

CHILDREN'S COMMISSIONER FOR WALES ACT 2001

EXPLANATORY NOTES

BACKGROUND AND SUMMARY

3. The Act implements the policy of the Government and the National Assembly for Wales ('the Assembly') on establishing a Children's Commissioner for Wales ('the Commissioner') with a wide-ranging scope, which encompasses all children in Wales and different sectors and services. This policy is based on the recommendations of the Assembly's Health and Social Services Committee in its report 'A Children's Commissioner for Wales', published in May 2000. This was itself based on the consensus that emerged in Wales, evidenced by the results of the widespread consultation undertaken by the Committee.
4. The office of the Commissioner was established initially by virtue of Part 5 of the Care Standards Act 2000 ('the 2000 Act') to reflect Sir Ronald Waterhouse's recommendations on the establishment of an independent Children's Commissioner in his report *Lost in Care - The Report of the Tribunal of Inquiry into the abuse of children in care in the former county council areas of Gwynedd and Clwyd since 1974*, (HC201) published in February 2000.
5. The Commissioner's functions under the 2000 Act extend to all services for children to be regulated by the Act: children's homes, residential family centres, local authority fostering and adoption services, fostering agencies, voluntary adoption agencies, domiciliary care, private and voluntary hospitals/clinics, the welfare aspects of daycare and childminding services for all children under the age of eight; and the welfare of children living away from home in boarding schools.
6. The Commissioner's functions under the 2000 Act include:
 - (a) the reviewing and monitoring of arrangements by service providers for dealing with complaints, for ensuring that proper action is taken in response to information regarding possible unlawful or dangerous activities, or their concealment ("whistleblowing"), and for making persons available to represent children's views and provide them with advice and support ("advocacy");
 - (b) the provision of advice and information;
 - (c) the examination, where the Commissioner considers appropriate, of the cases of particular children who are receiving or have been in receipt of such services;
 - (d) the provision of assistance, including financial assistance, and representation, in respect of proceedings or disputes or in relation to the operation of procedures and arrangements monitored by the Commissioner; and
 - (e) making reports, including an annual report on the exercise of his or her functions to the Assembly.

*These notes refer to the Children's Commissioner for Wales Act
2001 (c.18) which received Royal Assent on 11th May 2001*

7. The power to require the provision of information and the disclosure of documents may be conferred by the Assembly on the Commissioner in connection with the review and monitoring of the activities specified above and for the purposes of examining particular cases or determining whether a report's recommendations have been complied with.
8. The Act extends the scope of the Commissioner's role to bodies and persons operating in Wales that have statutory functions or provide statutory services in functional fields devolved to the Assembly.
9. However the Commissioner's functions under Part 5 of the 2000 Act of reviewing and monitoring arrangements for complaints, for whistleblowing and for advocacy, relate specifically to regulated children's services (as defined in section 78(2) of the 2000 Act). The Act extends these functions to bodies and persons in Wales who provide direct statutory services to or in respect of children, and persons that provide such services on their behalf. This will concern primarily the education and training, health and social services sectors; and the main persons affected will be local authorities, in respect of their provision of education and social services, schools, further and higher education institutions, training organisations, health authorities and National Health Service trusts. The Assembly will also be one of the bodies subject to this function of the Commissioner.
10. The Act confers on the Commissioner the power to review the effect on children in Wales of any existing or proposed legislation of the Assembly. The Act also confers on the Commissioner the power to review the effect on children in Wales of any policy, or practice of, or service provided by the Assembly or any body or person listed in the Act.
11. The Act in addition provides that the principal aim of the Commissioner in exercising his or her functions is to safeguard and promote the rights and welfare of children.
12. The Act also provides that the Commissioner may consider, and make representations to the Assembly about, any matter affecting the rights or welfare of children in Wales.