

# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 7

### SAFEGUARDING

#### *Adults at risk*

#### **126 Adults at risk**

- (1) An “adult at risk”, for the purposes of this Part, is an adult who—
  - (a) is experiencing or is at risk of abuse or neglect,
  - (b) has needs for care and support (whether or not the authority is meeting any of those needs), and
  - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- (2) If a local authority has reasonable cause to suspect that a person within its area (whether or not ordinarily resident there) is an adult at risk, it must—
  - (a) make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken (whether under this Act or otherwise) and, if so, what and by whom, and
  - (b) decide whether any such action should be taken.
- (3) Regulations made under section 54(5) (care and support plans) must include provision about recording in a care and support plan the conclusions of enquiries made under this section.

#### **Commencement Information**

**11** S. 126 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

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## **127 Adult protection and support orders**

- (1) An authorised officer may apply to a justice of the peace for an order (“an adult protection and support order”) in relation to a person living in any premises within a local authority’s area.
- (2) The purposes of an adult protection and support order are—
  - (a) to enable the authorised officer and any other person accompanying the officer to speak in private with a person suspected of being an adult at risk,
  - (b) to enable the authorised officer to ascertain whether that person is making decisions freely, and
  - (c) to enable the authorised officer properly to assess whether the person is an adult at risk and to make a decision as required by section 126(2) on what, if any, action should be taken.
- (3) When an adult protection and support order is in force the authorised officer, a constable and any other specified person accompanying the officer in accordance with the order, may enter the premises specified in the order for the purposes set out in subsection (2).
- (4) The justice of the peace may make an adult protection and support order if satisfied that—
  - (a) the authorised officer has reasonable cause to suspect that a person is an adult at risk,
  - (b) it is necessary for the authorised officer to gain access to the person in order properly to assess whether the person is an adult at risk and to make a decision as required by section 126(2) on what, if any, action should be taken,
  - (c) making an order is necessary in order to fulfil the purposes set out in subsection (2), and
  - (d) exercising the power of entry conferred by the order will not result in the person being at greater risk of abuse or neglect.
- (5) An adult protection and support order must—
  - (a) specify the premises to which it relates;
  - (b) provide that the authorised officer may be accompanied by a constable;
  - (c) specify the period for which the order is to be in force.
- (6) Other conditions may be attached to an adult protection and support order, for example—
  - (a) specifying restrictions on the time at which the power of entry conferred by the order may be exercised;
  - (b) providing for the authorised officer to be accompanied by another specified person;
  - (c) requiring notice of the order to be given to the occupier of the premises and to the person suspected of being an adult at risk.
- (7) A constable accompanying the authorised officer may use reasonable force if necessary in order to fulfil the purposes of an adult protection and support order set out in subsection (2).
- (8) On entering the premises in accordance with an adult protection and support order the authorised officer must—
  - (a) state the object of the visit,

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- (b) produce evidence of the authorisation to enter the premises, and
- (c) provide an explanation to the occupier of the premises of how to complain about how the power of entry has been exercised.

(9) In this section “an authorised officer” means a person authorised by a local authority for the purposes of this section, but regulations may set restrictions on the persons or categories of persons who may be authorised.

**Commencement Information**

**I2** S. 127 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

**128 Duty to report adults at risk**

- (1) If a relevant partner of a local authority has reasonable cause to suspect that a person is an adult at risk and appears to be within the authority's area, it must inform the local authority of that fact.
- (2) If the person that the relevant partner has reasonable cause to suspect is an adult at risk appears to be within the area of a local authority other than one of which it is a relevant partner, it must inform that other local authority.
- (3) If a local authority has reasonable cause to suspect that a person within its area at any time is an adult at risk and is living or proposing to live in the area of another local authority (or a local authority in England), it must inform that other authority.
- (4) For the purpose of this section a relevant partner of a local authority is a person who is a relevant partner of the authority for the purposes of section 162.

**Commencement Information**

**I3** S. 128 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

**129 Abolition of local authority's power to remove persons in need of care and attention**

Section 47 of the National Assistance Act 1948 (which enables local authorities to apply for a court order to remove persons in need of care and attention from home to hospitals or other places) ceases to apply to persons in Wales.

