

## Local Authority Circular LAC(93)10

DEPARTMENT OF HEALTH

To: *The Chief Executive*  
*Metropolitan District Councils )*  
*County Councils )*  
*London Borough Councils*  
*Common Council of the City of London*  
*Council of the Isle of Scilly*

*in England*

*Directors of Social Services*

*for information*

*March 1993*

**APPROVALS AND DIRECTIONS FOR ARRANGEMENTS FROM 1  
APRIL 1993  
MADE UNDER SCHEDULE 8 TO THE NATIONAL HEALTH  
SERVICE ACT 1977 AND SECTIONS 21 AND 29 OF THE NATIONAL  
ASSISTANCE ACT 1948**

### **SUMMARY**

**This circular contains guidance on the consolidated approvals and directions made by the Secretary of State for Health on local authorities continuing responsibilities, from 1 April 1993, to provide residential accommodation and welfare services, insofar as they are provided under sections 21 and 29 of the National Assistance Act, 1948 and paragraphs 1 and 2 of Schedule 8 of the NHS Act, 1977.**

### **Action**

1. This circular contains approvals and directions made by the Secretary of State in exercise of the powers conferred by sections 21(1) and 29(1) of the National Assistance Act 1948 and paragraphs 1 and 2 of Schedule 8 to the National Health Service Act 1977.

2. It consolidates the existing approvals and directions contained in LAC13/74, LAC19/74, LAC(74)28 and Annexes 1 and 2 of LAC(91)12. This circular does not of itself create any additional responsibilities which have not previously been expected of local social services authorities. This circular also updates existing guidance on registration practice and related statistics.

**Background**

3. Social services authorities' powers under sections 21 and 29 of the 1948 Act and under Schedule 8 to the 1977 Act are subject to the requirement to act with the approval and under the direction of the Secretary of State. The relevant information is at:

- Appendix 1 = Approvals and Directions under section 21(1) of the 1948 Act.
- Appendix 2 = Approvals and Directions under section 29(1) of the 1948 Act.
- Appendix 3 = Approvals and Directions under paras 1 and 2 of Schedule 8 of the 1977 Act.

4. The approvals and directions contained in this circular take account of the amendments made to Part III of the 1948 Act and Schedule 8 of the 1977 Act by the Mental Health Act 1983, the Children Act 1989, the National Health Service and Community Care Act 1990 and the Community Care (Residential Accommodation) Act 1992.

It is the view of the Department that the amendments introduced into the 1948 Act by section 1 of the Community Care (Residential Accommodation) Act 1992 will require authorities to make some direct provision for residential care under Part 111 of the 1948 Act.

5. From 1 April 1993, when section 43 of the 1990 Act comes into force, authorities will not be able to provide accommodation to people ordinarily resident in independent homes immediately before that date with preserved rights to the higher levels of Income Support. The new section 26A(3) of the 1948 Act, inserted by section 43 of the 1990 Act, gives the Secretary of State power to make exceptions. These are set out in LAC(93)6 together with SE 1993 No 477.

6. Paragraphs 1 and 2 of the Schedule 8 to the National Health Service Act 1977 will remain in force after 1 April 1993, but they will be amended so that local authorities will no longer be able to provide residential accommodation under them. For convenience, the approvals and directions previously contained in Circulars 19/74 and 74/28, which related to services other than the provision of accommodation have been included in this Circular.

7. The opportunity has been taken to consolidate and update circulars 25/61, 17/74 (74)37 and (78)20 concerning registration practice and statistics. Appendix 4 refers.

### **White Paper and Policy Guidance**

8. It will be the responsibility of Social Services Departments to make maximum possible use of private and voluntary providers and so increase the available range of options and widen consumer choice (paragraph 1.11 of the White Paper "Caring for People" (Cm 849)). The Government welcomes the action being taken by authorities to review the range of services they are currently providing, as part of a comprehensive review of the needs and services available in their area. Social services authorities will continue to play a valuable role in the provision of services, but in those cases where they are currently the main or sole providers of services, they will be expected to take all reasonable steps to secure diversity of provision (paragraph 3.4.1). Regarding the circumstances in which direct provision may be needed the White Paper said (paragraph 3.4.11) that the Government will expect local authorities to retain the ability to act as direct service providers, if other forms of service provision are unforthcoming or unsuitable. This is likely to be particularly important in services for people with high levels of dependency, or particularly challenging patterns of behaviour, whose care it is essential to safeguard.

9. The role of housing and social services authorities in relation to housing and community care is set out in the joint circular from the Departments of Health (LAC(92)12) and the Environment (10/92). This circular has also been issued to housing associations by the Housing Corporation.

10. By virtue of Section 2 of the Chronically Sick and Disabled Persons Act 1970 the matters dealt with in sub section (1) of that section do not need to be included in the arrangements contained in Appendix 2.

11. It is not necessary for the arrangements contained in this circular to cover the provision by local authorities of sheltered employment as this is provided under powers deriving from the Disabled Persons (Employment) Acts 1944 and 1958.

