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Executive summary

Social Services and Well-being (Wales) Act 2014 –
Consultation on the Regulations and code of
practice in relation to Part 6 (Looked After and
Accommodated Children) of the Act

Date of issue: **8 May 2015**

Action required: Responses by **31 July 2015**

The Social Services and Well-being (Wales) Act 2014

The Social Services and Well-being (Wales) Act 2014 forms the basis for a new statutory framework for social care in Wales.

Ministers have made it clear that they wish the core elements of this framework to be in place for April 2016, when the Act will be implemented.

The framework will consist of three main elements, the Act itself, regulations made under the Act, and codes of practice/statutory guidance. These three elements work together to form the framework within which social services will operate from April 2016.

The process of making codes and regulations under the Act

The regulations, codes and statutory guidance have been developed through a consultative process with key stakeholders and are now presented to stakeholders across Wales for their input.

The consultation on and laying of the Regulations to be made under the Act will be conducted principally in two tranches. The first tranche was made available for a 12-week public consultation starting in November 2014. This second tranche consultation exercise will run from May to July 2015. The intention is to lay this second tranche of regulations before the Assembly in November 2015, which will provide the health and social care sector the maximum amount of time to adjust to the new requirements ahead of implementation in 6 April 2016.

What the second tranche of regulations and codes of practice covers

The second tranche will create a system that secures outcomes for looked after and accommodated children, drives regional collaboration, and puts in place a system of charging, financial assessment and paying for care. It will also support the provision of advocacy.

Coverage of the code of practice and regulations in relation to Part 6 of the Act

Part 6 of the Social Services and Well-being (Wales) Act largely replaces Part 3 of the Children Act 1989. It deals specifically with children who are looked after by the local authority, whether they are in the formal care system or voluntarily accommodated by the local authority. Provision for children who are not looked after, but who have care and support needs, is covered by Parts 3 and 4 of the Act, which deal with assessing and meeting the needs of

people who need care and support, whilst matters relating to Complaints, Representations and Advocacy Services are dealt with under Part 10 of the Social Services and Well-being (Wales) Act.

The Welsh Government is consulting on the following sets of regulations:

- The Care Planning, Placement and Case Review (Wales) Regulations 2015
- The Care Leavers (Wales) Regulations 2015
- The Visits to Children in Detention (Wales) Regulations 2015
- The Children (Secure Accommodation) (Wales) Regulations 2015

These regulations take account of changes to the Children Act 1989 that were made by the Children and Young Person's Act 2008. The Welsh Government had not remade regulations or enhanced the suite of guidance previously, in anticipation of the making of the Social Services and Well-being (Wales) Act.

The regulations make clear the new duties on local authorities in respect of post 18 placements for care leavers with their former foster carers. Regulations also place duties on local authorities to visit all children sentenced to custody in the secure estate; in particular this includes children and young people who were not known to social services prior to sentencing. They also give effect to provisions in the Legal Aid Sentencing and Punishment of Offenders Act that make all children remanded to the secure estate 'looked after'.

Code of practice

The code of practice for part 6 will replace guidance under Volumes 2 and 3 of the Children Act 1989, the Children (Leaving Care) Act 2000 guidance, The Visits to Children in Detention guidance and the Independent Reviewing Officers Guidance Wales.

The code of practice has eight chapters, covering care and support planning, placements, contact and visits, reviews, arrangements for leaving care, post-18 living arrangements, secure accommodation, and accommodation in other types of establishment.

Chapter 1 deals with care and support planning and covers the duties of local authorities in relation to care and support plans and the court care plan including health and education plans for those children who are looked after by a local authority.

Chapter 2 deals with placements of looked after children, and how they are to be accommodated and maintained. It covers placements with a parent or person with parental responsibility (where this is possible and appropriate); foster placements, either with a relative, friend or other person connected with the child, or with another local authority foster carer; and placement in

children's homes. It sets out the factors a local authority must take into account when deciding which placement best meets a child's needs, including the need to avoid disrupting the child's education, especially if the child is in Key Stage 4. There is guidance on what information about the placement needs to be recorded in the child's care and support plan, on who needs to be notified about the placement, and when and how placements are to be terminated.

The chapter also contains guidance on the panel arrangements to be put in place when considering an out-of-county placement or a placement in another part of the UK.

Chapter 3 provides guidance on the requirement that a local authority representative visits a looked after child during a placement. This covers the purpose of such visits (i.e. the outcomes they are to achieve for the child), the frequency of visits, and how they are to be conducted and recorded.

The chapter also sets out when a local authority needs to consider appointing an independent visitor for a looked after child, and the procedures to be followed when a visitor is appointed.

Chapter 4 deals with the review of cases, the role and function of independent reviewing officers (IROs).

Chapter 5 of the code of practice sets out the arrangements for children and young people who are leaving care, including the pathway planning process which begins when a looked after child is about to turn 16, the role of personal advisers, and the various other types of support which must be given to care leavers up to the age of 25. It explains the various categories of care leavers defined in the Act, and the level and types of support available to care leavers in each category. This includes support with transition to adulthood and independent living skills, help with finding suitable accommodation, and support with further or higher education and training.

Chapter 6 explains the new duty that local authorities have under the Act to facilitate post-18 living arrangements for care leavers aged 18 and above who wish to continue living with their former foster carers. These are known, in Wales, as 'When I am Ready' arrangements. The chapter sets out the aims and objectives of the 'When I am Ready' scheme and the desired outcomes for young people and carers. It explains eligibility for the scheme, and the nature and duration of 'When I am Ready' arrangements. It gives guidance to local authorities on developing their local schemes, and how to prepare for and manage post-18 living arrangements.

Chapter 7 sets out the framework for accommodating children and young people in secure children's homes, where this is necessary to keep the child

or the public safe, including the maximum period for which a child may be held without court authority.

Chapter 8 deals with children who are accommodated in other types of establishment other than secure children's homes. This requires local authorities to assess children who are accommodated by health authorities or education authorities or in care homes or independent hospitals, and to arrange visits and services to these children as necessary.