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Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation – summary and response

## Social Services and Well-being (Wales) 2014 Act Consultation on Part 6

**Amendments to the regulations and code of practice in respect  
of secure accommodation and placements of children out of  
area**

February 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

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## **Section 1**

### **1.1. Introduction**

This consultation ran from 4 September to 27 November 2017, and sought views on amendments to the following:

- the Care Planning, Placement and Case Review (Wales) Regulations 2015, in respect of notifications of emergency placements out of area
- the Secure Accommodation (Wales) Regulations 2015, in respect of children placed in Scotland
- the Part 6 Code of Practice (Looked After and Accommodated Children).

### **1.2. Care Planning, Placement and Case Review (Wales) Regulations 2015**

The changes we proposed concerned the arrangements for notifying a local authority when a looked after child from another county is placed in its area (either in foster care or in a children's home) in an emergency.

Concerns had been raised by local authorities and the police that the current five day notification period seemed too long, especially as many children placed in an emergency are particularly vulnerable and sometimes at considerable risk of sexual exploitation or of going missing from care.

The proposed amendment would require the placing authority to notify the area authority within 24 hours of an emergency placement being made. The draft regulations set out the information which must be provided by the placing authority. The requirement to provide the full assessment details and care and support plan within five working days would remain, as would the requirement to refer the placement to panel as soon as practicable after the placement, and in any event not later than 25 working days after the placement is made.

The requirement applies only to local authorities in Wales. It would be for the UK Government to amend legislation to place a similar requirement upon English local authorities placing children within Wales.

The consultation document also set out proposed amendments to the Part 6 Code of Practice (paragraphs 202 to 205), to reflect these changes.

### **1.3. Secure Accommodation (Wales) Regulations 2015**

The draft amendments to these regulations were consequential upon changes to section 25 of the Children Act 1989 relating to placements of children from Wales in secure accommodation in Scotland. These changes were introduced by the Children and Social Work Act 2017.

Welsh Government policy is that children from Wales who need a secure placement should, where possible and appropriate, be accommodated within Wales or in nearby accommodation in England. However, due to the specialist nature of this provision, placements may occasionally (and exceptionally) need to be made in Scotland. For this reason, when the UK Government proposed to amend section 25 of the Children Act to clarify the position in relation to English children placed in secure accommodation in Scotland, the Welsh Ministers gave their consent to this power also being extended to Welsh local authorities.

The proposed amendment changed the definition of 'secure accommodation' to also include secure accommodation in Scotland, so that when a Welsh local authority places a child in secure accommodation in Scotland it will be subject to the same safeguards which apply to placements in England and Wales.

We have also taken this opportunity to make some further technical amendments to ensure the cross-border functionality of the regulations. These clarify how the regulations apply in cases of cross-border placements whether by a Welsh local authority to secure accommodation in England or by an English local authority to secure accommodation in Wales.

We will also need to revise the Part 6 Code of Practice to reflect these changes. A revised draft of chapter 7 of the code was included as part of this consultation.

#### **1.4. Placements outside the British Islands**

Currently, the Part 6 Code of Practice requires local authorities only to place a child outside the British Islands (i.e. outside the UK, Channel Islands or Isle of Man) 'for a definite and limited period'. This had been challenged in a recent High Court judgment (February 2017), where the judge accepted the reasonableness of a local authority decision to seek to place a child in a long-term foster placement with his maternal aunt in the Republic of Ireland. We accepted that, in some cases, local authorities should have the discretion to make a longer term placements outside the British Islands where this is in the best interests of the child, provided that realistic arrangements can be made to safeguard and promote the child's well-being. We are therefore amending the final sentence of paragraph 214 of the code to remove the time restriction for such placements.

#### **1.5. Next steps**

The two sets of amending regulations, and the revised Part 6 Code of Practice, will be laid before the National Assembly for Wales in February 2018. The Welsh Government will notify local authorities and other key stakeholders of the changes before they come into force in April 2018.

## **Section 2**

### **Summary of responses received and Welsh Government response**

There were 15 responses.

#### **2.1. Notifications of emergency out of area placements**

Question 1: Do you agree that the time limit for notification of emergency out of area placements should be reduced from five working days to 24 hours?

#### **Summary of responses**

11 responses agreed, 3 disagreed, and one did not specify.

This proposal was generally welcomed. It was felt that it confirms existing good practice for emergency placements, and helps ensure that suitable safeguarding arrangements are put in place as soon as possible.

However, there were reservations expressed, even by some of those who agreed with the proposed change, about how this would work in practice when emergency placements were made at weekends or out of hours. It was suggested that further guidance was needed on who exactly should be notified, and how this information would be passed on to other agencies such as health and education.

