duty to ensure the confidentiality of case records	Reg. 50(2)

STATUTORY REVIEWS AND THE IRO

Children Act 1989 [Section 22D](#), [Section 25A](#), [Section 25B](#)

The Care Planning, Placement and Case Review Regulations 2010

Review of Care Plans	
<ul style="list-style-type: none"> Duty to have a written policy on how reviews will be carried out 	Reg. 34(1)
<ul style="list-style-type: none"> Duty to review and revise the care plan from time to time. 	Reg.6(1)

○ Minimum frequency of reviews	Reg. 33(1), (2)
○ Duty to trigger an early review	Reg. 33(3), (4)
○ Duty to review child's case before moving him/her from a placement with a parent or connected person, a foster home or a children's home to a placement that is none of these.	S22D
○ Duty to review the child's case before making any significant change to the care plan.	Reg. 32(2)
● Duty to implement decisions made at reviews	Reg. 37(a)
● Duty to inform IRO of any significant failure to implement review decisions, or of any significant change of circumstances affecting the implementation of review decisions	Reg. 37(b)
● Duty to make a written record of each review	Reg. 38
● Duty to carry out review of child's health every 6 months (child under 5) or every 12 months (child aged 5 or over)	Reg. 7(3), (4)
Independent Reviewing Officer	
● Duty to appoint an IRO	S25A
○ Necessary qualifications and experience of IRO	Reg. 46
● Local authority duties in respect of IRO	
○ Duty to give the IRO a copy of the care plan	Reg. 6(3)
○ Duty to notify the IRO of the child's (proposed) placement	Reg. 9(1); Reg. 13(1), (2)
○ Duty to consult the IRO about any proposed placement decision that would disrupt the child's education at KS4	Reg. 10(2)
○ Duty to consult IRO about any proposal to place the child out of area	Reg.11(2)
○ Duty to consult IRO about proposal to place child with parents	Reg. 18
○ Duty to consult IRO about proposal to place child in long term foster placement	Reg. 22B

○ Duty to notify IRO of proposal to place child in an unregulated setting	Reg. 27
○ Duty to notify IRO of the remand of a looked after child to Youth Detention Accommodation	Reg. 47C(2)
○ Duty to notify IRO of proposal to terminate child's placement	Reg. 14(1), (2)
○ Duty to notify IRO of refusal or restriction of parental contact	Reg. 8(2)
○ Duty to notify IRO of proposal to extend approval of connected person as foster carer	Reg. 25(4)
○ Duty to consult IRO during assessment of needs of an eligible child	Reg. 42(2)
○ Duty to consult IRO about any plan to cease to look after a child who has been looked after for more than 20 working days, or is aged 16 – 17	Reg. 39(6)
○ Duty to arrange a review at request of IRO	Reg. 33(3)
○ Duty to notify IRO of any significant failure to implement review decisions, or of any significant change of circumstances affecting the implementation of review decisions	Reg. 37
● General duties of the IRO – monitor the performance of the LA; participate in reviews; ensure that the child's wishes are taken into consideration.	S25B(1)
● IRO duty to attend, and chair, all review meetings	Reg. 36(1)(a)
● IRO duty to ensure that reviews are carried out in accordance with the Regulations	Reg. 36(1)(d)
● IRO duty to consult child in private before reviews	Reg. 36(1)(b)
● IRO duty to ensure that reviews take into account the views of the child's parents and carers	Reg. 36(1)(c)
● IRO Duty to ensure that the review identifies the persons responsible for implementing each decision	Reg. 36(1)(d)
● IRO duty to bring any failure to review a child's case to the attention of an appropriate senior manager	Reg. 36(1)(d)
● IRO duty to bring any failure to implement review decisions to the attention of an appropriate senior manager	Reg. 36(1)(d)
● IRO power to adjourn a review meeting	Reg. 36(2)
● IRO duty, when consulted or informed about any matter by the LA, to ensure that the child has been consulted and	Reg. 45(4)

consider whether to request a review.	
<ul style="list-style-type: none"> • IRO duty to ensure that the child has been informed of his/her rights to apply for a Section 8 order, or to make representations and complaints. 	Reg. 45(1)
<ul style="list-style-type: none"> • IRO duty to ensure that a child who wishes to take legal proceedings has access to legal advice 	Reg. 45(2)
<ul style="list-style-type: none"> • IRO power to refer case to CAFCASS 	S25B(3); Reg. 45(3)

SOCIAL WORK VISITS TO A LOOKED AFTER CHILD

Children Act 1989 [Section 23ZA](#)

Care Planning, Placement and Case Review Regulations 2010, Regs 28 - 31

<ul style="list-style-type: none"> • Duty to visit a looked after child 	S23ZA(1), (2)
<ul style="list-style-type: none"> <ul style="list-style-type: none"> ○ Minimum frequency of visits to a looked after child by the responsible authority's representative. 	Reg. 28
<ul style="list-style-type: none"> <ul style="list-style-type: none"> ○ Duty to ensure that the LA representative who visits the child has the necessary skills and experience. 	S23ZA(5)
<ul style="list-style-type: none"> • Duty to arrange for advice, support and assistance to be made available to the child on request. 	S23ZA(2)
<ul style="list-style-type: none"> • Duty to ensure that appropriate arrangements are in place to provide the child with advice, support and assistance between social work visits. 	Reg.31
<ul style="list-style-type: none"> • Duty to ensure that the child knows how to seek appropriate advice, support and assistance. 	Reg. 31
<ul style="list-style-type: none"> • Duty to speak to the child in private 	Reg. 29
<ul style="list-style-type: none"> • Duty to review the child's case it appears that the placement does not adequately safeguard and promote the child's welfare. 	Reg.30