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## Consultation – summary of responses

# Regulations and code of practice in relation to Part 6 of the Act

Date of issue: December 2015

# Regulations and code of practice in relation to Part 6 of the Act - Consultation Summary

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## **Section 1**

### **Introduction**

The Social Services and Well-being (Wales) Act 2014 (“the Act”) received Royal Assent on 1 May 2014. The Act forms the basis of the new statutory framework for social care in Wales.

A consultation was held on the proposals for regulations and codes of practice in relation to Part 6 of the Act on looked after children. The consultation period ran from 8 May 2015 to 31 July 2015.

The consultation document was distributed to:

- Association of Directors of Social Services (ADSS) Cymru
- Children's commissioner
- Older People's Commissioner
- Wales Community Rehabilitation Company (CRC) Wales
- Royal College of General Practitioners (RCGP) Secure Estate Improvement Network
- Welsh Medical Committee
- College of Occupational Therapists
- Care Council for Wales
- British Association of Social Workers (BASW) Cymru

In total 45 responses were received. A list of recipients is attached at Annex A. A summary of consultation responses together with the Welsh Government's response can be found in Section 2.

### **Background**

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

The statutory 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 consultation on and laying of, the Regulations to be made under the Act is being conducted principally in two tranches. This consultation formed part of the second tranche. The intention is to lay these regulations before the Assembly from

November 2015 to give the health and social care sector the maximum amount of time to adjust to the new requirements ahead of implementation in April 2016.

### **The evidence for change**

Social services are at the heart of Welsh public life. They support 150,000 young, old and disabled people every year to achieve their potential and help make them safe. Many of these services are delivered in partnership with others, including housing, health and education services. Society is changing and social services must change in response. There has been and will continue to be shifts in the public's expectations of social services, as a result of demographic change and changes in our society. Social services need to alter and to respond to all of these.

Furthermore, demand is rising across social services, yet the financial outlook for all public services is difficult. Whilst we have protected social services expenditure, we need to make a more fundamental change than just pursuing the obvious efficiency measures if we are to make social services sustainable. Our White Paper *Sustainable Social Services for Wales: A Framework for Action* sets out a programme of change to meet these challenges based on the following nine principles:

- A strong voice and real control
- Supporting each other
- Safety
- Respect
- Recovery and restoration
- Adjusting to new circumstances
- Stability
- Simplicity
- Professionalism

These have been informed by discussion with stakeholders and debates in the National Assembly for Wales and elsewhere since *Sustainable Social Services for Wales* was published. They sit alongside the evidence of the Independent Commission on Social Services in Wales, the Law Commission review of adult social care legislation<sup>1</sup>, and our Review of Safeguarding<sup>2</sup>. All this forms the backbone of our case for change.

This evidence, and the process of considering it through the Assembly scrutiny process on the Bill, has informed and shaped the contents of the Act. The next stage, the development of the regulations and codes of practice or statutory

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<sup>1</sup> <http://lawcommission.justice.gov.uk/areas/adult-social-care.htm>

<sup>2</sup> <http://wales.gov.uk/topics/health/publications/socialcare/reports/advisory/?lang=en>

guidance, has been informed by key strategic inputs such as *More than just words*, our Strategic Framework for Welsh Language Services in Health, Social Services and Social Care<sup>3</sup>, the *Enabling Wales* project which directly supports the delivery and implementation of the Welsh Government's *Framework for Action on Independent Living* and by evidence sourced through technical groups consisting of key stakeholders. These groups have looked at the Act's provisions, and the policy underpinning these, in detail, and provided advice to officials on how the regulations and codes of practice should be framed in order to achieve the aims of the Act and, through this, the requirements of *Sustainable Social Services: A Framework for Action*. This process has secured a range of valuable input which Welsh Government officials have drawn upon to develop the draft regulations and code of practice which were consulted upon.

## **The proposal**

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 consulted 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**

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<sup>3</sup> <http://wales.gov.uk/topics/health/publications/health/guidance/words/?lang=en>

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.

## **Consultation Events**

Two consultation events were held as part of the consultation process. The purpose of these was to:

- promote engagement with the consultation;
- provide a base level of understanding to key stakeholder groups of the areas we were consulting on.

Attendees were asked to participate in discussions on the implementation of the regulations, and also to share information from the events with their wider networks to provoke deeper engagement with the proposals and a wider span of consultation responses.