12. The Secretary of State hopes that authorities will keep in mind the needs of individuals, families and groups to ensure that the services provided are administered flexibly and in accordance with changing needs. For the purpose of any of these arrangements, where no express statutory power exists for authorities to use outside service providers, the Secretary of State has also approved the use by authorities of suitable accommodation, services or facilities made available by another authority, voluntary body or person on such conditions as may be agreed. Thus, for example, authorities may continue to make use on a

repayment basis of suitable residential or training places made available by other authorities, though they are asked nevertheless to bear in mind the importance of such services being provided as near to the person's home place as is practicable.

13. Social services authorities' powers to prevent mental disorder or provide care for those who are or have been suffering from mental disorder are embraced in their wider powers under paragraph 2 of Schedule 8 to the 1977 Act to prevent illness and provide care for those who are or have been suffering from it. In addition, if authorities wish to provide services other than accommodation specifically for persons who are alcoholic or drug-dependent, the Secretary of State has approved them so doing. Because authorities' powers to provide accommodation under paragraph 2 of Schedule 8 are being repealed, the approvals and directions in relation to the provision of accommodation for the prevention of mental disorder or for persons who are or who have been suffering from mental disorder, or specifically for persons who are alcoholic or drug-dependent, have all been transferred to section 21(1) of the 1948 Act. Further guidance on the provision of alcohol and drug services within community care is contained in LAC(93)2.

#### **Effective Date**

14. The Approvals and Directions are effective from 1 April 1993.

#### **Cancellation of Circulars**

15. This circular cancels LAC13/74, LAC19/74, LAC(74)28, LAC17/74, LAC(74)37 and LAC(78)20. It also cancels Annexes 1 and 2 of LAC(91)12. Authorities should note however the saving provision contained in paragraph 6(3) of Appendix 1 to this circular in relation to the directions contained in Annexes 1 and 2 of Circular LAC(91)12.

#### **Enquiries**

16. Enquiries about this circular should be made to CS1 Division, Department of Health on 071 972 4237.

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**SECRETARY OF STATE'S APPROVALS AND DIRECTIONS  
UNDER SECTION 21(1) OF THE NATIONAL ASSISTANCE ACT  
1948**

The Secretary of State for Health, in exercise of the powers conferred on her by section 21(1) of the National Assistance Act 1948<sup>1</sup>, hereby makes the following Approvals and Directions:-

**Commencement, interpretation and extent**

1.-(1) These Approvals and Directions shall come into force on 1st April 1993.

(2) In these Approvals and Directions, unless the context otherwise requires, "the Act" means the National Assistance Act 1948.

(3) The Interpretation Act 1978<sup>2</sup> applies to these Approvals and Directions as it applies to an Act of Parliament.

(4) These Approvals and Directions shall apply only to England and Wales.

**Residential accommodation for persons in need of care and attention**

2.-(1) The Secretary of State hereby-

(a) approves the making by local authorities of arrangements under section 21(1)(a) of the Act in relation to persons with no settled residence and, to such extent as the authority may consider desirable, in relation to persons who are ordinarily resident in the area of another local authority, with the consent of that other authority; and

(b) directs local authorities to make arrangements under section 21(1)(a) of the Act in relation to persons who are ordinarily resident in their area and other persons who are in urgent need thereof,

to provide residential accommodation for persons aged 18 or over who by reason of age, illness, disability or any other circumstance are in need of care and attention not otherwise available to them.

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<sup>1</sup> 1948 c.29; amended by paragraph 2(1) of Schedule 23 to the Local Government Act 1972 (c.70) and section 42(1) of the National Health Service and Community Care Act 1990 (c.19).

<sup>2</sup> 1978 c.30.

(2) Without prejudice to the generality of sub-paragraph (1), the Secretary of State hereby directs local authorities to make arrangements under section 21(1)(a) of the Act to provide temporary accommodation for persons who are in urgent need thereof in circumstances where the need for that accommodation could not reasonably have been foreseen.

(3) Without prejudice to the generality of sub-paragraph (1), the Secretary of State hereby directs local authorities to make arrangements under section 21(1)(a) of the Act to provide accommodation—

(a) in relation to persons who are or have been suffering from mental disorder, or

(b) for the purposes of the prevention of mental disorder,

for persons who are ordinarily resident in their area and for persons with no settled residence who are in the authority's area.

(4) Without prejudice to the generality of sub-paragraph (1) and subject to section 24(4) of the Act<sup>1</sup>, the Secretary of State hereby approves the making by local authorities of arrangements under section 21(1)(a) of the Act to provide residential accommodation—

(a) in relation to persons who are or have been suffering from mental disorder; or

(b) for the purposes of the prevention of mental disorder,

for persons who are ordinarily resident in the area of another local authority but who following discharge from hospital have become resident in the authority's area;

(5) Without prejudice to the generality of sub-paragraph (1), the Secretary of State hereby approves the making by local authorities of arrangements under section 21(1)(a) of the Act to provide accommodation to meet the needs of persons for—

(a) the prevention of illness;

(b) the care of those suffering from illness; and

(c) the aftercare of those so suffering.

