
WELSH STATUTORY INSTRUMENTS

2001 No. 2787

The Children's Commissioner for Wales Regulations 2001

PART III

EXAMINATION OF CASES

Examinations

4. Subject to the following paragraphs in this Part the Commissioner may examine the cases of particular children to whom Part V of the Act applies.

Cases subject to examination

5. Subject to regulation 6, the Commissioner may examine cases of particular children—
- (a) to or in respect of whom regulated children's services in Wales are being or have been provided;
 - (b) to or in respect of whom services are being or have been provided by any of the persons mentioned in Schedule 2B to the Act or persons providing such services on behalf of or under arrangements with any of those persons; or
 - (c) who are ordinarily resident in Wales and who are being or have been affected by the exercise or proposed exercise of any function of the Assembly or a person mentioned in Schedule 2A to the Act,

where the cases relate to issues concerning the provision of such services or the effect on the said children of the exercise of such functions.

Circumstances in which an examination may be made

6. The Commissioner may only examine the case of a particular child where
- (a) a representation is made to the Commissioner by the child concerned or, if the child is unable for any reason to make such a representation, where a representation is made to the Commissioner on behalf of the child by a person who, in the reasonable opinion of the Commissioner is suitable to make such a representation;
 - (b) the Commissioner considers that the representation raises a question of principle which has a more general application or relevance to the rights or welfare of relevant children than in the particular case concerned; and
 - (c) the Commissioner has taken into account whether the issues involved in the case have been or are being formally considered in any way by other persons and if they have not or are not whether, in the Commissioner's opinion, they are more suitable for consideration by other persons.

Procedure for conducting an examination

- 7.—(1) Where the Commissioner decides to conduct an examination he or she shall—

- (a) produce terms of reference of the examination;
 - (b) send the terms of reference to the person who made a representation in relation to the case in accordance with paragraph (a) of regulation 6;
 - (c) send written notice of the proposed examination and copies of the terms of reference to the person (“the person being examined”) in respect of whose provision of services or the exercise of whose functions is to be examined;
 - (d) afford to the person being examined, and if he or she so desires, his or her representative an opportunity to make representations in writing or in person in relation to the matters being examined.
- (2) Where the Commissioner decides not to conduct an examination he or she shall prepare a statement of reasons for that decision and shall send copies of it to—
- (a) the person who made the representation in relation to the case in accordance with paragraph (a) of regulation 6, and
 - (b) such other persons as the Commissioner considers appropriate.

Provision of information in connection with an examination

- 8.—**(1) In conducting an examination the Commissioner may—
- (a) require a person to whom paragraph (2) applies to provide any information which appears to the Commissioner to be necessary for the purposes of the examination in question;
 - (b) require such a person or such other person as may be accountable for the said information, to provide the Commissioner with an explanation of or assistance in relation to—
 - (i) any matters which are the subject of the examination, or
 - (ii) any information provided under sub-paragraph (a).
- (2) The persons to whom this paragraph applies are—
- (a) In relation to the provision of regulated children’s services in Wales, the providers or former providers of such services, employees or former employees of such providers or former providers and persons who work or worked for such providers or former providers in a voluntary capacity and members and employees and former members and employees of the Assembly;
 - (b)
 - (i) Members (including elected members), directors, executives, officers and employees of a relevant person, former members, directors, executives, officers and employees of a relevant person and persons who work or worked for a relevant person in a voluntary capacity;
 - (ii) For the purposes of sub-paragraph (i) “relevant person” (“*person perthnasol*”) means the Assembly, any person mentioned in Schedule 2A to the Act, any other person exercising a function of the Assembly or of any person mentioned in the said Schedule 2A, or any person providing services to or in respect of children in Wales on behalf of or under arrangements with any person mentioned in Schedule 2B to the Act.
 - (c) The receiver or manager of the property, the liquidator or provisional liquidator or the trustee in bankruptcy, as the case may be, of a person who provides or provided services described in paragraphs (a) or (b).

Attendances of witnesses

9.—(1) The Commissioner may, if it is considered necessary for the purposes of an examination, require a person to whom paragraph (2) applies to attend before the Commissioner in person to provide information, explanations or assistance.

(2) The persons to whom this paragraph applies are persons who are required_

(a) to provide information under paragraph (1)(a) of regulation 8, or

(b) to provide an explanation under paragraph (1)(b) of regulation 8.

(3) The Commissioner may only require a person to attend in person at any place in accordance with paragraph (1) if reasonable written notice of the proposed date of attendance and the information, explanations or assistance required by the Commissioner has been given to that person.

(4) In connection with such attendance in person, the Commissioner may, subject to section 74(4) of the Act, issue witness summonses and administer oaths or affirmations and may permit a person to be represented before the Commissioner.