

2007 No. (W.)

SOCIAL CARE, WALES

**The Review of Children's Cases
Regulations 2007**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the provisions of the Children Act 1989⁽¹⁾ and revoke and replace the Review of Children's Cases Regulations 1991⁽²⁾ as far as those Regulations apply in relation to Wales. The Regulations make provision for review of the arrangements for placement of children in Wales who are looked after by local authorities or accommodated by voluntary organisations or private children's homes.

Regulation 2 requires responsible authorities to review children's placements.

Regulation 3 requires responsible authorities to appoint independent reviewing officers to undertake reviews in accordance with these Regulations.

Regulation 4 (subject to regulation 12), provides for the timing and frequency of reviews, and allows for the independent reviewing officer to direct reviews to be carried out at shorter intervals than those specified in the regulation.

Regulation 5 requires each responsible authority to set out their arrangements for the way in which reviews under these Regulations are to be conducted, and to draw those arrangements to the attention of the people mentioned in regulation 8. Where a responsible authority is looking after a child, the regulation requires the authority to coordinate reviews and appoint an officer to assist in that process, and to have

⁽¹⁾ Children Act 1989 (c.41).

⁽²⁾ Review of Children's Cases Regulations 1991 (S.I. 1991/895). As amended in relation to Wales by S.I. 2005/2935, 2004/1449, 2002/3013 and 2002/2935.

regard to the matters set out in Schedule 1 (Elements to be included in the review).

Regulation 6 requires each responsible authority when reviewing a child's case, to have regard to the matters set out in Schedule 2 (Considerations to which responsible authorities are to have regard), and Schedule 3 (Health considerations to which responsible authorities are to have regard).

Regulation 7 requires each responsible authority to arrange for health assessments and written reports in respect of each child looked after by them, addressing the matters set out in Schedule 3, provides for the frequency of such assessments and requires a review, at specified intervals, of the plan for the future health of the child, made under the Placement of Children (Wales) Regulations 2007⁽¹⁾.

Regulation 8 requires a responsible authority to consult and involve in the review, various people specified in the regulation, including the child, and to notify those people of details of the result of the review and of any decision taken as part of it.

Regulation 9 requires a responsible authority to make arrangements to implement any decision made in the course of or as a result of a review, and to notify the independent reviewing officer of any failure to make such arrangements, or of any significant change of circumstances after the review which might affect the arrangements.

Regulation 10 requires a responsible authority to monitor the arrangements for reviews to ensure compliance with these Regulations.

Regulation 11 requires a responsible authority to make a written record of the review of a child's case and of associated matters.

Regulation 12 provides for the application of these Regulations in circumstances where a child is looked after or provided with accommodation for a series of short periods (defined in the regulation) and provides for the timing and frequency of reviews in such cases.

Regulation 13 makes transitional provisions.

Regulation 14 excludes certain types of children's placement from the requirements of these Regulations.

Regulation 15 revokes the Review of Children's Cases Regulations 1991⁽²⁾ in relation to Wales.

(1) Placement of Children (Wales) Regulations 2007 (S.I.2007/ (W.)).
(2) Review of Children's Cases Regulations 1991 (S.I. 1991/895).

2007 No. (W.)

SOCIAL CARE, WALES

**The Review of Children's Cases
Regulations 2007**

Made 2007

Coming into force 1 July 2007

ARRANGEMENT OF REGULATIONS

1. Title, commencement, interpretation and application.
2. Duty to review children's cases.
3. Independent reviewing officers.
4. Time when each case is to be reviewed.
5. Manner in which cases are to be reviewed.
6. Considerations to which responsible authorities are to have regard.
7. Health reviews.
8. Consultation, participation and notification.
9. Arrangements for implementation of decisions arising out of reviews and notification to independent reviewing officer.
10. Monitoring arrangements for reviews.
11. Recording review information.
12. Application of Regulations to short periods.
13. Transitional provisions.
14. Exceptions to application of the Regulations.
15. Revocation.