(6) Without prejudice to the generality of sub-paragraph (1), the Secretary of State hereby approves the making by local authorities of arrangements under section 21(1)(a) of the Act specifically for persons who are alcoholic or drug-dependent.

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<sup>1</sup> Amended by section 195(6) of paragraph 2(2) of Schedule 23 to the Local Government Act 1972.

**Residential accommodation for expectant and nursing mothers**

3. The Secretary of State hereby approves the making by local authorities of arrangements under section 21(1)(aa) of the Act<sup>1</sup> to provide residential accommodation (in particular mother and baby homes) for expectant and nursing mothers (of any age) who are in need of care and attention which is not otherwise available to them.

**Arrangements to provide services for residents**

4. The Secretary of State hereby directs local authorities to make arrangements in relation to persons provided with accommodation under section 21(1) of the Act for all or any of the following purposes—

- (a) for the welfare of all persons for whom accommodation is provided;
- (b) for the supervision of the hygiene of the accommodation so provided;
- (c) to enable persons for whom accommodation is provided to obtain—
  - (i) medical attention
  - (ii) nursing attention during illnesses of a kind which are ordinarily nursed at home, and
  - (iii) the benefit of any services provided by the National Health Service of which they may from time to time be in need,

but nothing in this paragraph shall require a local authority to make any provision authorised or required to be provided under the National Health Service Act 1977<sup>2</sup>;

- (d) for the provision of board and such other services, amenities and requisites provided in connection with the accommodation, except where in the opinion of the authority managing the premises their provision is unnecessary<sup>3</sup>;
- (e) to review regularly the provision made under the arrangements and to make such improvements as the authority considers necessary.

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<sup>1</sup> Inserted by section 42(1) of the National Health Service and Community Care Act 1990.

<sup>2</sup> See section 21(8) of the Act, as amended by section 66(1) and (2) of, and paragraph 5(3) of Schedule 9 and Schedule 10 to, the National Health Service and Community Care Act 1990.

<sup>3</sup> See section 21(5) of the Act; see also section 26(4A) of the Act, inserted by section 66(1) of and paragraph 5(5)(b) of Schedule 9 to the National Health Service and Community Care Act 1990.

**Arrangements for the conveyance of residents**

5. The Secretary of State hereby approves the making by local authorities of arrangements under section 21(1) of the Act to provide, in such cases as the authority considers appropriate, for the conveyance of persons to and from premises in which accommodation is provided for them under Part III of the Act.

**Duties in respect of residents in transferred accommodation**

6.—(1) Where a person is provided with accommodation pursuant to section 21(1) of the Act, and—

- (a) the residential accommodation is local authority accommodation provided pursuant to section 21(4) of the 1948 Act<sup>1</sup>;
- (b) the local authority transfer the management of the residential accommodation to a voluntary organisation who—
  - (i) manages it as a residential care home within the meaning of Part I of the Registered Homes Act 1984<sup>2</sup>, and
  - (ii) is registered under that Part or is not required to be so registered by virtue of being an exempt body; and
- (c) the person is accommodated in the residential accommodation immediately before and after the transfer,

while that person remains accommodated in that residential accommodation, the local authority shall remain under a duty to make arrangements to provide accommodation for him after any transfer to which paragraph (b) of this sub-paragraph refers.

(2) For the purposes of paragraph (c) of sub-paragraph (1), a person shall be regarded as accommodated in residential accommodation if—

- (a) he is temporarily absent from such accommodation (including circumstances in which he is in hospital or on holiday);
- (b) before 1st April 1993, that accommodation was provided under paragraph 2(1) of Schedule 8 to the National Health Service Act 1977<sup>3</sup>.

(3) Where immediately before these Approvals and Directions come into force a local authority was under a duty to provide a person with accommodation by virtue of—

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<sup>1</sup> Amended by section 195(6) of and paragraph 2(1) of Schedule 23 to the Local Government Act 1972, and section 66(1) of and paragraph 5(1) of Schedule 9 to the National Health Service and Community Care Act 1990.

<sup>2</sup> 1984 c.23.

<sup>3</sup> As amended by section 148 of and paragraph 47 of Schedule 4 to the Mental Health Act 1983 (c.20).



- (a) the Secretary of State's former Directions under Section 21(1) of the National Assistance Act 1948 contained in Annex 1 of Department of Health Circular LAC(91)12; or
- (b) the Secretary of State's former Directions under paragraph 2 of Schedule 8 to the National Health Service Act 1977 contained in Annex 2 of Department of Health Circular LAC(91)12,

while that person remains accommodated in that residential accommodation, the local authority shall remain under a duty to make arrangements to provide that person with accommodation from the date on which these Directions come into force.

**Powers to make arrangements with other local authorities and voluntary organisations etc.**

7. For the avoidance of doubt, these Approvals and Directions are without prejudice to any of the powers conferred on local authorities by section 21(4) and section 26(1) of the Act<sup>1</sup> (arrangements with voluntary organisations etc.).

Dated 17/3/1993

ANN DE PEYER  
Signed on behalf of the  
Secretary of State for Health

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<sup>1</sup> Section 26(1) of the Act was substituted by a new subsection (1) for that section contained in section 1(1) of the Community Care (Residential Accommodation) Act 1992 (c.49).

**SECRETARY OF STATE'S APPROVALS AND DIRECTIONS  
UNDER SECTION 29(1) OF THE NATIONAL ASSISTANCE ACT  
1948**

The Secretary of State for Health, in exercise of the powers conferred on her by section 29(1) of the National Assistance Act 1948<sup>1</sup>, hereby makes the following Approvals and Directions:—

**Commencement, interpretation and extent**

1.—(1) These Approvals and Directions shall come into force on 1st April 1993.

(2) In these Approvals and Directions, unless the context otherwise requires, “the Act” means the National Assistance Act 1948.

(3) The Interpretation Act 1978<sup>2</sup> applies to these Approvals and Directions as it applies to an Act of Parliament.

(4) These Approvals and Directions shall apply only to England and Wales.

**Powers and duties to make welfare arrangements**

2.—(1) The Secretary of State hereby approves the making by local authorities of arrangements under section 29(1) of the Act for all persons to whom that subsection applies and directs local authorities to make arrangements under section 29(1) of the Act in relation to persons who are ordinarily resident in their area for all or any of the following purposes—

- (a) to provide a social work service and such advice and support as may be needed for people in their own homes or elsewhere;
- (b) to provide, whether at centres or elsewhere, facilities for social rehabilitation and adjustment to disability including assistance in overcoming limitations of mobility or communication;
- (c) to provide, whether at centres or elsewhere, facilities for occupational, social, cultural and recreational activities and, where appropriate, the making of payments to persons for work undertaken by them<sup>3</sup>;

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<sup>1</sup> 1948 c.29; amended by section 113(1) of the Schedule 4 to the Mental Health (Scotland) Act 1960 (c.61), section 195(6) of and paragraph 2(4) of Schedule 23 to the Local Government Act 1972 (c.70), and section 108(5) of and paragraph 11 of Schedule 13 to the Children Act 1989 (c.41).

<sup>2</sup> 1978 c.30.

<sup>3</sup> See section 29(4)(d) and (6)(a) of the Act.

(2) The Secretary of State hereby directs local authorities to make the arrangements referred to in section 29(4)(g) of the Act (compiling and maintaining registers) in relation to persons who are ordinarily resident in their area.

(3) The Secretary of State hereby approves the making by local authorities of arrangements under section 29(1) of the Act for all persons to whom that subsection applies for the following purposes—

- (a) to provide holiday homes;
- (b) to provide free or subsidised travel for all or any persons who do not otherwise qualify for travel concessions, but only in respect of travel arrangements for which concessions are available;
- (c) to assist a person in finding accommodation which will enable him to take advantage of any arrangements made under section 29(1) of the Act;
- (d) to contribute to the cost of employing a warden on welfare functions in warden assisted housing schemes;
- (e) to provide warden services for occupiers of private housing.

(4) Save as is otherwise provided for under this paragraph, the Secretary of State hereby approves the making by local authorities of all or any of the arrangements referred to in section 29(4) of the Act<sup>1</sup> (welfare arrangements etc.) for all persons to whom section 29(1) applies.

#### **Welfare arrangements with another local authority**

3. The Secretary of State hereby approves the making by local authorities of arrangements under section 29(1) of the Act, where appropriate, with another local authority for the provision of any of the services referred to in these Approvals and Directions.

#### **Welfare arrangements with voluntary organisations and otherwise**

4. For the avoidance of doubt, these Approvals and Directions are without prejudice to the powers conferred on local authorities by section 30(1) of the Act<sup>2</sup> (voluntary organisations for disabled persons welfare).

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<sup>1</sup> Amended by the section 14(1) of and paragraph 3 of Schedule 3 to the Employment and Training Act 1973 (c.50), and section 44(7) of the National Health Service and Community Care Act 1990 (c.19).

<sup>2</sup> Amended by section 195(6) of and paragraph 2(5) of Schedule 23 to Local Government Act 1972 (c.70), and section 42(6) of the National Health Service and Community Care Act 1990.

**C 146**

**DEPARTMENTAL CIRCULARS**

**Dated 17/3/1993**

**ANN DE PEYER**  
**Signed on behalf of the**  
**Secretary of State for Health**

**ISSUE No. 12**

**SECRETARY OF STATE'S APPROVALS AND DIRECTIONS  
UNDER PARAGRAPHS 1 AND 2 OF SCHEDULE 8 TO THE  
NATIONAL HEALTH SERVICE ACT 1977**

The Secretary of State for Health, in exercise of the powers conferred on her by paragraphs 1(1) and 2(1) of Schedule 8 to the National Health Service Act 1977<sup>1</sup>, hereby makes the following Approvals and Directions:—

**Commencement, interpretation and extent**

1.—(1) These Approvals and Directions shall come into force on 1st April 1993.

(2) In these Approvals and Directions, unless the context otherwise requires, “the Act” means the National Health Service Act 1977.

(3) The Interpretation Act 1978<sup>2</sup> applies to these Approvals and Directions as it applies to an Act of Parliament.

(4) For the avoidance of doubt, these Approvals and Directions apply only to England and Wales.

**Services for expectant and nursing mothers**

2. The Secretary of State hereby approves the making of arrangements under paragraph 1(1) of Schedule 8 to the Act for the care of expectant and nursing mothers (of any age) other than the provision of residential accommodation for them.

**Services for the purpose of the prevention of illness etc.**

3.—(1) The Secretary of State hereby approves the making by local authorities of arrangements under paragraph 2(1) of Schedule 8 to the Act for the purpose of the prevention of illness, and the care of persons suffering from illness and for the aftercare of persons who have been so suffering and in particular for—

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<sup>1</sup> 1977 c.49; paragraph 1(1) was amended by section 237 of and paragraph 22 of Schedule 12 to the Education Reform Act 1988 (c.40), section 108(7) of and Schedule 15 to the Children Act 1989 (c.41), and section 66(1) of and paragraph 14(a) of Schedule 9 to the National Health Service and Community Care Act 1990 (c.19); and paragraph 2(1) was amended by section 148 of and paragraph 47 of Schedule 4 to the Mental Health Act 1983 (c.20), and section 66(1) and (2) of, and paragraph 14(b)(i) of Schedule 9 and Schedule 10 to, the National Health Service and Community Care Act 1990.

<sup>2</sup> 1978 c.30.

- (a) the provision, for persons whose care is undertaken with a view to preventing them becoming ill, persons suffering from illness and persons who have been so suffering, of centres or other facilities for training them or keeping them suitably occupied and the equipment and maintenance of such centres;
  - (b) the provision, for the benefit of such persons as are mentioned in paragraph (a) above, of ancillary or supplemental services.
- (2) The Secretary of State hereby directs local authorities to make arrangements under paragraph 2(1) of Schedule 8 to the Act for the purposes of the prevention of mental disorder, or in relation to persons who are or who have been suffering from mental disorder—
- (a) for the provision of centres (including training centres and day centres) or other facilities (including domiciliary facilities), whether in premises managed by the local authority or otherwise, for training or occupation of such persons;
  - (b) for the appointment of sufficient social workers in their area to act as approved social workers for the purposes of the Mental Health Act 1983<sup>1</sup>;
  - (c) for the exercise of the functions of the authority in respect of persons suffering from mental disorder who are received into guardianship under Part II or III of the Mental Health Act 1983 (whether the guardianship of the local social services authority or of other persons);
  - (d) for the provision of social work and related services to help in the identification, diagnosis, assessment and social treatment of mental disorder and to provide social work support and other domiciliary and care services to people living in their homes and elsewhere.
- (3) Without prejudice to the generality of sub-paragraph (1), the Secretary of State hereby approves the making by local authorities of arrangements under paragraph 2(1) of Schedule 8 to the Act for the provision of—
- (a) meals to be served at the centres or other facilities referred to in sub-paragraphs (1)(a) and (2)(a) above and meals-on-wheels for house-bound people not provided for—
    - (i) under section 45(1) of the Health Services and Public Health Act 1968<sup>2</sup>, or
    - (ii) by a district council under paragraph 1 of Part II of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983<sup>3</sup>;

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<sup>1</sup> 1983 c.20.

<sup>2</sup> 1968 c.46; amended by S.I. 1968/1699. See Paragraph 4(a) of Department of Health and Social Security Circular No. 19/71.

<sup>3</sup> 1983 c.41.

- (b) remuneration for persons engaged in suitable work at the centres or other facilities referred to in sub-paragraphs (1)(a) and (2)(a) above, subject to paragraph 2(2)(a) of Schedule 8 to the Act<sup>1</sup>;
- (c) social services (including advice and support) for the purposes of preventing the impairment of physical or mental health of adults in families where such impairment is likely, and for the purposes of preventing the break-up of such families, or for assisting in their rehabilitation;
- (d) night-sitter services;
- (e) recuperative holidays;
- (f) facilities for social and recreational activities;
- (g) services specifically for persons who are alcoholic or drug-dependent.

**Services made available by another local authority etc.**

4. For the purposes of any arrangements made under these Approvals and Directions, the Secretary of State hereby approves the use by local authorities of services or facilities made available by another authority, voluntary body or person on such conditions as may be agreed, but in making such arrangements, a local authority shall have regard to the importance of services being provided as near to a person's home as is practicable.

Dated 17/3/1993

ANN DE PEYER  
Signed on behalf of the  
Secretary of State for Health

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<sup>1</sup> As amended by section 108(7) of and Schedule 15 to the Children Act 1989.

## LAC(93)10 APPENDIX 4

### SECTION 29 OF THE NATIONAL ASSISTANCE ACT 1948— REGISTRATION PRACTICE AND RELATED STATISTICS

1. The guidance contained in this Appendix was previously contained in Local Authority Circulars 25/61 (dated 14 September 1961) 17/74 (dated 18 March 1974), (7437 (dated 30 December 1974) and (78)20 (dated 9 October 1978). This circular updates, but does not significantly change, the guidance contained in the earlier documents.

#### General

2. For certain statutory purposes unconnected with section 29 of the National Assistance Act, 1948\* provision needs to be made for the registration of persons to whom that section applies. The keeping of registers is therefore included in those arrangements which are the subject of the direction given in Appendix 2 of this Circular. For the purposes of planning and providing services authorities will also wish to keep a record of persons to whom the section applies—both those who are receiving services and those who at some future date may be in need of help—and in the view of the Department it will be convenient for these records to be designated registers. In this way a single set of records can assist authorities in planning their services and also provide the means for establishing the eligibility of individuals for certain benefits not deriving from section 29. The form of registers is not prescribed and the Department hopes that this will enable authorities to keep registers in whatever form and by whatever method will most readily meet their operational requirements. As indicated in paragraph 10 below the Department's annual statistical returns relating to persons to whom section 29 applies will continue to be based on information included in registers.

3. Authorities should note, however, that once it is established that a person comes within the scope of section 29, the giving of assistance under that section as extended by Section 2 of the Chronically Sick and Disabled Persons Act 1970, is not dependent on formal registration—ie registration is not a pre-requisite to giving assistance. If, therefore, a person has indicated a specific wish not to have their name included in the formal register this wish must be respected and such assistance should not on that account be withheld. The Department hopes, how-

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\* Various benefits for blind persons are dependent on registration—notably an allowance set against income tax. More generally registration under section 29 may have a significance for the purposes of the Housing Finance Act 1972 and the Furnished Lettings (Rent Allowances) Act 1973.



ever, that the person concerned will be made aware that registration is no more than a routine process of record keeping. Furthermore, it will only be fair to explain that normal administrative practice requires that a written record is kept of anyone to whom help is given, or in respect of whom information is kept by the authority in case they should at some future date require help. If the nature of registration is explained in this way the Department hopes that the number of people specifically expressing a wish not to have their names included on the register will be small.

4. Authorities are reminded that registration under section 29 is entirely distinct from registration as a disabled person by the Department of Employment under the Disabled Persons (Employment) Acts 1944 and 1958. It would be helpful if authorities would avoid the use of the term "disabled person" in relation to registration under section 29 and use instead the phrase "registered as a handicapped person" or a similar phrase. In addition, where any document is separately issued conforming registration under section 29, and where that document is not confined to a particular and specified purpose (eg in relation to blind persons, for a reduced television licence fee) it would be helpful if that document could bear a note indicating that it is issued pursuant to section 29 of the 1948 Act and has no significance in relation to the Disabled Persons (Employment) Acts.

#### **Criteria for determining whether or not a person comes within the scope of Section 29**

5. As indicated above, once it has been established that a person comes within the scope of section 29, the matter of registration in no way affects eligibility to receive help—in other words the material question in determining that eligibility is whether, for the purposes of section 29, the person is to be regarded as having a hearing, vision or speech impairment or is substantially and permanently handicapped by illness, injury or congenital deformity. The following paragraphs concern the interpretation of these terms. From 1 April 1974, a local authority requiring medical advice over registration has consulted the District Health Authority which has been, and remains, responsible for arranging for such advice to be given and for meeting any charges that may arise.

#### **Visually impaired people**

6. There are well established procedures for determining whether a visually impaired person is blind or partially sighted and thus whether the terms of section 29(1)—and registration—apply. Authorities are asked to note that the effective date of registration should be the same as that of certification. This is to obviate the risk that delay in regis-

tration will adversely affect the blind person's eligibility for certain benefits not related to section 29.

### **Hearing impaired people**

7. There are no formal examination procedures for determining whether a person is deaf or hard of hearing for the purposes of section 29, and there is no intention of introducing any new procedure in this respect.

### **Handicapped people in the general classes**

8. It is convenient to continue to use the term "General Classes" to apply to those persons within the scope of section 29 whose primary handicap is neither visual nor auditory. It has not proved possible to give precise guidance on the interpretation of the phrase "substantially and permanently handicapped". However, as hitherto, authorities are asked to give a wide interpretation to the term "substantial", which the Department fully recognises must always take full account of individual circumstances. With regard to the term "permanent", authorities will also wish to interpret this sufficiently flexibly to ensure that they do not feel inhibited from giving help under section 29 in cases where they are uncertain of the likely duration of the condition.

