

# CONTENTS

Acknowledgments	v
Introduction	vii
Table of Cases	xv
Table of Statutes	xxi
Table of Statutory Instruments	xxvii
Table of Codes of Guidance	xxxi
 <b>Chapter 1</b>	
<b>Section 17: Children in Need</b>	<b>1</b>
Introduction	1
‘Child in need’ – definition	2
The role of the local authority	4
‘Gateway status’	4
Section 17(1) duty	5
R (G) v Barnet and Others	5
Section 17(2) duties and services	8
Schedule 2	8
Discretionary services	10
Disabled children	10
Services to families	11
Child protection	11
Meaning of ‘within their area’	12
Assessment	12
Provision of services	13
Charging for services	13
 <b>Chapter 2</b>	
<b>Assessment of Children in Need</b>	<b>15</b>
Introduction	15
Guidance for the assessment of children in need	16
Framework for the assessment of children in need	18
Timing	20
Core assessment	21
Procedural matters	22
Eligibility criteria	23
Children Act 2004	23
The Common Assessment Framework	24
Challenging an assessment	24

Appendix	27
Individual Cases Flowchart	27

### **Chapter 3**

<b>Age Assessments</b>	<b>29</b>
Guidance for the conduct of age assessments	30
The 'Merton' guidance	30
The 'Croydon / Hillingdon' Guidance	32
A new approach: fact-finding hearings	33
Guidance on the conduct of fact-finding hearings	35
Scope of judicial review	35
Permission	35
Burden and standard of proof	36
Witnesses	36
Medical evidence	37
Article 6	39

### **Chapter 4**

<b>Section 20: Duties and Powers</b>	<b>41</b>
Outline	42
The 'section 20(1) duty'	43
Southwark London Borough Council v D	43
'Private fostering'	44
'Section 20(1) duty'	45
The case-law post-Southwark	47
Section 20 v section 17 accommodation	47
Guidance	48
The 'Wandsworth' case	49
Hackney	50
Islington	50
Conclusion	51
Section 20 v Housing Act duties	52
R (S) v Sutton London Borough Council	52
R (M) v Hammersmith and Fulham London Borough Council	53
Conclusion	54
'Sidestepping'	54
Section 20 v Education Act	55
Discussion	56

### **Chapter 5**

<b>Section 20: Interpretation</b>	<b>59</b>
Section 20(1)	59
The respective roles of the court and the local authority	60
When is a parent 'prevented' from providing suitable accommodation or care?	61
The meaning of 'require accommodation'	63
'Require accommodation' – discussion	64

R (G) v Southwark: A watershed	66
R (G) v Southwark: Discussion	68
Section 20(6) – child’s wishes and feelings	69
Section 20(7)	71
Exceptions	72
The responsible local authority	72
Removing a child from s 20 accommodation	72

## **Chapter 6**

<b>Looked After Children</b>	<b>75</b>
Introduction	75
‘Looked after child’ – definition	76
General duty to looked after children	77
Decision-making	77
Public protection	79
Arrangements and care planning	79
Care plan	79
Provision of accommodation and maintenance	80
Maintenance	81
Accommodation	81
Preferred types of placement	81
Other types of placement	82
The problem in Southwark London Borough Council v D	83
Placements – additional considerations	85
Placement of disabled children	85
Placement with parents etc	85
Suitability to care	86
The placement decision	87
Placement with local authority foster parents	87
Placement planning	88
Termination of placement	90
Contact	91
Independent Reviewing Officers	91
The role of the IRO	92
Reviews	93
Timing of reviews	94
Representations and complaints	94
Visits to looked after children	95
Timing of visits	95
Independent visitor	96
Support for accommodated children	97
Education and training	97

## **Chapter 7**

<b>Secure Accommodation: Principles</b>	<b>99</b>
Introduction	99
Child’s welfare – a relevant consideration	101
Section 25: permission or prohibition?	103

Who is the decision-maker?	105
Convention rights	106
Article 5	107
Article 6	107

## **Chapter 8**

<b>Secure Accommodation: Practice</b>	<b>109</b>
The section 25 criteria	109
Child must be 'looked after'	110
Secure accommodation: definition	110
Time limits	112
A conditional order	113
Interim orders	113
Children accommodated by health and education authorities etc	114
Limitations and exceptions	115
Regulation 5	115
Secure accommodation and wardship	116
Younger children	117
Procedure	117
Child must be represented	117
Conduct of hearing	118
Attendance of child at hearing	119
Written evidence	119
The children's guardian	119
Remedies	120
Duty to inform	121
Duty to keep records	121
Review	122
Detained children and children remanded to local authority accommodation	123
Regulation 6 – alternative criteria for secure accommodation	123
Procedure	125
Time limits	127
CYPA 1969, s 23(4) – requirement for secure accommodation	127
Children bailed to local authority accommodation	128
Removal from secure accommodation	128
Appendix	129
Application for secure accommodation order: Procedure	129

## **Chapter 9**

<b>Leaving Care</b>	<b>131</b>
Introduction and overview	131
Removal of benefits	133
Who benefits from the leaving care provisions?	134
Eligible children	134
Relevant children	136
Former relevant children	137
The responsible local authority	137

Local authority duties to eligible and relevant children	138
Duties to eligible children	138
Duties to relevant children	139
Assessment	140
Pathway plan	143
Personal adviser	146
Duties owed to former relevant children	147
The 'Caerphilly' case	150
Advice and assistance	153
Qualifying persons	153
Section 24A – advice and assistance	155
Employment, education and training – s 24B	155
Information – s 24C	157
Representations – s 24D	157
Appendices	159
Flowchart: Identifying eligible and relevant children	159
Flowchart: Identifying former relevant children	160
Definitions of categories of children entitled to care leaving support	161
Age, time, status table	165
<b>Chapter 10</b>	
<b>Children in the Criminal Justice System</b>	<b>167</b>
Introduction	167
Section 21 of the Children Act 1989	167
Section 21(2) duty	168
The responsible local authority	169
Children in custody	169
Local authority duties to children in custody	170
Children in custody: limitations on the s 17 duty	171
Assessment	172
Visits to former looked after children	172
Working together. Safeguarding welfare	173
Statutory guidance	174
Youth offending team	175
<b>Appendix 1</b>	
Children Act 1989	177
<b>Appendix 2</b>	
Children (Secure Accommodation) Regulations 1991	213
Children (Secure Accommodation) (No 2) Regulations 1991	219
Care Planning, Placement and Case Review (England)	
Regulations 2010	220
Care Leavers (England) Regulations 2010	254
<b>Index</b>	<b>263</b>