



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2014 Rhif 1795 (Cy. 188)

2014 No. 1795 (W. 188)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

**PLANT A PHOBL IFANC,
CYMRU**

**CHILDREN AND YOUNG
PERSONS, WALES**

**Rheoliadau Gweithdrefn Sylwadau
(Cymru) 2014**

**The Representations Procedure
(Wales) Regulations 2014**

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn dirymu ac yn disodli Rheoliadau Gweithdrefn Sylwadau (Plant) (Cymru) 2005 ac yn sefydlu gweithdrefn newydd y mae'n rhaid i awdurdodau lleol ei dilyn wrth ystyried sylwadau a wneir wrthynt ynglŷn â chyflawni swyddogaethau penodol o dan Ddeddf Plant 1989 ("Deddf 1989") ac o dan Ddeddf Mabwysiadu a Phlant 2002 ("Deddf 2002").

These Regulations revoke and replace the 2005 Representations Procedure (Children) (Wales) Regulations and establish a new procedure which local authorities must follow in the consideration of representations made to them about the discharge of specific functions under the Children Act 1989 ("the 1989 Act") and under the Adoption and Children Act 2002 ("the 2002 Act").

Mae adrannau 24D a 26 o Ddeddf 1989 yn gosod dyletswydd ar awdurdodau lleol i sefydlu gweithdrefn ar gyfer ystyried sylwadau (gan gynnwys cwynion) a wneir wrthynt ynglŷn â'r modd y cyflawnir swyddogaethau penodol o dan Ddeddf 1989 a Deddf 2002.

Sections 24D and 26 of the 1989 Act place a duty upon local authorities to establish a procedure for considering representations (including complaints) made to them about the discharge of specific functions under the 1989 Act and the 2002 Act.

Mae'r Rheoliadau hyn yn pennu swyddogaethau awdurdodau lleol pellach y ceir gwneud sylwadau yn eu cylch o dan adrannau 24 a 26(3A) a (3B).

These Regulations specify further local authority functions about which representations can be made under sections 24, 26(3A), (3B).

Yn Rhan 2 (rheoliadau 4 i 7) gwneir darpariaeth ynglŷn â'r trefniadau ar gyfer sefydlu gweithdrefn sylwadau. Mae rheoliad 4 yn ei gwneud yn ofynnol bod yr awdurdod lleol yn dynodi uwch-swyddog i fod yn gyfrifol am sicrhau cydymffurfiaeth â'r trefniadau a wneir gan yr awdurdod lleol. Mae rheoliad 5 yn ei gwneud yn ofynnol bod yr awdurdod lleol yn penodi swyddog cwynion i reoli'r weithdrefn ar gyfer trin ac ystyried sylwadau. Mae rheoliad 6 yn darparu ar gyfer cyfathrebu yn electronig. Mae rheoliad 7 yn ei gwneud yn ofynnol bod yr awdurdod lleol yn sicrhau yr hyfforddir ei staff yn ddigonol.

Part 2 (regulations 4 to 7) makes provision about the arrangements for the setting up of a representations procedure. Regulation 4 requires the local authority to designate a senior officer to be responsible for ensuring compliance with arrangements made by the local authority. Regulation 5 requires the local authority to appoint a complaints officer to manage the procedure for handling and consideration of representations. Regulation 6 provides for electronic communication. Regulation 7 requires the local authority to ensure that its staff are appropriately trained.

Mae Rhan 3 (rheoliadau 8 i 14) yn pennu cwrpas y weithdrefn sylwadau. Mae rheoliad 8 yn pennu'r swyddogaethau cymwys o dan Rannau 4 a 5 o Ddeddf 1989 at ddibenion adran 24D o'r Ddeddf honno. Mae rheoliad 9 yn pennu'r swyddogaethau cymwys o dan Ddeddf 2002 at ddibenion adran 26(3B) o Ddeddf 1989.

O dan baragraff 6 o Atodlen 7 i Ddeddf 1989, mae'n ofynnol bod pob awdurdod lleol yn sefydlu gweithdrefn ar gyfer ystyried unrhyw sylwadau a wneir wrtho ynglŷn â chyflawni ei swyddogaethau o dan baragraff 4 o Atodlen 7, sy'n caniatáu i awdurdod lleol esemptio pobl o'r terfyn ar nifer y plant y caniateir iddynt eu maethu. Mae rheoliad 10 yn pennu pa reoliadau a fydd yn gymwys i sylwadau a wneir wrth yr awdurdod lleol ynglŷn â hynny.

Mae Rhan 4 (rheoliadau 15 i 22) yn pennu'r weithdrefn ar gyfer trin sylwadau ac ymchwilio iddynt. Mae rheoliad 15 yn gwneud darpariaeth ynglŷn â gallu "personau eraill" i wneud sylwadau ar ran plentyn. Mae rheoliad 16 yn ei gwneud yn ofynnol bod unrhyw sylw'n cael ei gydnabod o fewn 2 ddiwrnod gwaith ar ôl ei gael. Mae rheoliad 17 yn ei gwneud yn ofynnol cynnig trafod y mater gyda'r person sy'n gwneud y sylw, er mwyn ceisio datrys y mater yn anffurfiol. Rhaid cynnal y drafodaeth honno o fewn 10 diwrnod gwaith ar ôl y dyddiad dechrau, a fydd yn amrywio yn ôl pa un ai person arall sy'n gwneud y sylw ar ran plentyn, ynteu a oes eiriolwr wedi ei benodi. Os llwyddir i ddatrys y sylw yn anffurfiol, rhaid i'r awdurdod lleol ysgrifennu at y person sy'n gwneud y sylw gan gynnwys manylion telerau'r datrysiaid. Ceir estyn y terfyn amser o 10 diwrnod mewn amgylchiadau eithriadol, drwy gytundeb rhwng yr awdurdod lleol a'r person sy'n gwneud y sylw.

Mae rheoliadau 18 i 20 yn rhagnodi'r ail gam ffurfiol yn y broses, sef ymchwilio i'r sylw gan yr awdurdod lleol ar y cyd ag ymchwilydd annibynnol. Bydd y cam hwn yn gymwys os yw'r person sy'n gwneud y sylw yn gwrthod cynnig o drafodaeth; os yw'n gwneud dewisiad bod y sylw i gael ei ddatrys o dan y weithdrefn hon; neu os na ddatrwyd y sylw wrth fodd y person a'i gwnaeth pan geisiwyd ei ddatrys yn lleol. Mae rheoliad 19 yn gwneud penodi person annibynnol yn ofynnol. Mae rheoliad 20 yn ei gwneud yn ofynnol bod yr awdurdod lleol yn anfon ymateb ysgrifenedig at y person sy'n gwneud y sylw, o fewn 25 diwrnod gwaith ar ôl llunio'r cofnod ysgrifenedig terfynol o'r sylw. Mae rheoliad 21 yn pennu'r weithdrefn sydd i'w dilyn os digwydd bod sylw'n ymwneud â gweithredoedd gan fwy nag un awdurdod lleol. Mae rheoliad 22 yn ymwneud â thrin sylwadau ynghylch safonau gofal.

Part 3 (Regulations 8 to 14) sets out the scope of the representations procedure. Regulation 8 specifies the qualifying functions under Parts 4 and 5 of the 1989 Act for the purposes of section 24D of the 1989 Act. Regulation 9 specifies the qualifying functions under the 2002 Act for the purposes of section 26(3B) of the 1989 Act.

Under paragraph 6 of Schedule 7 to the 1989 Act, every local authority is required to establish a procedure for considering any representations made to it about the discharge of its functions under paragraph 4 of Schedule 7 which allows a local authority to exempt people from the limit on the number of children they may foster. Regulation 10 specifies which regulations will apply to representations made to the local authority in this regard.

Part 4 (regulations 15 to 22) sets out the procedure for the handling and investigation of representations. Regulation 15 makes provision about the ability of "other persons" to make representations on behalf of a child. Regulation 16 requires that a representation must be acknowledged within 2 working days of receipt. Regulation 17 requires that the person making the representation must be offered a discussion in an attempt to informally resolve the matter. That discussion must take place within 10 working days of the start date which will vary depending upon whether the representation is being made by another person on behalf of a child or where an advocate is appointed. If informal resolution of the representation is achieved then the local authority must write to the person making the representation with details of the terms of the resolution. The 10 day time limit may be extended in exceptional circumstances by agreement between the local authority and the person making the representation.