The National Assembly for Wales in exercise of the powers conferred by sections 26(1), (2), (2A) and (2B), 59(4)(a) and (5) and 104(1) and (4) of, and paragraphs 10(1) and (2)(1) of Schedule 6 to, the Children Act 1989⁽¹⁾ makes the following regulations:

Title, commencement, interpretation and application

1.—(1) These Regulations are entitled the Review of Children’s Cases (Wales) Regulations 2007 and will come into force on 1 July 2007.

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

“the Act” means the Children Act 1989;

“the area in which the child is ordinarily resident” means the local authority area in which the child has his home;

“independent visitor” means an independent visitor appointed under paragraph 17 of Schedule 2 to the Act;

“link worker” means a member of staff of a children’s home appointed in accordance with the Children’s Homes (Wales) Regulations 2002⁽²⁾ 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” 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;

“placed for adoption” means placed pursuant to the Adoption and Children Act 2002 or the Adoption Act 1976;

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983⁽³⁾;

“registered nurse” means a person registered with the Nursing and Midwifery Council.

“responsible authority” means in relation to—

⁽¹⁾ 1989 c.41. 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. Section 26 was amended by section 118 of the Adoption and Children Act 2002 (c.38).

⁽²⁾ The Children’s Homes (Wales) Regulations 2002 (S.I.2002/327 (W.40)). The requirement to appoint a “link worker” is inserted in regulation 11 of the Children’s Homes (Wales) Regulations by regulation 2(c) of the Children’s Homes (Wales) (Amendment) Regulations 2007 (2007/.....)

⁽³⁾ Medical Act 1983 (c. 54).

- (a) a placement by a local authority (including one in which the child is accommodated and maintained in a voluntary home or private children's home), the local authority which places the child,
- (b) a placement by a voluntary organisation of a child who is not looked after by a local authority, the voluntary organisation which places the child, and
- (c) 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.

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

(4) 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 any 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.

(5) These Regulations apply in relation to Wales.

Duty to review children's cases

2. Each responsible authority must review in accordance with these Regulations the case of each child while he or she is being looked after or provided with accommodation by them.

Independent Reviewing Officers

3.—(1) Each responsible authority must appoint a person ("the independent reviewing officer") in respect of each case to carry out the following functions—

- (a) participating in the review of the case in question;
- (b) monitoring the performance of that authority's functions in respect of the review;
- (c) refer the case to a Welsh Family Proceedings Officer where the child is ordinarily resident in Wales or an officer of the Children and Family Court Advisory and Support Service or of a corresponding service in Scotland or Northern Ireland, if the independent reviewing officer considers it appropriate to do so.

(2) The independent reviewing officer must have significant experience in social work and hold a

Diploma in Social Work or a Social Work Degree or an equivalent qualification recognised by the Care Council for Wales.

(3) The independent reviewing officer must be registered as a social worker in a register maintained by the Care Council for Wales or by the General Social Care Council, under section 56 of the Care Standards Act 2000⁽¹⁾ or in a corresponding register maintained under the law of Scotland or Northern Ireland.

(4) Where an independent reviewing officer carries out functions under these regulations in Wales and is registered as a social worker in a register other than that maintained by the Care Council for Wales, he or she must register as a social worker with the Care Council for Wales for the period in which he or she carries out those functions.

(5) Where the independent reviewing officer is an employee of the responsible authority the independent reviewing officer's post within that authority must not be under the direct management of—

- (a) a person involved in the management of the case;
- (b) a person with management responsibilities in relation to a person mentioned in subparagraph (a); or
- (c) a person with control over the resources allocated to the case.

(6) The independent reviewing officer must as far as reasonably practicable chair any meeting held to consider the child's case in connection with the review of that case.

(2) The independent reviewing officer must, as far as reasonably practicable, take steps to ensure that the review is conducted in accordance with these Regulations and in particular to ensure—

- (a) that the child's views are understood and taken into account;
- (b) that the persons responsible for implementing any decision taken in consequence of the review are identified; and
- (c) that any failure to review the case in accordance with these Regulations or to take proper steps to make or carry out arrangements in accordance with regulation 9 is brought to the attention of persons at an appropriate level of seniority within the responsible authority.

(7) In the case of a child who wishes to take proceedings under the Act, for example to apply to the

⁽¹⁾ Care Standards Act 2000 (c.14).

court for contact or for a discharge of a care order, it is the function of the independent reviewing officer—

- (a) to assist the child to obtain legal advice; or
- (b) to establish whether an appropriate adult is able and willing to provide such assistance or bring the proceedings on the child's behalf.

Time when each case to be reviewed

4.—(1) Each case must first be reviewed within four weeks of the date on which the child begins to be looked after or provided with accommodation by the responsible authority.

(2) The second review must be carried out no more than three months after the first and thereafter subsequent reviews must be carried out no more than six months after the date of the previous review.

(3) Nothing in this regulation prevents the responsible authority from reviewing the case before the time specified in paragraph (1) or (2) and, in particular, they must do so if the independent reviewing officer so directs.

(4) This regulation is subject to regulation 12 (application of regulations to short periods).

Manner in which cases are to be reviewed

5.—(1) Each responsible authority must set out in writing their arrangements governing the manner in which the case of each child is to be reviewed and must draw the written arrangements to the attention of those specified in regulation 8(1).

(2) The responsible authority which is looking after or providing accommodation for a child must make arrangements to co-ordinate the carrying out of all aspects of the review of that child's case.

(3) The responsible authority must appoint one of their officers to assist the authority in the co-ordination of all the aspects of the review.

(4) The manner in which each case is reviewed must, so far as practicable, include the elements specified in Schedule 1.

(5) Nothing in these Regulations must prevent the carrying out of any review under these Regulations and any other review, assessment or consideration under any other provision at the same time.

Considerations to which responsible authorities are to have regard

6. The considerations to which the responsible authority are to have regard so far as is reasonably practicable in reviewing each case are the general considerations specified in Schedule 2 and the

considerations concerning the health of the child specified in Schedule 3.

Health reviews

7.—(1) Subject to paragraph (5), the responsible authority must, in respect of each child who continues to be looked after or provided with accommodation by them, 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—

- (a) at least once, and more frequently if the child's welfare requires it, in every period of six months before the child's fifth birthday; and
- (b) at least once, and more frequently if the child's welfare requires it, in every period of twelve months after the child's fifth birthday.

(2) The responsible authority must require the person who carried out the assessment under paragraph (1) to prepare a written report which addresses the matters listed in Schedule 3, with particular reference to the child's state of mental health.

(3) The responsible authority must review the plan for the future health of the child prepared in accordance with regulation 8(1)(d) of the Placement of Children (Wales) Regulations 2007⁽¹⁾ at the intervals set out in sub-paragraphs (a) and (b) of paragraph (1).

(4) The reference in paragraph (3) to a plan for the future health of the child includes a plan prepared in accordance with regulation 7(1)(c) of the Arrangements for Placement of Children (General) Regulations 1991⁽²⁾

(5) Sub-paragraphs (a) and (b) of paragraph (1) do not apply if the child, being of sufficient understanding to do so, refuses to consent to the assessment.

Consultation, participation and notification

8.—(1) Before conducting any review the responsible authority must, unless it is not reasonably practicable to do so, seek and take into account the views of—

- (a) the child;
- (b) his or her parents;

⁽¹⁾ Placement of Children (Wales) Regulations 2007 (S.I.2007/(W.).

⁽²⁾ The Arrangements for Placement of Children (General) Regulations 1991 (S.I. 1991/890) were revoked and re-enacted in relation to Wales on 1 July 2007 by the Placement of Children (Wales) Regulations 2007 (S.I. 2007/.....).

- (c) any person who is not a parent of his but who has parental responsibility for him;
- (d) where the child is placed in a children's home, the child's link worker; and
- (e) any other person whose views the authority consider to be relevant;

including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review.

(2) The responsible authority must so far as is reasonably practicable involve the persons whose views are sought under paragraph (1) in the review including, where the authority consider appropriate, the attendance of those persons at part or all of any meeting which is to consider the child's case in connection with any aspect of the review of that case.

