

## **Relevant extracts from the main Acts of Parliament referred to in the EHE consultation documents**

The following pages are printouts of pages from [www.legislation.gov.uk](http://www.legislation.gov.uk) which is the on-line archive of most types of UK Legislation. The search facility on it is very simple to use, but always referring back to there can be tedious.

For our own benefit we printed several pages from the different Acts of Parliament quoted in the consultation documents - though we did edit out much of the extra material including footnotes, but not the references to them. If you want to look up the additional information one please search on the above site.

### **List of sections of Acts contained below:**

Children Act 1989 §31  
Education Act 1996 §13  
Education Act 1996 §436A & 437  
Education Act 2002 §175  
Children Act 2004 §10  
Children Act 2004 §11

Please use the PDF bookmarks to navigate to each.

Information on relevant Human Rights legislation and other relevant laws can be found on The HE Byte's Responsibilities & Rights page:

Legal Information for Home Educators – The HE Byte  
[he-byte.uk/rights](http://he-byte.uk/rights)

# Children Act 1989

1989 c. 41 Part IV General Section 31

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## 31 Care and Supervision

- (1) On the application of any local authority or authorised person, the court may make an order—
  - (a) placing the child with respect to whom the application is made in the care of a designated local authority; or
  - (b) putting him under the supervision of a designated local authority **F1** . . .
- (2) A court may only make a care order or supervision order if it is satisfied—
  - (a) that the child concerned is suffering, or is likely to suffer, significant harm; and
  - (b) that the harm, or likelihood of harm, is attributable to—
    - (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or
    - (ii) the child's being beyond parental control.
- (3) No care order or supervision order may be made with respect to a child who has reached the age of seventeen (or sixteen, in the case of a child who is married).

**[F2**(3A) A court deciding whether to make a care order—

- (a) is required to consider the permanence provisions of the section 31A plan for the child concerned, but
- (b) is not required to consider the remainder of the section 31A plan, subject to section 34(11).

**[F3**(3B) For the purposes of subsection (3A), the permanence provisions of a section 31A plan are—

- (a) such of the plan's provisions setting out the long-term plan for the upbringing of the child concerned as provide for any of the following—
  - (i) the child to live with any parent of the child's or with any other member of, or any friend of, the child's family;
  - (ii) adoption;
  - (iii) long-term care not within sub-paragraph (i) or (ii);
- (b) such of the plan's provisions as set out any of the following—
  - (i) the impact on the child concerned of any harm that he or she suffered or was likely to suffer;
  - (ii) the current and future needs of the child (including needs arising out of that impact);
  - (iii) the way in which the long-term plan for the upbringing of the child would meet those current and future needs.]

(3C) The Secretary of State may by regulations amend this section for the purpose of altering what for the purposes of subsection (3A) are the permanence provisions of a section 31A plan.]

- (4) An application under this section may be made on its own or in any other family proceedings.
- (5) The court may—
  - (a) on an application for a care order, make a supervision order;
  - (b) on an application for a supervision order, make a care order.

(6) Where an authorised person proposes to make an application under this section he shall—

- (a) if it is reasonably practicable to do so; and
- (b) before making the application,

consult the local authority appearing to him to be the authority in whose area the child concerned is ordinarily resident.

(7) An application made by an authorised person shall not be entertained by the court if, at the time when it is made, the child concerned is—

- (a) the subject of an earlier application for a care order, or supervision order, which has not been disposed of; or
- (b) subject to—
  - (i) a care order or supervision order;
  - [F4**(ii) a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008; or
  - [F5**(iii) a compulsory supervision order or interim compulsory supervision order as defined by sections 83 and 86 of the Children’s Hearings (Scotland) Act 2011. ]

(8) The local authority designated in a care order must be—

- (a) the authority within whose area the child is ordinarily resident; or
- (b) where the child does not reside in the area of a local authority, the authority within whose area any circumstances arose in consequence of which the order is being made.

(9) In this section—

“authorised person” means—

- (a) the National Society for the Prevention of Cruelty to Children and any of its officers; and
- (b) any person authorised by order of the Secretary of State to bring proceedings under this section and any officer of a body which is so authorised;

“harm” means ill-treatment or the impairment of health or development **[F6**including, for example, impairment suffered from seeing or hearing the ill-treatment of another];

“development” means physical, intellectual, emotional, social or behavioural development;

“health” means physical or mental health; and

“ill-treatment” includes sexual abuse and forms of ill-treatment which are not physical.

(10) Where the question of whether harm suffered by a child is significant turns on the child’s health or development, his health or development shall be compared with that which could reasonably be expected of a similar child.

(11) In this Act—

“a care order” means (subject to section 105(1)) an order under subsection (1)(a) and (except where express provision to the contrary is made) includes an interim care order made under section 38; and

“a supervision order” means an order under subsection (1)(b) and (except where express provision to the contrary is made) includes an interim supervision order made under section 38.

