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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision about visiting requirements for specified children who, having been convicted of an offence by a court, are detained in youth detention accommodation or in prison, or are required to reside in approved premises.

Regulation 3 specifies, for the purposes of section 97(1)(b) of the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”), the circumstances that lead to a child ceasing to be looked after by a local authority (which will bring such children within the scope of the duty set out in section 97(3) of the 2014 Act and these Regulations).

Section 97(3) of the 2014 Act imposes a duty upon the responsible local authority to visit, have contact with and to provide advice and other support for such a child.

The circumstances specified by regulation 3 are that a child who was looked after by a local authority but who has ceased to be looked after because, having been convicted of an offence by a court, they are detained in youth detention accommodation or in prison, or required to reside in approved premises.

Children who, having been convicted of an offence by a court, lose their looked after status as a result of their being detained or required to reside in approved premises will fall within a description set out in paragraph (a) or (b) below—

- (a) a child, who immediately before being detained, was looked after by virtue of the local authority providing them with accommodation under section 76 of the 2014 Act; or
- (b) a child who is ordinarily resident in Wales and who was treated as looked after in accordance with section 104 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the 2012 Act”) (by virtue of having been remanded to local authority accommodation or youth detention accommodation in accordance with section 92 of the 2012 Act).

Regulation 4 specifies, for the purposes of section 97(1)(c) of the 2014 Act, two categories of children in respect of whom a local authority (specified in accordance with section 97(2)) will have duties under section 97(3) of the 2014 Act and under these Regulations. The application of regulation 4 is subject to exceptions, which are set out in regulation 2(2).

The children who are excepted from the categories specified in regulation 4 because they fall within a description set out in sub-paragraphs (a) to (e) of regulation 2(2) will be visited and supported by the local authority (or local authority in England) responsible for meeting their needs in accordance with other statutory requirements.

Subject to the provision made by regulation 2(2), the categories of children specified in regulation 4 will fall within a description set out in paragraph (a) or (b) below—

- (a) the first category is a child who is ordinarily resident in Wales who, having been convicted of an offence by a court, is detained in youth detention accommodation or prison, or is required to reside in approved premises,
- (b) the second category is a child who, having been convicted of an offence by a court, is detained in youth accommodation or in prison or required to reside in approved premises that are situated in Wales.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 5 specifies, for the purposes of section 97(2) of the 2014 Act, which local authority must discharge the duties imposed under section 97 and under these Regulations in relation to a child who falls within a category specified in regulation 4.

Regulation 6 makes provision about the frequency of visits; the responsible local authority must arrange for its representative to visit the child within 10 working days of the child first being detained or required to reside in approved premises and thereafter whenever reasonably requested to do so by specified persons, for example, the child, the child's parents, or in line with the recommendations made by the representative.

Regulation 7 provides that during each visit, the representative must speak to the child in private unless it is not appropriate to do so or the child refuses.

Regulation 8 places a duty on the representative to provide a report of each visit and sets out what must be included in that report. It also provides that a copy of the report must be given to the child, unless it would be inappropriate to do so, and to certain other persons.

Regulation 9 makes provision in relation to the responsible local authority's duty under section 97(3)(b) of the 2014 Act to arrange for advice and support to be available to the child.

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 Department for Health and Social Services, Welsh Government, Cathays Park, Cardiff CF10 3NQ.