



# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 6

### LOOKED AFTER AND ACCOMMODATED CHILDREN

#### *Duties of local authorities in relation to looked after children*

#### **78 Principal duty of a local authority in relation to looked after children**

- (1) A local authority looking after any child must—
  - (a) safeguard and promote the child's well-being, and
  - (b) make such use of services available for children cared for by their own parents as appears to the authority reasonable in the child's case.
- (2) The duty of a local authority under subsection (1)(a) to safeguard and promote the well-being of a child looked after by it includes, for example—
  - (a) a duty to promote the child's educational achievement;
  - (b) a duty—
    - (i) to assess from time to time whether the child has care and support needs which meet the eligibility criteria set under section 32, and
    - (ii) if the child has needs which meet the eligibility criteria, to at least meet those needs.
- (3) Before making any decision with respect to a child whom it is looking after, or proposing to look after, a local authority must (in addition to the matters set out in sections 6(2) and (4) and 7(2) (other overarching duties)) have regard to—
  - (a) the views, wishes and feelings of any person whose views, wishes and feelings the authority considers to be relevant;
  - (b) the child's religious persuasion, racial origin and cultural and linguistic background.

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- (4) If it appears to a local authority that it is necessary, for the purpose of protecting members of the public from serious injury, to exercise its powers with respect to a child whom it is looking after in a manner which may not be consistent with its duties under this section or section 6, it may do so.

**79 Provision of accommodation for children in care**

When a child is in the care of a local authority, the authority must provide the child with accommodation.

**80 Maintenance of looked after children**

A local authority must maintain a child it is looking after in other respects apart from the provision of accommodation.

**81 Ways in which looked after children are to be accommodated and maintained**

- (1) This section applies where a local authority is looking after a child (“C”).
- (2) The local authority must make arrangements for C to live with a person who falls within subsection (3), but this is subject to subsections (4) and (11).
- (3) A person (“P”) falls within this subsection if—
- (a) P is a parent of C,
  - (b) P is not a parent of C but has parental responsibility for C, or
  - (c) in a case where C is in the care of the local authority and there was a residence order in force with respect to C immediately before the care order was made, P was a person in whose favour the residence order was made.
- (4) Subsection (2) does not require the local authority to make arrangements of the kind mentioned in that subsection if doing so—
- (a) would not be consistent with C’s well-being, or
  - (b) would not be reasonably practicable.
- (5) If the local authority is unable to make arrangements under subsection (2), it must place C in the placement that is, in its opinion, the most appropriate placement available (but this is subject to subsection (11)).
- (6) In subsection (5) “placement” means—
- (a) placement with an individual who is a relative, friend or other person connected with C and who is also a local authority foster parent,
  - (b) placement with a local authority foster parent who does not fall within paragraph (a),
  - (c) placement in a children’s home, or
  - (d) subject to section 82, placement in accordance with other arrangements that comply with any regulations made for the purposes of this section.
- (7) In determining the most appropriate placement for C under subsection (5), the local authority must, subject to the other provisions of this Part (in particular, to its duties under section 78)—
- (a) give preference to a placement falling within paragraph (a) of subsection (6) over placements falling within the other paragraphs of that subsection,

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- (b) comply, so far as is reasonably practicable in all the circumstances of C’s case, with the requirements of subsection (8), and
  - (c) comply with subsection (9) unless it is not reasonably practicable to do so.
- (8) The local authority must ensure that the placement is such that—
- (a) it allows C to live near C’s home;
  - (b) it does not disrupt C’s education or training;
  - (c) if C has a sibling for whom the local authority is also providing accommodation, it enables C and the sibling to live together;
  - (d) if C is disabled, the accommodation provided is suitable to C’s particular needs.
- (9) The placement must be such that C is provided with accommodation within the local authority’s area.
- (10) Subsection (11) applies where—
- (a) the local authority is satisfied that C ought to be placed for adoption and proposes to place C for adoption with a particular prospective adopter (“A”),
  - (b) an adoption agency has determined that A is suitable to adopt a child, and
  - (c) the local authority is not authorised to place C for adoption.
- (11) The local authority must place C with A, unless in its opinion it would be more appropriate—
- (a) to make arrangements for C to live with a person falling within subsection (3), or
  - (b) to place C in a placement of a description mentioned in subsection (6).
- (12) For the purposes of subsection (10)—
- (a) “adoption agency” has the meaning given by section 2 of the Adoption and Children Act 2002;
  - (b) a local authority is authorised to place C for adoption only if it has been authorised to do so under—
    - (i) section 19 of that Act (placing children with parental consent), or
    - (ii) a placement order made under section 21 of that Act.
- (13) The local authority may determine—
- (a) the terms of any arrangements it makes under subsection (2) in relation to C (including terms as to payment), and
  - (b) the terms on which it places C with a local authority foster parent under subsection (5) or with a prospective adopter under subsection (11) (including terms as to payment but subject to any order made under section 49 of the Children Act 2004).