# Education Act 1996

1996 c. 56 Part I Chapter III General functions Section 13

## 13 General responsibility for education.

- (1) A local education authority shall (so far as their powers enable them to do so) contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education, **[F1** and secondary education**]** are available to meet the needs of the population of their area.
- (2) The duty imposed by subsection (1) does not extend to matters in respect of which any duty is imposed on—
  - [F2**(a) the Learning and Skills Council for England **F3**...
  - [F4**(aa) the National Assembly for Wales under Part 2 of the Learning and Skills Act 2000, or**]**
    - (b) the higher education funding councils established under section 62 of the Further and Higher Education Act 1992.**]**

1996 c. 56 Part I Chapter III General functions Section 13A

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**[F1[F2**13A

### **Duty to promote high standards and the fulfilment of potential**

- (1) A local education authority shall ensure that their functions relating to the provision of education to which this section applies are (so far as they are capable of being so exercised) exercised by the authority with a view to—
  - (a) promoting high standards,
  - (b) in the case of a local education authority in England, ensuring fair access to educational opportunity, and
  - (c) promoting the fulfilment by every child concerned of his educational potential.
- (2) This section applies to education for—
  - (a) children of compulsory school age (whether at school or otherwise); and
  - (b) children under or over that age who are registered as pupils at schools maintained by the authority,and in subsection (1) “functions” means functions of whatever nature.
- (3) In this section “child” means a person under the age of 20.**]]**

# Education Act 1996

1996 c. 56 Part VI Chapter II Children not receiving suitable education

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[<sup>F1</sup> *Children not receiving suitable education*]

## 436A Duty to make arrangements to identify children not receiving education

- (1) A local education authority must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but—
  - (a) are not registered pupils at a school, and
  - (b) are not receiving suitable education otherwise than at a school.
- (2) In exercising their functions under this section a local education authority must have regard to any guidance given from time to time by the Secretary of State.
- (3) In this Chapter, “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.]

1996 c. 56 Part VI Chapter II School attendance orders Section 437

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## 437 School attendance orders.

- (1) If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.
- (2) That period shall not be less than 15 days beginning with the day on which the notice is served.
- (3) If—
  - (a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and
  - (b) in the opinion of the authority it is expedient that the child should attend school,the authority shall serve on the parent an order (referred to in this Act as a “school attendance order”), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.
- (4) A school attendance order shall (subject to any amendment made by the local education authority) continue in force for so long as the child is of compulsory school age, unless—
  - (a) it is revoked by the authority, or
  - (b) a direction is made in respect of it under section 443(2) or 447(5).
- (5) Where a maintained <sup>F1</sup> . . . school is named in a school attendance order, the local education authority shall inform the governing body and the head teacher.
- (6) Where a maintained <sup>F1</sup> . . . school is named in a school attendance order, the governing body (and, in the case of a maintained school, the local education authority) shall admit the child to the school.
- (7) Subsection (6) does not affect any power to exclude from a school a pupil who is already a registered pupil there.
- (8) In this Chapter—

[<sup>F2</sup> “maintained school” means any community, foundation or voluntary school or any community or foundation special school not established in a hospital; and]

<sup>F3</sup> ...

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# Education Act 2002

## 2002 c. 32 Part 11 General duties of LEAs and governing bodies Section 175

### 175 Duties of LEAs and governing bodies in relation to welfare of children

- (1) A local education authority shall make arrangements for ensuring that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children.
- (2) The governing body of a maintained school shall make arrangements for ensuring that their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school.
- (3) The governing body of an institution within the further education sector shall make arrangements for ensuring that their functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution.
- (4) An authority or body mentioned in any of subsections (1) to (3) shall, in considering what arrangements are required to be made by them under that subsection, have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales.
- (5) In this section—

“child” means a person under the age of eighteen;

“governing body”, in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.

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# Children Act 2004

2004 c. 31 Part 2 General Section 10

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## 10 Co-operation to improve well-being

- (1) Each **[F1 local authority]** in England must make arrangements to promote co-operation between—
  - (a) the authority;
  - (b) each of the authority's relevant partners; and
  - (c) such other persons or bodies as the authority consider appropriate, being persons or bodies of any nature who exercise functions or are engaged in activities in relation to children in the authority's area.
- (2) The arrangements are to be made with a view to improving the well-being of children in the authority's area so far as relating to—
  - (a) physical and mental health and emotional well-being;
  - (b) protection from harm and neglect;
  - (c) education, training and recreation;
  - (d) the contribution made by them to society;
  - (e) social and economic well-being.
- (3) In making arrangements under this section a **[F1 local authority]** in England must have regard to the importance of parents and other persons caring for children in improving the well-being of children.
- (4) For the purposes of this section each of the following is a relevant partner of a **[F1 local authority]** in England—
  - (a) where the authority is a county council for an area for which there is also a district council, the district council;
  - (b) **[F2 the local policing body]** and the chief officer of police for a police area any part of which falls within the area of the **[F1 local authority]**;
  - (c) a local probation board for an area any part of which falls within the area of the authority;
  - [F3 (ca)** the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to England;
  - (cb) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a relevant partner of the authority;]
  - (d) a youth offending team for an area any part of which falls within the area of the authority;
  - [F4 (da)** the National Health Service Commissioning Board;]
  - [F5 (db)** any clinical commissioning group for an area any part of which falls within the area of the authority;]
  - F6 (e)** .....
  - (f) a person providing services **[F7 in pursuance of section 68 of the Education and Skills Act 2008]** in any part of the area of the authority;
  - [F8 (fa)** the governing body of a maintained school that is maintained by the authority **F9 . . . . ;**
  - (fb) the proprietor of a school approved by the Secretary of State under section 342 of the Education Act 1996 and situated in the authority's area;
  - (fc) the proprietor of a city technology college, city college for the technology of the arts or Academy situated in the authority's area;
  - (fd) the governing body of an institution within the further education sector the main site of which is