### **Guidance on registration practice and the collection of statistics**

9. As indicated in paragraph 2, authorities are free to choose the method or form of registration which will most readily meet their operational requirements. Depending on the form of register adopted, authorities may find it convenient to have separate sections for each of the groups of persons to whom section 29 applies as follows:—

- Blind
- Partially sighted
- Deaf with speech
- Deaf without speech
- Hard of hearing
- General classes (ie those persons coming within the scope of Section 29 whose primary handicap is neither visual nor auditory).

Subject to what is said in paragraph 10 below national statistics will continue to relate separately to these groups.

10. Authorities will wish to consider what information to include in registers for their own purposes. For the purpose of compiling national statistics the Department will seek information about the age of all persons registered, subject to what is said in paras 13–14 below about

mentally disordered persons. In respect of particular classes, additional information will be sought as follows:—

- a. *Blind and partially sighted*: The Local Authority Social Services letter, LASSL (90)1, dated January 1990, announced changes to form BD8 concerning the *certification* of blind and partially sighted persons. The provisions of LASSL(90)1 remain in force, and forms BD8 should continue to be sent to SSDs and to OPCS as appropriate.

Information on those aged over 65 and *registered* with authorities as blind will continue to be collected for every three years on form SSDA 902.

- b. *Hearing Impaired People*—It is proposed that the register should continue to be maintained in accordance with the guidance contained at Annex 2 to this Appendix.
- c. *General class*—since 1 April 1974 the Department discontinued the collection of data into the formerly defined ten categories of impairment, wished. From the year ending 31 March 1976, authorities have been asked to provide data as follows:

- (i) very severe handicap (ie broadly people in categories 1–3 as used in the Report “Handicapped and Impaired in Great Britain”)

- (ii) severe or appreciable handicap (ie broadly people in categories 4–6\* as used in the Report “Handicapped and Impaired in Great Britain”)

- (iii) other persons (eg including those suffering from a less severe heart or chest condition or from epilepsy).

11. At present the Department is not collecting information on the kind of “help” provided to those registered with the authority. (“Help” is meant to cover the giving of any specific help or the involvement of social work time) but authorities may wish to retain the collection of this information.

12. Authorities are reminded that the value, both locally and nationally, of registers and related statistics will be lessened if registers are not kept up to date. It is desirable to regularly review the information held and to remove the names of those who, for any reason, should no longer be included. The continued co-operation of authorities in providing information to the Department is appreciated.

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\* For convenience the six categories are shown in Annex 1 to this Appendix.

**Persons suffering from a mental disorder within the meaning of the Mental Health Act 1983**

13. Under the Mental Health Act 1983 persons suffering from a mental disorder came within the ambit of section 29 of the National Assistance Act 1948. The Chronically Sick and Disabled Persons Act 1970 (particularly sections 1 and 2) applies to the mentally disordered as well as to the physically handicapped. Local authority social services for the mentally disordered are generally provided under section 12 of the Health Services and Public Health Act and not under section 29 of the National Assistance Act.

14. Mentally disordered persons should be regarded as coming within the general class of handicapped persons but where they are registered they should be separately identified. (This applies only to persons whose sole disability is a mental disorder; those suffering also from a significant physical handicap should be registered on that account). As the number of mentally disordered persons who may be expected to register for purposes of the Housing Finance Act is likely to be only a small proportion of all mentally disordered persons known to local authorities, there would be little value in compiling detailed national statistics of those who register. Form SSDA 911, the triennial return on the General Classes of the Register of Handicapped Persons, specifically excludes all those who are registered solely on the grounds of mental disorder. Authorities will be expected to avoid making any overt difference in their handling of questions of registration between people who are mentally disordered and those who are not.

**ANNEX 1 to APPENDIX 4  
of LAC(93) 10**

**Extract from the Report "Handicapped and Impaired in Great Britain"**

- Category 1 includes those who need help going to or using the WC practically every night. In addition, most of those in this group need to be fed and dressed or, if they can feed and/or dress themselves, they need a lot of help during the day with washing and WC, or are incontinent.
- Category 2 includes those who need help with the WC during the night but not quite so much help with feeding, washing, dressing, *or*, while not needing night-time help with the WC need a great deal of day-time help with feeding and/or washing and the WC.
- Category 3 includes those who are permanently bedfast or confined to a chair and need help to get in and out, or are senile or mentally impaired, or are not able to care for themselves as far as normal everyday functions are concerned, but who do not need as much help as categories 1 and 2.
- Category 4 includes those who either have difficulty doing everything, or find most things difficult and some impossible.
- Category 5 includes those who find most things difficult, or three or four items difficult and some impossible.
- Category 6 includes those who can do a fair amount for themselves but have difficulty with some items, or have to have help with one or two minor items.

