

Number: FLSC 2



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Consultation Document

Fulfilled Lives, Supportive Communities:

Implementation of the Children and Young Persons Act 2008

Notifications to be sent by Care and Social Services Inspectorate Wales (CSSIW) to local authorities about children's social care providers (under Section 30A of the Care Standards Act 2000).

Date of issue: **23 April 2010**

Action required: Responses by **16 July 2010**

Overview

This is a consultation about the information Care and Social Services Inspectorate Wales (CSSIW) are required to notify to all local authorities in Wales and England when they take specific actions against providers of children's homes, residential family centres, fostering agencies, voluntary adoption agencies and adoption support agencies. Actions include such things as restricting new admissions to children's homes or residential family centres or cancelling a provider's registration. The consultation asks whether the detail to be provided to local authorities within notifications is appropriate and whether the circumstances where notifications are made to local authorities are appropriate.

How to respond

Consultation responses should be completed using the consultation response form at the back of this document and returned to:

Patrick Harper
Children's Health and Social Services Directorate
Welsh Assembly Government
Cathays Park
Cardiff CF10 3NQ

or e-mail Patrick.Harper@wales.gsi.gov.uk

Additional Copies

Additional copies are available electronically and can be downloaded from the Welsh Assembly Government e-consultation website

Further information and related documents

Annex A - the draft Care Standards Act 2000 (Notification) (Wales) Regulations 2011

Contact Details

For further information:

Patrick Harper
Children's Health and Social Services Directorate
Welsh Assembly Government
Cathays Park
Cardiff CF10 3NQ

or e-mail Patrick.Harper@wales.gsi.gov.uk

Telephone: (029) 2082 5296

Data Protection

The Welsh Assembly Government is the data controller for all personal data relating to your consultation response.

The Welsh Assembly Government intends to publish a summary of the responses to this document and where practicable, the responses. Normally, the name and address (or part of the address) of its author are published along with the response, as this gives credibility to the consultation exercise. If you do not wish to be identified as the author of your response, please state this expressly in writing to us.

The Welsh Assembly Government will share consultation responses with officials across the Department to inform the preparation of all future consultations.

Summary

1. The Care and Social Service Inspectorate Wales (CSSIW) currently has a range of options in cases where providers are not meeting their statutory duties. Failure to comply with the relevant regulations constitutes an offence for which the provider may be prosecuted. Any contravention or failure to comply with the regulations may result in a notice being served by CSSIW, setting out the details of the failure, the action needed for remedy and the timescale. CSSIW also has powers to impose conditions on a provider's registration, or in extreme cases to take action to cancel an establishment or agency's registration.

2. The new measures being introduced by the Children and Young Persons Act 2008 (CYPA) and the Health and Social Care Act 2008 (HSCA) will increase the range of enforcement options open to CSSIW (under delegation by Welsh Ministers) by giving CSSIW the power to restrict new admissions to children's homes and residential family centres and the power to issue a compliance notice to an establishment or agency that is not meeting its statutory requirements and powers to suspend the registration of a service provider or a manager of a regulated establishment.

3. Section 30A of the Care Standards Act 2000 as inserted by Section 29 of the Children and Young Person Act 2008 introduces a notification procedure. This applies to the following establishments and agencies; residential family centres, children's homes, fostering agencies, voluntary adoption agencies and adoption support agencies.

4. The new notification procedure outlined in new section 30A(2) of the Care Standards Act 2000 (CSA 2000), applies in Wales where a prosecution has been brought for a "relevant offence"¹, where a decision has been taken to cancel registration of the establishments or agency or where admissions to a children's home or residential family centre are restricted. Where such circumstances have been met CSSIW must notify all local authorities in Wales and England as soon as practicable.

5. Section 18 of the Health and Social Care Act 2008 further amends section 30A of the CSA 2000 and provides powers for CSSIW to suspend a person's registration as a service provider or a manager for a fixed period of time if they are failing to comply with the requirements of the CSA 2000 in respect of establishment mentioned in paragraph 3. In this instance the person would continue to be registered but could not carry on or manage the regulated activities in respect of which they are registered until the end of the suspension.

