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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Social Services and Well-being (Wales) Act 2014 – amendments to the regulations and code of practice in respect of secure accommodation and placements of children out of area

Date of issue: 04 September 2017
Action required: Responses by 27 November 2017

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 Care Planning, Placement and Case Review (Wales) Regulations 2015, the Secure Accommodation (Wales) Regulations 2015, and the Part 6 Code of Practice on Looked After and Accommodated Children.
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>The consultation document, draft regulations and code of practice may be found at: https://consultations.gov.wales/consultations/secure-accommodation-and-placements-children-out-area</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: lookedafterchildren@gov.wales</p> <p>Telephone: 03000 253049</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 published, please tell us this in writing when you send</p>

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 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).

What changes are we proposing?

Care Planning, Placement and Case Review (Wales) Regulations 2015

The changes we propose to these regulations concern 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.

Currently, when a child is placed out of county in an emergency, the placing authority must notify the area authority (in Wales or, in the case of a cross-border placement, in England) not later than five working days of the placement being made. Notification in this case means that the placing authority must provide details of its assessment of the child's need and the reasons why the placement chosen is the most appropriate way of meeting the child's needs, and a copy of the child's care and support plan. The placing authority must also refer the placement to a panel as soon as practicable after the placement, and in any event not later than 25 working days after the placement is made.

Concerns have been raised by local authorities and the police that the five day notification period seems to be 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. Notified in this case means that the local authority placing the child must provide the following information:

- details of the child's name and date of birth
- whether the child is being looked after by the local authority on a voluntary basis or under a care order or interim care order
- any other legal orders made in relation to the child (for example, a youth rehabilitation order, local authority residence order or compulsory supervision order)
- details of any other significant child protection or risk factors which relate to the child, including for example any danger of child sexual exploitation, physical or mental health issues, history of absconding and / or involvement with youth justice agencies.

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, and the Welsh Ministers are keen to work with the UK Government to improve the arrangements for cross-border placements. It should be noted that a new requirement has also been included in regulations under the Regulation and Inspection of Social Care (Wales) Act 2016 for children's homes in Wales to notify the area authority, without delay, whenever they accept a child from outside that area, including those from England. This will provide an important back-up, but primary responsibility for notifications will remain, as it should, with the local authority which is placing a child. The proposed amendment should be seen, therefore, as part of a package of measures designed to ensure that a local authority receives timely and adequate notification when a child from another authority is placed in its area.

These changes will also need to be reflected in the Part 6 Code of Practice, by amending paragraphs 202 to 205. We propose to amend this section as follows:

Emergency placements out of area

If the child's well-being requires immediate provision of an out of area placement, the local authority should refer the child's case to a panel as soon as practicable, and in any event not later than 25 working days after the placement has commenced.

Before an emergency placement is made, the nominated officer **must** be satisfied of the following before approving a decision:

- the child's wishes and feelings have been ascertained and given due consideration
- the placement is the most appropriate placement available and consistent with the care and support plan.

The local authority making the placement must notify the local authority where the child is placed within 24 hours of the placement commencing. This notification must include:

- the child's name and date of birth
- whether the child is being looked after by the local authority on a voluntary basis or under a care order or interim care order
- details of any of the following orders which have been made and remain in force in relation to the child: any order made under the Children Act 1989, a youth rehabilitation order, local authority residence requirement or youth rehabilitation order with fostering, or a compulsory supervision order or interim compulsory supervision order
- details of any significant child protection or risk factors which relate to the child, including any danger of child sexual exploitation, physical or mental

health issues, history of absconding and/or involvement with youth justice agencies

The local authority must also, no later than five working days after the placement is made, provide the area authority with:

- details of its assessment of the child's needs and the reason why the placement chosen is the most appropriate way of meeting his or her needs
- a copy of the child's care and support plan if it has not already been provided.

The child's independent reviewing officer and parents (where appropriate) must also be consulted within five working days.

Panels must ensure that they give the same level of scrutiny to retrospective cases. The reasons for not referring the child's case to the panel prior to the placement must be recorded in writing and endorsed by a senior officer, and a copy placed on the child's case file. The panel's decision, either to confirm the placement or to place the child elsewhere, should be recorded with reasons and endorsed by the senior officer of the placing authority. This should also be copied to the lead member for children's services in the placing authority.

Secure Accommodation (Wales) Regulations 2015

The draft amendments to these regulations are 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 to the regulations changes 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 are also taking 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 is included as part of this consultation.

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 has 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 accept 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.

Consultation questions

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

Yes / No

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

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

Yes / No

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

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?
4. Do you have any comments on our proposed amendments to the Part 6 Code of Practice on Looked After and Accommodated Children, in particular on the revised chapter 7 (secure accommodation)?

Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Question 1

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

Yes / No

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

Question 2

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

Yes / No

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

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?

Question 4

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

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:

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: