



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 6

LOOKED AFTER AND ACCOMMODATED CHILDREN

Leaving care, accommodation and fostering

103 Befriending, advising and assisting looked after children

A local authority looking after a child must advise, assist and befriend the child with a view to promoting the child's well-being when it has ceased to look after the child.

104 Young people entitled to support under sections 105 to 115

(1) The categories of young person defined in subsection (2) are entitled to support in accordance with sections 105 to 115.

(2) In this Act—

“category 1 young person” means a child who—

- (a) is aged 16 or 17,
- (b) is being looked after by a local authority, and
- (c) has been looked after by a local authority or a local authority in England for a specified period, or periods amounting in all to a specified period, which began after the child reached a specified age and ended after the child reached the age of 16;

“category 2 young person” means a child who—

- (a) is aged 16 or 17,
- (b) is not being looked after by a local authority or a local authority in England, and

Status: This is the original version (as it was originally enacted).

- (c) immediately before ceasing to be looked after, was a category 1 young person;
 - “category 3 young person” means a person aged 18 or over who—
 - (a) has been a category 2 young person (and would continue to be so if he or she were under the age of 18), or
 - (b) was being looked after by a local authority when he or she reached the age of 18 and, immediately before ceasing to be looked after, was a category 1 young person;
 - “category 4 young person” means a person who—
 - (a) is a category 3 young person towards whom the duties under sections 105, 106, 107(3) and (10) and 110 have ceased to apply (see section 111),
 - (b) has informed the responsible local authority that he or she is pursuing, or wishes to pursue, a programme of education or training, and
 - (c) has not reached the age of 25 or any lower age specified;
 - “category 5 young person” means a person—
 - (a) who has reached the age of 16 but has not yet reached the age of 21,
 - (b) with respect to whom a special guardianship order is in force (or, if the young person has reached the age of 18, was in force when he or she reached that age), and
 - (c) who was, immediately before the making of that order, looked after by a local authority;
 - “category 6 young person” means a person, other than a category 5 young person, who—
 - (a) at any time after reaching the age of 16 but while still a child was, but is no longer, looked after, accommodated or fostered,
 - (b) if so accommodated or fostered, is now within Wales, and
 - (c) has not yet reached the age of 21.
- (3) In the definition of “category 6 young person”, “looked after, accommodated or fostered” means—
- (a) looked after by a local authority (without subsequently being looked after by a local authority in England),
 - (b) accommodated by or on behalf of a voluntary organisation,
 - (c) accommodated in a private children’s home,
 - (d) accommodated for a consecutive period of at least three months—
 - (i) by or on behalf of a Local Health Board or Special Health Authority,
 - (ii) by or on behalf of a clinical commissioning group or the National Health Service Commissioning Board,
 - (iii) by or on behalf of a local authority in the exercise of education functions,
 - (iv) by or on behalf of a local authority in England in the exercise of education functions,
 - (v) in any care home or independent hospital, or
 - (vi) in any accommodation provided by or on behalf of an NHS Trust or by or on behalf of an NHS Foundation Trust, or
 - (e) privately fostered (within the meaning of section 66 of the Children Act 1989).
- (4) Subsection (3)(d) applies even if the period of three months mentioned there began before the child reached the age of 16.

- (5) In this Act “responsible local authority” means—
- (a) in relation to a category 1 young person, the local authority which looks after the child;
 - (b) in relation to a category 2, category 3 or category 4 young person, the local authority which last looked after that person;
 - (c) in relation to category 5 young person, a local authority determined in accordance with regulations;
 - (d) in relation to a category 6 young person falling within that category by virtue of paragraph (a) of subsection (3), the local authority which last looked after that person;
 - (e) in relation to a category 6 young person falling within that category by virtue of any other paragraph of that subsection, the local authority within whose area the person is.
- (6) Regulations may, for the purposes of any of the powers or duties under sections 105 to 115—
- (a) specify additional categories of persons;
 - (b) specify categories of persons who are not to be treated as falling within a category of young person mentioned in subsection (1);
 - (c) make provision for determining which local authority is to be the responsible local authority for the purpose of a category specified under paragraph (a).