**Commencement Information**

**I4** S. 129 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

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### *Children at risk*

#### **130 Duty to report children at risk**

- (1) If a relevant partner of a local authority has reasonable cause to suspect that a child is a child at risk and appears to be within the authority's area, it must inform the local authority of that fact.
- (2) If the child that the relevant partner has reasonable cause to suspect is a child at risk appears to be within the area of a local authority other than one of which it is a relevant partner, it must inform that other local authority.
- (3) If a local authority has reasonable cause to suspect that a child within its area at any time is a child at risk and is living or proposing to live within the area of another local authority (or a local authority in England), it must inform that other authority.
- (4) In this section, “a child at risk” is a child who—
  - (a) is experiencing or is at risk of abuse, neglect or other kinds of harm, and
  - (b) has needs for care and support (whether or not the authority is meeting any of those needs).
- (5) For the purposes of this section a relevant partner of a local authority is—
  - (a) a person who is a relevant partner of the local authority for the purposes of section 162;
  - (b) a youth offending team for an area any part of which falls within the area of the authority.
- (6) For provision about a local authority's duty to investigate children at risk, see section 47 of the Children Act 1989.

#### **Commencement Information**

**I5** S. 130 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

### *Guidance*

#### **131 Guidance about adults at risk and children at risk**

- (1) The following must, in exercising their functions under sections 126 to 128 and 130, have regard to any guidance given to them for the purpose by the Welsh Ministers—
  - (a) a local authority;
  - (b) a person who is an authorised officer for the purposes of section 127;
  - (c) a constable or other specified person accompanying an authorised officer in accordance with an adult protection and support order made under section 127;
  - (d) a person who is a relevant partner for the purposes of section 128 or 130.
- (2) The Welsh Ministers must consult the Secretary of State before giving guidance under subsection (1).

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#### Commencement Information

**I6** S. 131 in force at 6.4.2016 by S.I. 2016/412, art. 2 (with art. 4, Schs. 1, 2)

### *National Independent Safeguarding Board*

## **132 The National Independent Safeguarding Board**

- (1) There is to be a board called the National Independent Safeguarding Board (referred to in this Part as “the National Board”).
- (2) The National Board's duties are—
  - (a) to provide support and advice to Safeguarding Boards with a view to ensuring that they are effective,
  - (b) to report on the adequacy and effectiveness of arrangements to safeguard children and adults in Wales, and
  - (c) to make recommendations to the Welsh Ministers as to how those arrangements could be improved.
- (3) The National Board—
  - (a) must make an annual report to the Welsh Ministers,
  - (b) must make such other reports to the Welsh Ministers as they require, and
  - (c) may make such other reports as it thinks fit.

#### Commencement Information

**I7** S. 132 in force at 21.10.2015 by S.I. 2015/1744, art. 2(a)

## **133 Regulations about the National Board**

- (1) Regulations may make further provision about the National Board.
- (2) Regulations under this section may, for example, provide for—
  - (a) the constitution and membership of the National Board (including provision about terms of appointment, disqualification, resignation, suspension or removal of members);
  - (b) the remuneration and allowances to be paid to members;
  - (c) the proceedings of the National Board;
  - (d) the National Board to consult with those who may be affected by arrangements to safeguard adults and children in Wales;
  - (e) the form, content and timing of the National Board's reports;
  - (f) the publication of the National Board's reports.
- (3) Regulations under this section may not provide for a Minister of the Crown to be a member of the National Board.

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**Commencement Information**