Regulations 18 to 20 prescribe the second formal stage of the process that involves the local authority investigating the representation together with an independent investigator. This stage will apply if the person making the representation refuses an offer of discussion, elects to have the representation dealt with under this procedure or if the representation has not been resolved to the satisfaction of the person making it at the local resolution stage. Regulation 19 requires the appointment of an independent person. Regulation 20 requires the local authority to send a written response to the person making the representation within 25 working days of the production of the final written record of the representation. Regulation 21 sets out the procedure in the event that a representation concerns the actions of more than one local authority. Regulation 22 concerns the handling of care standards representations.

Yn Rhan 5, mae rheoliad 23 yn pennu bod dyletswydd ar awdurdodau lleol i fonitro'r trefniadau a wnaed ganddynt, er mwyn sicrhau eu bod yn cydymffurfio â'r Rheoliadau hyn ac mae rheoliad 24 yn gwneud darpariaeth ar gyfer llunio adroddiad blynyddol.

Mae Rhan 6 yn cynnwys darpariaethau ar gyfer trefniadau trosiannol, dirymu a diwygio.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi ohono oddi wrth: Yr Is-adran Strategaeth a Gwella Gwasanaethau Cymdeithasol, Yr Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

In Part 5 regulation 23 sets out the duty upon local authorities to monitor the arrangements they have made with a view to ensuring that they comply with these Regulations and regulation 24 makes provision for an annual report to be prepared.

Part 6 contains provisions for transitional arrangements, revocation and amendment.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from: the Social Services Strategy and Improvement Division, Department for Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

2014 Rhif 1795 (Cy. 188)

**GOFAL CYMDEITHASOL,
CYMRU**

**PLANT A PHOBL IFANC,
CYMRU**

**Rheoliadau Gweithdrefn Sylwadau
(Cymru) 2014**

Gwnaed 7 Gorffennaf 2014

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 9 Gorffennaf 2014

Yn dod i rym 1 Awst 2014

2014 No. 1795 (W. 188)

SOCIAL CARE, WALES

**CHILDREN AND YOUNG
PERSONS, WALES**

**The Representations Procedure
(Wales) Regulations 2014**

Made 7 July 2014

Laid before the National Assembly for Wales
9 July 2014

Coming into force 1 August 2014

CYNNWYS

**RHAN 1
CYFFREDINOL**

1. Enwi, cychwyn a chymhwyso
2. Dehongli
3. Egwyddorion cyffredinol ar gyfer trin sylwadau

**RHAN 2
SEFYDLU'R WEITHDREFN SYLWADAU**

4. Uwch-swyddog sy'n gyfrifol am gwynion
5. Swyddog cwynion
6. Ffur y cyfathrebu
7. Gwybodaeth a hyfforddiant i'r staff

CONTENTS

**PART 1
GENERAL**

1. Title, commencement and application
2. Interpretation
3. General principles in handling representations

**PART 2
SETTING UP THE REPRESENTATIONS
PROCEDURE**

4. Senior Officer responsible for complaints
5. Complaints officer
6. Form of communication
7. Information and training of staff

RHAN 3

CWMPAS Y WEITHDREFN SYLWADAU

8. Swyddogaethau penodedig o dan Rannau 4 a 5 o Ddeddf 1989
9. Swyddogaethau penodedig o dan Ddeddf 2002
10. Ystyried sylwadau o dan baragraff 6 o Atodlen 7 i Ddeddf 1989 (rhieni maeth: terfynau ar nifer y plant y caiff person eu maethu)
11. Materion na chaniateir eu hystyried
12. Materion sy'n ddarostyngedig i ystyriaeth gydreol
13. Terfyn amser ar gyfer gwneud sylwadau
14. Tynnu sylwadau yn ôl

RHAN 4

TRIN SYLWADAU AC YMCHWILIO IDDYNT

15. Sylwadau a wneir gan "bersonau eraill" o dan adran 26(3)(e), (3B)(b) neu (3C)(c) o Ddeddf 1989
16. Camau sydd i'w cymryd gan awdurdod lleol ar ôl cael sylwadau
17. Datrys yn Lleol
18. Ymchwilio yn Ffurfiol
19. Penodi Person Annibynnol
20. Yr Ymateb
21. Sylwadau sy'n ymwneud â mwy nag un awdurdod lleol
22. Trin sylwadau ynghylch safonau gofal

RHAN 5

DYSGU ODDI WRTH SYLWADAU

23. Monitro
24. Adroddiad Blynyddol

RHAN 6

DARPARIAETH DROSIANNOL, DIRYMU A DIWYGIO

25. Darpariaeth Drosiannol
26. Dirymu
27. Diwygio

PART 3

SCOPE OF REPRESENTATIONS PROCEDURE

8. Specified functions under Parts 4 and 5 of the 1989 Act
9. Specified functions under the 2002 Act
10. Consideration of representations under paragraph 6 of Schedule 7 to the 1989 Act (foster parents: limits on number of children a person may foster)
11. Matters excluded from consideration
12. Matters subject to concurrent consideration
13. Time limit for making representations
14. Withdrawal of representations

PART 4

HANDLING AND INVESTIGATION OF REPRESENTATIONS

15. Representations made by "other persons" under section 26(3)(e), (3B)(b) or (3C)(c) of the 1989 Act
16. Local authority action upon receipt of representations
17. Local Resolution
18. Formal Investigation
19. Appointment of Independent Person
20. Response
21. Representations involving more than one local authority
22. Handling of care standards representations

PART 5

LEARNING FROM REPRESENTATIONS

23. Monitoring
24. Annual Report

PART 6

TRANSITIONAL PROVISION, REVOCATION AND AMENDMENT

25. Transitional provision
26. Revocation
27. Amendment

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adrannau 24D(1A), 24D(2), 26(3A), 26(3B), 26(3C), 26(4A), 26(5), 26(5A), 26(6), 26A(3), 104(4) a 104A o Ddeddf Plant 1989(1) a pharagraff 6 o Atodlen 7 i'r Ddeddf honno, yn gwneud y Rheoliadau a ganlyn:

RHAN 1 CYFFREDINOL

Enwi, cychwyn a chymhwysu

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gweithdrefn Sylwadau (Cymru) 2014 a deuant i rym ar 1 Awst 2014.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr “awdurdod lleol” (“*local authority*”) yw cyngor sir neu gyngor bwrdeistref sirol yng Nghymru;

ystyr “Deddf 1989” (“*the 1989 Act*”) yw Deddf Plant 1989;

ystyr “Deddf 2002” (“*the 2002 Act*”) yw Deddf Mabwysiadu a Phlant 2002 (2);

ystyr “diwrnod gwaith” (“*working day*”) yw diwrnod nad yw'n ddydd Sadwrn, yn ddydd Sul, yn Ddydd Nadolig, yn Ddydd San Steffan, yn Ddydd Gwener y Groglith, nac yn ddiwrnod sy'n wyl y banc o dan Ddeddf Bancio a Thrafodion Ariannol 1971(3);

ystyr “eiriolwr” (“*advocate*”) yw person sy'n darparu cymorth o dan drefniadau a wneir gan awdurdod lleol o dan Reoliadau Gwasanaethau Eirioli a Gweithdrefn Sylwadau (Plant) (Cymru) 2004(4) yn unol ag adran 26A(1) o Ddeddf 1989;

ystyr “gweithdrefn sylwadau flaenorol” (“*former representations procedure*”) yw'r weithdrefn sylwadau a sefydlwyd o dan ddarpariaethau Rheoliadau 2005;

The Welsh Ministers, in exercise of the powers conferred by sections 24D(1A), 24D(2), 26(3A), 26(3B), 26(3C), 26(4A), 26(5), 26(5A), 26(6), 26A(3), 104(4), 104A and Schedule 7, paragraph 6 to the Children Act 1989(1), make the following Regulations:

PART 1 GENERAL

Title, commencement and application

1.—(1) The title of these Regulations is the Representations Procedure (Wales) Regulations 2014 and they come into force on 1 August 2014.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

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

“the 2002 Act” (“*Deddf 2002*”) means the Adoption and Children Act 2002(2);

“the 2005 Regulations” (“*Rheoliadau 2005*”) means the Representations Procedure (Children)(Wales) Regulations 2005(3);

“advocate” (“*eiriolwr*”) means a person who provides assistance under arrangements made by a local authority under the Advocacy Services and Representations Procedure (Children)(Wales) Regulations 2004(4) pursuant to section 26A(1) of the 1989 Act;

“former representations procedure” (“*gweithdrefn sylwadau flaenorol*”) means the representations procedure established under the provisions of the 2005 Regulations;

“independent investigator” (“*ymchwilydd annibynnol*”) means the person, being neither a member nor officer of the local authority to which representations have been made, or the spouse or civil partner of such a person but does include a person with whom the local authority has entered

(1) 1989 p. 41. Trosglwyddwyd swyddogaethau'r Gweinidog a'r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru gan O.S. 1999/672. Yn rhinwedd adran 162 a pharagraff 30(2)(c) o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 p.32, mae swyddogaethau Cynulliad Cenedlaethol Cymru wedi eu trosglwyddo i Weinidogion Cymru a'u breinio bellach ynddynt.

(2) 2002 p.38.

(3) 1971 p.80.

(4) O.S. 2004/1448 (Cy.148).

(1) 1989 c. 41. Functions of the Minister and Secretary of State transferred to the National Assembly for Wales by S.I. 1999/672. By virtue of section 162 and paragraph 30(2)(c) of Schedule 11 to the Government of Wales Act 2006 c.32, the functions of the National Assembly for Wales were transferred to and now vest in the Welsh Ministers.

(2) 2002 c. 38.

(3) S.I. 2005/3365 (W.262).

(4) S.I. 2004/1448 (W.148).

ystyr “person annibynnol” (“*independent person*”) yw'r person, nad yw'n aelod o'r awdurdod lleol y gwnaed sylwadau wrtho nac yn swyddog o'r awdurdod hwnnw, nac ychwaith yn briod neu'n bartner sifil aelod neu swyddog o'r fath, sy'n cymryd rhan yn yr ystyriaeth o'r sylwadau ac mewn unrhyw drafodaethau dilynol, yn unol ag adran 26(4) o Ddeddf 1989;

ystyr “Rheoliadau 2005” (“*the 2005 Regulations*”) yw Rheoliadau Gweithdrefn Sylwadau (Plant) (Cymru) 2005(1);

ystyr “sylwadau” (“*representations*”) yw sylwadau o dan adran 24D neu adran 26 o Ddeddf 1989 neu baragraff 6(2) o Atodlen 7 iddi;

ystyr “ymchwilydd annibynnol” (“*independent investigator*”) yw'r person, nad yw'n aelod o'r awdurdod lleol y gwnaed sylwadau wrtho nac yn swyddog o'r awdurdod hwnnw, nac ychwaith yn briod neu'n bartner sifil aelod neu swyddog o'r fath, ond mae'n cynnwys person y mae'r awdurdod lleol wedi ymuno mewn contract am wasanaethau gydag ef er mwyn cynnal ymchwiliad;

ystyr “ystyried sylwadau” (“*to consider representations*”) yw ystyried sylwadau o dan y weithdrefn a bennir yn y Rheoliadau hyn.

into a contract for services in order to conduct an investigation;

“independent person” (“*person annibynnol*”) means the person, being neither a member nor officer of the local authority to which representations have been made, or the spouse or civil partner of such a person, who takes part in the consideration of the representations and in any subsequent discussions, in accordance with section 26(4) of the 1989 Act;

“local authority” (“*awdurdod lleol*”) means a county council or county borough council in Wales;

“representations” (“*sylwadau*”) means representations under section 24D, section 26, or paragraph 6(2) of Schedule 7 to, the 1989 Act;

“to consider representations” (“*ystyried sylwadau*”) means to consider representations under the procedure set out in these Regulations;

“working day” (“*diwrnod gwaith*”) means a day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(1).

Egwyddorion cyffredinol ar gyfer trin sylwadau

3.—(1) Rhaid gweithredu unrhyw weithdrefn sylwadau a sefydlir o dan Ddeddf 1989 yn unol â'r egwyddor, pan wneir sylwadau gan berson y mae adran 24D neu 26(3)(a) yn gymwys iddo, y dylai lles y person sy'n gwneud y sylwadau gael ei ddiogelu a'i hybu.

(2) Dylid cymryd i ystyriaeth ddymuniadau a theimladau canfyddadwy y person sy'n gwneud y sylwadau.

General principles in handling representations

3.—(1) Any representations procedure set up under the 1989 Act must be operated in accordance with the principle that, where representations are made by a person to whom section 24D or 26(3)(a) applies, the welfare of the person making representations should be safeguarded and promoted.

(2) Account should be taken of the ascertainable wishes and feelings of the person making representations.

RHAN 2

SEFYDLU'R WEITHDREFN SYLWADAU

Uwch-swyddog sy'n gyfrifol am gwynion

4. Rhaid i bob awdurdod lleol ddynodi uwch-swyddog i fod yn gyfrifol am sicrhau cydymffurfiaeth â'r trefniadau a wneir gan yr awdurdod lleol o dan y Rheoliadau hyn.

PART 2

SETTING UP THE REPRESENTATIONS PROCEDURE

Senior Officer responsible for complaints

4. Each local authority must designate a senior officer to be responsible for ensuring compliance with the arrangements made by the local authority under these Regulations.

(1) O.S. 2005/3365 (Cy.262).

(1) 1971 c.80.

Swyddog cwynion

5.—(1) Rhaid i bob awdurdod lleol benodi person, y cyfeirir ato yn y Rheoliadau hyn fel swyddog cwynion.

(2) Swyddogaeth y swyddog cwynion yw rheoli'r gweithdrefnau ar gyfer trin ac ystyried sylwadau.

(3) Caiff unrhyw berson sydd wedi ei awdurdodi gan yr awdurdod lleol i weithredu ar ran y swyddog cwynion gyflawni swyddogaeth y swyddog cwynion.

(4) Nid oes angen i swyddog cwynion fod yn gyflogedig gan yr awdurdod lleol a chaiff gael ei benodi'n swyddog cwynion ar gyfer mwy nag un awdurdod lleol.

Ffurf y cyfathrebu

6.—(1) Ceir anfon unrhyw gyfathrebiad, y mae'n ofynnol ei wneud o dan y Rheoliadau hyn at unrhyw berson sy'n gwneud sylw, yn electronig os yw'r person hwnnw —

- (a) wedi cydsynio mewn ysgrifen; a
- (b) heb dynnu'n ôl, mewn ysgrifen, y cydsyniad hwnnw; ac
- (c) wedi darparu cyfeiriad post electronig addas i'r awdurdod lleol.

(2) Bodlonir unrhyw ofyniad yn y Rheoliadau hyn fod dogfen wedi ei llofnodi gan berson, yn achos dogfen a anfonir yn electronig yn unol â'r Rheoliadau hyn, os yw'r unigolyn a awdurdodir i lofnodi'r ddogfen yn teipio ei enw neu'n gosod ei enw arni gan ddefnyddio cyfrifiadur neu dull electronig arall.

Gwybodaeth a hyfforddiant i'r staff

7. Rhaid i bob awdurdod lleol sicrhau y rhoddir gwybod i'w staff am y trefniadau ar gyfer trin sylwadau ac ymchwilio iddynt, ac yr hyfforddir ei staff yn briodol i weithredu'r trefniadau hynny.

RHAN 3

CWMPAS Y WEITHDREFN SYLWADAU

Swyddogaethau penodedig o dan Rannau 4 a 5 o Ddeddf 1989

8. At ddiben adran 26(3A)(b) o Ddeddf 1989, mae swyddogaethau canlynol yr awdurdod lleol yn swyddogaethau cymwys o dan Rannau 4 a 5 o Ddeddf 1989—

- (a) swyddogaethau o dan adran 31 (gorchmynion gofal a goruchwyllo);

Complaints officer

5.—(1) Each local authority must appoint a person, in these Regulations referred to as a complaints officer.

(2) The function of the complaints officer is to manage the procedures for handling and considering representations.

(3) The function of the complaints officer may be performed by any person authorised by the local authority to act on behalf of the complaints officer.

(4) A complaints officer need not be an employee of the local authority and may be appointed as a complaints officer for more than one local authority.

Form of communication

6.—(1) Any communication which is required by these Regulations to be made to any person making a representation may be sent to that person electronically where that person has—

- (a) consented in writing; and
- (b) not withdrawn such consent in writing; and
- (c) provided the local authority with a suitable electronic mail address.

(2) Any requirement in these Regulations for a document to be signed by a person is satisfied, in the case of a document which is sent electronically in accordance with these Regulations, by the individual who is authorised to sign the document typing their name or producing their name using a computer or other electronic means.

Information and training of staff

7. Each local authority must ensure that its staff are informed about and appropriately trained in the operation of the arrangements for the handling and investigation of representations.

PART 3

SCOPE OF THE REPRESENTATIONS PROCEDURE

Specified functions under Parts 4 and 5 of the 1989 Act

8. For the purpose of section 26(3A)(b) of the 1989 Act, the following functions of the local authority are qualifying functions under Parts 4 and 5 of the 1989 Act—

- (a) functions under section 31 (care and supervision orders);

- (b) swyddogaethau o dan adran 33 (effaith gorchymyn gofal);
- (c) swyddogaethau o dan adran 34 (cyswllt rhiant etc. â phlant mewn gofal);
- (d) swyddogaethau o dan adran 35 (gorchmynion goruchwylio);
- (e) swyddogaethau o dan adran 43 (gorchmynion asesu plentyn);
- (f) swyddogaethau o dan adran 44 (gorchmynion ar gyfer amddiffyn plant mewn argyfwng); ac
- (g) swyddogaethau o dan adran 47 (dyletswydd ar awdurdod lleol i ymchwilio).

- (b) functions under section 33 (effect of care order);
- (c) functions under section 34 (parental contact etc. with children in care);
- (d) functions under section 35 (supervision orders);
- (e) functions under section 43 (child assessment orders);
- (f) functions under section 44 (orders for emergency protection of children); and
- (g) functions under section 47 (local authority's duty to investigate).

Swyddogaethau penodedig o dan Ddeddf 2002

9.—(1) At ddibenion adran 26(3B) o Ddeddf 1989, y swyddogaethau penodedig o dan Ddeddf 2002 yw—

- (a) darparu gwasanaethau cymorth mabwysiadu—
 - (i) fel y rhagnodir yn adran 2(6) o Ddeddf 2002; a
 - (ii) fel y rhagnodir ymhellach yn rheoliad 3 o Reoliadau Gwasanaethau Cymorth Mabwysiadu (Awdurdodau Lleol) (Cymru) 2005 (at ddibenion y rheoliad hwn, “y Rheoliadau Gwasanaethau Cymorth Mabwysiadu”)(1), ond nid yw darparu'r gwasanaethau a ragnodir yn rheoliad 3(b) o'r Rheoliadau Gwasanaethau Cymorth Mabwysiadu yn swyddogaeth benodedig o dan y rheoliad hwn ac eithrio i'r graddau y'u darperir ar gyfer galluogi grwpiau o blant mabwysiadol i drafod materion sy'n ymwneud â mabwysiadu;
- (b) swyddogaethau o dan reoliadau 7 i 17 o'r Rheoliadau Gwasanaethau Cymorth Mabwysiadu i'r graddau y maent yn ymwneud â'r gwasanaethau cymorth mabwysiadu y cyfeirir atynt yn is-baragraff (a);
- (c) swyddogaethau o dan adrannau 18 i 29 (lleoli plant gan asiantaeth fabwysiadu ar gyfer eu mabwysiadu) o Ddeddf 2002;
- (d) swyddogaethau o dan adrannau 30 i 35 (symud plant a leolir neu y caniateir eu lleoli gan asiantaethau mabwysiadu) o Ddeddf 2002;

Specified functions under the 2002 Act

9.—(1) For the purposes of section 26(3B) of the 1989 Act, specified functions under the 2002 Act are—

- (a) the provision of adoption support services—
 - (i) as prescribed in section 2(6) of the 2002 Act; and
 - (ii) further prescribed in regulation 3 of the Adoption Support Services (Local Authorities) (Wales) Regulations 2005 (for the purposes of this regulation, “the Adoption Support Services Regulations”)(1) except that the provision of services prescribed in regulation 3(b) of the Adoption Support Services Regulations is only a specified function under this regulation in so far as it is to enable groups of adoptive children to discuss matters relating to adoption;
- (b) functions under regulations 7 to 17 of the Adoption Support Services Regulations in so far as they relate to the adoption support services referred to in sub-paragraph (a);
- (c) functions under sections 18 to 29 (placement of children by adoption agency for adoption) of the 2002 Act;
- (d) functions under sections 30 to 35 (removal of children who are or may be placed by adoption agencies) of the 2002 Act;

(1) O.S. 2005/1512 (Cy.116).

(1) S.I. 2005/1512 (W.116).

- (e) swyddogaethau o dan adrannau 36 i 40 (symud plant mewn achosion nad ydynt yn achosion asiantaeth) o Ddeddf 2002;
- (f) y swyddogaethau canlynol o dan Reoliadau Asiantaethau Mabwysiadu (Cymru) 2005(1)—
 - (i) Rhan 3 (dyletswyddau asiantaeth fabwysiadu pan fo'r asiantaeth yn ystyried mabwysiadu ar gyfer plentyn);
 - (ii) Rhan 5 (dyletswyddau'r asiantaeth fabwysiadu mewn cysylltiad â lleoliad arfaethedig plentyn gyda darpar fabwysiedwyr);
 - (iii) Rhan 6 (lleoliadau ac adolygiadau); a
 - (iv) Rhan 7 (cofnodion) i'r graddau y mae'r swyddogaethau hynny'n ymwneud â chofnod achos plentyn fel y'i diffinnir yn rheoliad 12, a rheoliad 47 (cyswllt); ac
- (g) y swyddogaethau canlynol o dan Reoliadau Mabwysiadu ag Efen Dramor 2005(2)—
 - (i) rheoliad 10 (gofynion cymwys mewn cysylltiad â rhoi cyfrifoldeb rhiant cyn mabwysiadu dramor); a
 - (ii) Pennod 3 (darpariaethau amrywiol) o Ran 3 (mabwysiadu o dan y Confensiwn).

(2) At ddibenion y rheoliad hwn, mae i “plentyn mabwysiadol” yr ystyr a roddir i “adoptive child” yn rheoliad 2 o'r Rheoliadau Gwasanaethau Cymorth Mabwysiadu.

Ystyried sylwadau o dan baragraff 6 o Atodlen 7 i Ddeddf 1989 (rhieni maeth: terfynau ar nifer y plant y caiff person eu maethu)

10. Mae rheoliadau 2 ac 11 i 21 yn gymwys mewn perthynas ag ystyriaeth gan awdurdod lleol o sylwadau o dan baragraff 6(1) o Atodlen 7 i Ddeddf 1989.

Materion na chaniateir eu hystyried

11.—(1) Nid yw'n ofynnol bod awdurdod lleol yn ymdrin â'r sylwadau canlynol yn unol â'r Rheoliadau hyn—

- (a) sylw yr ymchwiliwr, neu yr ymchwiliwyd, iddo o dan unrhyw weithdrefn sylwadau flaenorol;
- (b) sylw yr ystyriwyd eisoes y pwnc sy'n destun iddo, yn unol â threfniadau a wnaed o dan y Rheoliadau hyn;

- (e) functions under sections 36 to 40 (removal of children in non-agency cases) of the 2002 Act;
- (f) the following functions under the Adoption Agencies (Wales) Regulations 2005(1)—
 - (i) Part 3 (duties of adoption agency where the agency is considering adoption for a child);
 - (ii) Part 5 (duties of adoption agency in respect of proposed placement of child with prospective adopters);
 - (iii) Part 6 (placements and reviews); and
 - (iv) Part 7 (records) in so far as those functions relate to a child's case record as defined in regulation 12, and regulation 47 (contact); and
- (g) the following functions under the Adoptions with a Foreign Element Regulations 2005(2)—
 - (i) regulation 10 (requirements applicable in respect of giving parental responsibility prior to adoption abroad); and
 - (ii) Chapter 3 (miscellaneous provisions) of Part 3 (adoptions under the Convention).

(2) For the purposes of this regulation, “adoptive child” (“*plentyn mabwysiadol*”) has the same meaning given in regulation 2 of the Adoption Support Services Regulations.

Consideration of representations under paragraph 6 of Schedule 7 to the 1989 Act (foster parents: limits on number of children a person may foster)

10. Regulations 2 and 11 to 21 apply in relation to a local authority's consideration of representations under paragraph 6(1) of Schedule 7 to the 1989 Act.

Matters excluded from consideration

11.—(1) A local authority is not required to deal with the following representations in accordance with these Regulations—

- (a) a representation which is or has been investigated under any former representations procedure;
- (b) a representation, the subject matter of which has previously been considered in accordance with arrangements made under these Regulations;

(1) O.S. 2005/1313 (Cy.95).
 (2) O.S. 2005/392.

(1) S.I. 2005/1313 (W.95).
 (2) S.I. 2005/392.

- (c) sylw yr ymchwilir, neu yr ymchwiliwyd, iddo gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru; neu
- (d) sylw a wnaed ar lafar, naill ai'n bersonol neu ar y teleffon, ac a ddatrysir wrth fodd y person a wnaeth y sylw, heb fod yn hwyrach na'r diwrnod gwaith nesaf sy'n dilyn y diwrnod y gwnaed y sylw.

(2) Yn ddarostyngedig i baragraff (3), pan fo sylw wedi ei wneud mewn cysylltiad â'r materion y cyfeirir atynt ym mharagraff (1) a bod yr awdurdod lleol yn penderfynu nad yw'n ofynnol iddo ymdrin â'r sylw, rhaid i'r awdurdod lleol, cyn gynted ag y bo'n rhesymol ymarferol, hysbysu mewn ysgriflen y person a wnaeth y sylw am ei benderfyniad a'r rheswm dros ei benderfyniad.

(3) Nid yw paragraff (2) yn gymwys i fater a bennir yn is-baragraff (d) o baragraff (1).

(4) Pan fo sylw a bennir ym mharagraff (1) yn rhan o sylw arall nas pennir felly, neu'n gysylltiedig â sylw arall o'r fath, nid oes dim yn y rheoliad hwn sy'n atal y sylw arall hwnnw rhag cael ei ystyried fel sylw a wnaed o dan y Rheoliadau hyn.

Materion sy'n ddarostyngedig i ystyriaeth gydredol

12.—(1) Rhaid i awdurdod lleol beidio ag ystyried sylw, neu ei ystyried ymhellach, o dan y Rheoliadau hyn—

- (a) os yw'r sylw'n ymwneud ag unrhyw fater—
 - (i) y mae'r person sy'n gwneud y sylw wedi datgan mewn ysgriflen i'r awdurdod lleol ei fod yn dwyn achos neu'n bwriadu dwyn achos ynghylch y mater hwnnw mewn unrhyw lys neu dribiwnlys;
 - (ii) y mae'r awdurdod lleol yn dwyn achos disgyblu neu'n bwriadu dwyn achos disgyblu ynghylch y mater hwnnw;
 - (iii) yr hysbyswyd yr awdurdod lleol fod achos troseddol ynghylch y mater hwnnw yn yr arfaeth; neu
 - (iv) yr ystyrir dwyn achos sifil ynghylch y mater hwnnw (gan gynnwys achos o dan adran 31 o Ddeddf Plant 1989); a
- (b) os yw'r awdurdod lleol yn penderfynu y byddai ystyried y sylw, neu ei ystyried ymhellach, o dan y Rheoliadau hyn yn rhagfarnu'r achos neu'r ymchwiliad o dan y paragraff hwn.

(2) Yn y rheoliad hwn, ystyr "achos disgyblu" yw unrhyw weithdrefn a fabwysiedir gan awdurdod lleol ar gyfer disgyblu cyflogeion.

- (c) a representation which is being or has been investigated by the Public Services Ombudsman for Wales; or
- (d) a representation which is made orally, either in person, or on the telephone and is resolved to the satisfaction of the person who made the representation not later than the next working day after the day on which the representation was made.

(2) Subject to paragraph (3), where a representation is made in respect of the matters referred to in paragraph (1) and the local authority determines that it is not required to deal with the representation, the local authority must as soon as reasonably practicable notify in writing the person who made the representation of its decision and the reason for its decision.

(3) Paragraph (2) does not apply to a matter specified in sub-paragraph (d) of paragraph (1).

(4) Where a representation specified in paragraph (1) is part of, or is connected with, another representation which is not so specified, nothing in this regulation prevents that other representation being considered as a representation made under these Regulations.

Matters subject to concurrent consideration

12.—(1) A local authority must not consider, or further consider, a representation under these Regulations if—

- (a) it concerns any matter in relation to which—
 - (i) the person making the representation has stated in writing to the local authority that they are taking or intend to take, proceedings in any court or tribunal;
 - (ii) the local authority is taking or proposing to take disciplinary proceedings against any person;
 - (iii) the local authority has been notified that criminal proceedings are pending; or
 - (iv) civil proceedings (including section 31 Children Act 1989 proceedings) are contemplated; and
- (b) the local authority decides that consideration, or further consideration, of the representation under these Regulations would prejudice the conduct of the proceedings or investigation under this paragraph.

(2) In this regulation, "disciplinary proceedings" means any procedure for disciplining employees adopted by a local authority.

(3) Cyfeirir at unrhyw achos neu ymchwiliad sy'n dod o fewn paragraff (1) fel "ystyriaeth gydredol" at ddibenion y rheoliad hwn.

(4) Pan fo awdurdod lleol yn penderfynu, yn unol â pharagraff (1), na fydd yn ystyried sylw neu na fydd yn ei ystyried ymhellach, rhaid i'r awdurdod lleol roi hysbysiad ysgrifenedig i'r person a wnaeth y sylw, yn esbonio'r rhesymau dros ei benderfyniad ac yn nodi'r ystyriaeth gydredol berthnasol.

(5) Pan fo'r ystyriaeth gydredol a bennir mewn hysbysiad o dan baragraff (4) wedi ei therfynu neu'i chwblhau caiff y person y rhoddwyd yr hysbysiad iddo ailgyflwyno'r sylwadau y mae'r hysbysiad yn ymwneud â hwy i'r awdurdod lleol ac, yn ddarostyngedig i baragraff (6), rhaid i'r awdurdod lleol eu hystyried yn unol â rheoliadau 15 i 22.

(6) Rhaid i unrhyw berson sy'n ailgyflwyno sylw yn unol â pharagraff (5) wneud hynny heb fod yn hwyrach na 6 mis ar ôl terfynu neu gwblhau'r ystyriaeth gydredol, ac yn unol â hynny, ni fydd rheoliad 13(1) yn gymwys.

Terfyn amser ar gyfer gwneud sylwadau

13.—(1) Yn ddarostyngedig i baragraff (2), rhaid gwneud sylw heb fod yn hwyrach na 12 mis ar ôl —

- (a) y dyddiad y digwyddodd y mater sy'n destun y sylw; neu
- (b) os yw'n ddiweddarach, y dyddiad y daeth y person sy'n gwneud y sylw i wybod am y mater sy'n destun y sylw.

(2) Ni fydd y terfyn amser ym mharagraff (1) yn gymwys os yw'r awdurdod lleol wedi ei fodloni—

- (a) bod gan y person sy'n gwneud y sylw resymau da dros beidio â gwneud y sylw o fewn y terfyn amser hwnnw; a
- (b) er gwaethaf yr oedi, ei bod yn bosibl o hyd ymchwilio i'r sylw yn effeithiol ac yn deg.

Tynnu sylwadau yn ôl

14.—(1) Ceir tynnu sylw yn ôl ar unrhyw adeg gan y person a wnaeth y sylw, a cheir hysbysu bod y sylw wedi ei dynnu'n ôl—

- (a) ar lafar, naill ai'n bersonol neu ar y teleffon; neu
- (b) mewn ysgrifen.

(3) Any proceedings or investigation falling under paragraph (1) is to be referred to as a "concurrent consideration" for the purposes of this regulation.

(4) Where a local authority decides that it will not consider, or further consider, a representation in accordance with paragraph (1) the local authority must give notice in writing to the person making the representation explaining the reasons for their decision and specifying the relevant concurrent consideration.

(5) Where the concurrent consideration specified in a notice under paragraph (4) has been discontinued or completed the person to whom the notice was given may resubmit to the local authority the representations to which the notice relates and, subject to paragraph (6), the local authority must consider them in accordance with regulations 15 to 22.

(6) Any person who resubmits a representation in accordance with paragraph (5) must do so no later than 6 months after the concurrent consideration is discontinued or completed and accordingly regulation 13(1) will not apply.

Time limit for making representations

13.—(1) Subject to paragraph (2), a representation must be made no later than 12 months after—

- (a) the date on which the matter which is the subject of the representation occurred; or
- (b) if later the date on which the matter which is the subject of the representation came to the notice of the person making the representation.

(2) The time limit in paragraph (1) will not apply if the local authority is satisfied that—

- (a) the person making the representation has good reasons for not making the representation within that time limit; and
- (b) despite the delay, it is still possible to investigate the representation effectively and fairly.

Withdrawal of representations

14.—(1) A representation may be withdrawn at any time by the person who made the representation and the withdrawal may be notified—

- (a) orally, either by telephone or in person; or
- (b) in writing.

(2) Rhaid i awdurdod lleol, cyn gynted ag y bo'n rhesymol ymarferol, ysgrifennu at y person sydd wedi tynnu sylw yn ôl ar lafar, i gadarnhau bod y sylw wedi ei dynnu'n ôl felly.

(3) Pan fo sylw wedi ei dynnu'n ôl, caiff awdurdod lleol, er gwaethaf hynny, barhau i ymchwilio i unrhyw faterion a godwyd gan y sylw yn unol â Rhan 4, os yw'r awdurdod o'r farn bod angen gwneud hynny.

RHAN 4

TRIN SYLWADAU AC YMCHWILIO IDDYNT

Sylwadau a wneir gan “bersonau eraill” o dan adran 26(3)(e), (3B)(b) neu (3C)(c) o Ddeddf 1989

15.—(1) Pan fo awdurdod lleol wedi cael sylwadau gan berson sy'n dod o fewn adran 26(3)(e), (3B)(b) neu (3C)(c) o Ddeddf 1989, rhaid i'r awdurdod, cyn gynted ag y bo'n rhesymol ymarferol, benderfynu a oes gan y person hwnnw fuddiant digonol yn lles y plentyn o dan sylw, i gyfiawnhau ystyried sylwadau'r plentyn hwnnw gan yr awdurdod lleol.

(2) Wrth wneud penderfyniad o dan baragraff (1) rhaid i'r awdurdod lleol ystyried dymuniadau a theimladau canfyddadwy'r plentyn, yn unol ag oedran y plentyn a lefel ei ddealltwriaeth.

(3) Os yw'r awdurdod lleol yn penderfynu bod gan y person fuddiant digonol, rhaid i'r awdurdod lleol wedyn ystyried y sylwadau yn unol â rheoliadau 16 i 22.

(4) Os yw'r awdurdod lleol yn penderfynu nad oes gan y person fuddiant digonol, rhaid i'r awdurdod lleol hysbysu'r person hwnnw am ei benderfyniad a rhoi gwybod iddo na chymerir unrhyw gamau pellach mewn cysylltiad â'r sylw.

(5) Rhaid i'r awdurdod lleol hysbysu'r plentyn am y penderfyniad a wnaed o dan baragraff (1) os yw'r awdurdod lleol o'r farn y byddai'n briodol gwneud hynny, o ystyried oedran a lefel dealltwriaeth y plentyn.

Camau sydd i'w cymryd gan awdurdod lleol ar ôl cael sylwadau

16.—(1) Ceir gwneud sylw ar lafar neu mewn ysgrifen.

(2) Rhaid i awdurdod lleol gydnabod cael y sylw heb fod yn hwyrach na 2 ddiwrnod gwaith ar ôl y diwrnod y mae'n ei gael.

(2) A local authority must as soon as reasonably practicable write to the person who has withdrawn a representation orally to confirm the oral withdrawal of the representation.

(3) Where a representation has been withdrawn, a local authority may nevertheless continue to investigate any issues raised by a representation in accordance with Part 4, if the local authority considers it necessary to do so.

PART 4

HANDLING AND INVESTIGATION OF REPRESENTATIONS

Representations made by “other persons” under section 26(3)(e), (3B)(b) or (3C)(c) of the 1989 Act

15.—(1) Where a local authority has received representations from a person falling within section 26 (3)(e), (3B)(b) or (3C)(c) of the 1989 Act, they must as soon as reasonably practicable decide whether that person has a sufficient interest in the welfare of the child concerned to warrant that child's representations being considered by them.

(2) In reaching its decision under paragraph (1) the local authority must take into account the ascertainable wishes and feelings of the child in accordance with the child's age and level of understanding.

(3) If the local authority decides that the person does have sufficient interest then it must consider the representations in accordance with regulations 16 to 22.

(4) If the local authority decides that the person does not have sufficient interest then it must notify that person of its decision and advise that person that no further action will be taken in respect of the representation.

(5) The local authority must notify the child of the decision made under paragraph (1) if the local authority considers it appropriate to do so having regard to the child's age and level of understanding.

Local authority action upon receipt of representations

16.—(1) A representation may be made orally or in writing.

(2) A local authority must acknowledge receipt of the representation not later than 2 working days after the day on which it receives it.

(3) Pan fo sylw wedi ei wneud ar lafar, rhaid i'r awdurdod lleol —

- (a) gwneud cofnod ysgrifenedig ffurfiol o'r sylw; a
- (b) darparu copi o'r cofnod ysgrifenedig i'r person sy'n gwneud y sylw.

(4) Ar yr un pryd ag y mae'n cydnabod cael y sylw, rhaid i'r awdurdod lleol —

- (a) darparu'r canlynol i'r person sy'n gwneud y sylw—
 - (i) manylion am ei weithdrefn ar gyfer ystyried sylwadau; a
 - (ii) os yw'n berthnasol, gwybodaeth am wasanaethau eirioli;
- (b) cynnig y canlynol i'r person sy'n gwneud y sylw—
 - (i) cymorth ac arweiniad ynglŷn â dilyn y weithdrefn sylwadau, neu gyngor ar sut i gael cymorth ac arweiniad o'r fath; a
 - (ii) os yw'n berthnasol, cymorth i gael eiriolwr; ac
- (c) hysbysu'r person sy'n gwneud y sylw y caiff ofyn i'r awdurdod lleol ystyried y sylw yn unol â rheoliad 18.

Datrys yn Lleol

17.—(1) Nid oes raid i'r weithdrefn a ddilynir gan yr awdurdod lleol, wrth ystyried sylwadau o dan y rheoliad hwn, gynnwys ymchwilydd annibynnol.

(2) Rhaid i'r awdurdod lleol gynnig trafod y sylw gyda'r person sy'n ei wneud, mewn ymgais i ddatrys y mater yn anffurfiol.

(3) Rhaid cynnal unrhyw drafodaeth a gynhelir yn unol â pharagraff (2) o fewn 10 diwrnod gwaith ar ôl y dyddiad dechrau fel y'i diffinnir ym mharagraff (4).

(4) At ddibenion y rheoliad hwn, ystyr y "dyddiad dechrau" yw—

- (a) mewn unrhyw achos pan geir sylwadau gan berson sy'n dod o fewn rheoliad 15(3), y dyddiad pan fo'r awdurdod lleol yn penderfynu bod gan y person sy'n gwneud y sylwadau fuddiant digonol i gyfiawnhau bod yr awdurdod lleol yn ystyried ei sylwadau;
- (b) mewn unrhyw achos pan fo'r person sy'n gwneud y sylw wedi gofyn am i eiriolwr gymryd rhan, y dyddiad pan benodwyd yr eiriolwr; ac

(3) Where a representation is made orally, the local authority must—

- (a) make a formal written record of the representation; and
- (b) provide a copy of the written record to the person making the representation.

(4) At the same time that it acknowledges receipt of a representation the local authority must—

- (a) provide the person making the representation with—
 - (i) details of its procedure for considering representations; and
 - (ii) where relevant, information about advocacy services;
- (b) offer to the person making the representation—
 - (i) assistance and guidance on following the representations procedure or advice on where such assistance and guidance may be obtained; and
 - (ii) where relevant, help in obtaining an advocate; and
- (c) notify the person making the representation that they may request that the local authority considers the representation in accordance with regulation 18.

Local Resolution

17.—(1) The procedure followed by the local authority in considering representations under this regulation need not involve an independent investigator.

(2) The local authority must offer to discuss the representation with the person making it in an attempt to informally resolve the matter.

(3) Any discussion that takes place in accordance with paragraph (2) must be held within 10 working days of the start date as defined in paragraph (4).

(4) For the purposes of this regulation the "start date" means—

- (a) in any case where representations are received from a person falling within regulation 15(3), the date on which the local authority decide that the person making the representations has sufficient interest to warrant their representations being considered by them;
- (b) in any case where the person making the representation has requested the involvement of an advocate, the date on which the advocate was appointed; and

- (c) mewn unrhyw achos arall, y dyddiad y cafodd y sylw ei gydnabod gan yr awdurdod lleol.

(5) Mewn amgylchiadau eithriadol, ceir estyn y terfyn amser ar gyfer unrhyw drafodaeth a gynhelir yn unol â pharagraff (2) drwy gytundeb rhwng yr awdurdod lleol a'r person sy'n gwneud y sylw.

(6) Pan fo'r awdurdod lleol yn datrys y mater wrth fodd y person sy'n gwneud y sylw, rhaid i'r awdurdod lleol ddarparu manylion ysgrifenedig o delerau'r datrysiad i'r person hwnnw, ac i eiriolwr y person hwnnw os penodwyd un, o fewn 5 diwrnod gwaith ar ôl dyddiad y datrysiad.

Ymchwilio yn Ffurfiol

18.—(1) Pan—

- (a) fo'r person sy'n gwneud y sylw—
- (i) wedi gwneud cais yn unol â rheoliad 16(4)(c); neu
 - (ii) wedi gwrthod cynnig o drafodaeth o dan reoliad 17(2); neu
- (b) na fo'r sylw wedi ei ddatrys wrth fodd y person a'i gwnaeth, yn dilyn unrhyw drafodaeth a ddigwyddodd o dan reoliad 17(2);

rhaid i'r awdurdod lleol ystyried y sylw yn unol â'r rheoliad hwn.

(2) Rhaid i'r awdurdod lleol gydosod cofnod ysgrifenedig ffurfiol o'r sylw, a'i anfon at y person sy'n gwneud y sylw ynghyd â gwahoddiad i'r person hwnnw wneud sylwadau ar gywirdeb y cofnod.

(3) Rhaid i'r awdurdod lleol ystyried unrhyw sylwadau a wneir gan y person sy'n gwneud y sylw o dan baragraff (2) a gwneud unrhyw ddiwygiadau i'r cofnod, yng ngoleuni'r sylwadau hynny, sy'n angenrheidiol er mwyn sicrhau bod y cofnod, ym marn yr awdurdod lleol, yn gofnod cywir o'r sylw.

(4) Rhaid i'r awdurdod lleol —

- (a) penodi ymchwilydd annibynnol; a
- (b) ar y cyd â'r ymchwilydd annibynnol, ymchwilio i'r sylw mewn modd priodol er mwyn ei ddatrys yn gyflym ac effeithlon; ac
- (c) yn ystod yr ymchwiliad, rhoi gwybod yn rheolaidd am hynt yr ymchwiliad i'r person sy'n gwneud y sylw, i'r graddau y bo hynny'n rhesymol ymarferol.

- (c) in any other case, the date on which the representation was acknowledged by the local authority.

(5) The time limit for any discussion that takes place in accordance with paragraph (2) may, in exceptional circumstances, be extended by agreement between the local authority and the person making the representation.

(6) Where the local authority resolves the matter to the satisfaction of the person making the representation then the local authority must provide that person and, where one has been appointed, that person's advocate, with written details of the terms of the resolution within 5 working days of the date of resolution.

Formal Investigation

18.—(1) Where—

- (a) the person making the representation has—
- (i) made a request in accordance with regulation 16(4)(c); or
 - (ii) refused an offer of discussion under regulation 17(2); or
- (b) following a discussion under regulation 17(2) the representation has not been resolved to the satisfaction of the person making it;

the local authority must consider the representation in accordance with this regulation.

(2) The local authority must compile a formal written record of the representation and send it to the person making the representation with an invitation to comment on its accuracy.

(3) The local authority must consider any comments made by the person making the representation under paragraph (2) and in the light of those comments make any amendments to the record that are necessary to ensure it is, in the opinion of the local authority, an accurate record of the representation.

(4) The local authority must—

- (a) appoint an independent investigator; and
- (b) together with the independent investigator, investigate the representation in a manner appropriate to resolve it speedily and efficiently; and
- (c) during the consideration of the representation, keep the person making the representation informed, as far as reasonably practicable, as to the progress of the investigation.

Penodi Person Annibynnol

19.—(1) Rhaid i'r trefniadau a wneir o dan reoliad 18 gynnwys penodi person annibynnol.

(2) Rhaid i'r person annibynnol gymryd rhan yn yr ymchwiliad i'r sylw gan yr awdurdod lleol a'r ymchwilydd annibynnol o dan reoliad 18.

(3) Rhaid i'r person annibynnol gymryd rhan mewn unrhyw drafodaethau a gynhelir gan yr awdurdod lleol ynglŷn â'r camau sydd i'w cymryd yng ngoleuni'r ymchwiliad i'r sylw gan yr awdurdod lleol.

Yr Ymateb

20.—(1) Rhaid i'r awdurdod lleol, o fewn 25 diwrnod gwaith ar ôl y “dyddiad dechrau” fel y'i diffinnir ym mharagraff (2), anfon at y person sy'n gwneud y sylw ymateb ysgrifenedig sydd —

- (a) yn rhoi crynodeb o natur a sylwedd y sylw;
- (b) yn disgrifio'r ymchwiliad a wnaed yn unol â rheoliad 18(4)(b);
- (c) pan fo'n briodol, yn cynnwys ymddiheuriad;
- (d) yn nodi pa gamau a gymerir, os cymerir rhai, yng ngoleuni canlyniad yr ymchwiliad;
- (e) yn cynnwys manylion am yr hawl i gwyno wrth Ombwdsmon Gwasanaethau Cyhoeddus Cymru;
- (f) yn cynnig cyfle i'r person sy'n gwneud y sylw drafod cynnwys yr ymateb gyda'r swyddog cwynion neu berson sy'n gweithredu ar ei ran; ac
- (g) wedi ei lofnodi gan y Cyfarwyddwr Gwasanaethau Cymdeithasol neu berson sy'n gweithredu ar ei ran.

(2) At ddibenion y rheoliad hwn, ystyr y “dyddiad dechrau” yw'r dyddiad pan lunnir y cofnod ysgrifenedig terfynol o'r sylw gan yr awdurdod lleol yn unol â rheoliad 18(2) neu 18(3).

(3) Os oes amgylchiadau eithriadol sy'n peri na all yr awdurdod lleol anfon ymateb ysgrifenedig yn unol â'r terfyn amser ym mharagraff (1), rhaid iddo—

- (a) hysbysu'r person sy'n gwneud y sylw, gan esbonio'r rheswm dros yr oedi; a
- (b) anfon yr ymateb cyn gynted ag y bo'n rhesymol ymarferol ac o fewn y cyfnod o 6 mis sy'n dechrau gyda'r diwrnod y cafodd y sylw.

(4) Rhaid anfon copïau o'r ymateb a lunnir yn unol â pharagraff (1) at—

- (a) unrhyw eiriolwr a benodwyd ar ran y person sy'n gwneud y sylw;

Appointment of Independent Person

19.—(1) The arrangements made under regulation 18 must include the appointment of an independent person.

(2) The independent person must take part in the investigation of the representation by the local authority and the independent investigator under regulation 18.

(3) The independent person must take part in any discussions which are held by the local authority about the action to be taken in light of its investigation of the representation.

Response

20.—(1) The local authority must within 25 working days of the “start date” as defined in paragraph (2) send the person making the representation a written response which—

- (a) summarises the nature and substance of the representation;
- (b) describes the investigation undertaken in accordance with regulation 18(4)(b);
- (c) where appropriate, contains an apology;
- (d) identifies what action, if any, will be taken in light of the outcome of the investigation;
- (e) contains details of the right to complain to the Public Services Ombudsman for Wales;
- (f) offers the person making the representation the opportunity to discuss the contents of the response with the complaints officer or a person acting on his or her behalf; and
- (g) is signed by the Director of Social Services or a person acting on that person's behalf.

(2) For the purposes of this regulation, the “start date” means the date on which the local authority produces the final written record of the representation in accordance with regulations 18(2) or 18(3).

(3) If exceptional circumstances mean that the local authority is not able to provide a response in accordance with the time limit in paragraph (1) then it must—

- (a) notify the person making the representation accordingly and explain the reason why; and
- (b) send the response as soon as reasonably practicable and within 6 months beginning on the day upon which it received the representation.

(4) Copies of the response prepared in accordance with paragraph (1) must be sent to—

- (a) any advocate appointed on behalf of the person making the representation;

- (b) y person annibynnol benodwyd o dan reoliad 19; ac
- (c) unrhyw berson a oedd yn destun y sylw.

- (b) the independent person appointed under regulation 19; and
- (c) any person who was the subject of the representation.

Sylwadau sy'n ymwneud â mwy nag un awdurdod lleol

21.—(1) Mewn unrhyw achos pan fo'n ymddangos i'r swyddog cwynion fod sylw yn ymwneud, neu y gall fod yn ymwneud, ag arfer swyddogaethau gan fwy nag un awdurdod lleol, rhaid i'r swyddog cwynion, cyn gynted ag y bo'n rhesymol ymarferol—

- (a) hysbysu'r awdurdod lleol arall neu'r awdurdodau lleol eraill sy'n gysylltiedig a phenderfynu, ar y cyd â swyddog cwynion pob un ohonynt, pa awdurdod lleol a fydd yn arwain wrth ymdrin â'r sylw; ac
- (b) hysbysu'r person sy'n gwneud y sylw.

(2) Rhaid i swyddog cwynion awdurdod lleol sy'n awdurdod lleol arweiniol sicrhau—

- (a) bod unrhyw ran o'r sylw sy'n ymwneud â gweithredoedd yr awdurdod lleol arweiniol yn cael ei hystyried o dan y Rhan hon o'r Rheoliadau;
- (b) y rhoddir gwybod yn rheolaidd i'r person sy'n gwneud y sylw am hynt yr ymchwiliad; ac
- (c) bod yr ymateb sy'n ofynnol o dan reoliadau 17(6) neu 20(1) i'r graddau y bo'n rhesymol ymarferol yn cynnwys ymateb ar unrhyw fater arall a oedd yn gyfrifoldeb i awdurdod lleol arall a grybwyllir ym mharagraff (1).

(3) Rhaid i swyddog cwynion awdurdod lleol nad yw'n awdurdod lleol arweiniol —

- (a) sicrhau bod unrhyw ran o'r sylw sy'n ymwneud â gweithredoedd ei awdurdod lleol yn cael ei hystyried o dan y Rheoliadau hyn; a
- (b) rhoi gwybod i swyddog cwynion yr awdurdod lleol arweiniol am unrhyw ddatrysiaid o'r mater o dan reoliadau 17(6) neu 20(1).