The first event was held on 21 May in St. George's Hotel, Llandudno. The second was held on 4 June in The Liberty Stadium, Swansea with 200 attendees overall, representing a range of organisations. The range of stakeholders included representation from:

- Children in Wales
- CSSIW
- Local Authorities
- Local Health Boards
- WLGA
- National Adoption Service
- ADSS Cymru
- Voices from Care
- The Fostering Network
- Office of the Children's Commissioner

Workshops were held at the events on each of the Parts of the Act subject to consultation under Tranche 2. The content of these workshops was tailored to suit the subject matter, but at the core of each was a presentation from officials and group discussions and activities.

The comments and outputs from these events were considered alongside the formal written responses in order to inform the final regulations, code(s) of practice and, in respect of Part 9, statutory guidance.

In total 45 responses were received. Some responses received were purely narrative and therefore do not appear in the summary of tick box responses. All have been considered equally in terms of comments received. A list of respondents is attached at Annex A. A summary of consultation responses together with the Welsh Government's analysis can be found in Section 2.



- **Section 2 - Response to the Consultation Questions**

**Question 1:**

	<b>1. Do you agree that the regulations and code provide a framework within which a looked after child or care leave’s likely needs for care and support services can be met?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	7	22	1	0	15

**Summary of responses**

Overall there was broad agreement that the Regulations and Code of Practice provide a framework which can respond to the likely care and support needs of looked after children and young people and care leavers.

**General**

Some respondents felt that the Code of Practice would benefit from a clear statement on the purpose of care for a looked after child. It was suggested that this should state that a clear aim of the care system for children and young people who spend significant time in care is to achieve recovery and healing from past harm, and to promote resilience and emotional well-being. It was also felt that the Code should be amended to make clear that looked after children and young people’s full-range of well-being needs should be assessed, not just those that meet the threshold for eligibility for a service.

The WGLA felt it would be helpful to make specific reference in the Code to the Minister for Health and Social Services’ policy goal for all practitioners in Wales in relation to looked after children and to other relevant strategies such as the draft document ‘Raising the Ambitions and Educational Attainment of Children who are Looked After in Wales’.

Clarification was sought as to whether section 20(4) of the Children Act 1989 had been replicated in the Social Services and Well-being (Wales) Act and if not, the reasons for this. Linked to this, there were a number of requests for a document detailing which aspects of pre-existing children’s legislation are to be retained and which have been repealed, along with diagrammatic representations of the routes to being looked after and the particular care planning, placement and review arrangements that apply to the range of children in the looked after system. Similarly there was a request for a table showing the changes to care status as a result of criminal justice decision making.

More generally consistency was requested in terms of the terminology used to describe a looked after child in the Code (looked after, accommodated, in

care).

### Mental Health and Emotional Well-being

The need for a stronger emphasis on supporting mental health and emotional well-being was raised, with some feeling it should be a key theme within and throughout both care and support and pathway planning, and that carers should be better supported by social services to nurture safe, positive relationships. Many felt early assessment of mental health and emotional well-being was essential and more focus was necessary on the effects of transitioning out of care. There was a call for new shared guidance for local authorities and health boards in Wales to drive an improved, targeted response to looked after children's and care leavers' mental health and emotional well-being.

### Care and Support Plans

There was some confusion as to the interface between the new care and support plan and other plans for a looked after child (personal education plan, placement plan, health plan etc.) and how the concept of a single plan for a looked after child would work in practice. Further clarification was requested. Concern was also expressed as to the transition from the care and support plan to the pathway plan once a young person leaves care as it was felt that the Code was inconsistent in its messages on this.

### Placements

The National Adoption Service acknowledged that the capacity to place a child/ren with specific adopters prior to a placement order was a significant departure from current practice and could, for a specific group of children, reduce the delay in the length of time that it takes for them to be placed for adoption. However, clarification was sought regarding how these arrangements would work in practice. There was also some confusion about whether this was the same as the fostering to adopt provisions in England.

Some respondents felt that the Code should not just place an emphasis on avoiding disruption at Key Stage 4. Whilst this was an important time in a young person's life, it was also important to recognise that there are other stages of equal importance. The emphasis should be on everyone's efforts to avoid disruption at all key points of transition.

There were several calls to expand the section on foster carers' delegated authority.

The Fostering Network raised many points with regard to the status and authority of foster carers. The Network felt the role should be seen as a professional one, a partner within the team around the child with decision making powers for the child. There should be greater emphasis on investments in training and support for foster carers- a theme supported by many others. Training should also be available to social workers to provide a clear understanding of the role of the foster carer.

It was also felt that there should not be a hierarchy of permanence options with long term foster care having equal status to adoption, special guardianship etc. The status of long term foster care as a permanence option should be strengthened within the Regulations and the Code and a definition of 'long term foster care' provided.

In terms of information provision at the point of placement it was felt the Regulations and Code should make clear exactly what information on a child local authorities should provide to foster carers prior to their placement- a full disclosure of all information available was recommended by the Fostering Network.

### When I am Ready

The When I'm Ready arrangements were broadly welcomed but many raised concerns regarding the impact on the pool of available fosters carers and cost implications for LAs.

### Youth Justice and the Secure Estate

A key theme emerging from a number of responses was the potential for overlap and/ or confusion of responsibility between children's social services and the youth offending team, including provision of support whilst in custody and on release. There were several calls for further clarity on this, and on the relationship between Part 6 and Part 11 of the Act.

### Categories of Care Leavers

Many respondents welcomed the fact that the Code included a narrative description of the 'Categories' of care leavers. There was call for this narrative to also be included in the Regulations, or at the very least for references to both the Category and the description of it to be used throughout the Code in order to aid read across to the Regulations.

### **Welsh Government response**

The general support for the framework set out in the Regulations and Code of Practice within the response demonstrates the benefit of working with stakeholders in developing their content. The comments received have been particularly helpful in enabling the Welsh Government to amend the Regulations, and the Code of Practice in particular, in order to offer further clarification in some key areas and to strengthen requirements in others.

The preamble to the Code will be amended to include a clear statement about the purpose of care for looked after children. This will be in line with the Welsh Government's policy of working towards reunification where possible, and, where it isn't, working to achieve stable placements in which children can develop and thrive, and ultimately make a successful transition to adulthood.

Amendments will be made throughout the Code to improve clarity around the single care and support planning process and the relationship with other plans. We will also amend the references in The Care Planning, Placement and Case Review (Wales) Regulations to a 'care plan' to a 'care and support plan' to aid understanding and consistency. In addition, we will provide further clarity on which aspects of pre-existing legislation are to be retained and which have been repealed and the routes to becoming looked after.

Both the Regulations and Code of Practice place a clear requirement on local authorities to assess and meet the emotional well-being and mental health needs of looked after children and care leavers. However, we will work with the sector to consider how we can drive an improved, targeted response to these issues.

### Placements

The provisions for placement with prospective adopters are new to the Act, and are also different in some key respects to the provisions recently introduced in England. We will expand the guidance in the Code to clarify how the new arrangements will work in Wales.

Although the Act and regulations only make specific provision for avoiding disruption at Key Stage 4, the code does emphasise the need to minimise disruption to a child's education when considering or reviewing any type of placement. We will consider strengthening this section of the code.

We recognise the vital role that fostering and foster carers play in caring for looked after children, and that long term fostering may be the most appropriate permanency option for some children, and this will be reflected in the published Code. We will be working with our stakeholders to develop a National Fostering Framework to support the further development of fostering in Wales.

The Regulations and Code make it clear that the placement plan must include all the relevant information the foster carer needs to know in order to care for that child, and they set out the key components. The sharing of sensitive information, however, must be proportionate and it will not always be appropriate to share all the information which is held by the local authority. The Regulations and Code seek to achieve the right balance between disclosure and confidentiality.

We will work with the sector to consider how best to provide further information on foster carers' delegated authority.

### When I am Ready

Our monitoring arrangements for 'When I am Ready' will include the impact on the availability of foster care places. More broadly, recruitment and retention of foster carers will be addressed through our work to develop a National Fostering Framework for Wales. Implementation of 'When I am

'Ready' is being supported by a series of seminars for local authorities and fostering agencies, and we have also commissioned a good practice guide and other materials to support young people and foster carers make informed choices about entering into 'When I am Ready' arrangements. A key outcome of 'When I am Ready' is that young people are supported to move into more independent living arrangements only when they are ready to do so and have acquired the necessary confidence and skills. It is our belief that any additional costs incurred by local authorities in implementing the scheme will be offset by the benefits of more successful transition to independent living.

### Youth Justice

We will clarify the code and its relationship with the provisions in Part 11 (on prisoners) in respect of children and young people in custody. We will discuss with the Youth Justice Board and other key stakeholders the need for further good practice guidance in this area.

The descriptors provided for categories of care leaver in chapter 5 of the Code are designed to assist the reader by offering an explanation of the particular circumstances of the child or young person who will fall within each one. As such, it is not appropriate to replicate these in the Regulations. However, the Code will be amended so as to ensure that references to both the category and the descriptor are made thereby aiding read across to the Regulations.

**Question 2:**

	<b>2. Do you agree that the code and regulations strike the right balance between prescribing essential requirements and allowing for local determination of service provision?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	4	15	9	1	16

**Summary of responses**

There was broad agreement from respondents that the code and regulations provide a level of local authority autonomy but many felt the code could be clearer in prescribing provisions that are deemed essential so as to ensure supported and successful delivery at a local level of Welsh Government policy ambitions.

**Contact and Visits**

It was suggested that this chapter of the Code be re-named to make it clear that this did not refer to family contact but to a local authority's duty to keep in touch with and visit a looked after child. There was also a request to include further detail elsewhere on the importance of maintaining contact with family, extended family and close friends.

The All Wales Heads of Children's Services felt that the proposals for frequency of visits seemed right. However, it thought that the expectation of sharing reports for all visits was unrealistic and disproportionate.

The use of independent visitors among local authorities was raised with many stating they are not widely used. However, the focus within the Code was welcomed with some feeling it represented a strengthening of expectations.

The Code does not make specific reference to the duty placed on local authorities to visit all young people in custody irrespective of whether they were previously looked after or not. As this is a new duty that will be placed on local authorities it needs to be highlighted and ideally cover the expectation of this role and function (primarily safeguarding), the frequency of visits, who should conduct them, the need to report on the visit, the content of the report and who should receive it.

**Care Leavers**

It was felt that the section on entitlement to personal advisers needed to be edited in order to strip out requirements from examples of good practice which could change over time. The level of detail on pathway plans is not replicated in terms of care and support plans so was thought to be inconsistent. It was also felt that in relation to the section on care leavers, the sections on disabled young people and child and adolescent mental health were weak

and unhelpful.

Meeting the accommodation of care leavers was a recurring theme of many responses and some requested that the Code include a statement that care leavers cannot be considered as intentionally homeless during the period the local authority remains responsible for them.

### Review

The role of the Independent Reviewing Officer was a recurring theme in many responses. Respondents were keen to see more detail in the Code about the role but also expressed concerns about the independence of IROs and their ability to challenge. Many welcomed the forthcoming review of the role and hoped that this would emphasise the importance of IROs having a focus on long-term outcomes rather than being process driven and of the review process being child focused with meaningful participation.

### Placements

The Heads of Children's Services in Wales felt that further guidance was needed in the Code in respect of kinship care options and the legal status of a child who is the subject of an informal family and friends arrangement.

In relation to out of county and cross-border placements the question was asked as to whether this included remand placements. There was also some concern as to the practicality of the receiving authority being represented on the panels. However the main concern was about the requirement for local authorities to consider out-of-county placements in a geographical order of preference (i.e. a neighbouring authority in Wales, another authority in Wales, and only then a cross-border placement). For those authorities on the border, a cross-border placement might be the preferred option as it would cause least disruption to the child or young person's education and health provision. Some respondents felt that the only criteria for out of county placements should be the best interests of the child.

### **Welsh Government response**

The responses to this question, once again, were focused in the main on the Code of Practice.

### Contact and visits

Chapter 3 of the code has been renamed 'Keeping in touch', to make it clear that it concerns arrangements for continuing contact between a local authority and a looked after child, rather than arrangements for family contact. The chapter has also been significantly expanded to include visits to children in detention. This will clarify responsibilities and timelines for such visits.

### Care Leavers and Independent Reviewing Officers (IROs)

The Welsh Government is aware, through previous engagement with stakeholders, and through national inspection reports, of the existing concerns about the effectiveness of the role of the Independent Reviewing Officer. A review of the role is therefore due to be carried out before the end of March 2016 as part of our work to develop a national approach for looked after children. It is anticipated that the review will examine the independence and status of IROs as well as the process of review and the decision making process. We will also take the opportunity to consider the role and impact of independent visitors as part of the review. In the interim, Chapter 4 of the Code has been amended and expanded to better reflect the statutory provisions and the regulatory framework contained in both the Act and the Care Planning, Placement and Case Review (Wales) Regulations. These changes provide additional detail and further clarity on the requirements of the role.

The Welsh Government accepts the comments about re-balancing the level of detail in the Code on personal advisers when compared to that on IROs. It will also strengthen chapter 5 in relation to meeting the accommodation needs of care leavers and look to work with stakeholders to improve the existing sections on disabled young people and child and adolescent mental health

### Placements

Family and friends (or kinship) care plays a crucial role in supporting many children and young people who are unable to live with their parents. Under the Act, these arrangements may either be informal and supported where necessary through care and support provided under Parts 3 and 4 of the Act, or, where the local authority considers it necessary, be foster care placements made under Part 6. The Code will be amended to include more substantial coverage of family and friends arrangements, clarifying the expectations and requirements around these types of arrangements, including the legal basis for them.

The geographical order of preference for out of county placements was introduced in response to concerns about cross-border activity in looked after children placements, and it is expected that most placements will be made either within a local authority area or in the area of a neighbouring authority. We recognise, however, that for those local authorities sharing a border with England a cross-border placement might be in the best interest of the child as it would cause the least disruption to the child or young person's education and health provision. We will add a further category to the order of preference giving those local authorities on the border the flexibility to consider placements with a neighbouring authority / authorities **after** it had considered a placement in the neighbouring Welsh authorities **but ahead of** placements elsewhere in Wales. We will also begin discussions with the DFE about a new inter-governmental protocol on cross-border placements.



**Question 3:**

	<b>3. Do you agree that the code and regulations enable the voice of the looked-after child or care leaver to be heard and acted upon?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	9	8	3	6	19

**Summary of responses**

It was clear that many respondents felt strongly about the importance of the voice of children and young people and that this needed to be emphasised throughout the Code.

Action for Children felt that whilst the preamble to the Code makes clear that children and young people's views should be included in determining their personal outcomes, this was not always subsequently reflected in the body of the Code. This needed to be expanded to give a more detailed expression of the expectations on Social Services to help develop and deliver on children and young people led outcomes. Some gaps were also highlighted in terms of requirements to produce information that is accessible to children and young people.

The Children's Commissioner for Wales requested clearer direction for local authorities and others in relation to the need to discuss care plan options with children and young people and to explain care management decisions to them, ensuring that they understand what is going to happen and when it is going to happen. It was also suggested that the agreement of all looked after children who have the ability to contribute to developing and understanding their care and support plan should be sought, not just those over the age of 16.

Whilst there was recognition that advocacy was covered in the Code of Practice for Part 10 some respondents, including the NSPCC, expressed concern that there is little reference in the Code to looked after children's and care leavers' statutory entitlement to advocacy.

**Welsh Government response**

The Code will be amended to strengthen the voice of the looked after child or care leaver and further reference will be made to the statutory entitlement to advocacy.

**Question 4:**

	<b>4. Do you agree that the regulations and codes developed under Part 6 of the Act are comprehensive in their coverage?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	5	15	8	0	17

**Summary of responses**

There was a call for the 'When I'm Ready' provisions to be extended to young people leaving residential care as they are likely to have more significant needs which will affect their ability to settle in a new independent home.

There were also a few comments regarding the mechanisms for ensuring that the continuing needs for looked after children are met on entering custody and post release.

**Care and Support Planning**

The NSPCC welcomed the emphasis on reunification throughout the Code, particularly the recognition of a return home as a permanence option which needs to be planned for from the outset. It also welcomed the recognition of how important it is to address the factors in family life which led to the child becoming looked after, if reunification is to be successful. However, it felt that requirements for the pre-return assessment and subsequent support for the families of children who return home from care could be even more clearly outlined in the Code. There was a view that the provisions dealing with permanence within the Code were fragmented and that it would be helpful to bring them altogether into a single section. Additional wording to strengthen the provisions on permanence was also suggested.

It was pointed out that the Code does not include reference to short breaks for disabled children. This was felt to be a significant omission as the regulations on Care Planning, Placement and Review at Part 9, set out the modifications for short breaks, thus confirming that looked after status and short breaks are not mutually exclusive.

