



# Children Act 2004

## 2004 CHAPTER 31

### PART 3

#### CHILDREN'S SERVICES IN WALES

##### *General*

#### **25 Co-operation to improve well-being: Wales**

- (1) Each children's services authority in Wales must make arrangements to promote co-operation between—
  - (a) the authority;
  - (b) each of the authority's relevant partners; and
  - (c) such other persons or bodies as the authority consider appropriate, being persons or bodies of any nature who exercise functions or are engaged in activities in relation to children in the authority's area.
- (2) The arrangements are to be made with a view to improving the well-being of children in the authority's area so far as relating to—
  - (a) physical and mental health and emotional well-being;
  - (b) protection from harm and neglect;
  - (c) education, training and recreation;
  - (d) the contribution made by them to society;
  - (e) social and economic well-being.
- (3) In making arrangements under this section a children's services authority in Wales must have regard to the importance of parents and other persons caring for children in improving the well-being of children.
- (4) For the purposes of this section each of the following is the relevant partner of a children's services authority in Wales—
  - (a) the police authority and the chief officer of police for a police area any part of which falls within the area of the children's services authority;

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- (b) a local probation board for an area any part of which falls within the area of the authority;
  - (c) a youth offending team for an area any part of which falls within the area of the authority;
  - (d) a Local Health Board for an area any part of which falls within the area of the authority;
  - (e) an NHS trust providing services in the area of the authority;
  - (f) the National Council for Education and Training for Wales.
- (5) The relevant partners of a children’s services authority in Wales must co-operate with the authority in the making of arrangements under this section.
- (6) A children’s services authority in Wales and any of their relevant partners may for the purposes of arrangements under this section—
- (a) provide staff, goods, services, accommodation or other resources;
  - (b) establish and maintain a pooled fund.
- (7) For the purposes of subsection (6) a pooled fund is a fund—
- (a) which is made up of contributions by the authority and the relevant partner or partners concerned; and
  - (b) out of which payments may be made towards expenditure incurred in the discharge of functions of the authority and functions of the relevant partner or partners.
- (8) A children’s services authority in Wales and each of their relevant partners must in exercising their functions under this section have regard to any guidance given to them for the purpose by the Assembly.
- (9) The Assembly must obtain the consent of the Secretary of State before giving guidance under subsection (8) at any time after the coming into force of any of paragraphs (a) to (c) of subsection (4).
- (10) Arrangements under this section may include arrangements relating to—
- (a) persons aged 18 and 19;
  - (b) persons over the age of 19 who are receiving—
    - (i) services under sections 23C to 24D of the Children Act 1989 (c. 41);
    - or
    - (ii) youth support services (within the meaning of section 123 of the Learning and Skills Act 2000 (c. 21)).

## **26 Children and young people’s plans: Wales**

- (1) The Assembly may by regulations require a children’s services authority in Wales from time to time to prepare and publish a plan setting out the authority’s strategy for discharging their functions in relation to children and relevant young persons.
- (2) Regulations under this section may in particular make provision as to—
- (a) the matters to be dealt with in a plan under this section;
  - (b) the period to which a plan under this section is to relate;
  - (c) when and how a plan under this section must be published;
  - (d) keeping a plan under this section under review;
  - (e) consultation to be carried out before a plan under this section is published;

- (f) implementation of a plan under this section.
- (3) The matters for which provision may be made under subsection (2)(a) include in particular—
  - (a) the arrangements made or to be made under section 25 by a children’s services authority in Wales;
  - (b) the strategy or proposals in relation to children and relevant young persons of any person or body with whom a children’s services authority in Wales makes or proposes to make such arrangements.
- (4) Regulations under this section may require a children’s services authority in Wales to obtain the Assembly’s approval before publishing a plan under this section; and may provide that the Assembly may modify a plan before approving it.
- (5) A children’s services authority in Wales must have regard to any guidance given to them by the Assembly in relation to how they are to discharge their functions under regulations under this section.
- (6) In this section “relevant young persons” means the persons, in addition to children, in relation to whom arrangements under section 25 may be made.

## **27 Responsibility for functions under sections 25 and 26**

- (1) A children’s services authority in Wales must—
  - (a) appoint an officer, to be known as the “lead director for children and young people’s services”, for the purposes of co-ordinating and overseeing arrangements made under sections 25 and 26; and
  - (b) designate one of their members, to be known as the “lead member for children and young people’s services”, to have as his special care the discharge of the authority’s functions under those sections.
- (2) A Local Health Board must—
  - (a) appoint an officer, to be known as the Board’s “lead officer for children and young people’s services”, for the purposes of the Board’s functions under section 25; and
  - (b) designate one of the Board’s members who is not an officer as its “lead member for children and young people’s services” to have the discharge of those functions as his special care.
- (3) An NHS trust to which section 25 applies must—
  - (a) appoint an executive director, to be known as the trust’s “lead executive director for children and young people’s services”, for the purposes of the trust’s functions under that section; and
  - (b) designate one of the trust’s non-executive directors as its “lead non-executive director for children and young people’s services” to have the discharge of those functions as his special care.
- (4) Each children’s services authority in Wales, Local Health Board and NHS trust to which section 25 applies must have regard to any guidance given to them by the Assembly in relation to—
  - (a) their functions under this section;
  - (b) the responsibilities of the persons appointed or designated by them under this section.

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## **28 Arrangements to safeguard and promote welfare: Wales**

- (1) This section applies to each of the following—
  - (a) a children's services authority in Wales;
  - (b) a Local Health Board;
  - (c) an NHS trust all or most of whose hospitals, establishments and facilities are situated in Wales;
  - (d) the police authority and chief officer of police for a police area in Wales;
  - (e) the British Transport Police Authority, so far as exercising functions in relation to Wales;
  - (f) a local probation board for an area in Wales;
  - (g) a youth offending team for an area in Wales;
  - (h) the governor of a prison or secure training centre in Wales (or, in the case of a contracted out prison or secure training centre, its director);
  - (i) any person to the extent that he is providing services pursuant to arrangements made by a children's services authority in Wales under section 123(1)(b) of the Learning and Skills Act 2000 (c. 21) (youth support services).
- (2) Each person and body to whom this section applies must make arrangements for ensuring that—
  - (a) their functions are discharged having regard to the need to safeguard and promote the welfare of children; and
  - (b) any services provided by another person pursuant to arrangements made by the person or body in the discharge of their functions are provided having regard to that need.
- (3) In the case of a children's services authority in Wales, the reference in subsection (2) to functions of the authority does not include functions to which section 175 of the Education Act 2002 (c. 32) applies.
- (4) The persons and bodies referred to in subsection (1)(a) to (c) and (i) must in discharging their duty under this section have regard to any guidance given to them for the purpose by the Assembly.
- (5) The persons and bodies referred to in subsection (1)(d) to (h) must in discharging their duty under this section have regard to any guidance given to them for the purpose by the Secretary of State after consultation with the Assembly.

## **29 Information databases: Wales**

- (1) The Assembly may for the purpose of arrangements under section 25 or 28 above or under section 175 of the Education Act 2002—
  - (a) by regulations require children's services authorities in Wales to establish and operate databases containing information in respect of persons to whom such arrangements relate;
  - (b) itself establish and operate, or make arrangements for the operation and establishment of, one or more databases containing such information.
- (2) The Assembly may for the purposes of arrangements under subsection (1)(b) by regulations establish a body corporate to establish and operate one or more databases.

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- (3) A database under this section may only include information falling within subsection (4) in relation to a person to whom arrangements specified in subsection (1) relate.
- (4) The information referred to in subsection (3) is information of the following descriptions in relation to a person—
- (a) his name, address, gender and date of birth;
  - (b) a number identifying him;
  - (c) the name and contact details of any person with parental responsibility for him (within the meaning of section 3 of the Children Act 1989 (c. 41)) or who has care of him at any time;
  - (d) details of any education being received by him (including the name and contact details of any educational institution attended by him);
  - (e) the name and contact details of any person providing primary medical services in relation to him under Part 1 of the National Health Service Act 1977 (c. 49);
  - (f) the name and contact details of any person providing to him services of such description as the Assembly may by regulations specify;
  - (g) information as to the existence of any cause for concern in relation to him;
  - (h) information of such other description, not including medical records or other personal records, as the Assembly may by regulations specify.
- (5) The Assembly may by regulations make provision in relation to the establishment and operation of any database or databases under this section.
- (6) Regulations under subsection (5) may in particular make provision—
- (a) as to the information which must or may be contained in any database under this section (subject to subsection (3));
  - (b) requiring a person or body specified in subsection (7) to disclose information for inclusion in the database;
  - (c) permitting a person or body specified in subsection (8) to disclose information for inclusion in the database;
  - (d) permitting or requiring the disclosure of information included in any such database;
  - (e) permitting or requiring any person to be given access to any such database for the purpose of adding or reading information;
  - (f) as to the conditions on which such access must or may be given;
  - (g) as to the length of time for which information must or may be retained;
  - (h) as to procedures for ensuring the accuracy of information included in any such database;
  - (i) in a case where a database is established by virtue of subsection (1)(b), requiring children's services authorities in Wales to participate in the operation of the database.
- (7) The persons and bodies referred to in subsection (6)(b) are—
- (a) the persons and bodies specified in section 28(1);
  - (b) the National Council for Education and Training for Wales;
  - (c) the governing body of a maintained school in Wales (within the meaning of section 175 of the Education Act 2002 (c. 32));
  - (d) the governing body of an institution in Wales within the further education sector (within the meaning of that section);

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- (e) the proprietor of an independent school in Wales (within the meaning of the Education Act 1996 (c. 56));
  - (f) a person or body of such other description as the Assembly may by regulations specify.
- (8) The persons and bodies referred to in subsection (6)(c) are—
- (a) a person registered in Wales for child minding or the provision of day care under Part 10A of the Children Act 1989 (c. 41);
  - (b) a voluntary organisation exercising functions or engaged in activities in relation to persons to whom arrangements specified in subsection (1) relate;
  - (c) the Commissioners of Inland Revenue;
  - (d) a registered social landlord;
  - (e) a person or body of such other description as the Assembly may by regulations specify.
- (9) The Assembly and the Secretary of State may provide information for inclusion in a database under this section.
- (10) The provision which may be made under subsection (6)(e) includes provision for a person of a description specified in the regulations to determine what must or may be done under the regulations.
- (11) Regulations under subsection (5) may also provide that anything which may be done under regulations under subsection (6)(c) to (e) or (9) may be done notwithstanding any rule of common law which prohibits or restricts the disclosure of information.
- (12) Regulations under subsections (1)(a) and (5) may only be made with the consent of the Secretary of State.
- (13) Any person or body establishing or operating a database under this section must in the establishment or operation of the database have regard to any guidance, and comply with any direction, given to that person by the Assembly.
- (14) Guidance or directions under subsection (13) may in particular relate to—
- (a) the management of a database under this section;
  - (b) the technical specifications for any such database;
  - (c) the security of any such database;
  - (d) the transfer and comparison of information between databases under this section;
  - (e) the giving of advice in relation to rights under the Data Protection Act 1998 (c. 29).

### **30 Inspection of functions under this Part**

- (1) Chapter 6 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (functions of the Assembly in relation to social services) shall apply as if anything done by a children’s services authority in Wales in the exercise of functions to which this section applies were a Welsh local authority social service within the meaning of that Part.
- (2) This section applies to the following functions of a children’s services authority—

- (a) the authority's functions under section 25 or 26, except so far as relating to education, training or youth support services (within the meaning of section 123 of the Learning and Skills Act 2000 (c. 21));
- (b) the authority's functions under section 28;
- (c) any function conferred on the authority under section 29.