Representations involving more than one local authority

21.—(1) In any case where it appears to the complaints officer that a representation is or may be a representation which relates to the exercise of functions by more than one local authority the complaints officer must, as soon as reasonably practicable—

- (a) notify the other local authority or local authorities involved and decide with the complaints officer of each of them which local authority will take the lead in handling the representation; and
- (b) notify the person making the representation.

(2) The complaints officer of a local authority which is the lead authority must ensure that—

- (a) any part of the representation relating to the actions of the lead local authority is considered under this Part of the regulations;
- (b) the person making the representation is kept informed about the progress of the investigation; and
- (c) the response required under regulations 17(6) or 20(1) so far as reasonably practicable includes a response on any other matter which was the responsibility of another local authority mentioned in paragraph (1).

(3) The complaints officer of a local authority which is not the lead authority must—

- (a) ensure that any part of the representation relating to the actions of its local authority is considered under these Regulations; and
- (b) advise the complaints officer of the lead local authority of any resolution of the matter under regulations 17(6) or 20(1).

Trin sylwadau ynghylch safonau gofal

22.—(1) Ac eithrio pan fo paragraff (2) yn gymwys, mewn unrhyw achos pan fo sylwadau'n ymwneud, yn gyfan gwbl neu'n rhannol, â gwasanaethau a ddarperir gan sefydliad neu asiantaeth y cofrestrwyd person mewn cysylltiad ag ef neu hi gan Weinidogion Cymru o dan Ddeddf Safonau Gofal 2000(1), rhaid i'r awdurdod lleol sy'n cael y sylwadau hynny, o fewn 2 ddiwrnod gwaith ar ôl eu cael—

- (a) anfon manylion am y sylwadau cyfain neu'r rhan honno ohonynt sy'n ymwneud â'r gwasanaeth cofrestredig at y person a gofrestrwyd fel darparwr mewn cysylltiad â'r sefydliad hwnnw neu'r asiantaeth honno;
- (b) gofyn i'r darparwr cofrestredig, yr anfonir manylion ato o dan is-baragraff (a), roi gwybod i'r awdurdod, o fewn 10 diwrnod gwaith ei fod wedi cael canlyniad yr ystyriaeth o'r sylwadau gan yr awdurdod; ac
- (c) rhoi gwybod i'r person sy'n gwneud y sylwadau am y camau a gymerwyd o dan is-baragraffau (a) a (b).

(2) Mae'r paragraff hwn yn gymwys pan fo—

- (a) sylwadau eisoes wedi eu hystyried gan y darparwr cofrestredig; neu
- (b) yr awdurdod lleol o'r farn y byddai gweithredu o dan baragraff (1) yn debygol o beryglu neu ragfarnu'r ymchwiliad i'r sylwadau neu gallai beryglu neu ragfarnu ymchwiliad gan Weinidogion Cymru.

(3) Mewn unrhyw achos pan fo sylwadau'n ymwneud, yn gyfan gwbl neu'n rhannol, â gwasanaethau a ddarperir gan sefydliad neu asiantaeth y cofrestrwyd person mewn cysylltiad ag ef neu hi gan Weinidogion Cymru, rhaid i'r awdurdod lleol hysbysu Gweinidogion Cymru os na fu'n bosibl datrys y sylwadau o dan reoliad 17.

Handling of care standards representations

22.—(1) Except where paragraph (2) applies, in any case where representations relate wholly or partly to services provided by an establishment or agency in respect of which a person is registered by the Welsh Ministers under the Care Standards Act 2000(1), the local authority receiving such representations must, within 2 working days of receipt—

- (a) send details of the whole of the representations or that part of any representation which relates to the registered service to the person registered as provider in respect of that establishment or agency;
- (b) request the registered provider to whom the details are sent under sub-paragraph (a) to notify the authority within 10 workings days of receipt of the outcome of its consideration of the representations; and
- (c) inform the person making the representations of the action taken under sub-paragraphs (a) and (b).

(2) This paragraph applies where—

- (a) representations have already been considered by the registered provider; or
- (b) the local authority is of the opinion that to proceed under paragraph (1) would be likely to compromise or prejudice the investigation of the representations or might compromise or prejudice an investigation by the Welsh Ministers.

(3) In any case where representations relate wholly or partly to services provided by an establishment or agency in respect of which a person is registered by the Welsh Ministers, the local authority must notify the Welsh Ministers if it has not been possible to resolve the representations under regulation 17.

(1) 2000 p.14.

(1) 2000 c.14.

RHAN 5

DYSGU ODDI WRTH SYLWADAU

Monitro

23. Rhaid i bob awdurdod lleol gadw cofnod o'r canlynol —

- (a) pob sylw y mae'n ei gael;
- (b) canlyniad pob sylw;
- (c) a fu i'r awdurdod lleol gydymffurfio ai peidio â'r terfynau amser a bennir yn rheoliadau 16 i 20;

at y diben o fonitro cydymffurfiaeth yr awdurdod â'r Rheoliadau hyn.

Adroddiad Blynyddol

24.—(1) Rhaid i bob awdurdod lleol lunio adroddiad blynyddol ar ei berfformiad o ran trin sylwadau ac ymchwilio iddynt, a rhaid i'r adroddiad gynnwys manylion o'r cofnodion a gadwyd yn unol â rheoliad 23, at y dibenion o—

- (a) monitro cydymffurfiaeth â'r Rheoliadau hyn; a
- (b) gwella'r modd y trinnir sylwadau ac yr ymchwilir iddynt.

(2) Rhaid cydosod yr adroddiad cyntaf y cyfeirir ato ym mharagraff (1) o fewn 12 mis ar ôl y dyddiad y daw'r Rheoliadau hyn i rym.

RHAN 6

DARPARIAETH DROSIANNOL, DIRYMU A DIWYGIO

Darpariaeth Drosiannol

25. Pan na fo'r ystyriaeth o sylw yn unol â'r weithdrefn sylwadau flaenorol wedi ei chwblhau ar yr adeg y daw'r Rheoliadau hyn i rym, rhaid ystyried y sylw hwnnw yn unol â'r weithdrefn honno.

Dirymu

26. Mae Rheoliadau Gweithdrefn Sylwadau (Plant) (Cymru) 2005 wedi eu dirymu ac eithrio i'r graddau sy'n angenrheidiol at ddibenion rheoliad 25.

PART 5

LEARNING FROM REPRESENTATIONS.

Monitoring

23. Each local authority must keep a record of—

- (a) each representation it receives;
- (b) the outcome of each representation;
- (c) whether the local authority has complied with the time limits specified in regulations 16 to 20;

with the intention of monitoring its compliance with these Regulations.

Annual Report

24.—(1) Each local authority must prepare an annual report, which must include details of the records kept in accordance with regulation 23, on its performance in the handling and investigation of representations for the purposes of—

- (a) monitoring compliance with these Regulations; and
- (b) improving the handling and investigation of representations.

(2) The first report referred to in paragraph (1) must be compiled within 12 months of the date of the coming into force of these Regulations.

PART 6

TRANSITIONAL PROVISION, REVOCATION AND AMENDMENT.

Transitional Provision

25. Where the consideration of a representation in accordance with the former representations procedure has not been concluded at the time that these Regulations come into force then it must be considered in accordance with that procedure.

Revocation

26. The Representations Procedure (Children) (Wales) Regulations 2005 are revoked save to the extent necessary for the purposes of regulation 25.

Diwygio

27. Ym mharagraff 10 o Atodlen 1 i Reoliadau Gwasanaeth Mabwysiadu Awdurdodau Lleol (Cymru) 2007(1) yn lle “Rheoliadau Gweithdrefn Sylwadau (Plant) (Cymru) 2005” rhodder—

“Rheoliadau Gweithdrefn Sylwadau (Cymru) 2014.”

Amendment

27. In Schedule 1 paragraph 10 of the Local Authority Adoption Service (Wales) Regulations 2007(1) for “The Representations Procedure (Children) (Wales) Regulations 2005” substitute—

“The Representations Procedure (Wales) Regulations 2014.”

Gwenda Thomas

Y Dirprwy Weinidog Plant a Gwasanaethau
Cymdeithasol o dan awdurdod y Gweinidog Iechyd a
Gwasanaethau Cymdeithasol, un o Weinidogion
Cymru

7 Gorffennaf 2014

Deputy Minister for Children and Social Services
under the authority of the Minister for Health and
Social Services, one of the Welsh Ministers.

7 July 2014

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