**18** S. 133 in force at 21.10.2015 by S.I. 2015/1744, art. 2(b)

*Safeguarding Children Boards and Safeguarding Adults Boards*

**134 Safeguarding Children Boards and Safeguarding Adults Boards**

- (1) Regulations must set out those areas in Wales for which there are to be Safeguarding Boards (“Safeguarding Board areas”).
- (2) Each of the following is a Safeguarding Board partner in relation to a Safeguarding Board area—
  - (a) the local authority for an area, any part of which falls within the Safeguarding Board area;
  - (b) the chief officer of police for a police area, any part of which falls within the Safeguarding Board area;
  - (c) a Local Health Board for an area, any part of which falls within the Safeguarding Board area;
  - (d) an [<sup>F1</sup>NHS Trust] providing services in the Safeguarding Board area;
  - (e) the Secretary of State to the extent that the Secretary of State is discharging functions under sections 2 and 3 of the Offender Management Act 2007 in relation to Wales;
  - (f) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a Safeguarding Board partner in relation to the Safeguarding Board area.
- (3) After consulting the Safeguarding Board partners for an area, the Welsh Ministers must by regulations specify—
  - (a) a Safeguarding Board partner as the lead partner in relation to children for the area, and
  - (b) a Safeguarding Board partner as the lead partner in relation to adults for the area.
- (4) The lead partner in relation to children must establish a Safeguarding Children Board for its Safeguarding Board area.
- (5) The lead partner in relation to adults must establish a Safeguarding Adults Board for its Safeguarding Board area.
- (6) A Safeguarding Board must include—
  - (a) a representative of each Safeguarding Board partner mentioned in subsection (2) in relation to the Safeguarding Board area, and
  - (b) a representative of any other person or body specified in regulations as a Safeguarding Board partner in relation to the Safeguarding Board area.
- (7) Regulations under subsection (6)(b) may only specify a person or body as a Safeguarding Board partner if that person or body exercises functions under an enactment in relation to children in Wales or, as the case may be, adults in Wales.
- (8) Regulations under subsection (6)(b) may not specify a Minister of the [<sup>F2</sup>Crown,] the governor of a prison or secure training centre (or, in the case of a contracted out

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prison or secure training centre, its director) [<sup>F3</sup>or the principal of a secure college] as a Safeguarding Board partner unless the Secretary of State consents.

- (9) A Safeguarding Board may include representatives of such other persons or bodies, being persons or bodies mentioned in subsection (10), as the Board considers should be represented on it.
- (10) Those persons or bodies are persons and bodies of any nature who or which exercise functions or are engaged in activities relating to children or adults (as the case may be) in the Safeguarding Board area in question.
- (11) In this section—
- (a) a reference to a prison includes a young offender institution;
  - (b) a reference to a contracted out secure training centre has the meaning given by section 15 of the Criminal Justice and Public Order Act 1994;
  - (c) a reference to a contracted out prison has the meaning given by section 84(4) of the Criminal Justice Act 1991.

#### Textual Amendments

- F1** Words in s. 134(2)(d) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **309**
- F2** Word in s. 134(8) substituted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 9 para. 32\(2\)\(a\)](#); [S.I. 2015/778](#), art. 2(1)(c); [S.I. 2015/778](#), art. 2(1)(c); [S.I. 2015/778](#), art. 2(1)(c)
- F3** Words in s. 134(8) inserted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 9 para. 32\(2\)\(b\)](#); [S.I. 2015/778](#), art. 2(1)(c); [S.I. 2015/778](#), art. 2(1)(c); [S.I. 2015/778](#), art. 2(1)(c)

#### Commencement Information

- I9** S. 134 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

## 135 Functions and procedures of Safeguarding Boards

- (1) The objectives of a Safeguarding Children Board are—
- (a) to protect children within its area who are experiencing, or are at risk of, abuse, neglect or other kinds of harm, and
  - (b) to prevent children within its area from becoming at risk of abuse, neglect or other kinds of harm.
- (2) The objectives of a Safeguarding Adults Board are—
- (a) to protect adults within its area who—
    - (i) have needs for care and support (whether or not a local authority is meeting any of those needs), and
    - (ii) are experiencing, or are at risk of, abuse or neglect, and
  - (b) to prevent those adults within its area mentioned in paragraph (a)(i) from becoming at risk of abuse or neglect.
- (3) A Safeguarding Board must seek to achieve its objectives by co-ordinating and ensuring the effectiveness of what is done by each person or body represented on the Board.
- (4) Regulations must—

