
WELSH STATUTORY INSTRUMENTS

2002 No. 327

The Children's Homes (Wales) Regulations 2002

PART 1
GENERAL

Citation, commencement and application

1.—(1) These regulations may be cited as the Children's Homes (Wales) Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations apply in relation to children's homes in Wales.

Interpretation

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Care Standards Act 2000;

“the 1989 Act” (“*Deddf 1989*”) means the Children Act 1989⁽¹⁾;

“appropriate office” (“*swyddfa briodol*”) means in relation to a children's home—

- (a) if an office has been specified under regulation 42 for the area in which the children's home is situated, that office;
- (b) in any other case, any office of the National Assembly;

“child protection enquiry” (“*ymchwiliad amddiffyn plant*”) means any enquiry carried out by a local authority in the exercise of any of its functions conferred by or under the 1989 Act relating to the protection of children;

“children's guide” (“*arweiniad plant*”) means the guide referred to in regulation 4;

“foster parent” (“*rhiant maeth*”) shall be construed in accordance with section 1(7) of the Act;

“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⁾,
- (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;

“National Assembly” (“*Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

⁽¹⁾ 1989 c. 41.

⁽²⁾ 1977 c. 49.

⁽³⁾ 1997 c. 46.

“organisation” (“*corff*”), other than in regulation 17(6) where the term shall be construed in accordance with the purpose of the provision in which it is used, means a body corporate;

“placement plan” (“*cynllun lleoliad*”) means the plan referred to in regulation 12;

“placing authority” (“*awdurdod lleoli*”) in relation to a child accommodated in a children’s home means—

- (a) in the case of a child who is looked after by a local authority, that local authority;
- (b) in the case of a child who is not looked after by a local authority—
 - (i) if he is being provided with accommodation by a voluntary organisation⁽⁴⁾, that voluntary organisation;
 - (ii) if he is accommodated in a qualifying school under arrangements made by a local education authority or a local authority, that local education authority or local authority as the case may be;
 - (iii) in any other case, the child’s parent;

“qualifying school” (“*ysgol gymwys*”) means a school which is a children’s home within the meaning of section 1(6) of the Act;

“registered dental practitioner” (“*ymarferydd deintyddol cofrestredig*”) means a person registered in the dentists register kept under the Dentists Act 1984⁽⁵⁾;

“registered manager” (“*rheolwr cofrestredig*”), in relation to a children’s home, means the person who is registered under Part II of the Act as the manager of that home;

“registered person” (“*person cofrestredig*”), in relation to a children’s home, means any person who is the registered provider or the registered manager of the home;

“registered provider” (“*darparydd cofrestredig*”), in relation to a children’s home, means a person who is registered under Part II of the Act as the person carrying on that home⁽⁶⁾;

“responsible individual” (“*unigolyn cyfrifol*”) has the meaning given to it in regulation 6; and

“statement of purpose” (“*datganiad o ddiben*”) means the statement referred to in regulation 4.

(2) In these Regulations, a reference—

- (a) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph, is to the paragraph in that regulation or Schedule bearing that number;
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(3) In these Regulations, unless the contrary intention appears, references to employing a person include—

- (a) employing a person whether or not for payment;
- (b) employing a person under a contract of service or a contract for services; and
- (c) allowing a person to work as a volunteer;

and references to an employee or to a person being employed shall be construed accordingly.

(4) In these Regulations a reference to a person working at a children’s home shall be taken to include a reference to a person working for the purposes of a children’s home.

⁽⁴⁾ Section 59 of the 1989 Act governs the provision of accommodation for children by voluntary organisations.

⁽⁵⁾ 1984 c. 24.

⁽⁶⁾ See section 121(6) to (8) for provision about the persons who are taken to carry on and manage a community home which is provided by a voluntary organisation.

Establishments which are not children's homes

3.—(1) For the purposes of the Act, any establishment falling within any of the following descriptions is excepted from being a children's home—

- (a) an institution within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992(7);
- (b) subject to paragraph (2), an establishment used to accommodate children only for the purposes of any one or more of the following—
 - (i) a holiday;
 - (ii) a leisure, recreational, sporting, cultural or educational activity;so long as no one child is accommodated there for more than 28 days in any twelve month period;
- (c) subject to paragraph (2), premises at which a person provides day care within the meaning of section 79A(6) of the 1989 Act, unless paragraph (3) applies;
- (d) subject to paragraph (2), an establishment used to accommodate children aged 16 and over only for the purposes of any one or more of the following—
 - (i) to enable the children to undergo training or an apprenticeship;
 - (ii) a holiday;
 - (iii) a leisure, recreational, sporting, cultural or educational activity;
- (e) any approved bail hostel or approved probation hostel(8);
- (f) any institution provided for young offenders under or by virtue of section 43(1) of the Prison Act 1952(9).

(2) The exceptions in paragraph (1)(b), (c) and (d) do not apply to any establishment whose provision of accommodation is wholly or mainly for children of a description falling within section 3(2) of the Act(10).

(3) This paragraph applies to premises described in paragraph 1(c) if in any 12 month period there are 28 or more periods of 24 hours during which more than 15 hours of day care are provided in relation to any one child (whether or not that child is aged under eight), and for the purposes of this paragraph no day care shall be taken to be provided when a child is in the care of his or her parent, relative or foster parent.

Statement of purpose and children's guide

4.—(1) The registered person shall compile in relation to the children's home a statement written on paper which shall consist of a statement as to the matters listed in Schedule 1 ("the statement of purpose").

(2) The registered person shall provide a copy of the statement of purpose to the appropriate office of the National Assembly and shall make a copy of it available upon request for inspection at any reasonable time by—

(7) 1992 c. 13.

(8) See section 9(2) of the Criminal Justice and Court Services Act 2000 (c. 43).

(9) 1952 c. 52. Amended by section 170(1) of and paragraphs 11 and 12 of Schedule 15, and Schedule 16, to the Criminal Justice Act 1988 (c. 33); sections 5(2), 18(3) and 168(3) of and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33); section 119 of, and paragraph 6 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37); and section 165(1) of, and paragraph 5 of Schedule 9 to, the Powers of the Criminal Courts (Sentencing) Act 2000 (c. 6). Subsection 1(a) of the 1952 Act is to be repealed by sections 59 and 75 of, and Schedule 8 to, the Criminal Justice and Court Services Act 2000 (c. 43) on a date to be appointed.

(10) Section 3(2) of the Act refers to persons who are or have been ill; who have or have had a mental disorder; who are disabled or infirm; and who are or have been dependent on alcohol or drugs.

- (a) any person who works at the children's home;
- (b) any child accommodated in the children's home;
- (c) subject to paragraph (3), the parent of any child accommodated in the children's home;
- (d) the placing authority of any child accommodated in the home; and
- (e) in the case of a qualifying school, Her Majesty's Chief Inspector of Education and Training in Wales, and any person exercising a function of the National Assembly under the education legislation in relation to the school;

and in this paragraph references to a child who is accommodated in the children's home includes a child in respect of whom accommodation in the children's home is being considered.

(3) The registered person shall not comply with paragraph 2(c) in relation to a child if there is a court order that restricts or limits contact between the child and his or her parent and it is necessary to restrict the availability of the statement, or any part of it, for the purpose of safeguarding or promoting the welfare of the child.

(4) In this regulation 'education legislation' means the Education Acts (as defined by section 578 of the Education Act 1996⁽¹¹⁾).

(5) The registered person shall produce a guide to the children's home in a form appropriate to the age, understanding and communication needs of the children to be accommodated in the home ("the children's guide") which shall include—

- (a) a summary of the home's statement of purpose;
- (b) a summary of the complaints procedure established under regulation 24;
- (c) the address and telephone number of the appropriate office of the National Assembly and of an office of the Children's Commissioner for Wales.

(6) The registered person shall—

- (a) provide a copy of the first children's guide to the appropriate office of the National Assembly;
- (b) provide a copy of the current version of the children's guide to each child and to the child's placing authority when the child is first accommodated in the home; and
- (c) subsequent to the provision described in sub-paragraph (b) provide further copies at the request of the child or the placing authority.

(7) Subject to paragraph (8) the registered person shall ensure that the children's home is at all times conducted in a manner which is consistent with its statement of purpose.

(8) Nothing in paragraph (7) or in regulation 30(1) shall require or authorise the registered person to contravene or not comply with—

- (a) any other provision of these Regulations; or
- (b) the conditions for the time being in force in relation to the registration of the registered person under Part II of the Act.

Review of the statement of purpose and children's guide

5.—(1) The registered person shall—

- (a) keep under review and, subject to compliance with paragraph (2), where appropriate revise the statement of purpose and the children's guide; and
- (b) if the children's guide is revised, supply a revised copy to each child accommodated in the home.

⁽¹¹⁾ 1996 c. 56.

(2) The registered person shall, whenever practicable, notify the appropriate office of the National Assembly of any revision to be made to the statement of purpose at least 28 days before it is to take effect.