

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.)

**CHILDREN AND YOUNG
PERSONS, WALES**

**The Placement of Children (Wales)
Regulations 2007**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Arrangements for Placement of Children (General) Regulations 1991(1) in relation to Wales. The Regulations make provision for the arrangements for placement of children by local authorities, voluntary organisations and persons carrying on private children's homes in Wales. The placements may be with foster parents, in community homes, voluntary children's homes or private children's homes and under other arrangements (but not in a home provided in accordance with arrangements made by the Assembly under section 82(5) of the Children Act 1989)(2).

Regulation 4 provides for the making of arrangements for accommodation and maintenance of and promotion of the welfare of children and for the planning of placements.

Regulation 5 makes provision for the matters to be considered by a responsible authority when making arrangements to place a child, including the procedures to be followed where a placement outside the area in which a child normally lives is being considered. The regulation also places a responsible authority under a duty to make a written record of the reasons for its certain actions under the regulation.

Regulation 6 provides for the responsible authority to notify certain people of the arrangements for the placement of a child, and specifies a time period within which notification must take place. along with a requirement that where appropriate, the responsible

(1) 1991/890

(2) 1989 (c41)

authority must request certain bodies to initiate a transfer of relevant records.

Regulation 7 requires voluntary organisations and those persons operating private children's homes to promote contact between a child and certain people.

Regulation 8 requires a responsible authority to make arrangements for a child's health to be assessed, provision of health care services during the placement and the registration of the child with a general practitioner and a dentist.

Regulation 9 requires a responsible authority to keep a written case record for every child they place, and provides for the type of information to be kept in that record.

Regulation 10 provides for the length of time a case record must be kept and for the security and confidentiality of those records.

Regulation 11 requires a local authority, a voluntary organisation and a person carrying on a private children's home, to keep a register containing details of all the children placed by them.

Regulation 12 requires a voluntary organisation or a person carrying on a private children's home, to provide access to records to Welsh family proceedings officers or to officers of the service.

Regulation 13 provides for the arrangements to be made between a local authority and an area authority, when a local authority arranges for the area authority to carry out some of its functions in respect of a child that is being looked after by the local authority.

Regulation 14 provides for the application of the regulations to short term placements.

Regulation 15 revokes the Arrangements for Placement of Children (General) Regulations 1991⁽¹⁾ in relation to Wales.

⁽¹⁾ S.I. 1991/890.

2007 No. (W.)

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**The Placement of Children (Wales)
Regulations 2007**

Made 2007

Coming into force 1 July 2007

ARRANGEMENT OF REGULATIONS

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SCHEDULES

1. Considerations to which responsible authorities are to have regard
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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” 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

“area authority” 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” 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;

“health care provider” 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

(1) Children Act 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.

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” 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” 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” 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), (a) 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), (a) 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” and “placed” must be construed accordingly;

“Placed for adoption” means placed pursuant to the Adoption and Children Act 2002 or, where applicable, the Adoption Act 1976.

“Registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983(1);

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

“Responsible authority” 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 place 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

(1) Medical Act 1983 (c. 54).

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) 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⁽¹⁾

(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

⁽¹⁾ 2000 (c14).

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).

(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 20 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 registered medical practitioner and, where applicable, any registered medical 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; and

(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 paragraphs 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—

- (a) health care services, including medical, dental and mental health care and treatment; and
- (b) advice and guidance on health, personal care and health promotion matters in accordance with the child's needs.

(3) A responsible authority must ensure that the child is—

- (a) registered with a registered medical practitioner as soon as practicable and in any event not later than 10 working days after the placement is made; and
- (b) placed under the care of a registered dental practitioner as soon as practicable and in any event not later than 25 working days after the placement is made;

(4) A responsible authority must ensure as far as practicable, that a child continues to be registered with a registered medical practitioner and under the care of a registered dental practitioner, throughout the duration of the placement.

(5) Paragraph (1) does not apply if within the period of three months immediately preceding the placement, the child's health has been assessed and a report of the

assessment prepared in accordance with that paragraph.

(6) 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.

Establishment of records

9.—(1) A responsible authority must establish, and maintain, a written case record in respect of each child whom they place.

(2) The record must include—

- (a) a copy of the arrangements referred to in regulation 4;
- (b) a copy of any written report in their possession concerning the welfare of the child;
- (c) a copy of any document considered or record established in the course of or as a result of a review of the child's case;
- (d) details of arrangements for contact, of contact orders and of other court orders relating to the child;
- (e) details of any arrangements whereby another person acts on behalf of the local authority or organisation which placed the child; and
- (f) written reasons provided in accordance with paragraphs (3) or (5) of regulation 5.

Retention and confidentiality of records

10.—(1) A case record relating to a child who is placed must be retained by the responsible authority until the seventy-fifth anniversary of the date of birth of the child to whom it relates or, if the child dies before attaining the age of 18, for a period of 15 years beginning with the date of his or her death.

(2) The requirements of paragraph (1) may be complied with either by retaining the original written record, or a copy of it, or by keeping all of the information from such record in some other accessible form (such as by means of a computer).

(3) A responsible authority must secure the safe keeping of case records and must take all necessary steps to ensure that information contained in them is treated as confidential, subject only to—

- (a) any provision of or made under or by virtue of, a statute under which access to such records or information may be obtained or given;
- (b) any court order under which access to such records or information may be obtained or given.

Register

11.—(1) A local authority, must, in respect of every child placed in their area (by them and any other responsible authority) and every child placed by them outside their area enter into a register to be kept for the purpose—

- (a) the particulars specified in paragraph (3), and
- (b) such of the particulars specified in paragraph (4) as may be appropriate.

(2) A voluntary organisation and a person carrying on a private children's home must, in respect of every child placed by them, enter into a register to be kept for the purpose—

- (a) the particulars specified in paragraph (3), and
- (b) such of the particulars specified in paragraph (4) as may be appropriate.

(3) The particulars to be entered into the register in accordance with paragraphs (1) or (2) are—

- (a) the name, sex, date of birth, national health service number and, where applicable, the social services identification number of the child;
- (b) the name and address of the person or children's home with whom the child is placed and, if different, of those of the child's parents or other person not being a parent of his who has parental responsibility for him;
- (c) where a child is placed in a children's home, the name of the child's link worker;
- (d) in the case of a child placed on behalf of a local authority by a voluntary organisation or in a private children's home, the name of the authority;
- (e) whether the child's name is entered on any local authority register indicating that the child is at risk of being abused;
- (f) whether the child's name is entered on the register maintained under paragraph 2 of Schedule 2 to the Act (register of disabled children);
- (g) the date on which each placement of the child began and terminated and the reason for each termination;
- (h) in a care case the name of the local authority in whose care the child is;
- (i) the legal provisions under which the child is being looked after or cared for.

(4) The additional particulars to be entered in the register, where appropriate in accordance with paragraphs (1) or (2) are—

- (a) in the case of a child placed by a local authority in respect of whom arrangements have been made for the area authority to carry out functions pursuant to regulation 13 a note that the

arrangements were made and the name of the other local authority with whom they were made; and

- (b) in the case of a child who has been placed, in respect of whom arrangements have been made for supervision of the placement to be carried out on behalf of a responsible authority (otherwise than pursuant to regulation 13), a note that the arrangements were made and the name of person with whom the arrangements were made.

(5) Entries in registers kept in accordance with this regulation must be retained until the child to whom the entry relates attains the age of 25 or, if the child has died before attaining 25, the period of 5 years beginning with the date of his death.

(6) The requirements of paragraph (1) may be complied with either by retaining the original register, or a copy of it, or by keeping all of the information from such a register in some other accessible form (such as by means of a computer).

(7) A responsible authority must secure the safe keeping of registers kept in accordance with this regulation and must take all necessary steps to ensure that information contained in them is treated as confidential, subject only to—

- (a) any provision of or made under or by virtue of a statute under which access to such registers or information may be obtained or given;
- (b) any court order under which access to such registers or information may be obtained or given.

Access by Welsh family proceedings officers and officers of the service to records and register

12. Each voluntary organisation, where they are not acting as an authorised person, and every person carrying on a private children's home must provide a Welsh family proceedings officer of a child or an officer of the service —

- (a) with such access as may be required to—
 - (i) case records and registers maintained in accordance with these Regulations; and
 - (ii) the information from such records or registers held in whatever form (such as by means of computer);
- (b) such copies of the records or entries in the registers as he may require.

Arrangements between local authorities and area authorities

13. Where arrangements are made by a local authority which is looking after a child with an area authority for the area authority to carry out functions in

relation to a placement on behalf of the local authority—

- (a) the local authority must supply the area authority with all such information as is necessary to enable the area authority to carry out those functions on behalf of the local authority;
- (b) the area authority must keep the local authority informed of the progress of the child and, in particular, must furnish reports to the local authority following each visit to the home in which the child is placed and following each review of the case of the child carried out by the area authority on behalf of the local authority;
- (c) the local authority and the area authority must consult each other from time to time as necessary, and as soon as reasonably practicable after each such review of the case of the child, with regard to what action is required in relation to him.

Application of Regulations to short-term placements

14.—(1) This regulation applies where a responsible authority has arranged to place a child in a series of short-term placements at the same place and the arrangement is such that no single placement is to last for more than 4 weeks and the total duration of the placements is not to exceed 120 days in any period of 12 months.

