**West Sussex – Practice Guidance**

IROs are qualified social workers with at least five years’ experience, and who have acquired the right skills to carry out this role.

**SUMMARY OF LEGISLATION – CHILDREN LOOKED AFTER**

Please note that this is only an easy access guide to where a Social Worker can find the relevant legislation for Children who are Looked After (CLA). It is not intended to be a comprehensive statement of the law, it simply guides you to where in the law specific provisions relating to the powers and duties of the Local Authority can be found.

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

**ADMISSION TO CARE/ACCOMMODATION**

Children Act 1989 [Section 20](http://www.legislation.gov.uk/ukpga/1989/41/section/20), [Section 21](http://www.legislation.gov.uk/ukpga/1989/41/section/21), [Section 31](http://www.legislation.gov.uk/ukpga/1989/41/section/31), [Section 33](http://www.legislation.gov.uk/ukpga/1989/41/section/33) Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO): [Section 92](http://www.legislation.gov.uk/ukpga/2012/10/section/92), [Section](http://www.legislation.gov.uk/ukpga/2012/10/section/104) [104](http://www.legislation.gov.uk/ukpga/2012/10/section/104)

Accommodation under Section 20 etc.

|  |  |
| --- | --- |
| Duty to provide accommodation  | S20(1),(3) |
| Power to provide accommodation for a child if this would safeguard and promote the child’s welfare | S20(4),(5) |
| Parent’s power to refuse offer to accommodation for child, or to discharge from LA accommodation | S20(7),(8),(9) |
| Power of young person aged 16-17 to agree to accommodation against wishes to a parent  | S20(11) |
| Duty to consult the child before accommodating him/her | S20(6) |
| Duty to accommodate children who are in police protection or are the subject of an Emergency Protection Order | S21(1)(2) |
| Duty to accommodate children in police detention, remanded to LA accommodation or the subject of a Youth Rehabilitation Order with a local authority residence requirement or a fostering requirement | S21(2) |
| **Care Order** |  |
| Power to apply a Court for a Care Order or Supervision Order | S31(2),(3),(10) |
| Duty, while a Care Order is in force, to receive the child into local authority care | S33(1) |
| Power, while a Care Order is in force, to exercise parental responsibility, and to limit the exercise of parental responsibility by others who hold it | S3(3) |
| Limits on the exercise of parental responsibility by the local authority | S33(4),(6),(7),(8) |
| **Young person on Remand** |  |
| Duty to accommodate a child remanded to local authority accommodation | LASPO S92(4) |
| Power to detain a child remanded to local authority accommodation | LASPO S92(5) |
| Duty to treat a child remanded to youth detention accommodation | LASPO S104 |

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

Children Act 1989 [Section 22](http://www.legislation.gov.uk/ukpga/1989/41/section/22), [Section 23ZA](http://www.legislation.gov.uk/ukpga/1989/41/section/23ZA), [Section 23ZB](http://www.legislation.gov.uk/ukpga/1989/41/section/23ZB), [Section 26](http://www.legislation.gov.uk/ukpga/1989/41/section/26), [Section 34](http://www.legislation.gov.uk/ukpga/1989/41/section/34);

Children Act 1989 Schedule 2 [Para 15](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/15), [Para 16](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/16), [Para 19](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/19), [Para 19A](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/19A), [Para 19B](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/19B), [Para 19BA](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/19BA), [Para](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/19C) [19C](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/19C), [Para 20](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/20)

The Care Planning, Placement and Case Review Regulations 2010

|  |  |
| --- | --- |
| General to safeguard a promote the child’s welfare | S22(3) |
| Duty to carry an assessment of the child’s health on first admission | Reg. 7(1),(2),(4) |
| Duty to ensure that the child is provided with appropriate health care services  | Reg. 7(5) |
| Duty to establish a procedure for dealing with complaints made by a looked after child, their parent or another person with an interest in the child’s welfare, or a foster carer | Section 26(3),(7) |
| Duty to ensure social work visits to the child  | S23ZA(2),(5) |
| Duty to promote contact between a looked after child and his/her parents, relatives, friends and other persons connected with him/her- unless this is not reasonably practicable or consistent with his/her welfare | Sch 2.15(1) |
| Duty to allow a child in care (Care Order) to have reasonable contact with parents, other persons who have parental responsibility, and persons who lost PR through the making of a Care Order | S34(1) |
| Duty, in considering contact arrangements between a child and a parent, relative, friend etc. to have a regard to the care plan | Reg. 8ZA |
| Duty to consult the child, parents and other relevant persons before making a decision relating to the child | S34(4),(5) |
| Duty to promote the child’s educational achievement | S34(3A) |
| Duty to inform parents of where the child is accommodated | Sch2. Para 15(2) |
| Power to make payments to enable a parent, relative, friend to visit a looked after child | Sch 3. Para 16 |
| Duty to arrange an independent visitor for a child if this wold be in the child’s interests | S23ZB(1)Reg.47 |
| Power to arrange for a looked after child who is not the subject of a Care Order to live outside England and Wales (if the child is the subject of a Care Order this requires the approval of the court) | Sch2 Para 19(2) |
| Duty, when arranging for a looked after child to live outside England and Wales, to ensure that appropriate requirements are applied, and to include details of the supervision arrangements in the care plan  | Reg. 12 |
| Preparation for Adulthood- Eligible Children |  |
| Duty to prepare the child for the time when s/he will no longer be looked after by the local authority | Sch 2. Para 19A |
| Duty to carry out an assessment of needs for an “eligible child” | Sch 2. Para 19C: Reg 44 |
| Duty to arrange for an eligible child to have a personal adviser | Sch 2. Para19C. Reg 44 |
| Duty to consider whether the LA should facilitate a “staying put” arrangement for an “eligible child” | Sch 2. Para 19BA(2),(3) |
| Power to act in a wa inconsistent with these duties where that is necessary to protect the public from serious injury | S22(6),(7),(8)Sch 2. Para 15(4) |
| Duty, on the death of a looked after child, to notify the parents, the Secretary of State and Ofsted. Power payments to parents, relatives or friends to enable them to attend the funeral. | Sch 2. Para 20(1) |

**PLACEMENT AND TERMINATION OF PLACEMENT**

Children Act 1989 [Section 22C](http://www.legislation.gov.uk/ukpga/1989/41/section/22C), [Schedule 2 Paragraph 19](http://www.legislation.gov.uk/ukpga/1989/41/schedule/2/paragraph/19)

[The Care Planning, Placement and Case Review Regulations 2010](http://www.legislation.gov.uk/uksi/2010/959/contents/made)

|  |  |
| --- | --- |
| **Choice of Placement and Change of Placement** |  |
| Duty to consider whether the child’s placement meets his/her needs | Reg. 4(3) |
| Duty to give preferences to placement with parent | S22C(2),(3),(4) |
| Local authority must not place child with parent if this is incompatible with a court order under s34 | Reg. 16 |
| Duty to assess parent’s suitability to care for chid, and to Review child’s case, before placing child with her/him | Reg. 17 |
| Power to allow child to remain with parent during assessment of his/her suitability to care | Reg. 15(2) |
| Power to child with parent before assessment is complete | Reg.19 |
| Decision to place child with parent must be made by a nominated officer | Reg.18 |
| Duty to provide services and support for placement with parents | Reg. 20 |
| Duty, where placement with parent would not be practicable or would be inconsistent with the child’s welfare, to give preference to placement with a connected person | S22C(7) |
| Power to give temporary approval as a foster carer to a connected person while assessing their suitability to foster | Reg. 24 |
| Power to extend temporary approval as a foster carer to connected person as a foster carer(requires approval by a nominated officer) | Reg. 25 |
| Duty, when considering adoption as an option for a child, to consider fostering for adoption | S22C(9A),(9B) |
| Power to give temporary approval as a foster carer to an approved prospective adopter | Reg. 25A |
| Duty to ensure that any fostering for adoption placement is approved by a nominated officer | Reg. 22A |
| Duty to place a child near to home | S22C(8) |
| Duty to avoid disruption to the child’s education or training | S22C(8) |
| Duty to place siblings together | S22C(8) |
| Duty to ensure that accommodation provided for a disabled child is suitable | S22C(8) |
| Duty to place within local authority’s area | S22C(9) |
| Duty to ensure that any placement outside the local authority area and “as a distance” is approved by the Director of Children’s Services | Reg.11(1),(4),(5) |
| Duty to ensure that any changes of placement which would disrupt arrangements for education for a child at Key Stage 4 is approved by a nominated officer | Reg. 10(4) |
| Duty to make foster placements only with carers approved by a fostering service provider | Reg. 22(2),(2) |
| Power to make an emergency foster placement which is not consistent with the carer’s terms of approval | Reg. 23 |
| Duty, before placing a looked after child in unregulated accommodation, to confirm that the accommodation is suitable, arrange for child to visit it, and notify the IRO |  |
| Power to arrange for a looked after child who is not the subject of a Care Order to live outside England and Wales (if the child is the subject to a Care Order this requires the approval of the court  | Sch 2. Para 19(2) |
| Duty, when arranging for a looked after child to live outside England and Wales, to ensure that appropriate requirements are applied, and to include details of the supervision arrangements in the care plan | Reg. 12 |

|  |  |
| --- | --- |
| **Notification of Placement** |  |
| Duty to notify relevant individuals and agencies of intention to place child | Reg.13 (1),(2),(3) |
| Duty to notify the area authority of any out of authority placement | Reg. 13(4) |

|  |  |
| --- | --- |
| **Termination of Placement** |  |
| Duty to Review child’s case before terminating placement | Reg. 14 (1),(3)(5) |
| Duty to make alternative arrangements for accommodation of the child before terminating placement | Reg.14 (2) |
| Duty to notify IRO and other individuals and agencies of intention to terminate placement | Reg.14 (2),(4) |

**CARE PLANNING FOR LOOKED AFTER CHILDREN**

Children Act 1989 [Section 31A](http://www.legislation.gov.uk/ukpga/1989/41/section/31A)

[The Care Planning, Placement and Case Review Regulations 2010](http://www.legislation.gov.uk/uksi/2010/959/contents/made)

|  |  |
| --- | --- |
| **Care Plan** |  |
| Duty to assess the child’s needs for services | Reg.4(1),(2) |
| Duty to draw up a care plan during care proceedings, and to keep it under Review | S31A(1),(2) |
| Duty to draw up a care plan other than during care proceedings | Reg. 4(1) |
| Duty to agree the care plan with the parents or the young person | Reg. 4(4),(5) |
| Required content of a care plan | Reg. 5 |
| Duty to give a copy of the care plan to the child, parents etc | Reg. 6(3) |
|  |  |
| **Placement Plan** |  |
| Duty to draw up placement plan | Reg. 9(1),(2) |
| Duty to consult child about placement plan | Reg.9(1) |
| Duty to inform IRO about placement plan | Reg.9(1) |
|  |  |
| **Ceasing to Look After a Child** |  |
| Duty to assess the suitability of the arrangements for accommodation and maintenance of the child after discharge | Reg. 39(2)(a) |
| Duty to assess the child’s needs for support and services after discharge, and to detail the support to be provided in the child’s care plan | Reg. 39(2)(a) |
| Duty to consult the child about discharge plans | Reg. 39(2)(c) |
| Duty to consider whether discharge will safeguard and promote the child’s welfare | Reg. 39(2)(d) |
| Duty to ensure that nominated officer approves any plan for discharge of a child who has been looked after for 20 working days  | Reg. 29(5)(6) |
|  |  |
| **Records** |  |
| Duty to maintain a written case record for each looked after child | Reg.49 |
| Duty to retain child’s case record | Reg.50(1) |
| Duty to ensure the confidentiality of case records | Reg. 50(2) |

**STATUTORY REVIEWS AND THE IRO**

Children Act 1989 [Section 22D](http://www.legislation.gov.uk/ukpga/1989/41/section/22D), [Section 25A](http://www.legislation.gov.uk/ukpga/1989/41/section/25A), [Section 25B](http://www.legislation.gov.uk/ukpga/1989/41/section/25B)

[The Care Planning, Placement and Case Review Regulations 2010](http://www.legislation.gov.uk/uksi/2010/959/contents/made)

|  |  |
| --- | --- |
| **Review of Care Plans** |  |
| Duty to written policy on how Reviews will be carried out | Reg. 34(1) |
| Duty to Review and revise the care plan from time to time | Reg. 6(1) |
| Minimum frequency of Reviews | Reg.33 (1),(2) |
| Duty to trigger an early Review | Reg. 33(3),(4) |
| Duty to Review child’s case before moving him/her from a placement with a parent or connected person, a foster home or a children’s home to a placement that is none of these | S22D |
| Duty to Review the child’s case before making any significant change to the care plan | Reg. 32(2) |
| Duty to implement decisions made at Reviews | Reg.37(a) |
| Duty to inform IRO of any significant failure to implement Review decisions, or of an significant change of circumstances affecting the implementation of Review decisions | Reg.37(b) |
| Due to make a written record of each Review | Reg.38 |
| Duty to carry out Review of child’s health every 6 months(child under 5) or every 12 months (child aged 5 or over) | Reg 7.(3),(4) |
|  |  |
| **Independent Reviewing Officer** |  |
| Duty to appoint an IRO | S25A |
| Necessary qualifications and experience of IRO | Reg. 46 |
| Local authority duties in respect of IRO |  |
| Duty to give the IRO a copy of the care plan | Reg. 6(3) |
| Duty to notify the IRO of the child (proposed) placement | Reg. 9(1);Reg. 13(1),(2) |
| Duty to consult the IRO about any proposed placement decision that would disrupt the child’s education at ks4 | Reg. 10(2) |
| Duty to consult IRO about any proposal at place the child out of area | Reg. 11(2) |
| Duty to consult about proposal to place child with parents  | Reg.18 |
| Duty to consult IRO about proposal to place child in long term foster placement | Reg. 22B |
| Duty to notify IRO of proposal to place child in an unregulated setting | Reg. 27 |
| Duty to notify IRO of the remand of a looked after child to Youth Detention Accommodation | Reg. 47C(2) |
| Duty to notify IRO of proposal to terminate child’s placement | Reg. 14(1),(2) |
| Duty to notify IRO of refusal or restriction of parental contact | Reg. 8(2) |
| Duty to notify IRO of proposal to extend approval of connected person as foster carer | Reg. 25(4) |
| Duty to consult IRO during assessment of needs of an eligible child | Reg.42(2) |
| Duty to consult IRO about any plan to cease to look after a child who has been looked after for more than 20 days, or is aged 16-17 | Reg. 39(6) |
| Duty to arrange a Review at request of IRO | Reg. 33(3) |
| Duty to notify IRO of any significant failure to implement Review decisions, or of any significant change of circumstances affecting the implementation of Review decisions | Reg. 37 |
| General duties of the IRO- monitor the performance of the LA; participate in Reviews; ensure that the child’s wishes are taken into consideration | S25B(1) |
| IRO duty to attend, and chair, all Reviews meetings | Reg. 36 (1)(a) |
| IRO duty to ensure that Reviews are carried out in accordance with the Regulations | Reg. 36(1)(d) |
| IRO duty to consult child in private before Reviews | Reg. 36(1)(b) |
| IRO duty to ensure that Reviews take into account the views of the parents and carers | Reg. 36(1)(c) |
| IRO duty to ensure that the Review identifies the persons responsible for implementing each decision | Reg. 36(1)(d) |
| IRO duty to bring failure to Review a child’s case to the attention of the appropriate senior manager | Reg. 36(1)(d) |
| IRO duty to bring any failure to implement Review decisions to the attention of an appropriate senior manager | Reg. 36(1)(d) |
| IRO power to adjourn a Review meeting | Reg. 36(2) |
| IRO duty, when consulted or informed about any matter by the LA, to ensure that the child has been consulted and consider whether to request a Review | Reg. 45(4) |
| IRO duty to ensure that the child has been informed of his/her rights to apply for a Section 8 order, or to make representations and complaints | Reg. 45(1) |
| IRO duty to ensure that a child who wishes to take legal proceedings ha access to legal advice | Reg. 45(2) |
| IRO power to refer case to CAFCASS | S25B(3); Reg. 45(3) |

**SOCIAL WORK VISITS TO A LOOKED AFTER CHILD**

Children Act 1989 [Section 23ZA](http://www.legislation.gov.uk/ukpga/1989/41/section/23ZA)

Care Planning, Placement and Case Review Regulations 2010, [Regs 28 – 31](http://www.legislation.gov.uk/uksi/2010/959/part/5/made)

|  |  |
| --- | --- |
| Duty to visit a looked after child | S23ZA(1),(2) |
| Minimum frequency of visits to a looked after child by the responsible authority’s representative | Reg. 28 |
| Duty to ensure that the LA representative who visits the child has the necessary skills and experience | S23ZA(5) |
| Duty to arrange for advice, support and assistance to be made available to the child on request. | S23ZA(2) |
| Duty to ensure that appropriate arrangements are in place to provide the child with advice, support and assistance to be made available to the child on request | Reg. 31 |
| Duty to ensure the child knows how to seek appropriate advice, support and assistance | Reg.31 |
| Duty to speak to the child in private | Reg. 29 |
| Duty to Review the child’s caes it appears that the placement does not adequately safeguard and promote the child’s welfare | Reg. 30 |

**Reference Points;**

[The Care Planning, Placement and Case Review Regulations 2010](http://www.legislation.gov.uk/uksi/2010/959/contents/made)

[The Children Act 1989](http://www.legislation.gov.uk/ukpga/1989/41)