



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1823 (Cy. 265)

2015 No. 1823 (W. 265)

**PLANT A PHERSONAU
IFANC, CYMRU**

**CHILDREN AND YOUNG
PERSONS, WALES**

**Rheoliadau Ymweliadau â Phlant
dan Gadwad (Cymru) 2015**

**The Visits to Children in Detention
(Wales) Regulations 2015**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch gofynion ymweld ar gyfer plant penodedig sydd, ar ôl eu collfarnu o drosedd gan lys, dan gadwad mewn llety cadw ieuencid neu garchar, neu y gwneir yn ofynnol eu bod yn preswyllo mewn mangre a gymeradwywyd.

Mae rheoliad 3 yn pennu'r amgylchiadau, at ddibenion adran 97(1)(b) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 ("Deddf 2014"), sy'n peri bod plentyn yn peidio â derbyn gofal gan awdurdod lleol (digwyddiad a fydd yn dod â phlant o'r fath wedyn o fewn cwrmpas y ddyletswydd a nodir yn adran 97(3) o Ddeddf 2014 a'r Rheoliadau hyn).

Mae adran 97(3) o Ddeddf 2014 yn gosod dyletswydd ar yr awdurdod lleol cyfrifol i ymweld â phlentyn o'r fath, cynnal cyswllt â'r plentyn, a darparu cyngor a chymorth arall iddo.

Yr amgylchiadau a bennir gan reoliad 3 yw bod plentyn, a fu'n derbyn gofal gan awdurdod lleol, ond a beidiodd â derbyn gofal oherwydd naill ai bod y plentyn, ar ôl ei gollfarnu o drosedd gan lys, dan gadwad mewn llety cadw ieuencid neu garchar, neu y gwnaed yn ofynnol fod y plentyn yn preswyllo mewn mangre a gymeradwywyd.

Bydd plant sydd, ar ôl eu collfarnu o drosedd gan lys, yn colli eu statws fel plant sy'n derbyn gofal o ganlyniad i'w rhoi dan gadwad neu ei gwneud yn ofynnol eu bod yn preswyllo mewn mangre a gymeradwywyd, yn dod o fewn disgrifiad a nodir ym mharagraff (a) neu (b) isod—

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about visiting requirements for specified children who, having been convicted of an offence by a court, are detained in youth detention accommodation or in prison, or are required to reside in approved premises.

Regulation 3 specifies, for the purposes of section 97(1)(b) of the Social Services and Well-being (Wales) Act 2014 ("the 2014 Act"), the circumstances that lead to a child ceasing to be looked after by a local authority (which will bring such children within the scope of the duty set out in section 97(3) of the 2014 Act and these Regulations).

Section 97(3) of the 2014 Act imposes a duty upon the responsible local authority to visit, have contact with and to provide advice and other support for such a child.

The circumstances specified by regulation 3 are that a child who was looked after by a local authority but who has ceased to be looked after because, having been convicted of an offence by a court, they are detained in youth detention accommodation or in prison, or required to reside in approved premises.

Children who, having been convicted of an offence by a court, lose their looked after status as a result of their being detained or required to reside in approved premises will fall within a description set out in paragraph (a) or (b) below—

- (a) plentyn a oedd, yn union cyn ei roi dan gadwad, yn derbyn gofal yn rhinwedd darparu llety iddo gan yr awdurdod lleol o dan adran 76 o Ddeddf 2014; neu
- (b) plentyn sy'n preswyllo fel arfer yng Nghymru ac a drinnid fel plentyn yn derbyn gofal yn unol ag adran 104 o Ddeddf Cymorth Cyfreithiol, Dedfrydu a Chosbi Troseddwyd 2012 ("Deddf 2012") (yn rhinwedd ei roi ar remand i lety awdurdod lleol neu lety cadw ieuencid yn unol ag adran 92 o Ddeddf 2012).

Mae rheoliad 4 yn pennu, at ddibenion adran 97(1)(c) o Ddeddf 2014, dau gategori o blant (a bennir yn unol ag adran 97(2)), y bydd gan awdurdod lleol ddyletswyddau mewn cysylltiad â hwy o dan adran 97(3) o Ddeddf 2014 ac o dan y Rheoliadau hyn. Mae cymhwysu rheoliad 4 yn ddarostyngedig i eithriadau, a nodir yn rheoliad 2(2).

Bydd y plant a eithrir o'r categorïau a bennir yn rheoliad 4 oherwydd eu bod yn dod o fewn disgrifiad a nodir yn is-baragraffau (a) i (e) o reoliad 2(2) yn cael ymweliadau a chymorth gan yr awdurdod lleol (neu awdurdod lleol yn Lloegr) sy'n gyfrifol am ddiwallu eu hanghenion yn unol â gofynion statudol eraill.

Yn ddarostyngedig i'r ddarpariaeth a wneir gan reoliad 2(2), bydd y categorïau o blant a bennir yn rheoliad 4 yn dod o fewn disgrifiad a nodir ym mharagraff (a) neu (b) isod—

- (a) y categori cyntaf yw plentyn sy'n preswyllo fel arfer yng Nghymru ac, ar ôl ei gollfarnu o drosedd gan lys, a roddwyd dan gadwad mewn llety cadw ieuencid neu garchar, neu y gwneir yn ofynnol ei fod yn preswyllo mewn mangre a gymeradwywyd,
- (b) yr ail gategori yw plentyn sydd, ar ôl ei gollfarnu o drosedd gan lys, dan gadwad mewn llety cadw ieuencid neu garchar, neu y gwneir yn ofynnol ei fod yn preswyllo mewn mangre a gymeradwywyd a leolir yng Nghymru.

Mae rheoliad 5 yn pennu, at ddibenion adran 97(2) o Ddeddf 2014, pa awdurdod lleol y mae'n rhaid iddo gyflawni'r dyletswyddau a osodir o dan adran 97 ac o dan y Rheoliadau hyn mewn perthynas â phlentyn sy'n dod o fewn categori a bennir yn rheoliad 4.

- (a) a child, who immediately before being detained, was looked after by virtue of the local authority providing them with accommodation under section 76 of the 2014 Act; or
- (b) a child who is ordinarily resident in Wales and who was treated as looked after in accordance with section 104 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ("the 2012 Act") (by virtue of having been remanded to local authority accommodation or youth detention accommodation in accordance with section 92 of the 2012 Act).

Regulation 4 specifies, for the purposes of section 97(1)(c) of the 2014 Act, two categories of children in respect of whom a local authority (specified in accordance with section 97(2)) will have duties under section 97(3) of the 2014 Act and under these Regulations. The application of regulation 4 is subject to exceptions, which are set out in regulation 2(2).

The children who are excepted from the categories specified in regulation 4 because they fall within a description set out in sub-paragraphs (a) to (e) of regulation 2(2) will be visited and supported by the local authority (or local authority in England) responsible for meeting their needs in accordance with other statutory requirements.

Subject to the provision made by regulation 2(2), the categories of children specified in regulation 4 will fall within a description set out in paragraph (a) or (b) below—

- (a) the first category is a child who is ordinarily resident in Wales who, having been convicted of an offence by a court, is detained in youth detention accommodation or prison, or is required to reside in approved premises,
- (b) the second category is a child who, having been convicted of an offence by a court, is detained in youth accommodation or in prison or required to reside in approved premises that are situate in Wales.

Regulation 5 specifies, for the purposes of section 97(2) of the 2014 Act, which local authority must discharge the duties imposed under section 97 and under these Regulations in relation to a child who falls within a category specified in regulation 4.

Mae rheoliad 6 yn gwneud darpariaeth ynglŷn ag amllder yr ymweliadau; rhaid i'r awdurdod lleol cyfrifol drefnu i'w gynrychiolydd ymweld â'r plentyn o fewn 10 diwrnod gwaith ar ôl rhoi'r plentyn dan gadwad, neu ei gwneud yn ofynnol gyntaf ei fod yn preswyllo mewn mangre a gymeradwywyd, ac wedyn pa bryd bynnag y gofynnir yn rhesymol iddo wneud hynny gan bersonau penodedig, er enghraifft, y plentyn, rhieni'r plentyn, neu'n unol ag argymhellion a wneir gan y cynrychiolydd.

Mae rheoliad 7 yn darparu bod rhaid i'r cynrychiolydd, yn ystod pob ymweliad, siarad yn breifat gyda'r plentyn, oni fydd yn amhriodol gwneud hynny neu fod y plentyn yn gwrthod gwneud hynny.

Mae rheoliad 8 yn gosod dyletswydd ar y cynrychiolydd i ddarparu adroddiad am bob ymweliad, ac yn pennu'r hyn y mae'n rhaid ei gynnwys yn yr adroddiad hwnnw. Mae'n darparu hefyd fod rhaid rhoi copi o'r adroddiad i'r plentyn, oni fyddai'n amhriodol gwneud hynny, ac i bersonau penodol eraill.

Mae rheoliad 9 yn gwneud darpariaeth mewn perthynas â dyletswydd yr awdurdod lleol cyfrifol o dan adran 97(3)(b) o Ddeddf 2014 i drefnu bod cyngor a chymorth ar gael i'r plentyn.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd aseiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth yr Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

Regulation 6 makes provision about the frequency of visits; the responsible local authority must arrange for its representative to visit the child within 10 working days of the child first being detained or required to reside in approved premises and thereafter whenever reasonably requested to do so by specified persons, for example, the child, the child's parents, or in line with the recommendations made by the representative.

Regulation 7 provides that during each visit, the representative must speak to the child in private unless it is not appropriate to do so or the child refuses.

Regulation 8 places a duty on the representative to provide a report of each visit and sets out what must be included in that report. It also provides that a copy of the report must be given to the child, unless it would be inappropriate to do so, and to certain other persons.

Regulation 9 makes provision in relation to the responsible local authority's duty under section 97(3)(b) of the 2014 Act to arrange for advice and support to be available to the child.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department for Health and Social Services, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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**The Visits to Children in Detention
(Wales) Regulations 2015**

Gwnaed 21 Hydref 2015

Made 21 October 2015

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 23 Hydref 2015

Laid before the National Assembly for Wales
23 October 2015

Yn dod i rym 6 Ebrill 2016

Coming into force 6 April 2016

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 97(1)(b) ac (c), (2) a (4) a 196(2) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(1), yn gwneud y Rheoliadau a ganlyn(2):

The Welsh Ministers, in exercise of the powers conferred by sections 97(1)(b) and (c), (2) and (4) and 196(2) of the Social Services and Well-being (Wales) Act 2014(1), make the following Regulations(2):

Enwi, cychwyn a chymhwyso

Title, commencement and application

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Ymweliadau â Phlant dan Gadwad (Cymru) 2015 a deuant i rym ar 6 Ebrill 2016.

1.—(1) The title of these Regulations is the Visits to Children in Detention (Wales) Regulations 2015 and they come into force on 6 April 2016.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(2) These Regulations apply in relation to Wales.

Dehongli

Interpretation

2.—(1) Yn y Rheoliadau hyn—
ystyr “A” (“A”) yw plentyn—

2.—(1) In these Regulations—

(a) a fu'n derbyn gofal gan awdurdod lleol ond a beidiodd â derbyn gofal ganddo(3) o ganlyniad i'r amgylchiadau a ragnodir yn rheoliad 3, neu

“the 1989 Act” (“*Deddf 1989*”) means the Children Act 1989(3);

“the 2012 Act” (“*Deddf 2012*”) means the Legal Aid, Sentencing and Punishment of Offenders Act 2012(4);

(b) yn ddarostyngedig i reoliad 2(2), plentyn sy'n dod o fewn categori a bennir yn rheoliad 4;

“the 2014 Act” (“*Deddf 2014*”) means the Social Services and Well-being (Wales) Act 2014;

“A” (“A”) means a child—

(1) 2014 decc 4.

(2) Gweler adran 197(1) am y diffiniadau o “penodedig”, “a bennir” ac “a bennwyd” a “rheoliadau”.

(3) Ar gyfer ystyr plentyn sy'n “derbyn gofal” gan awdurdod lleol, gweler adran 197(2) o Ddeddf 2014; diffinnir “awdurdod lleol” ac “awdurdod lleol yn Lloegr” yn adran 197(1) o Ddeddf 2014.

(1) 2014 anaw 4.

(2) See section 197(1) for the definitions of “specified” and “regulations”.

(3) 1989 c. 41.

(4) 2012 c. 10.

ystyr “awdurdod lleol cyfrifol” (“*responsible local authority*”) yw—

- (a) pan fo A yn dod o fewn rheoliad 3, yr awdurdod lleol a oedd yn gofalu am A yn union cyn rhoi A dan gadwad,
- (b) pan fo A yn dod o fewn rheoliad 4—
 - (i) os yw A yn preswyllo fel arfer yng Nghymru, yr awdurdod lleol ar gyfer yr ardal y mae A yn preswyllo ynddi fel arfer, a
 - (ii) mewn unrhyw achos arall, yr awdurdod lleol ar gyfer yr ardal y lleolir ynddi'r sefydliad y mae A dan gadwad ynddo neu'r fangre y mae'n ofynnol bod A yn preswyllo ynddi;

ystyr “Deddf 1989” (“*the 1989 Act*”) yw Deddf Plant 1989(1);

ystyr “Deddf 2012” (“*the 2012 Act*”) yw Deddf Cymorth Cyfreithiol, Dedfrydu a Chosbi Troseddwy 2012(2);

ystyr “Deddf 2014” (“*the 2014 Act*”) yw Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014;

ystyr “diwrnod gwaith” (“*working day*”) yw diwrnod ac eithrio dydd Sadwrn, dydd Sul, Dydd Nadolig, dydd Gwener y Groglith neu wyl banc yn yr ystyr a roddir i “bank holiday” gan Ddeddf Bancio a Thrafodion Ariannol 1971(3);

ystyr “R” (“*R*”) yw cynrychiolydd yr awdurdod cyfrifol, sy'n ymweld ag A yn unol â threfniadau a wneir gan yr awdurdod o dan adran 97 o Ddeddf 2014;

ystyr “rheolwr achos tîm troseddwy ifanc perthnasol” (“*relevant youth offending team case manager*”) yw'r person o fewn tîm troseddwy ifanc yr awdurdod lleol(4) sy'n rheoli achos A;

ystyr “sefydliad” (“*institution*”) yw llety cadw ieuencid(5) neu garchar(6);

mae i “tîm troseddwy ifanc” (“*youth offending team*”) yr ystyr a roddir yn adran 39(1) o Ddeddf Trosedd ac Anhrefn 1998.

(2) Nid yw'r Rheoliadau hyn yn gymwys i blentyn sydd—

(1) 1989 p. 41.
(2) 2012 p. 10.
(3) 1971 p. 80.
(4) Mae dyletswydd ar awdurdod lleol o dan adran 39(1) o Ddeddf Trosedd ac Anhrefn 1998 (p. 37) i sefydlu un neu ragor o dimau troseddwy ifanc ar gyfer ei ardal.
(5) Diffinnir “llety cadw ieuencid” yn adran 188(1) o Ddeddf 2014.
(6) Diffinnir “carchar” yn adran 188(1) a 197(1) o Ddeddf 2014.

(a) who was looked after by a local authority but has ceased to be looked after(1) by it as a result of the circumstances prescribed in regulation 3, or

(b) subject to regulation 2(2), a child who falls within a category specified in regulation 4;

“institution” (“*sefydliad*”) means youth detention accommodation(2) or prison(3);

“R” (“*R*”) means the representative of the responsible authority who is appointed to visit A in accordance with the arrangements made by it under section 97 of the 2014 Act;

“relevant youth offending team case manager” (“*rheolwr achos tîm troseddwy ifanc perthnasol*”) means the person within the responsible local authority's youth offending team(4) who is managing A's case;

“responsible local authority” (“*awdurdod lleol cyfrifol*”) means—

(a) where A falls within regulation 3, the local authority which looked after A immediately prior to A being detained,

- (b) where A falls within regulation 4—
 - (i) where A is ordinarily resident in Wales, the local authority for the area in which A is ordinarily resident, and
 - (ii) in any other case, the local authority for the area in which the institution in which A is detained, or the premises in which A is required to live, are situate;

“working day” (“*diwrnod gwaith*”) means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a Bank Holiday within the meaning of the Banking and Financial Dealings Act 1971(5);

“youth offending team” (“*tîm troseddwy ifanc*”) has the meaning given in section 39(1) of the Crime and Disorder Act 1998.

(2) These Regulations do not apply to a child who is—

(1) For the meaning of a child who is “looked after” by a local authority see section 197(2) of the 2014 Act; “local authority” and “local authority in England” are defined in section 197(1) of the 2014 Act.
(2) “Youth detention accommodation” is defined in section 188(1) of the 2014 Act.
(3) “Prison” is defined in section 188(1) and 197(1) of the 2014 Act.
(4) Under section 39(1) of the Crime and Disorder Act 1998 (c. 37) a local authority has a duty to establish one or more youth offending teams for its area.
(5) 1971 c. 80.

- (a) yng ngofal awdurdod lleol yng Nghymru(1);
- (b) yng ngofal awdurdod lleol yn Lloegr(2);
- (c) yn berson ifanc categori 2(3);
- (d) yn blentyn perthnasol yn yr ystyr a roddir i “relevant child” at ddibenion adran 23A o Ddeddf 1989(4); neu
- (e) yn blentyn a fu gynt yn derbyn gofal ac, ar ôl ei gollfarnu o drosedd gan lys, sydd dan gadwad mewn llety cadw ieuentid neu garchar neu sy’n preswyllo mewn mangre a gymeradwywyd, ac, yn union cyn ei gollfarnu, y darparwyd llety iddo gan awdurdod lleol yn Lloegr o dan adran 20 o Ddeddf 1989(5).

- (a) in the care of a local authority in Wales(1);
- (b) in the care of a local authority in England(2);
- (c) a category 2 young person(3);
- (d) a relevant child for the purposes of section 23A of the 1989 Act(4); or
- (e) a former looked after child who, having been convicted of an offence by a court, is detained in youth detention accommodation or in prison, or is residing in approved premises and, immediately before being convicted, was provided with accommodation by a local authority in England under section 20 of the 1989 Act(5).

Amgylchiadau a bennir at ddibenion adran 97(1)(b) o Ddeddf 2014

3. Yr amgylchiadau a ragnodir at ddibenion adran 97(1)(b) o Ddeddf 2014(6) yw bod plentyn, ar ôl ei gollfarnu o drosedd gan lys—

Circumstances specified for the purposes of section 97(1)(b) of the 2014 Act

3. The circumstances prescribed for the purposes of section 97(1)(b) of the 2014 Act(6) are that a child, having been convicted of an offence by a court, is—

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- (1) *Gweler* adran 197(3) o Ddeddf 2014 sy’n darparu bod “cyfeiriad yn y Ddeddf hon at blentyn sydd yng ngofal awdurdod lleol yn gyfeiriad at blentyn sydd o dan ei ofal yn rhinwedd gorchymyn gofal (o fewn yr ystyr a roddir i “care order” gan Neddf Plant 1989)”. Gwneir darpariaeth ar gyfer plant yn derbyn gofal sydd dan gadwad, neu y gwneir yn ofynnol eu bod yn preswyllo mewn mangre a gymeradwywyd, yn Rheoliadau Cynllunio Gofal, Lleoli ac Adolygu Achosion (Cymru) 2015 [O.S.2015/ 1818 (Cy. 261)].
 - (2) *Gweler* adran 105(1) o Ddeddf 1989, sy’n darparu bod unrhyw gyfeiriad at blentyn sydd “in the care of a local authority” yn gyfeiriad at blentyn sydd yng ngofal yr awdurdod yn rhinwedd “care order” a bod i “care order” yr ystyr a roddir gan adran 31(11) o Ddeddf 1989. Mae gan awdurdod lleol yn Lloegr ddyletswyddau mewn perthynas â phlant yn eu gofal sydd dan gadwad, yn rhinwedd Rheoliadau Cynllunio Gofal, Lleoli ac Adolygu Achosion (Lloegr) 2010 (O.S. 2010/959).
 - (3) Diffinnir “person ifanc categori 2” yn adran 104(2) o Ddeddf 2014. Mae gan yr awdurdod lleol cyfrifol ddyletswyddau mewn perthynas â pherson ifanc categori 2 sydd dan gadwad mewn carchar neu lety cadw ieuentid, neu y gwneir yn ofynnol ei fod yn preswyllo mewn mangre a gymeradwywyd, o dan Reoliadau Ymadawyr Gofal (Cymru) 2015 [O.S.2015/ 1820 (Cy. 262)].
 - (4) Mae adran 23A(2) o Ddeddf 1989 yn diffinio “relevant child” ac adran 23B o Ddeddf 1989 yn pennu swyddogaethau ychwanegol yr awdurdod lleol cyfrifol yn Lloegr mewn cysylltiad â phlant perthnasol o’r fath. Mae gan awdurdod lleol yn Lloegr ddyletswyddau tuag at blant perthnasol sydd dan gadwad yn rhinwedd Rheoliadau Ymadawyr Gofal (Lloegr) 2010 (O.S. 2010/2571).
 - (5) Mae gan yr awdurdod lleol cyfrifol yn Lloegr ddyletswyddau mewn perthynas â phlentyn o’r fath a fu gynt yn derbyn gofal, o dan Reoliadau Plant sy’n Derbyn Gofal dan Gadwad (Lloegr) 2010 (O.S. 2010/2797).
 - (6) Mae adran 97(3) o Ddeddf 2014 yn gosod dyletswydd ar awdurdod lleol i sicrhau bod cynrychiolydd yr awdurdod yn ymweld â phlentyn y mae’r adran yn gymwys iddo, a threfnu bod cyngor priodol a chymorth arall ar gael i blentyn y mae’r adran yn gymwys iddo.

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- (1) *See* section 197(3) of the 2014 Act which provides that “A reference in this Act to a child who is in the care of a local authority is a reference to a child who is in its care by virtue of a care order (within the meaning given by the Children Act 1989)”. Provision is made for looked after children in detention or who are required to reside in approved premises within the Care Planning, Placement and Case Review (Wales) Regulations 2015 (S.I. 2015/ 1818 (W. 261)).
 - (2) *See* section 105(1) of the 1989 Act which provides that “...any reference to a child who is in the care of a local authority is a reference to a child who is in their care by virtue of a care order” and that a care order “has the meaning given by section 31(11)” of the 1989 Act. A local authority in England has duties in relation to children in their care who are in detention by virtue of the Care Planning, Placement and Case Review (England) Regulations 2010 (S.I. 2010/959).
 - (3) “Category 2 young person” is defined in section 104(2) of the 2014 Act. A responsible local authority has duties in relation to a category 2 young person who is detained in prison, youth detention accommodation or who is required to reside in approved premises in the Care Leavers (Wales) Regulations 2015 (S.I. 2015/ 1820 (W.262)).
 - (4) Section 23A(2) of the 1989 Act defines a “relevant child” and section 23B of the 1989 Act sets out additional functions of the responsible local authority in England in respect of such relevant children. A responsible local authority in England has duties towards relevant children who are in detention by virtue of the Care Leavers (England) Regulations 2010 (S.I. 2010/2571).
 - (5) The responsible local authority in England has duties in relation to such former looked after child under the Looked After Children in Detention (England) Regulations 2010 (S.I. 2010/ 2797).
 - (6) Section 97(3) of the 2014 Act places a duty on a local authority to ensure that a child to whom the section applies is visited by a representative of the authority and to arrange for appropriate advice and other support to be available to a child to whom the section applies.

- (a) dan gadwad, yn unol â gorchymyn gan lys, mewn llety cadw ieuencid(1) neu mewn carchar(2), neu
- (b) yn preswyllo mewn mangre a gymeradwyd(3).

- (a) detained pursuant to an order of a court in youth detention accommodation(1) or in prison(2), or
- (b) is residing in approved premises(3).

Categoriâu a bennir at ddibenion adran 97(1)(c) o Ddeddf 2014

4.—(1) Y categorïau a bennir at ddibenion adran 97(1)(c) o Ddeddf 2014 yw'r canlynol—

- (a) plentyn, sy'n preswyllo fel arfer(4) yng Nghymru, sydd, ar ôl ei gollfarnu o drosedd gan lys—
 - (i) dan gadwad mewn llety cadw ieuencid, neu mewn carchar, neu
 - (ii) yn preswyllo mewn mangre a gymeradwyd; a
- (b) plentyn sydd, ar ôl ei gollfarnu o drosedd gan lys,—
 - (i) dan gadwad mewn llety cadw ieuencid neu mewn carchar yng Nghymru, neu
 - (ii) yn preswyllo mewn mangre a gymeradwyd yng Nghymru.

(2) Nid yw paragraff (1) yn gymwys mewn perthynas â phlentyn sy'n dod o fewn disgrifiad a nodir yn is-baragraffau (a) i (e) o reoliad 2(2).