## **82 Review of child’s case before making alternative arrangements for accommodation**

- (1) Where a local authority is providing accommodation for a child (“C”) other than in accordance with arrangements falling within section 81(6)(d), it must not make such arrangements for C unless it has decided to do so in consequence of a review of C’s case carried out in accordance with regulations made under section 102 (review of cases and inquiries into representations).

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- (2) But subsection (1) does not prevent a local authority making arrangements for C under section 81(6)(d) if it is satisfied that in order to safeguard C's well-being it is necessary—
- (a) to make such arrangements, and
  - (b) to do so as a matter of urgency.

### **83 Care and support plans**

- (1) Where a child becomes looked after by a local authority, any care and support plan prepared under section 54 in relation to that child must be—
- (a) reviewed, and
  - (b) maintained under this section.
- (2) Where a child who does not have a care and support plan under section 54 becomes looked after by a local authority, the local authority must prepare and maintain a care and support plan in relation to that child.
- (3) A local authority must keep under review the plans that it maintains under this section.
- (4) Where a local authority is satisfied that the circumstances of the child to whom a plan relates have changed in a way that affects the plan, the authority must—
- (a) carry out such assessments as it considers appropriate, and
  - (b) revise the plan.
- (5) Regulations must make provision about—
- (a) how plans under this section are to be prepared;
  - (b) what a plan is to contain;
  - (c) the review and revision of plans.
- (6) Regulations under subsection (5)(c) must specify, in particular—
- (a) the persons who may request a review of a plan (on their own behalf or on behalf of another person);
  - (b) the circumstances in which a local authority—
    - (i) may refuse to comply with a request for a review of a plan, and
    - (ii) may not refuse to do so.
- (7) When preparing, reviewing or revising a plan under this section, a local authority must involve the child to whom the plan relates and any person with parental responsibility for the child.
- (8) The local authority may—
- (a) prepare, review or revise a plan under this section at the same time as it or another body is preparing, reviewing or revising another document in the case of the child concerned, and
  - (b) include the other document in the plan.
- (9) Any part of a plan maintained under this section which meets the requirements imposed by or under section 31A of the Children Act 1989 may be treated for the purposes of that Act as a plan prepared under section 31A of that Act.

#### **84 Regulations about care and support plans**

Regulations under section 83 may, for example—

- (a) require plans to be in a specified form;
- (b) require plans to contain specified things;
- (c) make provision about further persons whom a local authority must involve in the preparation, review or revision of plans;
- (d) require plans to be prepared, reviewed or revised by specified persons;
- (e) confer functions on persons specified in the regulations in connection with the review or revision of plans;
- (f) specify persons to whom written copies of a plan must be provided (including, in specified cases, the provision of copies without the consent of the person to whom the plan relates);
- (g) specify further circumstances in which plans must be reviewed.

#### **85 Contributions towards maintenance of looked after children**

Schedule 1 makes provision about contributions towards the maintenance of children looked after by local authorities.

#### **86 Children’s homes provided, equipped and maintained by the Welsh Ministers**

Where a local authority places a child it is looking after in a children’s home provided, equipped and maintained by the Welsh Ministers under section 82(5) of the Children Act 1989, it must do so on such terms as the Welsh Ministers may from time to time determine.