One response suggested that the timescale should be reduced further, to 12 hours. Two responses suggested further changes to the regulation around notification. One requested that it be a requirement to notify the police of all out of area placements. The other suggested that the timescale for notifying parents and the child's Independent Reviewing Officer should also be reduced from five working days to 24 hours.

One response drew attention to the fact that this requirement only applies to Welsh local authorities which are placing a child out of area. These regulations do not cover emergency cross-border placements made by English local authorities.

#### **Welsh Government response**

The Welsh Government welcomes the broad support for this proposal, which is designed to strengthen good practice on timely notification of emergency out of area placements.

The Welsh Government will be issuing good practice guidance to local authorities on out of area and cross-border placements, which will cover the practice issues raised in the consultation responses. This work has been commissioned as part of the work programme of the Children's Residential Care Task and Finish Group, and forms part of the wider 'Improving Outcomes for Children' programme. The good practice guidance will cover all out of area placements, including planned and emergency foster care and residential placements. The Welsh Government will also

discuss cross-border arrangements with the UK Government to ensure proper alignment of the guidance to English and Welsh local authorities. The particular issue of notifications to the police is discussed below.

Question 2: Do you think the proposed new notification arrangements for emergency out of area placements are adequate?

### **Summary of responses**

6 responses agreed, 8 disagreed, and one did not specify.

The responses to this question raised a number of issues around current practice, and suggestions for additional requirements.

Two responses suggested that the notification requirement should be extended to include the police.

One response, particularly concerned about the number of children who go missing from care, recommended that the Welsh Government introduce a new statutory requirement for 'return home interviews' (or debriefs) to be conducted by an independent practitioner every time a child goes missing. Information gathered from previous debriefs could then be included in notifications of out of area placements. A number of responses also highlighted the need for more detailed information about a child to be included in the notification, especially around vulnerabilities and potential risks. One response suggested a list of additional items, including a current photograph, which could form part of the initial notification, and suggested that, if possible, a nationwide on-line sharing system should be set up. The Children's Commissioner for Wales welcomed the work already underway to create a short standardised document which could transfer with each child outlining any key known risk factors, but stated the need to bear in mind each child's right to privacy and data protection matters when deciding what information to share.

One response mentioned the need to inform health agencies, including the family doctor, in the new area of any emergency placement.

Another response raised a number of issues around current practice in relation to out of area placements, questioning the consistency with which placing authorities are adhering to the requirements to set up multi-agency panels and to pass on care and support plans within five working days of an emergency placement being made.

### **Welsh Government response**

The good practice guidance on out of area and cross-border placements will cover notification arrangements and the respective responsibilities of placing and host local authorities in both planned and emergency placements. The Welsh Government does not, however, consider it proportionate or appropriate for the police to be notified of every out of area placement. Children have to be moved for a variety of reasons, and an emergency move does not necessarily mean that a child or young person is at high risk of offending or absconding. What matters is that the risks are

adequately assessed before the child is moved and appropriate measures are put in place to support the new placement as soon as possible. The police should be informed as appropriate – for example, where the child has a history of absconding or is at risk of offending or of child sexual exploitation. The Welsh Government will ensure that assessing risk and safeguarding concerns are covered fully in the good practice guidance.

There are already requirements on service providers to ensure that a child placed with them is registered with a GP at the earliest opportunity. Any pressing or substantial medical matters, including ongoing access to child and adolescent mental health services or therapeutic support, must be considered before an out of area placement is made, including emergency placements. The statutory Part 6 Code of Practice on looked after and accommodated children (issued under the Social Services and Well-being (Wales) Act 2014) already covers this. The good practice guidance will cover arrangements to ensure that a child's health and education needs are met.

The Welsh Government is aware of concerns about the out of area panel arrangements, which are set out in the Part 6 Code of Practice. These issues have been discussed by the Children's Residential Care Task and Finish Group and in other forums. During 2018, Care Inspectorate Wales will be undertaking a thematic inspection of local authority looked after children's services, and it has been agreed that this will include a particular focus on arrangements for out of area and cross-border placements. The Welsh Government will carefully consider the evidence from this inspection and the need for any changes to the code or good practice guidance.

In addition, the Welsh Government is already working with stakeholders on revised practice guidance on children who go missing from care or home, to be used in conjunction with the National Protection Procedures. This practice guidance will be aimed at frontline practitioners and professionals working in social care, education, health, the police, youth offending and youth, community and family support services and paid carers. It will include a standard template for a 'Person in Care Information' form which will contain basic information about a child, including a recent photo and any known risks and any history of absconding.