Categories specified for the purposes of section 97(1)(c) of the 2014 Act

4.—(1) The following categories are specified for the purposes of section 97(1)(c) of the 2014 Act—

- (a) a child who is ordinarily resident(4) in Wales who, having been convicted of an offence by a court, is—
 - (i) detained in youth detention accommodation or in prison, or
 - (ii) residing in approved premises; and
- (b) a child who, having been convicted of an offence by a court, is—
 - (i) detained in youth detention accommodation or in prison in Wales, or
 - (ii) residing in approved premises in Wales.

(2) Paragraph (1) does not apply in relation to a child who falls within a description set out in subparagraphs (a) to (e) of regulation 2(2).

(1) Diffinnir “llety cadw ieuencid” yn adran 188(1) o Ddeddf 2014 fel—

- (a) cartref diogel i blant,
- (b) canolfan hyfforddi ddiogel,
- (c) sefydliad troseddwyd ifanc,
- (d) llety sy'n cael ei ddarparu, ei gyfarparu a'i gynnal gan Weinidogion Cymru o dan adran 82(5) o Ddeddf Plant 1989 at y diben o gyfyngu ar ryddid plant,
- (e) llety, neu lety o ddisgrifiad, a bennir am y tro drwy orchymyn o dan adran 107(1)(e) o Ddeddf Pwerau Llysoedd Troseddol (Dedfrydu) 2000 (llety cadw ieuencid at ddibenion gorchymynion cadw a hyfforddi).

Ystyr “cartref diogel i blant” yw cartref plant a ddefnyddir at y diben o gyfyngu ar ryddid ac a gymeradwyd at y diben hwnnw, y cofrestrwyd person cysylltiad ag ef o dan Ran 2 o Ddeddf Safonau Gofal 2000;

mae i “canolfan hyfforddi ddiogel” yr ystyr a roddir i “secure training centre” yn adran 43(1)(d) o Ddeddf Carchardai 1952; ac mae i “sefydliad troseddwyd ifanc” yr ystyr a roddir i “young offender institution” yn adran 43(1)(aa) o'r Ddeddf honno.

- (2) Diffinnir “carchar” yn adrannau 188(1) a 197(1) o Ddeddf 2014 fel term sy'n meddu'r ystyr a roddir i “prison” yn Neddf Carchardai 1952 (p. 52) (gweler adran 53(1) o'r Ddeddf honno).
- (3) Diffinnir “mangre a gymeradwyd” yn adran 188(1) o Ddeddf 2014 fel term sy'n meddu'r ystyr a roddir i “approved premises” gan adran 13 o Ddeddf Rheoli Troseddwyd 2007 (p. 21).
- (4) Mae adran 194 ac adran 186(2) o Ddeddf 2014 yn gwneud darpariaeth ynghylch statws preswylfa arferol plentyn sydd dan gadwad mewn llety cadw ieuencid neu garchar, neu sy'n preswyllo mewn mangre a gymeradwyd.

(1) “Youth detention accommodation” is defined in section 188(1) of the 2014 Act and means—

- (a) a secure children's home,
- (b) a secure training centre,
- (c) a young offender institution,
- (d) accommodation provided, equipped and maintained by the Welsh Ministers under section 82(5) of the Children Act 1989 for the purpose of restricting the liberty of children,
- (e) accommodation, or accommodation of a description, for the time being specified by order under section 107(1)(e) of the Powers of Criminal Courts (Sentencing) Act 2000 (youth detention accommodation for purpose of detention and training orders).

A “secure children's home” means a children's home used for the purposes of restricting liberty and approved for that purpose in respect of which a person is registered under Part 2 of the Care Standards Act 2000;

“secure training centre” has the meaning given in section 43(1)(d) of the Prison Act 1952; and “young offender institution” has the meaning given in section 43(1)(aa) of that Act.

- (2) “Prison” is defined in section 188(1) and 197(1) of the 2014 Act having the same meaning as in the Prison Act 1952 (c. 52) (see section 53(1) of that Act).
- (3) “Approved premises” is defined in section 188(1) of the 2014 Act having the meaning given by section 13 of the Offenders Management Act 2007 (c. 21).
- (4) Section 194 and section 186(2) of the 2014 Act make provision about the ordinary residence status of a child who is detained in youth detention accommodation or in prison or who is residing in approved premises.

Yr awdurdod lleol a bennir at ddibenion adran 97(2) o Ddeddf 2014

5.—(1) Mae paragraff (2) yn pennu, yn unol ag adran 97(2) o Ddeddf 2014, yr awdurdod lleol y mae'n rhaid iddo gyflawni'r dyletswyddau a osodir gan adran 97 o Ddeddf 2014 neu o dan y Rheoliadau hyn mewn perthynas â phlentyn sy'n dod o fewn categori a bennir yn rheoliad 4.

(2) Pan fo plentyn yn dod o fewn categori a bennir yn—

- (a) rheoliad 4(1)(a), yr awdurdod lleol y mae'r plentyn yn preswyllo fel arfer yn ei ardal⁽¹⁾;
- (b) rheoliad 4(1)(b), yr awdurdod lleol y lleolir ynddo'r llety cadw ieuencid, carchar neu fangre a gymeradwywyd.

Amllder ymweliadau

6.—(1) Rhaid i'r awdurdod lleol cyfrifol sicrhau bod R yn ymweld ag A—

- (a) o fewn 10 diwrnod gwaith ar ôl rhoi A dan gadwad gyntaf, i'r graddau y mae hynny'n rhesymol ymarferol; a
- (b) wedi hynny pa bryd bynnag y gofynnir yn rhesymol iddo ymweld gan—
 - (i) A,
 - (ii) aelod o staff y sefydliad y mae A dan gadwad ynddo, neu'r fangre a gymeradwywyd lle mae A yn preswyllo,
 - (iii) unrhyw riant A, neu unrhyw berson arall sydd â chyfrifoldeb rhiant am A, neu
 - (iv) y rheolwr achos tîm troseddwy'r ifanc perthnasol.

(2) Caiff yr awdurdod lleol cyfrifol drefnu i R wneud ymweliadau ychwanegol ag A, gan roi sylw i unrhyw argymhelliad a wneir gan R yn unol â rheoliad 8(1)(b).

Cynnal yr ymweliadau

7. Yn ystod pob ymweliad, rhaid i R siarad gydag A yn breifat oni bai—

- (a) bod A yn gwrthod, ac yntau mewn oedran digonol a chyda dealltwriaeth ddigonol i wneud hynny,
- (b) bod R o'r farn y byddai gwneud hynny'n amhriodol, o ystyried oedran a dealltwriaeth A, neu

(1) Mae adran 194 ac adran 186(2) o Ddeddf 2014 yn gwneud darpariaeth ynghylch statws preswylfa arferol plentyn sydd dan gadwad mewn llety cadw ieuencid neu garchar, neu sy'n preswyllo mewn mangre a gymeradwywyd.

Local authority specified for the purposes of section 97(2) of the 2014 Act

5.—(1) Paragraph (2) specifies, in accordance with section 97(2) of the 2014 Act, the local authority which must discharge the duties imposed by section 97 of the 2014 Act or under these Regulations in relation to a child who falls within a category specified in regulation 4.

(2) Where a child falls within a category specified in—

- (a) regulation 4(1)(a), the local authority in which the child is ordinarily resident⁽¹⁾;
- (b) regulation 4(1)(b), the local authority in whose area the youth detention accommodation, prison, or approved premises is situate.

Frequency of visits

6.—(1) The responsible local authority must ensure that R visits A—

- (a) within 10 working days of A first being detained, in so far as is reasonably practicable; and
- (b) thereafter whenever reasonably requested to do so by—
 - (i) A,
 - (ii) a member of the staff of the institution where A is detained or the approved premises where A is residing,
 - (iii) any parent of, or any other person with parental responsibility for, A, or
 - (iv) the relevant youth offending team case manager.

(2) The responsible local authority may arrange for R to make additional visits to A, having regard to any recommendation made by R in accordance with regulation 8(1)(b).

Conduct of visits

7. On each visit, R must speak to A in private unless—

- (a) A, being of sufficient age and understanding to do so, refuses,
- (b) R considers it inappropriate to do so, having regard to A's age and understanding, or

(1) Section 194 and section 186(2) of the 2014 Act make provision about the ordinary residence status of a child who is detained in youth detention accommodation or in prison or who is residing in approved premises.

(c) bod R yn analluog i wneud hynny.

(c) R is unable to do so.

Adroddiadau am ymweliadau

8.—(1) Rhaid i R ddarparu adroddiad ysgrifenedig am bob ymweliad, a rhaid i'r adroddiad gynnwys—

- (a) asesiad R, ar ôl ystyried safbwyntiau, dymuniadau a theimladau A, ynglŷn ag a yw llesiant A yn cael ei ddiogelu a'i hyrwyddo'n ddigonol tra bo dan gadwad neu'n preswyllo mewn mangre a gymeradwywyd,
- (b) argymhellion R ynglŷn ag amseriad ac amllder unrhyw ymweliadau pellach gan R,
- (c) unrhyw drefniadau eraill y tybia R y dylid eu gwneud er mwyn hyrwyddo cyswllt rhwng A a theulu A, neu er mwyn diogelu a hyrwyddo llesiant A,
- (d) asesiad R o'r modd y dylai llesiant A gael ei ddiogelu a'i hyrwyddo'n ddigonol ar ôl ei ryddhau o gadwad, neu ddiddymu'r gofyniad i breswyllo mewn mangre a gymeradwywyd, sef yn benodol—
 - (i) a fydd angen i'r awdurdod lleol cyfrifol, awdurdod lleol arall, neu awdurdod lleol yn Lloegr ddarparu llety i A, a
 - (ii) a ddylai unrhyw wasanaethau eraill gael eu darparu, gan yr awdurdod lleol cyfrifol neu awdurdod lleol arall wrth arfer eu dyletswyddau o dan Ddeddf 2014 neu Ddeddf 1989, neu gan awdurdod lleol yn Lloegr o dan Ddeddf 1989.