6. The legislation allows for electronic communication of notifications where CSSIW and the local authority agree that such notifications may be electronically transmitted, and where CSSIW and the local authority agree the format of such communications. Systems for the practical application of the regulations will need to be developed between CSSIW and local authorities. Systems will also need to be

¹ Relevant offence means an offence under part two of the Care Standards Act 2000 or regulations under this part; section 9(4) of the Adoption Act 1976; or regulations under section 9 of the Adoption and Children Act 2002

developed between CSSIW and the Children's Commissioning Support Resource (CCSR) to ensure the placement database is updated with any restriction of accommodation notice that CSSIW may serve (under new section 22B of the CSA 2000) on a provider of a children's home or residential family unit.

7. It is intended that these regulations are made in October 2010 to come into force from April 2011.

England

8. The outlined notification procedure also applies to England and similar arrangements will be in place for England from April 2011. The Care and Social Services Inspectorate Wales (CSSIW) are working closely with Ofsted to finalise arrangements for transmitting notifications cross border.

The draft regulations

9. The regulations which are the subject of this consultation set out what information must be contained in the notices to be sent to all local authorities in Wales and England. The regulations also set out circumstances in addition to those in 30A(2) of the CSA 2000 where CSSIW must notify all local authorities in Wales and England.

10. The exercise of this power, and requirement for all local authorities to be notified when action is taken, is to enable local authorities to make informed decisions about the use or continued use of the establishments or agencies which are the subject of the notification.

11. We are keen for providers and local authorities to give us their views on the circumstances for notification to all local authorities in Wales and England and the level of information to be contained within the notices.

Areas for consultation in relation to these draft regulations

12. New section 30A(3) of the CSA 2000 enables regulations to prescribe certain circumstances relating to P (the person managing or carrying on the establishment or agency in question) which trigger a notification from the registration authority. If any of these circumstances arise the registration authority is to notify all local authorities in Wales and England of that fact. Notifications under this section will provide the local authorities with important updated positions on the initial notifications sent out under section 30A(2) of the CSA 2000. Section 30A(4) of the CSA 2000 provides that notifications sent out under section 30A of the CSA 2000 must contain the information prescribed in the regulations.

Consultation proposals

13. Under section 30A(2) of the CSA 2000, CSSIW must notify all local authorities in Wales and England as soon as practicable where it::

- Adopts a proposal to cancel registration of the establishment or agency, under section 17(4) (a) of the CSA 2000.

- Has brought proceedings for a “relevant offence” committed in relation to the establishment or agency.
- Has decided to either suspend or extend the suspension period or vary a condition of suspension or continue the suspension.
- Has served a notice under section 22B of the CSA 2000 to restrict admissions to a children’s home or residential family centre.
- Has brought proceedings for an offence under Part 2 of the CSA 2000, section 9 (4) of the Adoption Act 1976 or Regulations made under section of the Adoption and Children Act 2002.
- Has served a notice under section 22B of the CSA 2000 restricting accommodation at a children’s home or a residential family centre; or
- Has serviced a notice to suspend or extend a suspension served under section 30A(2)(aa) or (ab) of the CSA 2000.

14. In relation to all settings and all the circumstances listed in section 30A(2) of the CSA 2000, we propose to require CSSIW to make the following information available to all local authorities in the first instance:

- A description of the establishment or agency.
- The registration certificate number of the establishment or agency.
- The name and address of the person carrying on or managing the establishment or agency.
- The date on which the notification is sent.
- The paragraph of section 30A(2) of the CSA 2000 under which the notification is being sent.

15. In respect of notifications for suspension, CSSIW will provide information on:

- The duration of the suspension.
- The reason for the suspension.

16. In addition, notifications in respect of suspensions under section 30A(2) (aa) or (ab) of the CSA 2000 will contain:

- The duration of the suspension.
- Reason for the suspension.

17. Notifications under section 30A(2)(b) of the CSA 2000 (notification of proceedings for a relevant offence) will contain:

- The date on which the summons was issued.
- A summary of the alleged relevant offence.
- The date of the court hearing if known.

18. Where CSSIW are bringing proceedings for a relevant offence, the initial notice to local authorities should also contain:

- The date summons was issued.
- A summary of the alleged relevant offence.
- The date of the hearing (if known) where CSSIW are serving a restriction notice the initial notice should also contain.
- The date on which the notice ceases to have effect (if specified).

19. We have been mindful in drafting these regulations to keep the amount of information sent to local authorities to the minimum that will notify of the action taken without compromising the provider's right to operate their business.

Children's Commissioning Support Resource (CCSR)

20. The long-term aim is that all placements (other than family and friends placements) of children and young people under the Children Act 1989 will be made and recorded on the CCSR. All providers registered with CSSIW are encouraged to register with the CCSR. The CCSR database also includes providers registered by Ofsted that offer placements to Welsh authorities.

21. Systems will be developed between CSSIW, Local Government Data Unit and local authorities to record restriction of accommodation notices issued by CSSIW under section 22B of the CSA 2000. This will provide a safeguard to prompt local authorities in making informed decisions on their placement options.

What are the main issues?

22. Section 29 of the CYPA 2008 inserts a new Section 30A in the Care Standards Act 2000. It places a duty on CSSIW to notify each local authority in Wales and England when certain enforcement action is taken in relation to the establishments and agencies below:

- Residential family centres.
- Children's homes.
- Fostering agencies.
- Voluntary adoption agencies.
- Adoption support agencies.

23. Enforcement action encompassed may be a decision to cancel registration of a provider, a prosecution brought for an offence under Part 2 of Care Standards Act 2000 or under specified relevant legislation, or where a notice restricting accommodation at a children's home or residential family centre is served. Changes under the CYPA 2008 to section 30A of the CSA 2000 further provide powers on CSSIW to place a suspension or extend the period of suspension to the establishments listed above.

24. We are consulting on draft regulations specifying:

- What information must be contained in the notification to be sent to all local authorities in Wales and England.
- In what circumstances in addition to those covered above CSSIW must notify all local authorities in Wales and England.

25. This aim is to give a local authority notice of an updated position to enable them to have information relevant to their decision to use or continue to use the establishment/agency when placing children or commissioning the provision of services.

Where are we now?

26. This consultation forms part of the *Fulfilled Lives, Supportive Communities* strategy for the future of social services in Wales. It delivers on its commitment to improve outcomes for children in care. It builds on the Welsh Assembly Government policies; “*Towards A Stable Life*” and “*Strengthening Families*” with the establishment of Integrated Family Support Teams (IFST) starting with learning from the pioneers in Spring 2010.

27. The Children and Young Persons Act 2008 provides the legislative framework to improve outcomes for children in care and leaving care. The provisions of the Act are being commenced in stages during 2009-2011, as different regulations and guidance are developed, consulted on and published.

Proposed Outcomes

28. The new measures being introduced by the Children and Young Persons Act 2008 will increase the range of enforcement options open to CSSIW (under delegation by Welsh Ministers) by giving CSSIW the power to restrict new admissions to children’s homes and residential family centres and the power to issue a compliance notice to an establishment or agency that is not meeting its statutory requirements. Additional powers in the Health & Social Care Act 2008 provides for a suspension of a person’s registration as a service provider or a manager for a fixed period of time if they are failing to comply with the requirements of the CSA 2000 in respect of establishment. CSSIW may also extend the suspension period.

What are we proposing to change?

29. Section 30A of the Care Standards Act 2000 as inserted by section 29 of the Children and Young Person Act 2008 introduces a notification procedure. This applies to the following establishments and agencies; residential family centres, children’s homes, fostering agencies, voluntary adoption agencies and adoption support agencies.

30. The new notification procedure outlined in new section 30A(2) of the CSA 2000, applies in Wales where a prosecution has been brought for a “relevant offence”, where a decision has been taken to cancel or suspend registration of the establishment or agency or where admissions to a children’s home or residential

family centre are restricted. Where such circumstances have been met CSSIW must notify all local authorities in Wales and England as soon as practicable.

31. The legislation allows for electronic communication of notifications where CSSIW and the local authority agree that such notifications may be electronically transmitted, and where CSSIW and the local authority agree as to the format of such communications. Systems for the practical application of the regulations will need to be developed between CSSIW and local authorities. Systems will also need to be developed between CSSIW and the Children's Commissioning Support Resource (CCSR) to ensure the placement database is updated with any restriction of accommodation notice that CSSIW may serve (under new section 22B of CSA 2000) on a provider of a children's home or residential family centre.