situated in the authority's area;

(fe) the Secretary of State, in relation to the Secretary of State's functions under section 2 of the Employment and Training Act 1973.]

(g) **F10**.....

(5) The relevant partners of a **[F1 local authority]** in England must co-operate with the authority in the making of arrangements under this section.

**[F11]**(5A) For the purposes of arrangements under this section a relevant person or body may—

(a) provide staff, goods, services, accommodation or other resources to another relevant person or body;

(b) make contributions to a fund out of which relevant payments may be made.]

(6) **F12**.....

(7) **F12**.....

(8) A **[F1 local authority]** in England and each of their relevant partners must in exercising their functions under this section have regard to any guidance given to them for the purpose by the Secretary of State.

(9) Arrangements under this section may include arrangements relating to—

(a) persons aged 18 and 19;

(b) persons over the age of 19 who are receiving services under sections 23C to 24D of the Children Act 1989 (c. 41);

(c) persons over the age of 19 but under the age of 25**[F13—**

(i) for whom an EHC plan is maintained, or

(ii) who have a learning difficulty **[F14 or disability]**, within the meaning of **[F15 section 15ZA(6) and (7) of the Education Act 1996]**, and are receiving services under **[F16 section 15ZA of the Education Act 1996 or section F17 . . . 86 or 87 of the Apprenticeships, Skills, Children and Learning Act 2009]**

**[F18]**(10) In deciding for the purposes of subsection (4)(fd) whether the main site of an institution within the further education sector is situated within the area of a **[F1 local authority]**, the authority and the governing body of the institution must have regard to any guidance given to them by the Secretary of State.

(11) In this section—

“ governing body ”, in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992;

“ institution within the further education sector ” has the meaning given by section 4(3) of the Education Act 1996;

“ maintained school ” has the meaning given by section 39(1) of the Education Act 2002;

“ proprietor ”, in relation to a city technology college, city college for the technology of the arts, Academy or other school, means the person or body of persons responsible for its management;

“ relevant payment ”, in relation to a fund, means a payment in respect of expenditure incurred, by a relevant person or body contributing to the fund, in the exercise of its functions;

“ relevant person or body ” means—

(a) a **[F1 local authority]** in England;

(b) a relevant partner of a **[F1 local authority]** in England.]



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# Children Act 2004

2004 c. 31 Part 2 General Section 11

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## 11 Arrangements to safeguard and promote welfare

(1) This section applies to each of the following—

- (a) a **[F1]** local authority in England;
- (b) a district council which is not such an authority;
- [F2]** (ba) the National Health Service Commissioning Board;
- [F3]** (bb) a clinical commissioning group;
- F4** (c) .....
- (d) a Special Health Authority, so far as exercising functions in relation to England, designated by order made by the Secretary of State for the purposes of this section;
- F5** (e) .....
- (f) an NHS trust all or most of whose hospitals, establishments and facilities are situated in England;
- (g) an NHS foundation trust;
- (h) the **[F6]** local policing body and chief officer of police for a police area in England;
- (i) the British Transport Police Authority, so far as exercising functions in relation to England;
- [F7]** (ia) the National Crime Agency;
- (j) a local probation board for an area in England;
- [F8]** (ja) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to England;
- (k) a youth offending team for an area in England;
- (l) the governor of a prison or secure training centre in England (or, in the case of a contracted out prison or secure training centre, its director);
- [F9]** (la) the principal of a secure college in England;
- (m) any person to the extent that he is providing services **[F10]** in pursuance of section 74 of the Education and Skills Act 2008.

(2) Each person and body to whom this section applies must make arrangements for ensuring that—

- (a) their functions are discharged having regard to the need to safeguard and promote the welfare of children; and
- (b) any services provided by another person pursuant to arrangements made by the person or body in the discharge of their functions are provided having regard to that need.

(3) In the case of a **[F1]** local authority in England, the reference in subsection (2) to functions of the authority does not include functions to which section 175 of the Education Act 2002 (c. 32) applies.

(4) Each person and body to whom this section applies must in discharging their duty under this section have regard to any guidance given to them for the purpose by the Secretary of State.