## **2.2. Amendments to the Secure Accommodation (Wales) Regulations 2015**

Question 3: Do you have any comments on the proposed amendments to the Secure Accommodation (Wales) Regulations 2015, especially in relation to placements of children in secure accommodation in Scotland?
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### **Summary of responses**

9 responses commented on this.

Those who responded to this question generally felt that the proposed amendments were appropriate and proportionate, providing a common and consistent process which would hopefully avoid delay. It was acknowledged that placements in secure

accommodation in Scotland were exceptional but sometimes necessary due to the specialist nature of this provision. One response, however, would have welcomed more discussion as to why placements in Scotland were necessary, and for a fuller explanation in the code of practice of the preventative and protective role of secure accommodation.

### **Welsh Government response**

The Welsh Government was pleased with the broad support for these proposals. It considers that the revised code of practice (chapter 6) already explains that placements in Scotland are exceptional but are sometimes necessary due to the specialist nature of this provision and the limited availability of secure placements. Local authorities are encouraged to find alternatives to secure accommodation, where appropriate, and where a secure placement is necessary, to seek to place the child as close to home as possible in the first instance. Placements must always be made in the best interests of the child.



### **2.3. Proposed amendments to the Part 6 Code of Practice on Looked After and Accommodated Children**

Question 4: Do you have any comments on our proposed amendments to the Part 6 Code of Practice on Looked After and Accommodated Children?

#### **Summary of responses**

10 responses commented on this.

All but one were supportive of the proposed amendments, which were described as appropriate, proportionate and beneficial. The one dissenting voice wanted the role of independent advocacy to be clearly laid out in the code of practice.

#### **Welsh Government response**

The Welsh Government was pleased with the support for these revisions to the Part 6 Code of Practice. The code already emphasises the importance of independent advocacy for looked after children, but it should be noted that there is already statutory guidance on advocacy under the Social Services and Well-being (Wales) Act which should be read in conjunction with the codes of practice issued under the Act.

## 2.4. Additional comments

Question 5: 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 report them.

### Summary of responses

7 responses made additional comments, although some simply reinforced points already made in answer to the questions above.

Additional matters were:

- The responsibilities of health boards should be clearly defined – for example, in relation to statutory health assessments.
- There need to be well-defined arrangements with the relevant authorities in England to ensure that the needs of children in cross-border placements are met.
- There were concerns that the panel system for out of area placements (set out in the Part 6 Code of Practice) is not working effectively or consistently across Wales, and may need to be reviewed.
- Further clarification was requested on the role, remit and functions of out of area placement panels.
- Education and health representatives from the host area are often not involved in the panel arrangements.
- The requirements do not apply to English local authorities placing children in Wales, and some areas of Wales are disproportionately affected by this.
- Many decisions made by panel in respect of emergency out of area placements are retrospective endorsements rather than active discussions about the appropriateness of the placement.
- It was questioned why a copy of the panel decision must be sent to the lead member for children's services in the placing authority (as required by the Part 6 Code of Practice).
- The Part 6 Code of Practice should be clearer about the role of advocacy.

### Welsh Government response

Most of these points have already been addressed in this report, and the good practice guidance will address many of these issues, including panel arrangements and the respective roles and responsibilities of placing and host authorities and other agencies including health and education. The Welsh Government will discuss the cross-border issues with the UK Government to ensure that the English and Welsh guidance on such placement is properly aligned.

The Welsh Government considers that the requirement to notify the lead member for children's services of all out of county placements is appropriate, given the important role of elected members as corporate parents for all looked after and accommodated children. New guidance on corporate parenting, and the role of elected members, local government officers, and other agencies in ensuring good corporate parenting, has been commissioned by the Welsh Government as part of the 'Improving Outcomes for Children' programme.

## Annex A

### List of responses

No	Confidential Y/N	Name	Organisation
1	Y		
2	N	Mr R W Ebley	
3	Y		
4	Y		
5	N	Hannah Chetwynd	The Children's Society
6	N	Craig McLeod	Flintshire Council
7	N	Iain McMillan	Bridgend CBC
8	N	Prof Sally Holland	Children's Commissioner for Wales
9	Y		
10	N	Dr Teyrnon Powell	Betsi Cadwaladr UHB
11	N	Denise Moultreay	Care & Social Services Inspectorate Wales
12	N	Carol Walker	Conwy CBC
13	N	Deborah Jones	Voices from Care
14	N	Paul Pavia	Association of Directors of Social Services Cymru
15	N	Sarah Capstick	Cardiff Third Sector Council