WELSH STATUTORY INSTRUMENTS

2007 No. 310 (W.27)

CHILDREN AND YOUNG PERSONS, WALES

The Placement of Children (Wales) Regulations 2007

Made - - - -	*6 February 2007*
Coming into force - -	*1 July 2007*

The National Assembly for Wales, in exercise of the powers conferred by sections 23(2)(a), (f)(ii) and (5), 59(2) and (3), 104(1) and (4) of, and paragraphs 12, 13 and 14 of Schedule 2, paragraph 4(1)(a) of Schedule 4, paragraph 7(1)(a) of Schedule 5 and paragraph 10(1)(a) of Schedule 6 to, the Children Act 1989(**1**), makes the following Regulations.

Title and commencement

1. The title of these Regulations is the Placement of Children (Wales) Regulations 2007 and they come into force on 1 July 2007.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"the Act" ("*y Ddeddf*") means the Children Act 1989;

"the area in which the child is ordinarily resident" ("*yr ardal y mae'r plentyn yn preswylio ynddi fel arfer*") means the local authority area in which the child has his or her home;

"area authority" ("*awdurdod ardal*") means, in relation to a child who is or is to be placed by one local authority, the local authority in whose area the child is or is to be placed;

"care case" ("*achos gofal*") means a case in which the child is looked after by a local authority and subject to a care order, and includes an interim care order;

"general practitioner" ("*ymarferydd cyffredinol*") means a registered medical practitioner who —

(a) provides general medical services under Part II of the National Health Service Act 1977(**2**);

(**1**) 1989 c41. These powers are exercisable by the Secretary of State. In relation to Wales the functions are transferred to the National Assembly for Wales by Article 2 of, and the entry for the 1989 Act in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) and section 145(1) of the Adoption and Children Act 2002.

(**2**) 1977 c. 49

(b) performs personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997(**3**); or

(c) provides services which correspond to services provided under Part II of the National Health Service Act 1977, otherwise than in pursuance of that Act;

"health care provider" ("*darparydd gofal iechyd*") means, in the case of a placement in Wales, a local health board, or in the case of a placement in England, a primary care trust, and in either case where applicable, a national health service trust and in any other case, the equivalent body in the country in which the child is to be placed;

"link worker" ("*gweithiwr dolen gyswllt*") means a member of children's home staff of appropriate seniority with particular responsibility for protecting and promoting the health and educational welfare of an individual child and for liaison with education and health care providers on that child's behalf;

"panel" ("*panel*") means a panel of representatives from such agencies as may assist a responsible authority in planning the placement of a child and in meeting that child's needs during the placement;

"placement" ("*lleoliad*") subject to regulation 14 means—

(a) the provision of accommodation and maintenance by a local authority for any child whom they are looking after by any of the means specified in section 23(2)(a), (aa) or (f) of the Act (accommodation and maintenance of child looked after by a local authority);

(b) the provision of accommodation for a child by a voluntary organisation by any of the means specified in section 59(1)(a), (aa) or (f) of the Act (provision of accommodation by voluntary organisations); and

(c) the provision of accommodation for a child in a private children's home,

(d) and the expressions "place" ("*lleoli*") and "placed" ("*wedi'i leoli*") must be construed accordingly;

"placed for adoption" ("*wedi'i leoli i'w fabwysiadu*") means placed pursuant to the Adoption and Children Act 2002(**4**) or, where applicable, the Adoption Act 1976(**5**).

"registered medical practitioner" ("*ymarferydd meddygol cofrestredig*") means a fully registered person within the meaning of the Medical Act 1983(**6**);

"registered nurse" ("*nyrs gofrestredig*") means a person registered with the Nursing and Midwifery Council(**7**).

"responsible authority" ("*awdurdod cyfrifol*") means—

(a) in relation to a placement by a local authority (including one in which the child is accommodated and maintained in a voluntary home or a private children's home), the local authority which places the child,

(b) in relation to a placement by a voluntary organisation of a child who is not looked after by a local authority, the voluntary organisation which place the child, and

(c) in relation to a placement in a private children's home of a child who is neither looked after by a local authority nor accommodated in such a home by a voluntary organisation, the person carrying on the home.

(2) Any notice required under these Regulations is to be given in writing and can be sent by post.

(**3**) 1977 c. 46
(**4**) 2002 c. 38.
(**5**) 1976 c. 36.
(**6**) 1983 c. 54 .
(**7**) Established by the Nursing and Midwifery Council Order 2000 S.I. 2002/253 which came into force on 12 February 2002.

(3) In these Regulations, unless the context otherwise requires—

(a) any reference to a numbered regulation is to the regulation in these Regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number;

(b) any reference to a numbered Schedule is to the Schedule to these Regulations bearing that number.

Application of Regulations

3.—(1) Subject to paragraphs (2) and (3) these Regulations apply to placements—

(a) by a local authority of any child;

(b) by a voluntary organisation of a child who is not looked after by a local authority;

(c) in a private children's home of a child who is neither looked after by a local authority nor accommodated in such a home by a voluntary organisation, by a person carrying on the home.

(2) These Regulations do not apply to the placement of a child, otherwise than by a local authority or voluntary organisation in a school which is a children's home within the meaning of section 1(6) of the Care Standards Act 2000(**8**)

(3) These Regulations do not apply to any placement of a child for adoption.

(4) These regulations apply in relation to Wales.

Making of arrangements

4.—(1) Before placing a child the responsible authority must, so far as is reasonably practicable, make immediate and long-term arrangements for that placement, and for promoting the welfare of the child who is to be placed.

(2) Where it is not practicable to make those arrangements before the placement, the responsible authority must make them as soon as reasonably practicable thereafter.

(3) In the case of a child to whom section 20(11) of the Act applies the arrangements must so far as reasonably practicable be agreed by the responsible authority with the child before a placement is made and if that is not practicable as soon as reasonably practicable thereafter.

(4) In any other case in which a child is looked after or accommodated but is not in care the arrangements must so far as reasonably practicable be agreed by the responsible authority with—

(a) a person with parental responsibility for the child; or

(b) if there is no such person, the person who is caring for the child before a placement is made and if that is not practicable as soon as reasonably practicable thereafter.

(5) Any arrangements made by the responsible authority under this regulation must be recorded in writing.

Considerations on making and contents of arrangements

5.—(1) The considerations to which the responsible authority is to have regard so far as reasonably practicable in making the arrangements referred to in regulation 4 in each case are the general considerations specified in Schedule 1, the considerations concerning the health of a child specified in Schedule 2, the considerations concerning the education of a child specified in Schedule 3 and the considerations in paragraphs (2) to (5).

(**8**) 2000 c14.

(2) Where the responsible authority considers placing a child outside the area in which the child is ordinarily resident it must refer the child's case to a panel—

(a) before the placement is made; or

(b) where it is not practicable to refer the case to a panel before the placement is made, as soon as practicable afterwards and in any event not later than 25 working days after the placement is made.

(3) Where the case of a child to whom paragraph (2) applies is not referred by the responsible authority to a panel before the placement is made, the responsible authority must provide written reasons, endorsed by a senior officer of the responsible authority, for not doing so.

(4) The responsible authority must not place a child outside the area in which the child is ordinarily resident unless satisfied either that—

(a) there is no placement available in that area capable of meeting the child's needs; or

(b) a placement outside that area would be more consistent with the child's welfare than any available placement within that area.

(5) Any decision to place a child outside the area in which the child is ordinarily resident must, with reasons, be recorded in writing and endorsed by a senior officer of the responsible authority.

(6) A written record made in accordance with paragraph (3) or (5) must be made available in suitable form—

(a) where the responsible authority is a local authority, to the lead member for children's services for that authority; or

(b) in any other case, to a senior officer of the local authority for the area in which the child is ordinarily resident and of the area authority.

(7) Where a responsible authority makes arrangements to place a child outside Wales it must ensure, so far as reasonably practicable, that the requirements that would have applied under these Regulations had the child been placed in Wales, are complied with.

(8) Except in a care case, the arrangements referred to in regulation 4 must include, where practicable, arrangements concerning the matters specified in Schedule 4.

Notification of arrangements

6.—(1) The responsible authority must, so far as is reasonably practicable and consistent with the child's welfare, notify the following persons in writing of the arrangements to place a child, before the placement is made—

(a) any person an indication of whose wishes and feelings have been sought under section 22(4), section 61(2) or section 64(2) of the Act (consultation prior to decision making in respect of children looked after by a local authority, provided with accommodation by a voluntary organisation or in a private children's home);

(b) the health care provider for the area in which the child is ordinarily resident and, if the child is to be placed outside that area, for the area in which the child is to be placed;

(c) the local education authority for the area in which the child is ordinarily resident and, if the child is to be placed outside that area, for the area in which the child is to be placed;

(d) the child's general practitioner and, where applicable, any general practitioner with whom the child is to be registered after the placement is made

(e) where applicable the area authority;

(f) any person who is caring for the child immediately before the arrangements are made;

(g) except in a care case, any person in whose favour a contact order is in force with respect to the child, and

(h) in a care case, any person who has contact with the child pursuant to section 34 of the Act (contact with a child in care by parents etc) or to an order under that section.

(2) Where it is not practicable to give the notification before the placement, it must be given as soon as reasonably practicable thereafter and in any event no later than 10 working days from the date the placement is made.

(3) The responsible authority must send a copy of the arrangements referred to in regulation 4 or such part of the arrangements as they consider will not prejudice the welfare of the child, with the notification referred to in paragraph (1) but in the case of notification to those specified in paragraph (1)(b) to (h) they must send details of only such part of the arrangements as they consider those persons need to know.

(4) Subject to paragraph (3), in the case of notification to any of the persons or bodies specified in paragraph (1)(c) and (d), the responsible authority must provide that person or body with copies of any relevant report or assessment available at the time the placement is made or obtained subsequently during the placement.

(5) Where a child is placed in an area different from the area in which the child is ordinarily resident, when notifying those persons or bodies specified in paragraph 1(b) to (d) of arrangements, the responsible authority must at the same time request that the persons or bodies so specified, where applicable, seek a transfer of records before, or if that is not practicable, as soon as practicable after the placement is made.

(6) The responsible authority must continue to review any request made in accordance with paragraph (5) until they are satisfied either that the transfer of records—

(a) has taken place; or

(b) is no-longer necessary.

Arrangements for contact

7. In operating the arrangements referred to in paragraph 6 of Schedule 4, a voluntary organisation or a person carrying on a private children's home must, unless it is not reasonably practicable or consistent with the child's welfare, endeavour to promote contact between the child and the persons mentioned in that paragraph.

Health care and assessment

8.—(1) Subject to paragraphs (5) and (6), a responsible authority must—

(a) before making a placement or if that is not reasonably practicable, as soon as practicable and in any event not later than 14 working days after the placement is made, make arrangements for a registered medical practitioner or a registered nurse to conduct an assessment, which may include a physical examination, of the child's state of health;

(b) require any person specified in sub-paragraph (a) who conducts an assessment to prepare a written report of the assessment, which addresses the matters listed in Schedule 2, with particular reference to the child's state of mental health;

(c) ensure that a copy of any report prepared in accordance with sub-paragraph (b) and any subsequent assessment report prepared under this regulation during the placement, is forwarded to the persons specified in paragraph (1)(d) of regulation 6, where they are different from the persons specified in sub-paragraph (a); and

(d) having regard to the matters listed in Schedule 2 and, unless paragraph (6) applies, to any assessment reports, prepare a plan for the future health care of the child if one is not already in existence.

(2) A responsible authority must ensure that each child is provided during the placement with—