(2) Any series of short-term placements to which this regulation applies may be treated as a single placement for the purposes of these Regulations.

Revocation of the Arrangements for Placement of Children (General) Regulations 1991

15. The Arrangements for Placement of Children (General) Regulations 1991(1) are revoked in relation to Wales.

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) S.I. 1991/890
(2) 1998 c.38.

SCHEDULE 1

**CONSIDERATIONS TO WHICH
RESPONSIBLE AUTHORITIES ARE
TO HAVE REGARD**

Regulation 5(1)

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 is a local authority whether the authority 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. The responsible authority's immediate and long term arrangements for the child, previous arrangements in respect of the child, and whether a change in those arrangements is needed and consideration of alternative courses of action.

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

6. Whether arrangements need to be made for the time when the child will no longer be looked after by the responsible authority.

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

SCHEDULE 2

Regulation 5(1)

HEALTH CONSIDERATIONS TO WHICH RESPONSIBLE AUTHORITIES ARE TO HAVE REGARD

- 1.** The child's state of health including his or her physical, oral, emotional and mental health.
- 2.** The child's health history including, so far as practicable, his or her family health history.
- 3.** The effect of the child's health and health history on his or her development.
- 4.** Any need the child has for mental health services.
- 5.** Existing arrangements for the child's medical and dental care, treatment and health surveillance, with particular reference to mental health services.
- 6.** The possible need for an appropriate course of action which should be identified to assist necessary change of such care, treatment or surveillance.
- 7.** The possible need for preventive measures, such as vaccination and immunisation, screening for vision and hearing and for advice and guidance on health, including mental health, and oral health, and on personal care and health promotion issues appropriate to the child's needs.
- 8.** Taking account of the information available in respect of the matters set out in paragraphs 1 to 7 including the reports of any assessment, whether the child's health needs will be met in the proposed placement.

SCHEDULE 3

Regulation 5(1)

EDUCATIONAL CONSIDERATIONS TO WHICH RESPONSIBLE AUTHORITIES ARE TO HAVE REGARD

1. The child's educational history.
2. The need to achieve continuity in the child's education and to promote the child's educational achievement.
3. The need to identify any educational need which the child may have and to take action to meet that need.
4. The need to carry out any assessment in respect of any special educational need under the Education Act 1996(1) and meet any such needs identified in a statement of special educational needs made under section 324 of that Act.
5. Taking account of the information available in paragraphs 1 to 4 of this Schedule, whether the child's educational needs will be met in the proposed placement.

(1)

SCHEDULE 4

Regulation 5(6)

MATTERS TO BE INCLUDED IN ARRANGEMENTS TO ACCOMMODATE CHILDREN WHO ARE NOT IN CARE

1. The type of accommodation to be provided and its address together with the name of any person who will be responsible for the child at that accommodation on behalf of the responsible authority.

2. The details of any services to be provided for the child.

3. The respective responsibilities of the responsible authority and—

- (a) the child;
- (b) any parent of his or hers; and
- (c) any person who is not a parent of his or hers but who has parental responsibility for him or her.

4. What delegation there has been by the persons referred to in paragraph 3(b) and (c) of this Schedule to the responsible authority of parental responsibility for the child's day to day care.

5. The arrangements for involving those persons and the child in decision making with respect to the child having regard—

- (a) to the local authority's duty under sections 20(6) (involvement of children before provision of accommodation) and 22(3) to (5) of the Act (general duties of the local authority in relation to children looked after by them);
- (b) the duty of the voluntary organisation under section 61(1) and (2) of the Act (duties of voluntary organisations); and
- (c) the duty of the person carrying on a registered children's home under section 64(1) and (2) of the Act (welfare of children in registered children's homes).

6. The arrangements for contact between the child and—

- (a) his or her parents;

(b) any person who is not a parent of his or hers but who has parental responsibility for him or her; and

(c) any relative, friend or other person connected with him or her,

and if appropriate, the reasons why contact with any such person would not be reasonably practicable or would be inconsistent with the child's welfare.

7. The arrangements for notifying changes in arrangements for contact to any of the persons referred to in paragraph 6.

8. In the case of a child aged 16 or over whether section 20(11) (accommodation of a child of 16 or over despite parental opposition) applies.

9. The expected duration of arrangements and the steps which should apply to bring the arrangements to an end, including arrangements for rehabilitation of the child with the person with whom he was living before the voluntary arrangements were made or some other suitable person, having regard in particular, in the case of a local authority looking after a child, to section 23(6) of the Act (duty to place children where practicable with parents etc.) and paragraph 15 of Schedule 2 to the Act (maintenance of contact between child and family).