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- (a) provide for a Safeguarding Board to have functions relating to its objectives (including, for example, functions of review or investigation);
  - (b) make provision as to the procedures to be followed by a Safeguarding Board;
  - (c) specify when and how children or adults who are, or may be, affected by the exercise of a Safeguarding Board's functions must be given the opportunity to participate in the Board's work.
- (5) A Safeguarding Board may cooperate with another one or more Safeguarding Boards.
- (6) A Safeguarding Board may act jointly with another one or more Safeguarding Boards in relation to their combined areas and if they do so—
- (a) references in this Part to a Safeguarding Board are to be read as references to the Boards acting jointly, and
  - (b) references in this Part to a Safeguarding Board area are to be read as references to the combined area.
- (7) The Safeguarding Children Board and the Safeguarding Adults Board for an area may form a joint board for the area, and if they do so—
- (a) the joint board is to have the objectives in both subsections (1) and (2), and
  - (b) references in this Part to a Safeguarding Board are to be read as references to the joint board.

#### Commencement Information

**I10** S. 135 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

### 136 Safeguarding Boards: annual plans and reports

- (1) Before the beginning of each financial year a Safeguarding Board must publish a plan (its “annual plan”) setting out its proposals for achieving its objectives in that year.
- (2) No later than 31 July of each year, a Safeguarding Board must publish a report on—
  - (a) how it has exercised its functions in the preceding financial year, and
  - (b) the extent to which it implemented the proposals in its annual plan for the preceding financial year.
- (3) Regulations may make further provision about the making of plans and reports under this section (including provision about their form and content and how they are to be published).
- (4) In this section “financial year” means the twelve months ending with 31 March.

#### Commencement Information

**I11** S. 136 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

### 137 Supply of information requested by Safeguarding Boards

- (1) A Safeguarding Board may, for the purpose of enabling or assisting the Board to perform its functions, ask a qualifying person or body to supply specified information to which subsection (2) or (3) applies to—

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- (a) the Board, or
  - (b) a person or body specified by the Board.
- (2) This subsection applies to information relating to—
  - (a) the qualifying person or body to whom or to which the request is made,
  - (b) a function or activity of that qualifying person or body, or
  - (c) a person in respect of whom a function is exercisable, or an activity is engaged in, by that qualifying person or body.
- (3) This subsection applies to information which—
  - (a) has been supplied to the qualifying person or body in compliance with another request under this section, or
  - (b) is derived from information so supplied.
- (4) The qualifying person or body to whom or to which a request is made under subsection (1) must comply with the request unless the person or body considers that doing so would—
  - (a) be incompatible with the duties of the person or body, or
  - (b) otherwise have an adverse effect on the exercise of the functions of the person or body.
- (5) A qualifying person or body who decides not to comply with a request under subsection (1) must give the Safeguarding Board which made the request written reasons for the decision.
- (6) Information supplied under this section may only be used by the Board or other person or body to whom or to which it is supplied for the purpose mentioned in subsection (1).
- (7) In this section—

“qualifying person or body” (“*person neu gorff cymhwysol*”) means a person or body whose functions or activities are considered by the Board to be such that the person or body is likely to have information relevant to the exercise of a function of the Board;

“specified” (“*penodedig*” and “*a bennir*”) means specified in a request made under subsection (1).

#### Commencement Information

**I12** S. 137 in force at 6.4.2016 by S.I. 2016/412, art. 2 (with art. 4, Schs. 1, 2)

### 138 Funding of Safeguarding Boards

- (1) A Safeguarding Board partner may make payments towards expenditure incurred by, or for purposes connected with, the Safeguarding Board on which it is represented—
  - (a) by making the payments directly, or
  - (b) by contributing to a fund out of which the payments may be made.
- (2) A Safeguarding Board partner may provide staff, goods, services, accommodation or other resources for purposes connected with the Safeguarding Board on which it is represented.
- (3) Regulations may—

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- (a) require payments to be made by a Safeguarding Board partner towards expenditure incurred by, or for purposes connected with, the Safeguarding Board on which it is represented, and
  - (b) provide for how the amount of those payments is to be determined in respect of a specified period.
- (4) The Welsh Ministers must consult the Secretary of State before making regulations under subsection (3) which require payments to be made by a Safeguarding Board partner mentioned in section 134(2)(b), (e) or (f).

#### Commencement Information

**I13** S. 138 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

### 139 Safeguarding Boards: supplementary

- (1) A Safeguarding Board must cooperate with the National Board, and must supply the National Board with any information it requests.
- (2) Regulations may make provision as to the functions of Safeguarding Board partners relating to the Safeguarding Boards on which they are represented.
- (3) A Safeguarding Board partner must, in exercising its functions relating to a Safeguarding Board, have regard to any guidance given by the Welsh Ministers.
- (4) Each Safeguarding Board partner must take all reasonable steps to ensure that the Safeguarding Board on which it is represented operates effectively.

#### Commencement Information

**I14** S. 139 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

### 140 Combined Safeguarding Boards

- (1) The Welsh Ministers may by order provide that in each Safeguarding Board area, the Safeguarding Children Board and the Safeguarding Adults Board are to combine so as to form a single Safeguarding Board for the area (“a Safeguarding Children and Adult Board”).
- (2) An order under this section may—
  - (a) amend any provision of this Part as a consequence of there being a single Safeguarding Children and Adult Board for each Safeguarding Board area, and
  - (b) make other consequential provision including amendments of any other enactment (whenever passed or made).

#### Commencement Information

**I15** S. 140 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

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## 141 Procedure for orders under section 140

- (1) Before making an order under section 140, the Welsh Ministers must consult—
  - (a) each Safeguarding Board partner for the Safeguarding Board area to which the proposed order relates,
  - (b) the Secretary of State, and
  - (c) such other persons as the Welsh Ministers consider appropriate,on the proposed draft order.
- (2) The Welsh Ministers must—
  - (a) allow those persons a period of at least 12 weeks to submit comments on the proposed draft order,
  - (b) consider any comments submitted within that period, and
  - (c) publish a summary of those comments.
- (3) If, following that consultation, the Welsh Ministers wish to proceed with the making of an order under section 140, they must lay a draft order before the National Assembly for Wales.
- (4) A draft order laid under subsection (3)—
  - (a) must be accompanied by a statement of the Welsh Ministers giving details of any differences between the draft order consulted on under subsection (1) and the draft order laid under subsection (3), and
  - (b) may not be approved by a resolution of the National Assembly for Wales in accordance with section 196(6) until after the expiry of the period of 60 days beginning with the day on which the draft order is laid.

### Commencement Information

**I16** S. 141 in force at 6.4.2016 by S.I. 2016/412, art. 2 (with art. 4, Schs. 1, 2)

## 142 Interpretation of Part 7

In this Part—

“National Board” (“*Bwrdd Cenedlaethol*”) means the National Independent Safeguarding Board referred to in section 132;

“Safeguarding Board” (“*Bwrdd Diogelu*”) means a Safeguarding Children Board or a Safeguarding Adult Board established under section 134 (and references to a Safeguarding Board's area are to the Safeguarding Board area for which it is established);

“Safeguarding Board area” (“*ardal Bwrdd Diogelu*”) means an area set out in regulations under section 134(1);

“Safeguarding Board partner” (“*partner Bwrdd Diogelu*”) means a person or body mentioned in section 134(2) or in regulations made under section 134(6) (b) (and references to a Safeguarding Board partner's area are to the Safeguarding Board area in relation to which it is a Safeguarding Board partner).

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**Commencement Information**

**I17** S. 142 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(9)(ba) inserted by [2016 anaw 2 Sch. 3 para. 30\(a\)\(i\)](#)
- s. 1(9)(ca) inserted by [2016 anaw 2 Sch. 3 para. 30\(a\)\(ii\)](#)
- s. 1(9)(da) substituted for word by [2016 anaw 2 Sch. 3 para. 30\(a\)\(iii\)](#)
- s. 83(2A)-(2D) inserted by [2018 anaw 2 s. 16\(2\)](#)
- s. 83(10) inserted by [2018 anaw 2 s. 16\(9\)](#)
- s. 163(4A) inserted by [2014 c. 23 s. 75\(10\)](#) (Effect inserting (4) not applied at s. 163 as it appears to relate to s. 194 in view of the title of the section as cited i.e. "ordinary residence". In s. 194 another (4), identically worded, is inserted on the same date by S.I. 2016/413, regs. 2(1), 316(a))
- s. 196(6)(ca) inserted by [2018 anaw 2 Sch. 1 para. 24\(4\)](#)