32. It is intended that these regulations are made in October 2010 to come into force from April 2011.

33. From 2010/11, around £2.5m has been made available to local authorities in specific grant to implement the provisions in the CYPA 2008 and associated matters. This is in addition to the £2m made available in Local Government Revenue Support since 2009/10.

34. New section 30A(3) of the CSA 2000 provides that if CSSIW become aware of any prescribed circumstances it must notify each local authority in Wales and England as soon as practicable. It confers the power to make regulations to specify those prescribed circumstances. Notifications under this section are intended to provide local authorities with notification of updated positions in relation to the initial notifications that they will already have received.

35. CSSIW will be required to send notifications in the circumstances listed in regulation 3 of the draft regulations. This is to ensure that local authorities are made aware of any relevant, updated positions relating to the subject of the initial notification that they will have been sent under section 30A(2) of CSA 2000. CSSIW will have to notify local authorities if the following additional circumstances occur:

Where a Notice is made under section 30A(2)(a) of the CSA 2000 – Cancellation

36. CSSIW is required to notify all local authorities as soon as practicable after they have decided to adopt a proposal under section 17(4)(a)² to cancel the registration of the establishment/agency. This covers cases of cancellations that are not an emergency cancellation of registration. The policy intention is that once providers are notified that CSSIW have decided to adopt a proposal to cancel registration, local authorities are updated in the following additional circumstances.

37. In relation to a notice sent under section 30A(2)(a) of the CSA 2000, CSSIW

² CSA 2000 S17(4) - Except where it makes an application under section 20 [or 20A or gives notice under section 20B] (i.e. emergency cancellation), the registration authority shall give any person registered in respect of an establishment or agency notice of a proposal:
(a) to cancel the registration (otherwise than in accordance with an application under section 15(1)(b)).

should notify local authorities of the following circumstances:

- An appeal made to the Tribunal against a decision to adopt a proposal to cancel registration.
- The outcome of an appeal made to the Tribunal against a decision to cancel registration.
- That the registration of the establishment or agency has been cancelled.

Where a Notice is made under section 30A(2)(b) of CSA 2000 - Prosecution

38. In relation to a notice sent under section 30A(2)(b) of the CSA 2000, CSSIW should notify local authorities of the following circumstances:

- The outcome of the proceedings for the relevant offence.
- An appeal.
- The outcome of any appeal.

Where a notice is made under section 22B of the CSA 2000 (Restriction of Admissions)

39. In relation to a notice sent under section 30A(2)(c) of the CSA 2000, CSSIW should notify local authorities of the following circumstances:

- An appeal against that notice.
- If that notice ceases to have effect.
- The outcome of the appeal (i.e. whether a restriction is upheld or cancelled).
- Notify LGDU to update / mark the CCSR record for the relevant registered establishment / agency.

Where a notice is made under section 30A(2)(aa) or (ab) of the CSA 2000 (Suspension of Registration)

40. Where notice is made under section 30A(2)(aa) or (ab) of the CSA 2000 (**Suspension of registration**) CSSIW should notify local authorities of the following Circumstances:

- the duration of the suspension, and
- reason for the suspension.

41. Notifications in addition to those outlined in 30A(2) of the CSA 2000 have been kept to the minimum needed to enable local authorities to have an up-to-date understanding of the enforcement position with regards the establishment or agency.

Consultation Response Form
Care and Social Services Inspectorate Wales notifications to
local authorities under Section 30A of the Care Standards Act 2000

Name:	
Organisation (if applicable)	
E mail/telephone number	
Address:	

Consultation Questions

Question 1	Please tick	
	Yes	No
Is this the right level of information needed by Local Authorities?		
Comments		

Consultation Response Form

Care and Social Services Inspectorate Wales notifications to local authorities under Section 30A of the Care Standards Act 2000

Question 2	Please Tick	
Are these the correct circumstances about which CSSIW should notify Local Authorities?	Yes	No
Comments		

Question 3	Please tick	
Do you agree that CSSIW must have system in place to update the CCSR database on any restrictions of accommodation issued by CSSIW under section 22B of Care Standards Act 2000?	Yes	No
Comments		

Consultation Response Form

Care and Social Services Inspectorate Wales notifications to local authorities under Section 30A of the Care Standards Act 2000

Question 4	Please tick	
Are there any other comments?	Yes	No
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	
Comments	

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please tick here: