

Statutory duties – Childcare Act 2006

Childcare Act 2006 Statutory duty

The following table details the statutory duties under the Childcare Act 2006.

The Childcare Act, which regulates childcare in England, passed into law on 11 July 2006. This legislation replaced Part 10A of the Children Act 1989. Measures in the act formalise the important strategic role local authorities play, through a set of duties. These duties require authorities to:

- work with their NHS and Jobcentre Plus partners to improve the outcomes of all children up to five years of age and reduce inequalities between them;
- secure sufficient childcare for working parents;
- provide a parental information service;
- provide information, advice and training for childcare providers.

The act also lays out registration and inspection arrangements, providing for an integrated education and care framework for the Early Years and general childcare registers. The sufficiency, information and outcomes duties came into effect on 1 April 2008 and the remaining provisions came into effect from September 2008.

This table also contains duties under the following:

1. Code of Practice for Local Authorities on Delivery of Free Early Years Provision for 3 & 4 year olds - September 2012.
2. The Apprenticeships, Skills, Children and Learning Act 2009.

General duties of local authority in relation to well-being of young children including the provision of CHILDREN'S CENTRES

Section 1 – General duties of local authority in relation to well-being of young children – An English local authority *must* :

- Improve the well-being of young children in their area, and
- Reduce inequalities between young children in their area in relation to:
 1. physical and mental health and emotional well-being;
 2. protection from harm and neglect;
 3. education, training and recreation;
 4. the contribution made by them to society;
 5. social and economic well-being.

In exercising their functions, an English local authority *must* act in the manner that is best calculated to secure that any targets set are met. In performing their duties under this section, an English local authority *must* have regard to any guidance given from time to time by the Secretary

of State.

Section 2 – Meaning of “early childhood services” for purposes of Section 3.

Section 3 – Specific duties of local authority in relation to early childhood services – (3.2)The authority *must* make arrangements to secure that early childhood services in their area are provided in an integrated manner which is calculated to:

- facilitate access to those services, and
- maximise the benefit of those services to parents, prospective parents and young children.

The authority *must* take steps:

- to identify parents or prospective parents in the authority’s area who would otherwise be unlikely to take advantage of early childhood services that may be of benefit to them and their young children, and
- to encourage those parents or prospective parents to take advantage of those services.

An English authority *must* take all reasonable steps to encourage and facilitate the involvement in the making and implementation of arrangements under this section of:

- parents and prospective parents in their area,
- early years providers in their area,
- other persons engaged in activities which may improve the well-being of young children in their area.

In discharging their duties under this section, an English local authority *must* have regard to such information about the views of young children. In discharging their duties under this section, an English local authority *must* have regard to any guidance given from time to time by the Secretary of State.

Section 4 – Duty of local authority and relevant partners to work together – An English local authority *must* make arrangements to work with each of the authority’s relevant partners in the performance of their duties under sections 1 and 3. Each of the relevant partners of an English local authority *must* work with the authority and with the other relevant partners in the making of the arrangements.

Section 5 – Power to amend sections 2 and 4 - Arrangements for children's centres - In Part 1 of the Childcare Act 2006 (c. 21) (functions of local authorities in England in relation to children) after section 5 insert— “Children's centres.

Section 5A - Arrangements for provision of children's centres - Arrangements made by an English local authority under section 3(2) *must*, so far as is reasonably practicable, include arrangements for sufficient provision of children's centres to meet local need.

Section 5C - Children's centres: advisory boards - The authority *must* make arrangements to secure that each of the children's centres is within the remit of an advisory board. An advisory board *must* provide advice and assistance for the purpose of ensuring the effective operation of the children's centres within its remit. An advisory board *must* include persons representing the interests of:

- each children's centre within its remit;
- the responsible authority;

- parents or prospective parents in the responsible authority's area.

In exercising their functions under this section, an English local authority **must** have regard to any guidance given from time to time by the Secretary of State.

Section 5D - Children's centres: consultation - An English local authority **must** secure that such consultation as they think appropriate is carried out:

- before making arrangements under section 3(2) for the provision of a children's centre;
- before any significant change is made in the services provided through a relevant children's centre;
- before anything is done that would result in a relevant children's centre ceasing to be a children's centre.

In discharging their duty under this section, an English local authority **must** have regard to any guidance given from time to time by the Secretary of State.

Local authority's need to have regard to section 5G in relation to Inspection procedures.

CHILDCARE STRATEGY including training the childcare workforce and support for maintained early years provision (both contained within Section 13).

Section 6 - Duty to secure sufficient childcare for working parents - An English local authority **must** secure, as far as is reasonably practicable, that the provision of childcare is sufficient to meet the requirements of parents in their area who require childcare (for children 0 – 14 years, 18 with a disability) in order to enable them:

- to take up, or remain in, work;
- to undertake education or training which could be reasonably be expected to assist them to obtain work.

In determining whether the provision of childcare is sufficient to meet those requirements a local authority **must** have regard to the needs of parents in their area including:

- the element for which working tax credit is payable;
- regard to childcare available outside the area;
- the childcare which is suitable for disabled children;
- Regard to any guidance from the Secretary of State.

NB: For childcare to be 'sufficient' it must be high quality.

Section 7 – Duty to secure prescribed early years provision free of charge - An English local authority **must** secure that early years provision of a prescribed description is available free of charge for such periods as may be prescribed for each young child in their area. (Currently 570 hours per annum for 3 & 4 year olds, 570 hours for 700 disadvantaged 2 year olds by 2013 and a further 700 by 2014.)

Local authorities must have regard to this guidance when fulfilling their duty under section 7 of the Childcare Act 2006. Local authorities should not depart from the guidance in this Code without good reason - The Code of Practice for local authorities on delivery of free early years provision for 3 & 4 year olds states:

Local authorities **must** ensure that children are able to access their free entitlement for up to 2 years before they reach compulsory school age.

Local authorities are **legally required** to secure sufficient, free early years provision for every eligible child.

Local authorities **must** ensure providers are not charging 'top up' fees.

Local authorities **must** implement an Early Years Single Funding Formula and are **legally required** to fund providers on the basis of a transparent, locally-defined funding formula based on participation.

Local authorities are **legally required** to secure and improve quality of all early years providers.

Local authorities **must** ensure that all eligible children can access the free entitlement through early years providers who are Ofsted registered (or schools providing early years provision which are exempt from registration).

Local authorities **must** ensure they meet their duties under equality legislation to promote equality for disabled children and should ensure settings are aware of their responsibilities in promoting equality of opportunity and legal duties do not discriminate against disabled children.

Sections 8 – Powers of local authority in relation to the provision of childcare, 9 – Arrangements between local authority and childcare providers, 10 – Charges where local authority provide childcare - The local authority **must** exercise their functions with a view to securing that the provider of childcare meets any requirements imposed on him by any arrangements the local authority may make.

Section 8(1) gives the local authority the power to assist any person providing, or proposing to provide childcare.

Section 11 – Duty to assess childcare provision - An English local authority **must** prepare assessments of the sufficiency of the provision of childcare in their area. Assessments **must** be prepared at intervals not exceeding three years. The authority **must** keep a childcare assessment under review until superseded and have regard to any guidance from the Secretary of State. *(NB. This is currently under review.)*

Section 13 – Duty to provide information, advice and training to childcare providers – An English local authority **must**, in accordance with regulations, secure the provision of information, advice and training to:

- persons providing childcare in their area who are registered;
- persons who intend to provide childcare in their area in respect of which they will be required to register;
- support the economic sustainability of providers, including business planning, financial management and marketing;
- support providers in meeting the requirements of the Early Years Foundation Stage (EYFS) statutory assessment;
- support all childcare providers which have been deemed inadequate by Ofsted;

- support childcare providers in complying with statutory requirements and national guidance on child protection/safeguarding approved by the LSCB.

As part of securing sufficient high quality childcare and meeting their duty under section 13, local authorities are required to support providers in satisfying the registration and regulatory requirements as part of the Act under:

- **Section 14 – Inspection**
- **Section 17 – Charges for early years provision at maintained school**
- **Section 18 – Meaning of childcare**
- **Section 19 – Meaning of “young child”**
- **Section 20 – Meaning of “early years provision”**

In order to secure high quality provision as part of the sufficiency duty, the legislative framework empowers local authorities to develop a Quality Improvement Strategy that ensures that provision is planned, commissioned and maintained on the basis of robust and up to date information and data on settings.

FAMILIES INFORMATION SERVICE

Section 12 – Duty to provide information, advice and assistance – An English local authority must establish and maintain a service providing information, advice and assistance in accordance with this section. The service **must** provide to parents or prospective parents (including those with disabled children) information which is of a prescribed description and relates to any of the following:

- The provision of childcare in the area of the local authority.
- Any other services or facilities, or any publications, which may be of benefit to parents or prospective parents in their area.
- Any other services or facilities, or any publications, which be of benefit to children or young persons (including those with a disability) in their area.

The service **must** provide advice and assistance to parents or prospective parents who use, or propose to use, childcare provided in the area of the local authority. The service **must** be established and maintained in the manner which is best calculated to facilitate access to the service by persons in the local authority’s area who may benefit from it, including, in particular, persons who might otherwise have difficulty taking advantage of the service. In exercising their functions under this section, a local authority **must** have regard to any guidance given from time to time by the Secretary of State.