
WELSH STATUTORY INSTRUMENTS

2014 No. 1795

The Representations Procedure (Wales) Regulations 2014

PART 3

SCOPE OF THE REPRESENTATIONS PROCEDURE

Specified functions under Parts 4 and 5 of the 1989 Act

8. For the purpose of section 26(3A)(b) of the 1989 Act, the following functions of the local authority are qualifying functions under Parts 4 and 5 of the 1989 Act—

- (a) functions under section 31 (care and supervision orders);
- (b) functions under section 33 (effect of care order);
- (c) functions under section 34 (parental contact etc. with children in care);
- (d) functions under section 35 (supervision orders);
- (e) functions under section 43 (child assessment orders);
- (f) functions under section 44 (orders for emergency protection of children); and
- (g) functions under section 47 (local authority's duty to investigate).

Specified functions under the 2002 Act

9.—(1) For the purposes of section 26(3B) of the 1989 Act, specified functions under the 2002 Act are—

- (a) the provision of adoption support services—
 - (i) as prescribed in section 2(6) of the 2002 Act; and
 - (ii) further prescribed in regulation 3 of the Adoption Support Services (Local Authorities) (Wales) Regulations 2005 (for the purposes of this regulation, “the Adoption Support Services Regulations”)(**1**) except that the provision of services prescribed in regulation 3(b) of the Adoption Support Services Regulations is only a specified function under this regulation in so far as it is to enable groups of adoptive children to discuss matters relating to adoption;
- (b) functions under regulations 7 to 17 of the Adoption Support Services Regulations in so far as they relate to the adoption support services referred to in sub-paragraph (a);
- (c) functions under sections 18 to 29 (placement of children by adoption agency for adoption) of the 2002 Act;
- (d) functions under sections 30 to 35 (removal of children who are or may be placed by adoption agencies) of the 2002 Act;
- (e) functions under sections 36 to 40 (removal of children in non-agency cases) of the 2002 Act;

(1) S.I. 2005/1512 (W.116).

- (f) the following functions under the Adoption Agencies (Wales) Regulations 2005⁽²⁾—
- (i) Part 3 (duties of adoption agency where the agency is considering adoption for a child);
 - (ii) Part 5 (duties of adoption agency in respect of proposed placement of child with prospective adopters);
 - (iii) Part 6 (placements and reviews); and
 - (iv) Part 7 (records) in so far as those functions relate to a child's case record as defined in regulation 12, and regulation 47 (contact); and
- (g) the following functions under the Adoptions with a Foreign Element Regulations 2005⁽³⁾—
- (i) regulation 10 (requirements applicable in respect of giving parental responsibility prior to adoption abroad); and
 - (ii) Chapter 3 (miscellaneous provisions) of Part 3 (adoptions under the Convention).

(2) For the purposes of this regulation, “adoptive child” (“*plentyn mabwysiadol*”) has the same meaning given in regulation 2 of the Adoption Support Services Regulations.

Consideration of representations under paragraph 6 of Schedule 7 to the 1989 Act (foster parents: limits on number of children a person may foster)

10. Regulations 2 and 11 to 21 apply in relation to a local authority's consideration of representations under paragraph 6(1) of Schedule 7 to the 1989 Act.

Matters excluded from consideration

11.—(1) A local authority is not required to deal with the following representations in accordance with these Regulations—

- (a) a representation which is or has been investigated under any former representations procedure;
- (b) a representation, the subject matter of which has previously been considered in accordance with arrangements made under these Regulations;
- (c) a representation which is being or has been investigated by the Public Services Ombudsman for Wales; or
- (d) a representation which is made orally, either in person, or on the telephone and is resolved to the satisfaction of the person who made the representation not later than the next working day after the day on which the representation was made.

(2) Subject to paragraph (3), where a representation is made in respect of the matters referred to in paragraph (1) and the local authority determines that it is not required to deal with the representation, the local authority must as soon as reasonably practicable notify in writing the person who made the representation of its decision and the reason for its decision.

(3) Paragraph (2) does not apply to a matter specified in sub-paragraph (d) of paragraph (1).

(4) Where a representation specified in paragraph (1) is part of, or is connected with, another representation which is not so specified, nothing in this regulation prevents that other representation being considered as a representation made under these Regulations.

(2) S.I. 2005/1313 (W.95).

(3) S.I. 2005/392.

Matters subject to concurrent consideration

12.—(1) A local authority must not consider, or further consider, a representation under these Regulations if—

- (a) it concerns any matter in relation to which—
 - (i) the person making the representation has stated in writing to the local authority that they are taking or intend to take, proceedings in any court or tribunal;
 - (ii) the local authority is taking or proposing to take disciplinary proceedings against any person;
 - (iii) the local authority has been notified that criminal proceedings are pending; or
 - (iv) civil proceedings (including section 31 Children Act 1989 proceedings) are contemplated; and
- (b) the local authority decides that consideration, or further consideration, of the representation under these Regulations would prejudice the conduct of the proceedings or investigation under this paragraph.

(2) In this regulation, “disciplinary proceedings” means any procedure for disciplining employees adopted by a local authority.

(3) Any proceedings or investigation falling under paragraph (1) is to be referred to as a “concurrent consideration” for the purposes of this regulation.

(4) Where a local authority decides that it will not consider, or further consider, a representation in accordance with paragraph (1) the local authority must give notice in writing to the person making the representation explaining the reasons for their decision and specifying the relevant concurrent consideration.

(5) Where the concurrent consideration specified in a notice under paragraph (4) has been discontinued or completed the person to whom the notice was given may resubmit to the local authority the representations to which the notice relates and, subject to paragraph (6), the local authority must consider them in accordance with regulations 15 to 22.

(6) Any person who resubmits a representation in accordance with paragraph (5) must do so no later than 6 months after the concurrent consideration is discontinued or completed and accordingly regulation 13(1) will not apply.

Time limit for making representations

13.—(1) Subject to paragraph (2), a representation must be made no later than 12 months after—

- (a) the date on which the matter which is the subject of the representation occurred; or
- (b) if later the date on which the matter which is the subject of the representation came to the notice of the person making the representation.

(2) The time limit in paragraph (1) will not apply if the local authority is satisfied that—

- (a) the person making the representation has good reasons for not making the representation within that time limit; and
- (b) despite the delay, it is still possible to investigate the representation effectively and fairly.

Withdrawal of representations

14.—(1) A representation may be withdrawn at any time by the person who made the representation and the withdrawal may be notified—

- (a) orally, either by telephone or in person; or
- (b) in writing.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) A local authority must as soon as reasonably practicable write to the person who has withdrawn a representation orally to confirm the oral withdrawal of the representation.

(3) Where a representation has been withdrawn, a local authority may nevertheless continue to investigate any issues raised by a representation in accordance with Part 4, if the local authority considers it necessary to do so.