

Number: WG30132



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Investigating deaths of children in secure accommodation

Amendments to the Children's Homes (Wales) Regulations 2002

Date of issue: 28 October 2016

Action required: Responses by 16 December 2016

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

Overview	This consultation seeks views on amendments to the Children’s Homes (Wales) Regulations 2002, to facilitate investigations by the Prisons and Probation Ombudsman into any death of a child in a secure children’s home in Wales.
How to respond	To respond to this consultation, please fill in the consultation response form and return it to the address below.
Further information and related documents	<p>Large print, Braille and alternative language versions of this document are available on request.</p> <p>Insert any references to the internet, documents or information which might be useful to consultees e.g. consultation web address, detailed appendix to consultation</p>
Contact details	<p>For further information:</p> <p>Improving Outcomes for Looked After Children Social Services and Integration Directorate Welsh Government Cathays Park Cardiff CF10 3NQ</p> <p>E-mail: sustainable-social-services@wales.gsi.gov.uk</p> <p>Telephone: 029 2082 3049</p>
Data protection	<p>How the views and information you give us will be used</p> <p>Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.</p> <p>The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address</p>

published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

What is this consultation about?

This consultation seeks views on proposed amendments to the Children's Homes (Wales) Regulations 2002, to facilitate investigations by the Prisons and Probation Ombudsman (PPO) into the death of a child in a secure children's home in Wales.

The amendments will place the following requirements on the registered person of a secure children's home in Wales to:

- notify the PPO of the death of a child in the home;
- grant the PPO access to the premises of the home and to the home's documents and records;
- allow the PPO to take away copies of any of the home's documents and records from the premises, provided the PPO has secure arrangements for doing so;
- allow the PPO (with consent) to interview in private any children, parents or relatives, or persons working in the home.

Why are we making these amendments?

The PPO is an independent non-statutory body appointed by the Secretary of State for Justice. The Ombudsman, whose remit covers England and Wales, investigates deaths among prisoners, immigration detainees and residents of probation hostels. .

In April 2015 the Ministry of Justice extended the remit of the PPO to include investigating the deaths of children placed in secure children's homes in England. This includes children from Wales, including those placed by Welsh local authorities on welfare grounds. To support this, the UK Government introduced new legislation requiring the registered person of a secure children's home to notify the PPO of any death of a child in a secure children's home in England, and granting the PPO access to the home's premises, documents and records. The relevant provisions are in the Children's Homes (England) Regulations 2015.

The PPO's remit does not currently include investigations into the death of a child placed in a secure children's home in Wales. The Ministry of Justice has proposed extending the PPO's remit to cover secure children's homes in Wales, but for this to operate effectively the National Assembly for Wales would need to make legislative provisions similar to those made in England. Extending the PPO's remit to Wales would remove the inconsistency whereby the PPO can investigate the death of a Welsh child placed in secure accommodation in England but not in Wales (and the death an English child placed in secure accommodation in England but not in Wales). The amendments to the Children's Homes (Wales) Regulations 2002 would support the change in the PPO's remit, and ensure consistency between Welsh and English legislation.

It is intended that the Children's Homes (Wales) (Amendment) Regulations 2017 will come into force on 1 April 2017.

There is one secure children's home in Wales, Hillside Secure Children's Home, which is managed by Neath Port Talbot county council. It provides secure accommodation for children and young people up to age 17 from Wales and England. The majority are placed by local authorities on welfare grounds under section 119 of the Social Services and Well-being (Wales) Act 2014. The remainder are children or young people in custody who are either on remand or serving a sentence.

There has only ever been one death of a child in a secure children's home in England and Wales, in the late 1990s.

Informal consultation with key stakeholders in Wales, including the All-Wales Heads of Children's Services, Youth Justice Board, Hillside Secure Children's Home and the Police, showed broad approval for changing the PPO's remit to cover deaths of children in secure children's homes in Wales, and for supporting legislation. This public consultation seeks views on the proposed extension to the PPO's remit and on the draft regulations.

What about the Regulation and Inspection of Social Care (Wales) Act 2016?

The Children's Homes (Wales) Regulations 2002 will eventually be replaced by new regulations under the Regulation and Inspection of Social Care (Wales) Act 2016. These new regulations are due to come into force in April 2018, and will place duties upon the 'responsible individual' for a registered service, including residential accommodation for children. It is the Welsh Government's intention to place equivalent duties (in respect of the PPO and the death of a child in secure accommodation) upon the 'responsible individual' for a secure children's home in Wales.

Providers will have to re-register under the 2016 Act, and re-registration will take place in 2018-19 with a view to the process being completed by April 2019. It is therefore intended that the requirements in the Children's Homes (Wales) (Amendment) Regulations 2017 will be in force from 1 April 2017 until a secure accommodation provider in Wales re-registers under regulations made under the 2016 Act.

Consultation questions

1. Do you agree with the extension of the PPO's remit to cover the investigations of deaths in secure children's homes in Wales?

Yes / No

If you answered 'No', please tell us why.

2. Do you agree with the proposals to place requirements on the registered person of a secure children's home, as set out in the draft regulations?

Yes / No

If you answer 'No', please tell us why.

3. Do you have any comments on the draft regulations?

Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Question 1

Do you agree with the extension of the PPO's remit to cover the investigations of deaths in secure children's homes in Wales?

Yes / No

If you answered 'No', please tell us why.

Question 2

Do you agree with the proposals to place requirements on the registered person of a secure children's home, as set out in the draft regulations?

Yes / No

If you answer 'No', please tell us why.

Question 3

Do you have any comments on the draft regulations?

Question 4

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:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: