

SOCIAL SERVICES AND WELL- BEING (WALES) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 37 – Duty to meet care and support needs of a child

127. **Section 37** sets out the conditions that must be met for a local authority to be under a duty to meet the care and support needs of a child in its area.
128. It is a condition that the needs meet the eligibility criteria set under section 32. However, subsection (3) provides safeguards to ensure that local authorities have a duty to meet a child's needs for care and support if this is necessary to protect the child from abuse or neglect, or a risk of abuse or neglect, or other harm or a risk of such harm, even if their needs do not meet the eligibility criteria. "Abuse", "neglect" and "harm" are defined in section 197(1).
129. The local authority is not under a duty to meet the needs of a child which are being met by a carer or by the child's family. If a carer or the child's family ceased providing care and stopped meeting the child's needs, this would trigger a review of the child's care and support plan, and may mean that the local authority would then be required to meet the needs. Similarly, if the child indicates that they do not want some or all of their needs to be met by a carer, or no longer want their needs to be met in this way, this may mean that the local authority would be under a duty to meet the child's needs and will need to consider other ways of doing this.
130. The duty is owed to any child who is within a local authority's area, even if they ordinarily resident elsewhere. The duty is also owed to children who are being accommodated outside the local authority's area but who were ordinarily resident in its area before they were accommodated (and about whom the authority has been notified under section 120).
131. This section does not apply if the child is looked after by a local authority in Wales. They are separately provided for in Part 6. (For the meaning of a child who is looked after by a local authority, see section 74). Neither does the section apply to children looked after by a local authority in England or Scotland or by a Health and Social Care Trust in Northern Ireland.
132. A local authority may also have a duty to provide accommodation for children under section 76 or section 77 of the Act and may have other duties to safeguard and protect the child under Parts 4 or 5 of the Children Act 1989.