**Welsh Government response**

Access to the 'When I am Ready' scheme is currently only available to young people in residential children's homes if they can be moved into a suitable foster placement before they turn 18. We recognise that, although this can provide a young person with a supportive family environment as they make the transition to more independent living, it does cause disruption in their living arrangements which 'When I am Ready' was designed to prevent. We will, therefore, consider the potential to extend the support available to young people in residential children's homes, learning lessons from other parts of the UK which have considered or already implemented such a change. We

will work with key stakeholders on this, including the 'When I am Ready' Monitoring Group.

We will consider the need for further guidance on the respective responsibilities of social services and youth offending teams in relation to children and young people held in the secure estate and upon release.

We will bring together the references to permanence in the Code into a single section and strengthen the provisions on this. In line with the Welsh Government's policy of working towards reunification where possible we will also consider what more can be outlined in the Code in respect of the pre-return assessment and subsequent support for families of children who return home from care, or whether this would be better suited to guidance.

A substantial new section on short breaks (including breaks for disabled children) will be added to chapter 2 of the Code, on placements.

**Question 5:**

	<b>5. Do you consider that good practice guidance would be useful to supplement the code and regulations?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	19	8	0	0	18

**Summary of responses**

There was a call for good practice guidance in the following areas:

- Children and young people led outcomes
- Reunification/ Children leaving care to live with a parent, relative or other person with parental responsibility
- Personal advisors
- Facilitating the involvement of children and young people in the processes that concern them
- Effective and child centred planning
- Supporting unaccompanied young asylum seekers
- Role of the IRO and Independent Visitors
- Cross Border Planning
- Short Breaks and Respite Care
- Delegated Authority for Foster Carers, and Overnight Stays
- When I'm Ready
- Areas of working where there is dual accountabilities between Youth Offending Teams and Children's Services
- Arrangements for meeting the needs of young people/children in custody/detention and following release

**Welsh Government response**

We will consider the need for practice guidance in the areas suggested as implementation of the Act becomes embedded and how we prioritise the issuing of any such guidance.

**Question 6:**

**Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?**

**Summary**

There were very few comments in response to this question. However it was generally felt that if the proposals set out in the Code were consistently and robustly implemented then there would be positive impacts for all looked after children and care leavers.

Some commented that an increased emphasis on hearing the views of the child within the Code would also have a positive impact on groups with protected characteristics.

**Question 7:**

**Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?**

**Summary**

Again, there were very few responses to this question. One respondent felt that the Code could be significantly strengthened to give a stronger focus to the needs of disabled children in the looked after system. This should include those children and young people who are accommodated for the purposes of short breaks.

A substantial new section on short breaks (including breaks for disabled children) will be added to chapter 2 of the Code, on placements.

**Question 8:**

**Re-balancing the care and support system to deliver the new legal framework will require reprioritisation of resources. What are the key actions that need to be taken to achieve this?**

**Summary**

There were a number of suggestions as to how resource could be re-prioritised to deliver the new legal framework.

Some felt that the Welsh Government should prioritise resources to ensure that local authorities have the funding and support they need to ensure the success of the 'When I Am Ready' scheme for those children and young people that need it. The scheme should be monitored and evaluated so that all partners can judge progress and recognise success.

There was a call for transparent reporting on the realignment of budgets where this affects the provision of services for children and young people. Any reprioritisation of resources needs to have a clear analysis of any potential impact on children and families at the centre of all considerations.

One respondent commented that there will be a need for local authorities to review current investments and to scale down or de-commission vital preventative services to support or sustain care arrangements for vulnerable children, young people and adults. Education and training will play an important role in re-balancing the care and support system, alongside strong leadership from directors and managers in social care.

Prioritising resources linked to early prevention and linked to the aim of reducing the need for statutory intervention over the longer term. Developing and testing new service models which emphasise prevention and early intervention; working through the implications of new service models for the workforce; joint working and integration, including the development of regional partnerships; continued improvements in consistency and quality embedded in regulated services, focus on re-ablement, achieving market stability and development.

Improving permanence for children who return home will not only improve outcomes for look after children and young people but it will also mean savings for local authorities.

