

Draft Regulations laid before the National Assembly for Wales in accordance of section 66 of the Children Act 2004, for approval by resolution of the National Assembly for Wales.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2020 No. (W.)

**CHILDREN AND YOUNG
PERSONS, WALES**

**The Children Act 2004 Education
Database (Wales) Regulations 2020**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 29 of the Children Act 2004 and apply to the establishment and operation of an education database in by each local authority Wales. The Regulations come into force on XXX

Each local authority in Wales will be required to establish a database (regulation 3) that will contain the information set out in the Schedule to the Regulations in respect of children who are ordinarily resident in the local authority's area.

A local health board in Wales will be required to disclose to a local authority at such times that the Welsh Ministers specify such information specified in the Schedule that is available to them (regulation 5). Both a local health board and a local authority must take reasonable steps to ensure that the information is accurate (regulation 6).

The length of time for which information may be retained in the database is six years after it becomes archived information (regulation 7). The date on which information in an education

record becomes archive information is dependant on a range of factors, which are set out in regulation 8.

Regulation 9 details who may have access to the database and for which education functions it might be used.

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**The Children Act 2004 Education
Database (Wales) Regulations 2020**

Made ***

Laid before the National Assembly for Wales

Coming into force ***

The Welsh Ministers in exercise of the powers conferred by section 29 of the Children Act 2004(1), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Children Act 2004 Education Database (Wales) Regulations (Wales) Regulations 2020.

(2) These Regulations come into force on XX.

(3) These Regulations apply in relation to the establishment and operation of a database under section 29 of the Children Act 2004.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Children Act 2004;

“archived information” is to be construed in accordance with regulation X;

“education record” in relation to a child (including a child who is not ordinarily resident in the local

(1) 2004 c.31.

authority's area or who has died) means the information contained in the database relating to that child;

“the database” means the database established and operated, or to be established and operated by a local authority under section 29 of the Act;

“local authority” means a local authority in Wales;

“local health board” means a local health board established under the National Health Service (Wales) Act 2006;

“parental responsibility” has the same meaning as in section 3 of the Children Act 1989⁽¹⁾.

(2) In these Regulations any reference to an education record for which a local authority is responsible means an education record for which by virtue of regulation 3 the authority is responsible, and references to a local authority being responsible for education records are to be construed accordingly.

(3) In these Regulations any reference to a person employed includes a person employed whether under a contract of service or a contract for services, a person seconded to the local authority in question and references to an employee are to be construed accordingly.

(4) In these Regulations a person—

- (a) is not to be treated as having care of another person;
- (b) by reason only of the fact that (a) acts as a child minder to (b) or provide day care to (b) for part of the day only.

Establishment of database

3.—(1) Each local authority must establish a database containing such information of the descriptions specified in the Schedule relating to each child who is ordinarily resident in that local authority's area.

(2) The database may contain information about a child who is no longer ordinarily resident in that local authority area or who has died.

Participation by local authorities

4.—(1) A local authority must participate in the operation of a database in accordance with these Regulations.

(2) If a local authority becomes aware that a child has, or is likely to become ordinarily resident in another local authority (“the receiving local authority”)

(1) 1989 c.41.

it must transfer that child's education record to the receiving local authority within 28 days of the date that it became aware of those circumstances.

(3) A local authority is responsible for any education record, responsibility for which is accepted by the authority with the agreement of the local authority which previously had responsibility for that education record.

Disclosure of information for inclusion in a database

5.—(1) A local health board must disclose to each local authority for inclusion in the database at such times as the Welsh Ministers may specify such of the information specified in the Schedule relating to a child who is ordinarily resident in that local authority's area as is available to the local health board or independent school (as the case may be).

(2) When any information disclosed for inclusion in the database pursuant to paragraph 1 is superseded by new information, the local health board or independent school must disclose that new information for inclusion in the database.

Procedure for ensuring the accuracy of information in the database

6.—(1) A local health board which discloses information for inclusion in the database must take reasonable steps to ensure the information is accurate.

(2) Where it appears to a local authority that an education record for which it is responsible is or may be inaccurate or incomplete, the authority must take reasonable steps to correct the inaccuracy or to complete the record.

Retention of information

7. Information disclosed for information inclusion in the database under these Regulations may be retained for 6 years from the date on which it becomes archived information.

Archived information

8.—(1) Subject to paragraph X and so far as it is not already archived information, information in an education record becomes archived information on the earliest of the dates specified in paragraph 2.

(2) The dates are—

- (a) the date on which the child attained the age of 16;
- (b) a person who ceases to be ordinarily resident in the local authority's area, the date on which

the local authority responsible for the child becomes aware that the child is no longer ordinarily resident in its area and it is unlikely the child will resume ordinarily resident in its area within 3 years from that date; and

- (c) for a person who has died, the first anniversary of that child's death.

Access to the database

9.—(1) Only a person employed in relation to the exercise by, or on behalf of a local authority of the functions specified in paragraph 2 may have access to the database for the purpose of adding or reading information.

(2) The functions referred to in paragraph 1 are—

(a) functions under—

- (i) Part 6 (school admissions attendance and charges) of the Education Act 1996.
- (ii) Section 175 of the Education Act 2002 (duties of local authorities and governing bodies in relation to welfare of children).
- (iii) Part 3 (additional learning needs) of the Additional Learning Need and Education Tribunal (Wales) Act 2018, and

Name

Title of Minister, one of the Welsh Ministers

Date

Information to be included in the database

1. The child's name (including any former name).
2. As respect the child's address or whereabouts—
 - (a) the child's current address;
 - (b) if at any time there is no known current address for the child, the child's last known address;
 - (c) a statement that there is no known address for the child, or
 - (d) where the child has ceased to be ordinarily resident in the local authority a statement that the local authority—
 - (i) has information that the person intends to return to the local authority area within 3 years from the date on which the authority considers that the person ceased to ordinarily resident;
 - (ii) has information that the person does not intend to return to the local authority area within a period of 3 years from the date on which the local authority considers that the person ceased to be ordinarily resident; or
 - (iii) does not have any information as to whether the person does or does not intend to return to the local authority area.
3. The child's gender or if the person's gender has not been specified a statement about the effect.
4. The child's date of birth.
5. Such number as is used to identify the child in the database.
6. The name and contact details of any person with parental responsibility for the child or who has care of the child at any time.
7. Where the child is attending an educational institution the name and contact details of the institution, the date on which the child started attending the institution and (where applicable) the date of which the child ceased attending.
8. Where the child is receiving education otherwise than at an educational institution, the name and contact details of a person or body providing such education,

the date in which such education started and (where applicable) the date on which attended.

9. Where the child has died the date of the child's death.