

A Guide to The Children Act 1989.

This is a quick guide to the Children Act 1989. The original Act and any revisions can be found at [Children Act 1989 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1989/20) Children Act 1989. If in doubt, please refer to the original Act as all legislation is open to interpretation by the reader and a layperson may read a different meaning to a trained legal representative.

Sections in Blue are direct quotes from the government legislation.

This Act was designed to update and reform the law in relation to children. This was in relation to local authority services to help children in need. To add a framework in respect to children's homes, community homes, voluntary homes and voluntary organisations as well as make provisions in respect for fostering, child minders, day care and adoption.

Welfare of the child.

1. The court will determine any questions in relation to the following: upbringing of a child and what will happen to the child's property or income from a child's property. The welfare of the child is the primary consideration.
2. Any questions in relation to the upbringing of a child should be done quickly as delays may affect the welfare of the child.

Unless there is evidence to the contrary it is stated that both parents should have some involvement with the child to further the child's welfare. For the purpose of this act involvement means any kind of indirect or direct involvement.

3. The court should take into consideration the following: the wishes and feelings of the child depending on age and understanding, the emotional physical and educational needs of the child, how a change of circumstances could affect the child, the background sex age of child which the court finds relevant, any harm that the child has or is likely to suffer, the capability of each parent and any other person whom the court considers could care for the child.

4. This includes deciding whether to vary discharge or make a Section 8 order, any opposition regarding the above. The court should not make an order unless it considers that by doing so it would be better for the child than making no order at all.

6. This includes deciding what if any involvement the parents will have with the child. This is determined on if the involvement of the parents would place the child at risk of harm.

Parental responsibility for children.

This is quite a wordy part of this legislation and could cause a little confusion. However, it would appear to the author of this guide that the court will acknowledge without question the mother's parental responsibility. When it comes to the father, parental responsibility for the child can be a little bit tricky in a legal arena. In most cases if the father's name is on the birth certificate the court will acknowledge the father as having parental responsibility. Where the father's name is not on the birth certificate, he will either need a DNA test to prove he is the biological father or the mother to state that he is the biological father.

The author of this document would highly recommend that the father request a DNA test to ensure that he gains his full parental responsibility and all rights that go with that responsibility.

Where same sex relationships are concerned generally one of the parents will have parental responsibility. A parental responsibility agreement can be made in order for the other parent to also have parental responsibility. The same applies for stepparents.

Appointment of guardians.

The court can appoint a guardian for a child if: the child has no parent with parental responsibility, there was a child arrangement order and the person whom the child was to live with died whilst the order was in force.

A parent or guardian may appoint another person to be the child's guardian in the event of their death.

Welfare reports.

If questions arise in relation to a child or children, the court will probably request a welfare report to be made. A welfare report is generally made by the local authority or similar and the report will be written after an investigation has been concluded. The report can be given to the court verbally, in writing or both depending on the court's requirements.

Once a report and any other documentation has been handed to the court it is down to the court to decide the future of the child or children. In order to decide the future of the child or children the court must weigh up all the evidence that has been supplied, all allegations and counter allegations, any rebuttal of statements, as well as what is in the child or children's best interests.

Orders With Respect to Children In Family Proceedings

Child arrangement orders are made in respect to where the child lives, visitation rights and when these will happen. Child arrangement orders are generally made where there is a dispute between parents regarding where the child is to reside and how often contact with the other parent will take place. Once again when making these types of orders the court has to put the child's needs and welfare above everything.

A prohibited steps order is an order which prohibits a parent with parental responsibility from doing certain things specified within the order without the consent of the court. For example, that parent cannot take the child out of the country without consent of court.

A specific issue order means an order that is giving directions for the purpose of a specific question that has arisen or may arise in connexion with a specific aspect of parental responsibility. For example, parent A does not want parents B allowing child to have contact with person X.

Child arrangement, prohibited steps, and specific issue orders are generally classed as Section 8.

Section 8 is generally concerned with parents versus parents' issues relating to a child. As such it is stated within the legislation that no court shall make any Section 8 order other than child arrangement orders to which subsection 6B applies in respect to a child who is in the care of the local authority. Furthermore, no application can be made by the local authority for a child arrangement order and no court shall make an order that is in favour of the local authority under this section.

This next part sounds a little tricky as it does state that anyone who was at any time within the preceding six months a local authority foster parent of a child is not allowed to apply for leave under Section 8 unless the following apply: they have the consent of the local authority, they are a relative of the child, or the child has lived with them for at least a year preceding the application. In this type of situation, the author of this guide would recommend the parent or parents seek legal advice from a solicitor, barrister, or a trusted person who is well versed in family law.

Specific issue and prohibited steps orders are not to be made if the same result can be achieved by making a child arrangement order. Furthermore, any orders under Section 8 cannot exceed a date past the age of the child turning 16, unless there are exceptional circumstances.

Subsection 6B applies to child arrangement orders where the arrangements regulated by the order apply to either one or both of the following: who the child is going to live with and when the child is going to live with that person.

An activity direction is where the court will direct a parent or person with parental responsibility to take part in an activity that, in the court's opinion will help to establish, maintain or improve their involvement in the life of the child concerned. This would include activities such as counselling, guidance sessions, programmes or classes. For example, parenting classes or anger management classes. Sometimes, the court may ask the individuals involved to try mediation before going to court.

An activity direction may not force an individual to undergo or take part in mediation, medical, psychiatric type examinations assessments or treatments.

Again, the court has to take the welfare of the child or children into consideration before issuing an activity direction.

The court also needs to consider that where an order is made, the company or person supplying the activity are the best people, company to supply the activity. Are fully qualified to supply the activity. Are within a reasonable distance from the person to whom the order is being made and is scheduled within reason for the person to whom the order is being made. Basically, in layman terms that the order is not setting the individual up to fail. For example, will the activity order interfere with the

person's education, work schedule, religious practices etc. Activity orders may be monitored and there may be consequences for actively participating.

Monitoring Contact and shared residence.

A lot of subsections are mentioned in this section of legislation. There are also differences in wording depending on the location of the child or contact between England and Wales. As such the author of this document believes the essence of this section is in regard to maintaining contact and residency schedules. This could also be read as being in regard to supervised contact as such it is better to obtain Qualified legal help rather than make an assumption.

Warning notices.

A warning notice is a notice regarding the consequences of failing to comply with an order or a variation of an order.

Enforcement orders

Where the court is satisfied beyond reasonable doubts that a person has failed to comply with the provisions of a child arrangement an enforcement order may be made. It is down to the individual who has failed to comply with the provisions of the child arrangement to prove to the court, but this was not intentional, that they have a reasonable excuse for failing to comply with the provision. If the court is not satisfied with the excuse Using the balance of probabilities the court can enforce the person in question to participate in an unpaid work requirement. There may also be a financial loss element to this section depending on circumstances and application requirements.

Change of child's name or removal from jurisdiction.

Where subsection 4 applies in respect to a child arrangement order no person may change the child's name or surname, remove the child from the United Kingdom without the written consent of every person who has responsibility for the child or without consent of the court. This does not prevent the child being taken outside of the UK if it is for less than one month IE a family holiday, unless there is a subsequent order under section 8 prohibiting this.

Special guardianship orders.

The court may issue a special guardianship order to one or more individuals, as with everything this needs to be in the best interests of the child and the guardian or guardians need to be over the age of 18. Furthermore, you cannot apply for special guardianship if you are the parent of said child. Those who can apply for special guardianship orders would fall under the following categories: a guardian to the child, an individual who has been named in the child arrangement order as a person with whom the child will live, A local authority foster parent as long as the child has lived with them for the period of at least one year immediately prior to the application, and a family member as long as the child has lived with them for at least one year immediately prior to the application. Where a

family member puts themselves forward for special guardianship the court can and often do request the local authority conducts welfare checks and suitability checks to ensure that the family member is the safest person to place the child with under special guardianship. Again, where a special guardianship is concerned, no person may alter the child's name or remove the child from the UK without consent of everyone who holds parental responsibility for the child or the court. If you are considering putting yourself forward to be a special guardian of a child, please research this section of the Act in detail, or speak to a qualified and trusted legal representative.

Family assistance orders

In family proceedings, the court has the power under this section of the legislation to appoint a member of the local authority to advise, assist and where appropriate befriend any person named within the order. This would include the following: parents, guardians, special guardians, the child or children, any person with whom the child is living or other named parties.

It would appear to be best practise for the court to obtain consent of every person to be named on the order other than that of the child. Those who are named in the order should ensure that they keep the officer from the local authority informed of their address and other contact information so that the named local authority officer can visit and make contact with them. Unless otherwise specified, a family assistance order will remain in effect for a period of 12 months.

Risk assessments

As the name suggests a risk assessment is an assessment carried out by order of the court to assess any risks posed to the child or children.

Application to local authorities in England

This Part applies in relation to local authorities in England.

Provision of services for children in need, their families and others.

It is the general duty of every local authority to promote the welfare of the children and safeguard the children who are within their area. This would consist of children in general however, specifically children who are in need of extra support by providing a range and level of services to promote within the family the upbringing of said child.

Meaning what and if any services to provide for a particular child the local authority shall as far as reasonably possible and consistent with the child's welfare ascertained the child's wishes and feelings regarding the provision of those services. The child's wishes and feelings should be taken into consideration on an age and understanding appropriate level.

Once the needs and services of the child or children within the family home have been discussed and decided upon the local authority can use outsourced services such as voluntary organisations or charities etc in order to supply those services. They may also make such arrangements as they see fit for any person to act on their behalf in the provision of any such service.

Before giving any assistance or imposing any conditions including monetary the local authority should have regard to the means of the child concerned and that of each of their parents. What assistance is of a monetary value, no person will be liable to make repayments of said assistance or

its value at anytime that they are in receipt of benefits such as Universal Credit, income support, esa et cetera. Although, there are some exceptions.

For the purpose of this part of the legislation a child would be classed as in need if the following criteria are met: they are unlikely to achieve or maintain a reasonable standard of health or development without the help from the services of the local authority, their health or development is likely to be significantly impaired or further impaired without the provision of such services, or if the child is classed as disabled. For this section a child is classed as disabled if they are deaf, blind, dumb, or suffering from a mental disorder. This can also include long term illnesses or developmental issues. Developmental issues also include physical, intellectual, emotional, social or behavioural problems.

Young carers' needs assessments

A young carer is classed as a person who is under 18 years of age and who provides or intends to provide care for another person. A young carer needs assessment will be carried out if the local authority believe that the young carer needs extra support with different aspects of their life. The assessment must include the following: if it is appropriate for the young person to give or continue to give care for another person. If the level of care stops the young person from continuing their education, training or recreation / socialisation. This must also take into consideration the wishes of the young person and be made in conjunction with the young person and their parents. Upon completion of the assessment a copy must be given to those who were involved with the assessment.

Parent carers' needs assessments

The word parent carer indicates a person over the age of 18 who provides or intends to provide care for a disabled child for whom the person has parental responsibility. It must appear to the local authority that the parent carer may actually have need for support or the authority receive a request from the parent carer to assess their need for support. Another condition is that the local authority needs to be satisfied that the disabled child cared for and the disabled child's family are persons for whom they can provide or arrange the provision of services under section 17. This is almost identical to the young carer assessment, although the local authority will also assess the needs of the disabled child.

For both Young and Parent carer assessments, please either read this section of the legislation in detail or speak to a trained, trustworthy professional for more details. The need assessments of carers can be complicated, and each individual case can be extremely complex, as such the author of this document does not wish to misread or misinterpret any of the information pertaining to this subject.

Day care for pre-school and other children.

This legislation makes provision that every local authority shall provide day care for children in need in that area who are aged 5 and under and are not yet attending school.

Furthermore, the local authority may provide extra facilities such as training, guidance, advice and counselling for those who are caring for children in day care or accompany such children while they are in day care. As part of the local authority extra facilities children within their area who need

extra help may also be supplied with access to supervised after school clubs and or school holiday clubs.

Review of provision for day care, child minding etc.

Every locality with England and Wales should review at regular intervals the provisions they make under section 18. The extent to which the services of childminders are available in respect to children under the age of eight years and the provision for day care within their area made for children under the age of eight years. The review. Means the period of one year beginning from the commencement of this section, increasing to a period of three years beginning with the anniversary of that commencement. Once a review has been concluded, the results should be published as soon as reasonably possible and in such a form considered appropriate by the local authority, together with any proposals they may have in respect to the matters reviewed.

Provision of accommodation for children

Every local authority should provide accommodation for a child in need within their area who appears to require accommodation as a result of the following: the child does not have anyone who has parental responsibility for them, the child has been lost or abandoned, the person who has been caring for the child can no longer provide them with suitable accommodation or care. In respect to the latter, where the person who has been caring for the child can no longer provide them with suitable accommodation or care this is not subject to the length of time, or reason for the issue.

If the local authority provide accommodation for a child who is ordinarily resident of another local authority the other local authority may take over the provision of accommodation for the child within three months of being notified by writing that the child is being provided with accommodation or Longer periods of time as they may be prescribed. [not sure what this means]

Every local authority should also provide accommodation for a child in need in their area who has reached the age of 16 but whose welfare the authority consider is likely to be severely impaired if they do not provide them with accommodation. This also includes providing accommodation for any child within their area even if a person who has parental responsibility for them is able to provide them with accommodation if the local authority believe that by doing so they are safeguarding and promoting the child welfare.

Accommodation may be provided for any person who is over the age of 16 but under the age of 21 in a community home which takes children of that age if the local authority consider this would safeguard and promote their welfare. As with every other part of the children's act 1989 the local authority and the court where needed need to ascertain the wishes and feelings of the child taking into consideration their age and understanding.

Again, if this applies to your situation, please refer to a qualified, legally trained, trusted professional for additional advice.

Provision of accommodation for children in police protection or detention or on remand, etc.

Every local authority shall make provision for the reception and accommodation of children who have been removed or kept away from their home under part 5 which is child protection. They

should also make provision for the reception and accommodation of children who have been removed in regard to police protection, detention, on remand etc.

Duties of local authorities in relation to children looked after by them.

It is the duty of a local authority looking after any child to safeguard and promote their welfare and to make such a use of services available for the child as if they were being cared for by their own parents where it is reasonable. This includes promoting the child's educational, emotional, physical, and mental health.

Before deciding in respect to a child whom they are looking after or proposing to look after the local authority so far as is reasonably possible need to ascertain the wishes and feelings of the child, the parents, any person who is not apparent but has parental responsibility, any other person whose wishes and feelings the authority considered to be relevant regarding the matter to be decided. Other things to be taken into consideration apart from just the child's age wishes and feelings are the child's religious backgrounds sexual orientation, if the child is deemed to be a risk to the public et cetera.

Provision of accommodation for children in care

When a child is in the care of a local authority, it is their duty to provide the child with accommodation.

Maintenance of looked after children

It is the duty of a local authority to maintain a child they are looking after in other respects apart from the provision of accommodation.

Ways in which looked after children are to be accommodated and maintained.

This section relates to children being looked after by the local authority.

The local authority should make arrangements for the child to live with a person who falls within subsection 3 but is also subject to subsection 4.

Subsection 3 is either the parent of the child or is not the parent but has parental responsibility for the child. However, if there was a child arrangement made immediately prior to a care order this includes the person named in the arrangement order.

Subsection 4 does not require the local authority to make arrangements in regard to the parents if it would not be in the best interest of the child, would not be reasonable, in which case they must place the child in a placement that is the most appropriate for the child. This could be with a relative, friend connected with the child, local authority foster placement, or children's home. Wherever they are placed it should be near home, not disrupt their education or training, with siblings if they are also being provided accommodation so they can remain together, suitable to their needs if they are disabled and taking into consideration the child's religion. There are other considerations if the local authority is looking at having the child adopted.

General duty of local authority to secure sufficient accommodation for looked after children.

It is the duty of the local authority to take steps to ensure as far as possible and reasonably practical the outcome of subsection 2. The outcome required is that the local authority are able to provide

the children mentioned with accommodation that is within the authorities area and meets the needs of those children.

Information and advice for promoting educational achievement.

In England a local authority must make advice and information available for the purpose of promoting the educational achievement of every child in their area. The advice and information must be available to any person who has parental responsibility for the child and members of staff at the child's school, plus any other person the local authority considers appropriate.

The local authority can do anything else it considers appropriate with a view to promoting the educational achievement of relative children educated in their area, whom have been or are subject to accommodation via the local authority. They must appoint at least one person for the purpose of discharging that duty. The person appointed for that duty must be an officer employed either by the local authority or another local authority in England.

Duty of local authority to ensure visits to, and contact with, looked after children and others.

This section applies to children that are either being looked after by the local authority or were looked after by the local authority but have ceased to be looked after as a result of a change of circumstances.

It is the duty of the local authority to ensure that a person to whom this section applies is visited by a representative of the local authority, to arrange for appropriate advice support and assistance to be available to the person to whom this section applies.

There are regulations under this section for the purpose of subsection 3 to make provisions about the frequency of visits, the circumstances in which a person this section applies to may be visited by representative and the function of these representatives. In choosing a representative for the local authority the local authority must satisfy themselves that the person chosen has the necessary skills and experience to perform the functions of the representative.

Independent visitors for children looked after by a local authority.

When an independent visitor is placed in effect for the child in care the local authority must ensure that is in the best interests for the child for them to do so, that the person appointed must visit, be friend and advised the child and that the person appointed under this section is entitled to recover from the local authority any reasonable expenses incurred. Termination of this appointment can occur if the child ceases to be looked after by the local authority, the person resigns from their appointment giving notice in writing, the authority gives them writing in notice that they have terminated it. There is also provision for the local authority to terminate an appointment if the child objects to it and if the local authority are satisfied that the child has sufficient understanding to make an informed decision.

Additional functions of the responsible authority in respect of relevant children.

It is the duty of the local authority to make reasonable steps to ensure that every child within their care and for whom they have responsibility, whether they are in or outside of their area are supplied with an appointed with a personal adviser. This appears to be for those who are transitioning

between child and adult services, towards the end of their time in the care system. It is also the duty of the local authority in relation to any child within their care to have a pathway plan and if they do not have one to carry out an assessment to determine what assistance support and advice are appropriate for them.

The local authority will continue to safeguard and promote the child's welfare by the following codon maintaining them, providing them with or supplying suitable accommodation, providing support of such other descriptions as unnecessary, this may also include cash.

It would appear that during this transition between child and adult social services the child in question was still within the local authority care Needs to keep in contact with the local authority. If the local authority has lost touch with a child within this sector they must without delay consider how to re-establish contact and take reasonable steps to do so to help the child in question succeed. This includes updating the pathway plan and helping the child with further education and or other needs as may arise.

Arrangements for certain former relevant children to continue to live with former foster parents.

A staying put arrangement is an arrangement made between the local authority and the foster carer to continue to allow the looked after child to stay within the placement after the child has left the care system. It is still the duty of the local authority to monitor the staying put arrangements, to provide advice assistance and support for the former child in care and the former foster parents with a view to maintaining the stain put arrangement. Support provided to the former foster parent under subsection 3B must also include financial support, however this does not apply if the local authority consider that the staying put arrangement is not consistent with the welfare of the former looked after child. The duties set out in this subsection continue until the former looked after child reaches the age of 21.

further advice and support

Further advice and support can be offered to the care leaver between the ages of 21 and 25 if the child remains in England. This takes effect if the care leaver informs the local authority that they wish to continue receiving advice and support under this section, this can be terminated at any point if the care leaver decides they no longer want a personal advisor. When I care leaver requests further advice and support a new pathway plan is put in place and a new assessment is also undertaken.

Further assistance to pursue education or training.

This section applies to a care leaver who is under the age of 25 and wishes to continue education or training. Alongside being given a personal advisor the care leaver will also have a new pathway plan. The new pathway plan will include such things as the kinds of assistance available, contribution to expenses incurred by them living near the place they will be receiving education or training, making a grant available to the care leaver to help with education of expenses and keeping in contact with the care leaver.

Pathway plans.

Pathway plans seem to be a little bit like a contract, after an initial assessment the plan will set out in writing what the local authority are willing to do or undertake for the care leaver and what the care

lever needs to do themselves. This can be things such as the local authority will agree to help with further education whereas the care leaver needs to attend the further education.

Persons qualifying for advice and assistance.

This section sets out the criteria including that of age in regard to a care leaver who will qualify for further advice and assistance. As there seems to be different criteria depending on the care leaver's circumstances the author of this document would recommend reading this section within the legislation or speaking to somebody who is trained and trustworthy to gain information.

Advice and assistance.

The advice and assistance available to care leavers again depends upon individual circumstances.

Employment, education and training.

This section is already being covered above. However, for clarification the relevant local authority may give assistance to a care leaver who qualifies for advice and assistance by contributing to expenses incurred for them to live near the place where they will be employed seeking employment or undergoing further education and training. This includes the ability for the local authority to offer the care leaver a grant to help them meet expenses in connexion with education training or the start of employment.

Representations: sections 23A to 24B.

Each local authority should establish a procedure for looking into representations, including complaints made by the following: a relevant child, a person who is qualified to give assistance and or advice, someone falling under section 24B.

Regulations and restrictions may be made in relation to imposing time limits to such representations.

Secure accommodation

Use of accommodation for restricting liberty.

The local authority can not place or keep a looked after child in secure accommodation unless the following apply: the child has a history of absconding and is likely to abscond from any other form of accommodation, if they do abscond, they're likely to suffer significant harm, if they are kept in any other accommodation they're likely to injure themselves or others.

That if a child is kept in secure accommodation this can only be for a specified period of time, beyond which, the local authority needs to apply to the court to continue the accommodation and the court need to approve the continuance of the accommodation. Even then, this needs to be taken back to court periodically and can only be done so by the local authority.

The court needs to be satisfied that all criteria have been met before an order or continuance of order granted.

Where the local authority is granted leave by the court to keep a child in secure accommodation, the person in charge of the accommodation can restrict the child's liberty in line with the court order.

No court may exercise the powers within this section in respect of a child's liberty being restricted without first informing the child of their right to legal representation, and upon being given time to instruct legal assistance refuses or fails to apply for legal representation.

Where this section is concerned the author highly recommends that where needed a qualified, trusted legal advisor is sought for advice and representation.

Appointment of independent reviewing officer

Well looked after children are concerned the local authority must appoint an individual as an independent reviewing officer for the child's case. The appointment of the reviewing officer must be made before the child case is first reviewed in accordance with the regulations made under section 26. If a vacancy arises in respect of a child's case, it is then down to the local authority to make another appointment under subsection one as soon as possible. An appointee must comply to the description prescribed in regulations made by the Secretary of State.

Functions of the independent reviewing officer

An independent reviewing officer must monitor the performance of the local authority and their function in relation to the child's case, participate in accordance with regulations made by the Secretary of State, in any review of the child's case. Ensure that they ascertain the wishes and feelings of the child concerning the case given due consideration by the local authority. Perform any other function which is stated in the regulations made by the Secretary of State.

Where the independent reviewing officer is not also a local authority officer it is the duty of the local authority to cooperate with that individual and to take such reasonable steps as that individual may require them to enable that they can perform their job to the best of their ability and to a satisfactory level.

Review of cases and inquiries into representations.

Where cases are to be reviewed the regulations may make provision as to the manner in which each case is to be reviewed, considerations to which the local authority are to have regard in reviewing the case, the time when each case is first to be reviewed and then subsequently reviewed, require the local authority before conducting the review to seek the views of the child, their parents, Any other person who views the local authority consider relevant including in particular any person who is not a parent but who has parental responsibility for the child. This also includes whether an application should be made to discharge the care order.

Every local authority should establish a procedure for the consideration of any representations including complaints made to them by any child who is being looked after by them or who is not being looked after by them but is considered a child in need, the parents of the child or any person who is not a parent but has parental responsibility for the child, any local authority foster parents, Or any other such person as the authority considers to have significant interest in the child's welfare to warrant his representations being considered by them.

The procedure should ensure that at least one person that takes part in the consideration is not a member or officer of the local authority. Any discussions that are held by the authority about the action if any to be taken in relation to the child in light of the consideration Include the non-member That any representations are done so within the time limit of the representation procedure and that when carrying out any considerations of representation under this section a local authority has to comply with the regulations made by the Secretary of State for the purpose of regulating the procedure and that these are followed.

Where representation has been considered under the procedure established by the local authority in this section the authority shall have due regard to the findings of those considerations, take steps that are reasonable to notify in writing the person who made the representation and the child if the local authority believes they have significant understanding as well as other persons as appear to the authority be likely to be affected but the local authorities decision in the matter and their reasons for taking that decision and of any action which they have taken or proposed to take. Furthermore, every local authority should make public their procedure for considering representations under this section.

Advocacy services

Every local authority needs to make arrangements for the provision of assistance to any person or child who intends to make representation under either section 24D or under section 26. The assistance provided under the arrangements shall include assistance by way of representation.

The arrangements

It would appear that there are some rules in regard to advocacy services. Point 1. A person may not provide assistance if they are a person who is prevented from doing so by the secretary of state regulations. 2. That the advocate needs to comply with the provisions in the regulations in relation to these arrangements. It would appear to the author of this guide that the onus for checking the validity of the advocate is on the local authority. However, to check this the author has asked the questions and is currently awaiting a response.

The secretary of state MAY make regulations requiring the local authority to monitor the steps they have taken to ensure that they comply with the regulations. Plus, every local authority should make public their arrangements for provisions of assistance in this section as they deem appropriate.

Co-operation between authorities.

The wording of this section seems a little bit obscure, however, the author of this guide believes that this section deals with different local authorities working together when needed. This section does state that local authorities if approached by a different local authority shall comply with the request unless doing so would unduly prejudice the discharge of their own duties, this includes local housing authorities.

Consultation with local education authorities.

The local authority can consult with the local education authorities.

Recoupment of cost of providing services etc.

Where a local authority provides any service under section 17 or 18, other than advice, guidance or counselling, they may recover from a person specified in subsection (4) such charge for the service as they consider reasonable. (Direct quote from the Children Act 1989)

As previously stated within this guide the local authority cannot charge for services Where the persons monies are insufficient for it to be reasonably practical for them to pay the charge. Looking at the list of benefit Entitlement Within this act, the year this act was enacted and the changes within the benefits system the author of this guide Believes in the majority of cases the person would not be charged for services provided by the local authority. There may, however, be some cases where the local authority can charge minimal expenses.

Further to this, the local authority can request contributions towards the maintenance of children who are being looked after by the local authority, this would include Recovering reasonable expenses from another local authority if the child was an resident within that area before being placed in the local authorities care and from the parents, or someone who has parental or had parental responsibility for the child immediately prior to being looked after by the local authority.

The author of this guide recommends that if in doubt regarding any money is being charged by the local authority towards themselves they should seek advice for my trusted and reputable source who are qualified to help with their query.

Care and Supervision

Care and Supervision

The local authority or authorised person can apply to the court to make an order to either have the child or children supervised by the local authority or taken into the care of the local authority.

The court can only make a supervision or care order if it is satisfied of the following: that the child concerned is or is likely to suffer significant harm, that the harm or likelihood of harm is attributable to the care given to the child or likely to be given to the child if an order was not made and not being what the court would reasonably expect a parent to give, lastly, that the child is beyond the parent control.

No care or supervision order can be made with respect to a child who has reached the age of 16 years.

A court deciding whether to make a care order is required to consider the permanence provisions of the section 31A plan for the child concerned but is not required to consider the remainder of the section 31A plan, subject to section 34(11).

For the purposes of subsection 3A, the permanence provisions of a section 31A plan are: the long-term plan for the upbringing of the child if the child can live with any parent of the child's or with any other member, or any friend of, the child's family. If the child is being placed for adoption and if the child will be placed in long-term care by the local authority. The plan also needs to set out the following: the impact on the child of any harm that they have or are likely to suffer, the current and

future needs of the child including needs that may arise from the impact of the harm or being removed from the family, and how the long-term plan for the upbringing of the child will meet their current and future needs.

Before applying to the court for a care or supervision order the applicant, should consult the local authority that they believe is the local authority that the child is ordinarily a resident in. And the application in this section can actually be made on its own or in any other family proceedings. Upon hearing the application, the court can make a supervision order instead of a care order or a care order instead of a supervision order. In other words, no matter if a care or supervision order is applied for the court can change what they decide to do in the best interest of the child.

There are a few circumstances where a court will not entertain either order, these include the following: the child is already subject to either order, is subject to an interim order or a youth rehabilitation order which have not been disposed of prior to application.

As only authorised persons can apply for these orders the Act defines an authorised person as being the NSPCC and any of its officers and any person authorised by the secretary of state to bring such proceedings or any officer of a company which has been authorised.

Reasons to apply include but are not limited to the following.

1. Harm, defined as ill-treatment, impairment of health and development. This includes and harm suffered as a result of seeing or hearing ill-treatment of another individual.
2. Development, defined as emotional, physical, intellectual, behavioural or social.
3. Health, defined as mental or physical.
4. Ill-treatment, defined as including sexual abuse and any form of ill-treatment that is not physical.

Significant harm where the child's health or development is questioned is defined as comparing the child health / development to what could be reasonably expect of a similar child.

Care orders: care plans

It would appear to the author of this guide that the local authority should take steps to write a care plan where they believe a care or supervision order may be made. The care plan should be under constant review, revised if appropriate, or scrapped for a new care plan to be written if appropriate. Local authority did not already have a written care plan when applying for the order they must write a care plan within the time directed to them by the court. There are rules surrounding what information a care plan must contain and how it is written, unfortunately, these rules are not written in this section of the Act.

Period within which application for order under this Part must be disposed of.

According to the first part of this section of the children's act 1989 an application for care or supervision order should only take 26 weeks beginning with the day on which the application was issued. Each application is then divided into sections, each section is given its own time frame for completion, which is classed as a timetable. The wording of this section states that's an application under this section should be completed / disposed of without delay. However, the local authority can request an 8-week extension for each section of its timetable as well as request an extension to revise any section.

Care orders

Effect of care order.

Once a care order has been granted the child is taken into the custody of the local authority and the local authority are granted parental responsibility for the child. Although, the local authority shares parental responsibility for the child the local authority can dictate to what extent others with parental responsibility can discharge their duties and interact with the child.

The local authority however cannot cause the child to be brought up in another religious persuasion than the one they were being brought up in originally, agree or refuse to agree to an adoption order, appoint a guardian, change the child's surname, or allow the child to be removed from the UK without written consent of everyone with parental responsibility, or leave of the court.

Parental contact etc. with children in care.

When a child is in the care of the local authority the local authority should allow the child reasonable contact with their parents, guardian, special guardian or any person with parental responsibility for the child. This contact is generally set out as part of the care order in court. This is also subject to the best interests of the child and the child's welfare and the local authority can refuse contact if it would put the child at further risk.

Supervision orders

While a supervision order is in force, the local authority will appoint a supervisor to advise, assist, befriend and supervise the child until the order is varied or discharged.

Education supervision orders.

An education supervision order means an order to ensure the child has suitable full-time education.

Powers of court in certain family proceedings.

The court can order the local authority to undertake an investigation of a child's circumstances in any family court proceedings if the court believe a care or supervision order may be needed for the child. The local authority then needs to investigate the child's circumstances and decide if they need to apply to the court for a supervision or care order, or if they can just offer the family assistance. If they decide not to apply for a supervision or care order, they have to justify this to the court.

Interim orders.

During care or supervision order proceedings, the court can make an interim order in respect of the child. This can only be granted if the court is satisfied it is needed to promote the welfare of the child. Due to the serious nature of this section, the author of this guide recommends seeking professionally qualified, trusted, legal advice.

Power to include exclusion requirement in interim care order.

This section covers the court's powers to exclude persons from the home of the child to keep the child safe. This can include adding a power of arrest to the exclusion order.

Discharge and variation etc. of care orders and supervision orders.

A care order may be discharged or varied by the court on the application from the following: any person who has parental responsibility for the child; the child himself; or the local authority designated by the order.

A supervision order may be varied or discharged by the court on the application from the following: any person who has parental responsibility for the child; the child himself; or the supervisor.

Guardians ad litem

A guardian ad litem, or similar shall be appointed by the court unless satisfied that it is not necessary to do so, to safeguard the interests of the child in specified proceedings. However, depending on age and understanding of the child the court may appoint a solicitor for the child.

In this section "specified proceedings" means any proceedings for an application, variation / discharge of a care order, supervision order, or an interim order. This can also cover contact and custody arrangements which makes the author of this guide believe a Guardian ad litem can be appointed for most, if not all matters relating to family court.

Right of officer of the Service to have access to local authority records.

An officer of the service, or authorised person has the right to access any records held by the local authority pertaining to the child of the application before the court.

Protection of Children

Child assessment orders.

In order for an authorised person or local authority to apply for a child assessment order they need to satisfy the court that the child is either suffering from or is likely to suffer from significant harm, where this could not be assessed without a court order. The assessment itself is undertaken to clarify the harm or likelihood of significant harm. The court, however, can decide to treat an application for an assessment order as an application for an emergency protection order if the court decides an emergency protection order is in the best interests of the child.

A child assessment order should specify the date by which the assessment should begin and should begin within 7 days of the specified date on the order. Once issued the person or persons named within the order must comply with the order as stated by the court. Where the child has sufficient understanding to make an informed decision, they can refuse to undergo medical, psychiatric or other assessments.

This can include removing the child from the home for a specified period of time within the order whilst the assessment is taking place and can also restrict who the child can have contact with during this specified period of time.

Orders for emergency protection of children.

An emergency protection order can only be granted if the court is satisfied the following conditions are met: there is reasonable cause to believe that the child is likely to suffer significant harm if the order is not granted, the child does not remain in the place they are being accommodated, an application is made by a local authority, enquiries are being made under a section 47 and they cannot be completed because they are being refused access to the child, it is a matter of urgency or the child is likely to suffer significant harm without said order.

Once an emergency protection order is in place, the authority is then, for the time period specified within the order, given parental responsibility for the child and can exclude people from having access to the child. This has to be in keeping with the wording within the court order.

Duration of emergency protection orders and other supplemental provisions.

An emergency protection order shall have effect for such period, not exceeding eight days, as may be specified in the order. (Direct quote from the Act) However, this can be extended if other applications are made to the court, for example a care order but can only be extended once.

No appeal may be made against the following: the making of, or refusal to make, an emergency protection order. the extension of, or refusal to extend, the order. the discharge of, or refusal to discharge, the order; or the giving of, or refusal to give, any direction in connection with the order. There are, however, some instances where an appeal may be granted and the author of this guide advises that if in doubt you should obtain, qualified, trusted legal advice.

Removal and accommodation of children by police in cases of emergency.

Where a constable has reasonable cause to believe that a child would otherwise be likely to suffer significant harm, he may remove the child to suitable accommodation and keep him there; or take such steps as are reasonable to ensure that the child's removal from any hospital, or other place, in which he is then being accommodated is prevented. (direct quote) This is then classed as the child being in police protection.

Once in police protection, the officer needs to inform the local authority of the steps that have been taken or are due to be taken in respect of the child. Again, the wishes and feelings of the child are to be taken into consideration. The police should then inform the parent/s or whomever holds parental responsibility for the child. The police can only keep a child in their protection for 72 hours and can apply to the court for an emergency protection order.

Local authority's duty to investigate.

Where a local authority is made aware of a child being subject to police protection or an emergency protection order they then have a duty to investigate the case and the welfare of the child.

Powers to assist in discovery of children who may be in need of emergency protection.

Where information on a child is not available, yet an emergency protection order may be needed for the child, a court can give extra powers to assist the discovery of the child's whereabouts if there is another person who may know the information but be withholding it.

The following text in [] is taken directly from the Children Act 1989.

[No person shall be excused from complying with such a requirement on the ground that complying might incriminate him or his spouse or civil partner of an offence; but a statement or admission

made in complying shall not be admissible in evidence against either of them in proceedings for any offence other than perjury.

An emergency protection order may authorise the applicant to enter premises specified by the order and search for the child with respect to whom the order is made.

Where the court is satisfied that there is reasonable cause to believe that there may be another child on those premises with respect to whom an emergency protection order ought to be made, it may make an order authorising the applicant to search for that other child on those premises.

Where an order has been made under subsection (4); the child concerned has been found on the premises; and the applicant is satisfied that the grounds for making an emergency protection order exist with respect to him, the order shall have effect as if it were an emergency protection order.

Where an order has been made under subsection (4), the applicant shall notify the court of its effect.

A person shall be guilty of an offence if he intentionally obstructs any person exercising the power of entry and search under subsection (3) or (4).

A person guilty of an offence under subsection (7) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Where, on an application made by any person for a warrant under this section, it appears to the court—(a)that a person attempting to exercise powers under an emergency protection order has been prevented from doing so by being refused entry to the premises concerned or access to the child concerned; or (b)that any such person is likely to be so prevented from exercising any such powers, it may issue a warrant authorising any constable to assist the person mentioned in paragraph (a) or (b) in the exercise of those powers using reasonable force if necessary.

Every warrant issued under this section shall be addressed to, and executed by, a constable who shall be accompanied by the person applying for the warrant if— that person so desires; and the court by whom the warrant is issued does not direct otherwise. A court granting an application for a warrant under this section may direct that the constable concerned may, in executing the warrant, be accompanied by a registered medical practitioner, registered nurse or registered midwife if he so chooses.

Abduction of children in care etc.

A person shall be guilty of an offence if, knowingly and without lawful authority or reasonable excuse, he takes a child to whom this section applies away from the responsible person; keeps such a child away from the responsible person; or induces, assists or incites such a child to run away or stay away from the responsible person.

This section applies in relation to a child who is in care; the subject of an emergency protection order; or in police protection, and in this section “the responsible person” means any person who for the time being has care of him by virtue of the care order, the emergency protection order, or section 46, as the case may be.

A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.]

Recovery of abducted children etc.

A recovery order may be made by the court where the court has reason to believe the following apply: the child has been unlawfully taken or kept away from the responsible person, has run or staying away from the responsible person or the child is classed as missing.

A recovery order directs any person who is in the position to do so to return the child to the local authority/ authorised person. Directs the removal of the child by an authorised person in order to return them to the local authority. Requires a person with information regarding the child to disclose the whereabouts of the child. Authorises a constable to enter and search premises for the child, using force if needed.

