

**2004 No. 719**

**CHILDREN AND YOUNG PERSONS, ENGLAND**

**The Advocacy Services and Representations Procedure  
(Children) (Amendment) Regulations 2004**

<i>Made</i> - - - -	<i>11th March 2004</i>
<i>Laid before Parliament</i>	<i>11th March 2004</i>
<i>Coming into force</i> - -	<i>1st April 2004</i>

The Secretary of State for Education and Skills, in exercise of the powers conferred upon him by sections 24D(2), 26(5), 26A(3) and (4) and 104(4) of the Children Act 1989(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation, commencement and application**

- 1.—(1) These Regulations may be cited as the Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004 and shall come into force on 1st April 2004.
- (2) These Regulations apply to England only.

**Interpretation**

2. In these Regulations—

- “the Act” means the Children Act 1989;
- “advocacy services” means assistance provided under arrangements made by a local authority under section 26A(1) of the Act;
- “advocate” means a person who provides assistance under arrangements made by a local authority under section 26A(1) of the Act;
- “complainant” means a person making representations under section 24D of the Act or a child making representations under section 26 of the Act;
- “the Representations Regulations” means the Representations Procedure (Children) Regulations 1991(b).

**Persons who may not provide assistance**

3. A person may not provide assistance under the arrangements made by a local authority under section 26A(1) of the Act to persons who make or intend to make representations under section 24D of the Act or to a child who makes or intends to make representations under section 26 of the Act if —

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(a) 1989 c.41; section 24D was inserted by section 5 of the Children (Leaving Care) Act 2000 (c.35), and section 26A was inserted by section 119 of the Adoption and Children Act 2002 (c.38).

(b) S.I. 1991/894; relevant amending instruments are S.I. 1991/2033, 2001/2874.

- (a) he is or may be the subject of the representations;
- (b) he is responsible for the management of a person who is or may be the subject of the representations;
- (c) he manages the service which is or may be the subject of the representations;
- (d) he has control over the resources allocated to the service which is or may be the subject of the representations; or
- (e) he is or may become involved in the consideration of the representations on behalf of the local authority.

**Information to be provided to a complainant etc.**

- 4.—(1) Where a local authority receive representations from a complainant they must—
- (a) provide him with information about advocacy services; and
  - (b) offer him help in obtaining an advocate.
- (2) Where a local authority become aware that a person or child intends to make representations under section 24D or, as the case may be, section 26(3) they must—
- (a) provide the person or child with information about advocacy services; and
  - (b) offer him help in obtaining an advocate.

**Monitoring of compliance with the Regulations**

5. A local authority must monitor the steps that they have taken with a view to ensuring that they comply with these Regulations in particular by keeping a record about each advocate appointed under arrangements made by the local authority under section 26A(1) of the Act.

**Amendment of the Representations Regulations**

- 6.—(1) The Representations Regulations shall be amended as follows.
- (2) In regulation 2(1) (interpretation) after the definition of “representations” insert ““section 26A advocate” means a person who is appointed to provide assistance to the complainant under arrangements made by a local authority under section 26A(1) of the Act.”.
- (3) In regulation 4 (preliminaries)—
- (a) in paragraph (2) after the word “complainant” insert “and any section 26A advocate”;
  - (b) in paragraph (2A) after the word “complainant” insert “and any section 26A advocate”.
- (4) In regulation 7 (withdrawal of representations) after the word “them” insert “or any section 26A advocate acting on his behalf”.
- (5) In regulation 8 (notification to complainant and reference to panel)—
- (a) in paragraph (1)(a) after the word “complainant” insert “and any section 26A advocate”;
  - (b) in paragraph (2) after the word “complainant” insert “, or any section 26A advocate on his behalf”;
  - (c) in paragraph (5)(a) after the word “complainant” insert “(or any section 26A advocate on his behalf)”; and
  - (d) in paragraph (6) after the word “meeting” in the second place where it occurs insert “by any section 26A advocate or” and after the word “nominate” insert “the section 26A advocate or”.
- (6) In regulation 9(2)(b) (recommendations) after the word “complainant” insert “and any section 26A advocate”.

### **Transitional provisions**

7.—(1) Where at the time that these Regulations come into force a complainant has made representations to the local authority and the procedure for considering the representations has not come to an end, then, subject to the provisions of paragraph (2), the local authority must provide the complainant with the information and assistance which the local authority are required to provide under regulation 4.

(2) For the purpose of paragraph (1) the procedure for considering the representations is to be treated as being at an end once the panel have met to consider the representations in accordance with regulation 8 of the Representations Regulations even if they have not made their recommendation in accordance with regulation 9 of the Representations Regulations.

11th March 2004

*Stephen Twigg*  
Parliamentary Under Secretary of State  
Department for Education and Skills

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Adoption and Children Act 2002 imposes a duty on local authorities to provide advocacy services for certain categories of complainant under the Children Act 1989 (“the Act”) representations procedure. It inserts into the Act a new section (section 26A) which requires local authorities to make arrangements for the provision of assistance, including assistance by way of representation, to care leavers and children who make or intend to make representations using the procedures under sections 24D and 26(3) of the Act.

These Regulations specify who may not provide assistance under these arrangements for a care leaver or child making or intending to make such representations (regulation 3).

These Regulations also require local authorities to provide information about advocacy services and to offer help in finding an advocate to a child or young person who is making representations or, when they become aware of the fact, who is intending to make representations (regulation 4).

Regulation 5 requires local authorities to monitor the steps that they have taken with a view to ensuring that they comply with the Regulations in particular by keeping a record about each advocate provided under arrangements made by the local authority under section 26A(1) of the Act. The intention is that in this way the local authority will be able to check that no advocate provided under the arrangements was prohibited from being an advocate by virtue of regulation 3.

Regulation 6 amends the regulations governing the representations procedures – the Representations Procedure (Children) Regulations 1991 – so as to ensure that an appointed advocate is involved throughout the process.

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