**Welsh Government response**

The Act requires a new focus on early support to prevent needs from escalating and requiring more intensive, possibly

	<p>intrusive and certainly more expensive interventions.</p> <p>This will require health boards and local authorities to work with their partners both at regional (LHB) and local levels to develop an appropriate range of services across the continuum of care.</p> <p>They will need to develop an understanding of how resources are used across the whole system, together with their impact in terms of outcomes achieved. Welsh government will need to provide technical support and facilitate learning events to help achieve this.</p> <p>Greater transparency will also be required in terms of expenditure.</p> <p>A much better understanding of needs and the impact of the use of resources will inform the design of local service provision.</p>
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### Question 9:

**We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to tell us about them.**

#### **Summary**

- The right to allow young people to remain in residential care until the age of 21.
- Is there support for implementation of When I'm Ready? How will it be funded?
- The need to make reference to the UNCRPD in the Code
- The Youth Justice Board commented that it would like to see the arrangements that exist in England at present, extended to Wales, whereby the role of the Probation and Prison Ombudsman (PPO) is extended to investigate deaths of children in secure children's homes in Wales. This would allow the learning from such incidents to be shared.

#### **Welsh Government response**

As set out above, our monitoring arrangements for 'When I am Ready' will include the impact on the availability of foster care places. More broadly, recruitment and retention of foster carers will be addressed through our work to develop a National Fostering Framework for Wales. Implementation of 'When I am Ready' is being supported by a series of seminars for local authorities and fostering agencies, and we have also commissioned a good practice guide and other materials to support young people and foster carers make informed choices about entering into 'When I am Ready' arrangements. A key outcome of 'When I am Ready' is that young people are supported to move into more independent living arrangements only when they are ready to do so and have acquired the necessary confidence and skills. It is our belief that any additional costs incurred by local authorities in implementing the scheme will be offset by the benefits of more successful transition to independent living

We will consider the potential to extend the support available to young people in residential children's homes, learning lessons from other parts of the UK which have considered or already implemented such a change. We will work with key stakeholders on this, including the 'When I am Ready' Monitoring Group.

We are considering the issue of extending the PPO's remit separately with the relevant UK Government departments, local government and other key stakeholders, including the

	Youth Justice Board.
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## Annex A - List of respondents

No	Confidential Y / N		Name	Organisation/On behalf of
1.		*	Jennifer Edwards	Student health visitor
2.	*			
3.		*	Rhea Stephens	Action for children - Gewithredu dros Blant
4.		*	Sarah Payne	NOMS
5.		*	Sally Holland	Children's commissioner for Wales
6.		*	Rhian Huws Williams	Care Council for Wales
7.		*	Eunice Jones	Torfaen CBC
8.		*	Social Services Health & Housing	NPTCBC
9.		*	Cecile Gwilym	NSPCC Cymru/Wales
10.		*	Gareth Llwyd	Ynys Mon
11.		*	Suzanne Griffiths	National Adoption Service
12.		*	Steve Elliott	Care Forum Wales - Looked after Children
13.	*			
14.		*	Carolyn Sampeys	Safeguarding Children Service PHW
15.		*	Carolyn Sampeys	Cardiff & Vale University Health Board
16.		*	Susan Cooper	Bridgend County Borough Council
17.		*	Dave Street	Caerphilly CBC
18.		*	Dr Emily Warren	The Fostering Network Wales
19.		*	Helen Evans	NPT CVS
20.		*	Menna Thomas	Barnardos Cymru
21.		*	Kate Devonport	Conwy CBC
22.		*	Jean Davies	Pembrokeshire CBC
23.		*	Stephanie O'Donnell	Denbighshire CC
24.		*	Stephanie O'Donnell	All Wales heads of children
25.	*			
26.		*	Kathy s'Jacob	BAAF
27.		*	Karen Benjamin	City & County of Swansea, Child & Family
28.		*	Mark Saunders	Torfaen CBC
29.	*			
30.		*	Neil Ayling	Flintshire CC
31.		*	Claire Williams	All Wales Leaving Care Forum
32.		*	Dr Julie Doughty	Cardiff University
33.		*	Sue Evans and Steve Thomas	ADSS Cymru and WLGA
34.		*	Nichola Poole	City of Cardiff and Vale of Glamorgan Councils
35.	*			
36.		*	Sara Harvey	Western Bay Health and Social Care

37.		*	Sheilah Gaughan	Housing & Homelessness Team
38.		*	Abyd Quinn Aziz	Cardiff University
39.		*	Nigel Brown	CSSIW
40.		*	Carol Floris	Voices From Care
41.		*	Cathy Ashley	Family Rights Group
42.	*			
43.		*	Sean Oneill	Children In Wales
44.	*			
45.		*	Alice Owen	Law Society