The court may make a recovery order only on the application of the following: any person who has parental responsibility for the child by virtue of a care order or emergency protection order; or where the child is in police protection, the designated officer.

A recovery order shall name the child, anyone who has parental responsibility for the child, the designated office if the child is in police protection. Premises can only be included if the court has reason to believe the child may be hiding or held inside them.

A person shall be guilty of an offence if he intentionally obstructs an authorised person exercising the power under subsection (3)(b) to remove a child. A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale. No person shall be excused from complying with any request made under subsection (3)(c) on the ground that complying with it might incriminate him or his spouse [or civil partner] of an offence; but a statement or admission made in complying shall not be admissible in evidence against either of them in proceedings for an offence other than perjury. (direct quote)

Refuges for children at risk.

The secretary of state may issue a certificate under this section to a private, children or voluntary home which is to be used to provide refuge for children at risk of harm. The secretary of state can also certify a foster parent to provide such a refuge.

The Secretary of State may regulate these certificates, impose requirements to be complied with and withdraw certificates.

Provision of community homes by local authorities.

The local authority may singularly, or jointly with another local authority make arrangements to secure community homes to accommodate children being looked after by them. They should have regard to the differing needs of children and be suitable for those differing needs. The home may be provided, maintained, equipped and managed by the local authority or provided by a voluntary organisation with a contract to be the responsibility of the local authority in regard to maintenance, equipment and maintenance. Or that under contract the local authority pay for the housing of the children and the voluntary organisation retain responsibility for equipment, management and maintenance.

A local authority may make arrangements for the management by another person of accommodation provided by the local authority for the purpose of restricting the liberty of children.

Determination of disputes relating to controlled and assisted community homes.

If there is a dispute between the local authority and the supplier of a community home, either party can refer the dispute to the secretary of state. The secretary of state can then give orders and directions to rectify the dispute.

Discontinuance by voluntary organisation of controlled or assisted community home.

The voluntary organisation by which a controlled or assisted community home is provided shall not cease to provide the home except after giving to the Secretary of State and the local authority specified in the home's instrument of management not less than two years' notice in writing of their intention to do so.

If for whatever reason the managers of the home do not wish to continue until the notice period expires, the secretary of state can revoke the home's instrument of management, request the local authority take over management for the remainder of contract, or an earlier date if needed.

Closure by local authority of controlled or assisted community home.

Basically, same deal as above, two years notice needs to be given in writing but the secretary of state can terminate before the two year period.

Financial provisions applicable on cessation of controlled or assisted community home or disposal etc. of premises.

This section relates to disposal of, and compensation regarding community homes. If this is of interest to the reader, please refer to the children Act 1989 on legislation.gov.uk

Voluntary organisations.

Where a voluntary organisation provide accommodation for a child, they shall do so by placing him (subject to subsection (2)) with — a family; a relative of his; or any other suitable person, on such terms as to payment by the organisation and otherwise as the organisation may determine.

This can include maintaining the child in a children's home or making other such arrangements that deem appropriate to them. The voluntary organisation will be under the local authority guidelines. This includes updates about the child, any complaints etc.

Voluntary homes.

Voluntary homes are homes run by voluntary organisations but do not include a community home.

Duties of voluntary organisations.

To befriend, safeguard and promote the welfare of the child within the accommodation provided as if the child were living with their own parents. Taking the wishes, feelings, religion and native language of the child, the parent, anyone with parental responsibility and other relevant persons into consideration.

Duties of local authorities.

Every local authority shall satisfy themselves that any voluntary organisation providing accommodation— within the authority's area for any child; or outside that area for any child on behalf of the authority, are satisfactorily safeguarding and promoting the welfare of the children so

provided with accommodation. Every local authority shall arrange for children who are accommodated within their area by or on behalf of voluntary organisations to be visited, from time to time, in the interests of their welfare.

The appropriate national authority may make regulations to ensure that every child accommodated within its area is visited by an officer of the local authority on a regular basis.

Where a local authority are not satisfied that the welfare of any child who is accommodated by or on behalf of a voluntary organisation is being satisfactorily safeguarded or promoted they shall— unless they consider that it would not be in the best interests of the child, take such steps as are reasonably practicable to secure that the care and accommodation of the child is undertaken by—a parent of his; any person who is not a parent of his but who has parental responsibility for him; or a relative of his; and consider the extent to which (if at all) they should exercise any of their functions with respect to the child.

An officer for the local authority may enter and inspect any premises where children are being accommodated at a reasonable time to check on the welfare of the accommodated child. They can also require to be given records as required under the regulations. This also includes being given access, inspect and check the operation of any computer or associated apparatus or material that has been used in connection to the keeping of the records.

Welfare of children in children's homes.

This appears to be the same guidance as for voluntary accommodation above.

Persons disqualified from carrying on, or being employed in children's homes.

A person who is disqualified from fostering a child privately must not: continue to foster privately, manage or have any financial interest in a children's home in England. Unless, they have disclosed their disqualification to the appropriate authority within 28 days of being made aware of the disqualification and obtained appropriate written consent.

Furthermore, a person must not employ anyone who has been disqualified from working in a children's home in England unless the employer has disclosed the persons disqualification to the appropriate authority and obtained written consent within 28 days of being aware of the disqualification. This would appear to be the same rules in Wales.

Where the appropriate authority refuses to give consent, they need to inform the applicant in writing, citing the reason for refusal, the applicants right to appeal and a time frame in which to appeal. Anyone found breaking these rules is liable to a prison term, not exceeding 6 months and, or a fine not exceeding level 5. In respect to an employer, they shall not be guilty of an offense if they can prove they were unaware that the person they employed was disqualified.

PRIVATE ARRANGEMENTS FOR FOSTERING CHILDREN

In this section the term privately fostered child refers to the following: A child under the age of 16 years (18 if classed as disabled) , who is cared for by someone other than their parent, a person with parental responsibility for them, or a relative.

A child is not fostered privately if the person accommodating and caring for them has been doing so for less than 28 days and does not intend to continue for more than 28 days.

Welfare of privately fostered children.

Every local authority will ensure that privately fostered children are visited periodically to ensure the child is suitably safeguarded and doing well within the placement. Where the local authority call in to question the safety and wellbeing of the child within the private foster placement they can accommodate the child with the following, unless it is unsafe to do so: the parent, anyone with parental responsibility for the child, or a relative.

Persons disqualified from being private foster parents.

Unless a disclosure has been made to the appropriate local authority and consent granted in writing, a person shall not privately foster a child if they have been disqualified from doing so under the regulations set out by the secretary of state.

A person may be disqualified for, but not limited to the following reasons: an order of a specific kind in the regulations has been made towards them, an order within the regulations has been made in respect to a child that has been in their care, a requirement of some kind has been imposed regarding a child as part of the enactment, they have been convicted of a specific kind of offence, discharged conditionally or absolutely for said offence. Prohibition has been imposed under section 69 or another specified enactment. Their powers / rights with respect to a child have been vested in a specified enactment or authority.

The rules around privately fostering children appear to be complex, with many reasons for a person to be disqualified, including living in the same household as a person who is prevented from fostering a child. To that end the author of this guide would not want to miscommunicate any of these reasons or misunderstand the significance of these reasons and suggests that the reader, if so inclined, refer to this section of the Act on legislation.gov.uk or seek qualified, trusted legal advice.

Power to prohibit private fostering.

Where a person is or wished to privately foster a child, the local authority can prohibit them from doing so if they are of the opinion that: they are not suitable to be a private foster carer, the premises / accommodation is not suitable, or it would be prejudicial to the welfare of the child to be or continue to be accommodated by that person. An application can be made by the person wishing to privately foster to overturn the prohibition if they believe and are satisfied that the reasons for the prohibition no longer apply.

Offences.

A person shall be guilty of an offence if they fail to give notice or information, without reasonable excuse, within the time period specified to them in the provision. If they make or cause someone else to make a false or misleading statement in the notice or information requested, refuses to allow an authorised officer to visit the child in their care, contravenes section 68, obstructs another with power conferred by section 67(3), fails to comply with any requirement imposed by the local authority without reasonable excuse, accommodates a privately fostered child in any premises in contravention of a prohibition imposed by a local authority, knowingly causes to be published, or publishes, an advertisement which he knows contravenes paragraph 10 of Schedule 8.

Where a person contravenes section 68(3), they shall not be guilty of an offence under this section if they prove they did not know, and had no reasonable ground for believing, that any person to whom section 68(1) applied was living or employed in the premises in question.

There are different levels of conviction and or fines imposed depending on the offence committed and subsection. Please refer to the whole Act on legislation.gov.uk for the full list.

Financial support by Secretary of State.

With the consent of the treasury, the secretary of state may defray or contribute towards the following: any fees or expenses incurred by any person undergoing approved child care training; any fees charged, or expenses incurred, by any person providing approved child care training or preparing material for use in connection with such training; or the cost of maintaining any person undergoing such training.

The Secretary of State may make grants to local authorities in respect of expenditure incurred by them in providing secure accommodation in community homes other than assisted community homes.

Where, a grant has been made under subsection (2) with respect to any secure accommodation; but the grant is not used for the purpose for which it was made or the accommodation is not used as, or ceases to be used as, secure accommodation, the Secretary of State may (with the consent of the Treasury) require the authority concerned to repay the grant, in whole or in part.

The Secretary of State may make grants to voluntary organisations towards expenditure incurred by them in connection with the establishment, maintenance or improvement of voluntary homes which, at the time when the expenditure was incurred were assisted community homes; or were designated as such; or expenses incurred in respect of the borrowing of money to defray any such expenditure.

Research and returns of information.

The secretary of state can conduct or assist other people to conduct research into matters connected with the following: functions of the secretary of state, or the functions of local authorities, under the enactments mentioned in subsection (9).

the Child Safeguarding Practice Review Panel; safeguarding partners in relation to local authority areas in England; child death review partners in relation to local authority areas in England; the adoption of children; or the accommodation of children in a care home or independent hospital.

Any local authority may conduct, or assist other persons in conducting, research into any matter connected with their functions under the enactments mentioned in subsection (9); the adoption of children; or the accommodation of children in a care home or independent hospital.

Every local authority shall, at such times and in such form as the Secretary of State may direct, transmit to him such particulars as he may require with respect to the performance by the local authority of all or any of their functions under the enactments mentioned in subsection (9); or in connection with the accommodation of children in a care home or independent hospital and the children in relation to whom the authority have exercised those functions.

Every voluntary organisation shall, at such times and in such form as the Secretary of State may direct, transmit to him such particulars as he may require with respect to children accommodated by them or on their behalf.

Local authority failure to comply with statutory duty: default power of Secretary of State.

If the Secretary of State is satisfied that any local authority has failed, without reasonable excuse, to comply with any of the duties imposed on them by or under this Act he may make an order declaring that authority to be in default with respect to that duty.

Attendance of child at hearing under Part IV or V.

Where a court is hearing an application for an order under Part IV or V, or is considering whether to make any such order, the court may order the child concerned to attend such stage or stages of the proceedings as may be specified in the order. This will depend on the child's age and understanding and can involve forcing the child to attend court.

Evidence given by, or with respect to, children.

The child's evidence may be heard by the court if, in its opinion the child understands that it is their duty to speak the truth; and they have sufficient understanding to justify their evidence being heard.

The Lord Chancellor may, with the concurrence of the Lord Chief Justice, by order make provision for the admissibility of evidence which would otherwise be inadmissible under any rule of law relating to hearsay.

An order under subsection (3) may only be made with respect to certain civil proceedings and where evidence is in connection to the maintenance, welfare or upbringing of the child.

Privacy for children involved in certain proceedings.

No person shall publish to the public at large or any section of the public any material which is intended, or likely, to identify any child as being involved in any proceedings before the High Court or the family court in which any power under this Act or the Adoption and Children Act 2002 may be exercised by the court with respect to that or any other child; or an address or school as being that of a child involved in any such proceedings.

In any proceedings for an offence under this section it shall be a defence for the accused to prove that he did not know, and had no reason to suspect, that the published material was intended, or likely, to identify the child. Any person who contravenes this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

Self-incrimination.

Where the court is hearing an application under part 4 or 5 of this Act, no person will be excused giving evidence or answering questions in the course of giving evidence on the grounds that they may incriminate themselves or their spouse. Any statement or admission made in such proceedings will not be used as evidence against them or their spouse in any other proceedings apart from perjury.

Offences by bodies corporate.

This section covers corporate bodies who commit any offence under this Act.

If the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he (as well as the

body corporate) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

And so, ends this quick guide to the Children Act 1989. The original and updated versions of this Act will give you a more comprehensive view and can be found by visiting www.legislation.gov.uk

Please note: this guide is NOT designed to replace any professional, qualified, legal advice. Always check the qualifications, reviews and certification from anyone offering legal advice to ensure you are being supplied the correct information and support for you and your family.