**ANNEX 2 to APPENDIX 4  
of LAC(93) 10**

**MINISTRY OF HEALTH CIRCULAR 25/61**

*National Assistance Act, 1948  
Welfare Services for the Deaf*

1. I am directed by the Minister of Health to say that his Advisory Committee on the Health and Welfare of Handicapped Persons have considered the recommendations concerning welfare services for the deaf in the Report of the Working Party on Social Workers in the Local Authority Health and Welfare Services (The "Younghusband Report").

**Revision of Definitions of Deaf and Hard-of-Hearing**

2. Paragraph 277 of the Report noted the desirability of revising the present definitions of the deaf and the hard-of-hearing, as contained in the notes on Clause 1(3) of the outline scheme for deaf or dumb persons (Part II of Appendix 1 of Circular 32/51). The Advisory Committee agree that the great advances made in the last four or five years, both in design of electronic hearing aids and in the ascertainment and auditory training of very young deaf children, have rendered out of date much of the descriptive matter applied to the deaf in Circular 32/51. They recommend that in future all persons who suffer from a disabling loss of hearing should be regarded as forming a single class which for registration for welfare services should be sub-divided on the following lines, according to the person's present condition and needs rather than according to the origin of his disability:—

**Deaf without speech:** Those who have no useful hearing and whose normal method of communication is by signs, finger spelling or writing.

**Deaf with speech:** Those who (even with a hearing aid) have little or no useful hearing but whose normal method of communication is by speech and lip-reading.

**Hard-of-hearing:** Those who (with or without a hearing aid) have some useful hearing and whose normal method of communication is by speech, listening and lip-reading.

3. The Minister hopes that local authorities will in future adopt those definitions. They will involve no alterations to approved schemes for the deaf or dumb. (The notes on the outline scheme contained in Appendix I of Circular 32/51 should, however, be read in conjunction with this circular.)

### **The Register**

4. From 1 January 1962, registers should be maintained in the three revised categories set out in paragraph 2 above, and each category subdivided into sexes and into the three age groups (children under age 16, persons aged 16 to 64 and persons aged 65 and over) in which the numbers on the register are already supplied to the Department at 31 December each year. Authorities should continue to record such general information as will help them to determine the type and degree of welfare assistance necessary in the best interests of the handicapped person.

### **Future development of services**

5. The future development of all local health and welfare services must be considered in the light of what is said in Circular 21/61 on the economic situation. That circular contemplates the continued expansion of community care. It is an important part of this to develop the capacities of the handicapped to the fullest possible extent, and enable them to live as nearly as possible an independent life in the community.

6. Paragraph 10 of Circular 10/61, which dealt with the Younghusband Report, referred in particular to services for the deaf. The attention of authorities is particularly drawn to the recommendations in paragraph 693 of the Report, which, if acted on, will help to bring the welfare services for the deaf and hard-of-hearing into closer touch with other welfare services:

- i. Some welfare officers in each area should learn to make adequate contact with the deaf people for whose welfare they are responsible.
- ii. A casework service should be provided for the deaf people who need it, even if this must be attempted through an interpreter at first. This should be developed as trained staff become available.
- iii. Clubs or social activities can be an important part in the life of the deaf. Voluntary organisations are often willing to provide them or assist in running them and local authorities may themselves be able to fill any gaps.

7. It is hoped that authorities will arrange for welfare officers concerned with the care of the deaf to visit hospitals and local health authority deaf diagnostic and training clinics, and also special schools and classes for the deaf and partially deaf, in order to widen their knowledge of deafness and of how deaf people can be helped. When dealing with the deaf without speech, it is of great importance that the welfare officer should be skilled in interpretation and have a thorough understanding of their special needs.

8. Authorities should ensure that in the services which local government provides or can influence, due attention is given to the availability of appropriate facilities for the deaf.

9. The Minister suggests that authorities should devote particular attention to the needs of the increasing group of the deaf with speech. The needs of this group differ in a number of ways from those met by the services traditionally provided for the deaf. For a long time to come, the group will consist largely of younger people who need facilities for continued auditory training and speech practice and whose other welfare needs are similar to those of the hard of hearing. In planning to meet them, welfare officers should seek the co-operation of youth employment officers, education officers and others concerned with the welfare of young people, as suggested in paragraph 998 of the Report. At least one large authority has found that adults who are deaf with speech or hard-of-hearing have benefitted substantially from auditory training and speech practice at classes provided at an establishment of further education.

10. The deaf and hard-of-hearing of all ages (excluding adults medically diagnosed as suffering from permanent total deafness) should be encouraged to seek periodic reassessment of hearing and helped to appreciate the importance of persevering with medical treatment. Perseverance, too, is necessary before a person supplied with a hearing aid becomes fully adjusted to its use; and where there is any doubt whether they are making proper use of it, they should be urged to seek advice. Those dependent on lip-reading as their main means of communication should also be encouraged to seek periodic reassessment of vision.

11. Local authorities providing their own services for the deaf will realise that some can better be provided by voluntary organisations. Spiritual ministrations to the deaf is an outstanding example. The Minister is sure that local authorities work in close collaboration with bodies able to supplement the local authorities' own services in these and other ways.