### *Local Safeguarding Children Boards*

## **31 Establishment of LSCBs in Wales**

- (1) Each children's services authority in Wales must establish a Local Safeguarding Children Board for their area.
- (2) A Board established under this section must include such representative or representatives of—
  - (a) the authority by which it is established, and
  - (b) each Board partner of that authority,as the Assembly may by regulations prescribe.
- (3) For the purposes of this section each of the following is a Board partner of a children's services authority in Wales—
  - (a) the chief officer of police for a police area any part of which falls within the area of the authority;
  - (b) a local probation board for an area any part of which falls within the area of the authority;
  - (c) a youth offending team for an area any part of which falls within the area of the authority;
  - (d) a Local Health Board for an area any part of which falls within the area of the authority;
  - (e) an NHS trust providing services in the area of the authority;
  - (f) the governor of any secure training centre within the area of the authority (or, in the case of a contracted out secure training centre, its director);
  - (g) the governor of any prison in the area of the authority which ordinarily detains children (or, in the case of a contracted out prison, its director).
- (4) Regulations under subsection (2) that make provision in relation to a Board partner referred to in subsection (3)(a) to (c), (f) or (g) may only be made with the consent of the Secretary of State.
- (5) A children's services authority in Wales must take reasonable steps to ensure that the Local Safeguarding Children Board established by them includes representatives of relevant persons and bodies of such descriptions as may be prescribed by the Assembly in regulations.
- (6) A Local Safeguarding Children Board established under this section may also include representatives of such other relevant persons or bodies as the authority by which it is established consider, after consulting their Board partners, should be represented on it.
- (7) For the purposes of subsections (5) and (6), relevant persons and bodies are persons and bodies of any nature exercising functions or engaged in activities relating to children in the area of the authority in question.

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- (8) In the establishment and operation of a Local Safeguarding Children Board under this section—
- (a) the authority establishing it must co-operate with each of their Board partners; and
  - (b) each Board partner must co-operate with the authority.
- (9) Two or more children's services authorities in Wales may discharge their respective duties under subsection (1) by establishing a Local Safeguarding Children Board for their combined area (and where they do so, any reference in this section and sections 32 to 34 to the authority establishing the Board shall be read as a reference to the authorities establishing it).

### **32 Functions and procedure of LSCBs in Wales**

- (1) The objective of a Local Safeguarding Children Board established under section 31 is—
- (a) to co-ordinate what is done by each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children in the area of the authority by which it is established; and
  - (b) to ensure the effectiveness of what is done by each such person or body for those purposes.
- (2) A Local Safeguarding Children Board established under section 31 is to have such functions in relation to its objective as the Assembly may by regulations prescribe (which may in particular include functions of review or investigation).
- (3) The Assembly may by regulations make provision as to the procedures to be followed by a Local Safeguarding Children Board established under section 31.

### **33 Funding of LSCBs in Wales**

- (1) Any person or body specified in subsection (3) may make payments towards expenditure incurred by, or for purposes connected with, a Local Safeguarding Children Board established under section 31—
- (a) by making the payments directly; or
  - (b) by contributing to a fund out of which the payments may be made.
- (2) Any person or body specified in subsection (3) may provide staff, goods, services, accommodation or other resources for purposes connected with a Local Safeguarding Children Board established under section 31.
- (3) The persons and bodies referred to in subsections (1) and (2) are—
- (a) the children's services authority in Wales by which the Board is established;
  - (b) any person who is a Board partner of the authority under section 31(3)(a) to (e);
  - (c) in a case where the governor of a secure training centre or prison is a Board partner of the authority, the Secretary of State; and
  - (d) in a case where the director of a contracted out secure training centre or prison is a Board partner of the authority, the contractor.



### **34 LSCBs in Wales: supplementary**

- (1) The Assembly may by regulations make provision as to the functions of children's services authorities in Wales relating to Local Safeguarding Children Boards established by them.
- (2) A children's services authority in Wales and each of their Board partners must, in exercising their functions relating to a Local Safeguarding Children Board, have regard to any guidance given to them for the purpose by the Assembly.
- (3) The Assembly must obtain the consent of the Secretary of State before giving guidance under subsection (2) at any time after the coming into force of any of paragraphs (a) to (c), (f) or (g) of section 31(3).