(3) The responsible authority must, so far as is reasonably practicable, notify details of the result of the review and of any decision taken by them in consequence of the review to—

- (a) the child;
- (b) his or her parents;
- (c) any person who is not a parent of his but who has parental responsibility for him or her;
- (d) where the child is placed in a children's home, the child's link worker; and
- (e) any other person whom they consider ought to be notified.

Arrangements for implementation of decisions arising out of reviews and notification to independent reviewing officer

9.—(1) The responsible authority must make and carry out arrangements themselves or with other persons to implement any decision which the authority propose to make in the course, or as a result, of the review of a child's case.

(2) The responsible authority must inform the independent reviewing officer of—

- (a) any significant failure to make or carry out arrangements in accordance with paragraph (1); and
- (b) any significant change of circumstances occurring after the review that affects those arrangements.

Monitoring arrangements for reviews

10. Each responsible authority must monitor the arrangements which they have made with a view to ensuring that they comply with these Regulations.

Recording review information

11. Each responsible authority must ensure that—

- (a) information obtained in respect of the review of a child's case; and
- (b) details of the proceedings at any meeting arranged by the authority at which the child's case is considered in connection with any aspect of the review of that case; and
- (c) details of any decisions made in the course of or as a result of the review;

are recorded in writing.

Application of Regulations to short periods

12.—(1) This regulation applies to cases in which a responsible authority has arranged that a child should be looked after or provided with accommodation for a series of short periods at the same place and the arrangement is such that no single period is to last for more than four weeks and the total duration of the periods is not to exceed 120 days in any period of 12 months.

(2) Regulation 4 does not apply to a case to which this regulation applies, but instead—

- (a) each such case is first to be reviewed within three months of the beginning of the first of the short periods;
- (b) if the case continues, the second review must be carried out not more than six months after the first; and
- (c) thereafter, if the case continues, subsequent reviews must be carried out not more than six months after the date of the previous review.

(3) For the purposes of regulation 7, a child must be treated as continuing to be looked after or provided with accommodation throughout the period that this regulation applies to his case.

Transitional Provisions

13.—(1) Where immediately before 1 July 2007 a child is being accommodated by a local authority, a voluntary organisation or in a private children's home, these Regulations will have effect subject to the following provisions of this regulation.

(2) Where a child has been accommodated by a local authority, voluntary organisation or in a private children's home before 1 July 2007 and there has not been a review of their case, or where a review is overdue under the provisions of the Review of

Children's Cases Regulations 1991⁽¹⁾, that child's case must be reviewed not later than four weeks from 1 July 2007 and subsequent reviews must take place in accordance with regulation 4(2) or 12(2) as the case may be.

(3) Where regulation 4 applies, and a child has been accommodated by a local authority, voluntary organisation or in a private children's home before 1 July 2007 and there has been a review of the case before that date, the next review of the child's case must be carried out—

- (a) where the review before 1 July 2007 was a first review, three months from the date of that review; or
- (b) where the last review before 1 July 2007 was a second or subsequent review, six months from the date of that review; and

in either case subsequent reviews must take place in accordance with regulation 4(2).

(4) Where regulation 12 applies, and a child has been accommodated by a local authority, voluntary organisation or in a private children's home before 1 July 2007 and there has been a review of the case before that date, the next review of the child's case must be carried out—

- (a) where the last review before 1 July 2007 was a first review, six months from the date of that review; or
- (b) where the last review before 1 July 2007 was a second or subsequent review, if the case continues, six months from the date of that review; and

in either case subsequent reviews must take place in accordance with regulation 12(2).

Exceptions to application of Regulations

14.—(1) These Regulations do not apply in the case of a child who is being provided with accommodation, otherwise than by a local authority or a voluntary organisation, in a school which is a children's home within the meaning of section 1(6) of the Care Standards Act 2000⁽²⁾.

(2) These Regulations do not apply in the case of a child who is placed for adoption.

⁽¹⁾ Review of Children's Cases Regulations 1991 (S.I.1991/895).
⁽²⁾ Care Standards Act 2000 (c.14).

Revocation

15. These Regulations revoke the Review of Children's Cases Regulations 1991 in relation to Wales⁽¹⁾.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽²⁾.

Date

The Presiding Officer of the National Assembly

⁽¹⁾ Review of Children's Cases Regulations 1991 (S.I.1991/895).
⁽²⁾ 1998 C.38.

SCHEDULE 1

Elements to be included in review

Regulation 5(4)

- 1.** Keeping informed of the arrangements for looking after the child and of any relevant change in the child's circumstances.
- 2.** Keeping informed of the name and address of any person whose views should be taken into account in the course of the review.
- 3.** Making necessary preparations and providing any relevant information to the participants in any meeting of the responsible authority which considers the child's case in connection with any aspect of the review.
- 4.** Initiating meetings of relevant personnel of the responsible authority and other relevant persons to consider the review of the child's case.
- 5.** Explaining to the child any steps which he may take under the Act including, where appropriate—
 - (a) his right to apply, with leave, for a section 8 order (residence, contact and other orders with respect to children),
 - (b) where he is in care, his right to apply for the discharge of the care order, and
 - (c) the availability of the procedure established under the Act for considering representations.
- 6.** Making decisions or taking steps following review decisions arising out of or resulting from the review.

SCHEDULE 2

Considerations to which responsible authorities are to have regard

Regulation 6

- 1.** In the case of a child who is in care, whether an application should be made to discharge the care order.
- 2.** Where the responsible authority are a local authority whether they should seek a change in the child's legal status.
- 3.** Arrangements for contact, and whether there is any need for changes in the arrangements in order to promote contact with the child's family and others so far as is consistent with his welfare.

4. Any special arrangements that have been made or need to be made for the child, including the carrying out of assessments either by a local authority or other persons, such as those in respect of special educational need under the Education Act 1996.

5. The responsible authority's immediate and long term arrangements for looking after the child or providing the child with accommodation (made pursuant to the provisions of the Placement of Children (Wales) Regulations 2007, whether a change in those arrangements is needed and consideration of alternative courses of action.

6. Whether the responsible authority has complied with the requirements of the Placement of Children (Wales) Regulations 2007(1) and in particular, regulations 4 and 8.

7. Where the responsible authority are a local authority, whether an independent visitor should be appointed if one has not already been appointed.

8. The child's educational needs, progress and development including, where applicable, whether the transfer of relevant education records has taken place.

9. Where a child is placed outside the area in which he or she is normally resident, whether the child's case should be referred to a panel.

10. Whether arrangements need to be made for the time when the child will no longer be looked after or provided with accommodation by the responsible authority.

11. Whether plans need to be made to find a permanent substitute family for the child.

SCHEDULE 3

Health considerations to which responsible authorities are to have regard

Regulation 6

1. The child's state of health including his physical, oral, emotional and mental health.

2. The child's health history including, as far as practicable, his family health history.

3. The effect of the child's health and health history on his development.

(1) Placement of Children (Wales) Regulations 2007 (S.I. 2007/).

4. Existing arrangements for the child's medical and dental care and treatment and health and dental surveillance, and in particular, where a child has been assessed as requiring mental health services, whether the child receives those services.

5. Whether the responsible authority has complied with the requirements of regulations 6 (so far as it relates to the child's health) and 8 of the Placement of Children (Wales) Regulations 2007⁽¹⁾.

6. Whether, where applicable, the transfer of relevant medical records has taken place.

7. The possible need for an appropriate course of action which should be identified to assist necessary change of such care, treatment or surveillance as is referred to in paragraph (4).

8. The possible need for preventive measures, such as vaccination and immunisation, and screening for vision and hearing[, and for advice and guidance on health (including mental health and oral health), personal care and health promotion issues appropriate to the child's needs.

⁽¹⁾ Placement of Children (Wales) Regulations 2007 (S.I. 2007/).

NATIONAL ASSEMBLY FOR WALES

S T A T U T O R Y I N S T R U M E N T S

2007 No. (W.)

SOCIAL CARE, WALES

The Review of Children's Cases
Regulations 2007