(2) Rhaid i R, wrth wneud unrhyw asesiad o dan baragraff (1), ac eithrio pan nad yw'n rhesymol ymarferol gwneud hynny, neu pan nad yw gwneud hynny yn gyson â llesiant A, gymryd i ystyriaeth safbwyntiau—

- (a) unrhyw riant A, neu unrhyw berson arall sydd â chyfrifoldeb rhiant am A, a
- (b) aelodau priodol o staff y sefydliad y mae A dan gadwad ynddo, neu o staff y fangre a gymeradwywyd y mae A yn preswyllo ynddi.

(3) Rhaid i'r awdurdod lleol cyfrifol roi copi o'r adroddiad i—

- (a) A, oni fyddai'n amhriodol gwneud hynny,
- (b) person sy'n dod o fewn paragraff (2)(a), ac eithrio pan na fyddai gwneud hynny er budd pennaf A,

Reports of visits

8.—(1) R must provide a written report of each visit which must include—

- (a) R's assessment, having regard to A's views, wishes and feelings, as to whether A's well-being is being adequately safeguarded and promoted whilst in detention or residing in approved premises,
- (b) R's recommendations as to the timing and frequency of any further visits by R,
- (c) any other arrangements which R considers should be put in place with a view to promoting contact between A and A's family or in order to safeguard and promote A's well-being,
- (d) R's assessment as to how A's well-being should be adequately safeguarded and promoted following release from detention, or the requirement to reside in approved premises is removed, in particular—
 - (i) whether A will need to be provided with accommodation by the responsible local authority, another local authority or a local authority in England, and
 - (ii) whether any other services should be provided by the responsible local authority or another local authority in the exercise of their duties under the 2014 Act or the 1989 Act, or a local authority in England under the 1989 Act.

(2) R must, in making any assessment under paragraph (1), unless it is not reasonably practicable to do so or it is not consistent with A's well-being, take into account the views of—

- (a) any parent of, or any other person with parental responsibility for, A, and
- (b) appropriate members of staff of the institution where A is detained, or the approved premises in which A is residing.

(3) The responsible local authority must give a copy of the report to—

- (a) A, unless it would not be appropriate to do so,
- (b) a person falling within paragraph (2)(a), unless to do so would not be in A's best interests,

- (c) llywodraethwr, cyfarwyddwr neu reolwr cofrestredig(1) y sefydliad lle mae A dan gadwad neu'r person sy'n gyfrifol am y fangre a gymeradwywyd y mae A yn preswyllo ynddi,
- (d) y rheolwr achos tîm troseddwr ifanc perthnasol,
- (e) os yw'n wahanol i'r awdurdod lleol cyfrifol, awdurdod lleol yr ardal y mae A dan gadwad ynddi, ac
- (f) unrhyw berson arall y tybia'r awdurdod lleol cyfrifol y dylid rhoi copi o'r adroddiad iddo, o ystyried asesiad R.

- (c) the governor, director or registered manager(1) of the institution where A is being detained or the person responsible for the approved premises in which A is residing,
- (d) the relevant youth offending team case manager,
- (e) where different from the responsible local authority, the local authority in whose area A is detained, and
- (f) any other person whom the responsible local authority considers should be given a copy of the report having regard to R's assessment.

Cyngor a chymorth arall

9. Wrth wneud trefniadau yn unol ag adran 97(3)(b) o Ddeddf 2014 ar gyfer rhoi cyngor priodol a chymorth arall ar gael i A, rhaid i'r awdurdod lleol cyfrifol sicrhau—

- (a) bod y trefniadau—
 - (i) yn briodol, o ystyried oedran a dealltwriaeth A, a
 - (ii) yn rhoi ystyriaeth ddyladwy i argyhoeddiad crefyddol, tarddiad hiliol, cefndir diwylliannol ac ieithyddol A ac unrhyw anabledd sydd gan A(2), a
- (b) i'r graddau y bo'n rhesymol ymarferol, o ystyried oedran a dealltwriaeth A, fod A yn gwybod sut i ofyn am gyngor priodol a chymorth arall gan yr awdurdod cyfrifol

Advice and other support

9. When making arrangements in accordance with section 97(3)(b) of the 2014 Act for appropriate advice and other support to be available to A, the responsible local authority must ensure that—

- (a) the arrangements—
 - (i) are appropriate having regard to A's age and understanding, and
 - (ii) give due consideration to A's religious persuasion, racial origin, cultural and linguistic background and to any disability(2) A may have, and
- (b) so far as is reasonably practicable having regard to A's age and understanding, A knows how to seek appropriate advice and other support from it as the responsible local authority

Mark Drakeford

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru
21 Hydref 2015

Minister for Health and Social Services, one of the
Welsh Ministers
21 October 2015

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(1) Hynny yw, person a gofrestrwyd o dan Ran 2 o Ddeddf Safonau Gofal 2000 fel rheolwr cartref diogel i blant.
(2) Diffinnir "anabledd" yn adran 3(5) o Ddeddf 2014.

(1) That is, a person registered under Part 2 of the Care Standards Act 2000 as a manager of a secure children's home.
(2) "Disability" is defined in section 3(5) of the 2014 Act.

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