105 Keeping in touch

- (1) The responsible local authority for a category 2 or category 3 young person must take reasonable steps to keep in touch with that person, whether the person is within its area or not.
- (2) If the responsible local authority for a category 2 or category 3 young person has lost touch with that person it must—
- (a) consider how to re-establish contact, and
 - (b) take reasonable steps to do so.
- (3) In the case of a category 2 young person, the responsible local authority must discharge its duty under subsection (2) without delay and continue to take reasonable steps to re-establish contact until it succeeds.
- (4) In the case of a category 3 young person, the duties under subsections (1) and (2) are subject to section 111.
- (5) The responsible local authority for a category 6 young person falling within that category by virtue of section 104(3)(a) must take reasonable steps to contact the young person at such times as it thinks appropriate with a view to discharging its functions under section 115.

106 Personal advisers

- (1) The responsible local authority for a person mentioned in subsection (2) must arrange for that person to have a personal adviser.
- (2) The persons are—
- (a) a category 1 young person;

Status: This is the original version (as it was originally enacted).

- (b) a category 2 young person;
 - (c) a category 3 young person;
 - (d) a category 4 young person.
- (3) The duty under subsection (1)—
- (a) in the case of a category 3 young person, is subject to section 111;
 - (b) in the case of a category 4 young person, is subject to section 113.
- (4) Personal advisers appointed under or by virtue of this Part are to have such functions as may be specified in regulations.

107 Pathway assessments and plans: general

- (1) The responsible local authority for a category 1 young person must carry out an assessment of the young person's needs with a view to determining what advice and other support it would be appropriate for it to provide to the young person under this Part—
- (a) while it is still looking after the young person, and
 - (b) after it ceases to look after the young person.
- (2) The responsible local authority for a category 2 or category 3 young person who does not already have a pathway plan must carry out an assessment of the young person's needs with a view to determining what advice and other support it would be appropriate for it to provide to the young person under this Part.
- (3) After conducting an assessment under subsection (1) or (2), the local authority must prepare a pathway plan and maintain it for as long as the young person falls within category 1, 2 or 3 (but see subsection (12)).
- (4) The responsible local authority for a category 4 young person must carry out an assessment of the young person's needs with a view to determining what advice and other support (if any) it would be appropriate for it to provide to the young person under this Part.
- (5) In conducting an assessment under subsection (4), the local authority may take into account any duty that it may have to make a payment to the young person under section 112(2).
- (6) After conducting an assessment under subsection (4), the local authority must prepare a pathway plan.
- (7) A pathway plan is a plan setting out—
- (a) in the case of a plan for a category 1 young person—
 - (i) the advice and other support which the local authority intends to provide for the young person under this Part, both while it is looking after the young person and later, and
 - (ii) when it might cease to look after the young person;
 - (b) in the case of a plan for a category 2, category 3 or category 4 young person, the advice and other support which the local authority intends to provide for the young person under this Part;
 - (c) such other matters (if any) as may be specified in regulations.
- (8) Regulations may make provision as to assessments for the purposes of this section.

- (9) The regulations may, for example, make provision about—
 - (a) the persons who are to be consulted in relation to an assessment;
 - (b) the way in which an assessment is to be carried out, by whom and when;
 - (c) the recording of the results of an assessment;
 - (d) the considerations to which the local authority are to have regard in carrying out an assessment.
- (10) The local authority must keep the pathway plan under regular review (but see subsections (12) and (13)).
- (11) The local authority may carry out an assessment or review under this section at the same time as any other assessment or review of the young person’s needs.
- (12) In the case of a category 3 young person, the duties under subsections (3) and (10) are subject to section 111.
- (13) In the case of a category 4 young person, the duty under subsection (10) is subject to section 113.

108 Pathway assessments and plans: post-18 living arrangements

- (1) The responsible local authority for a category 1 young person who has been placed with a local authority foster parent must comply with subsection (2) when—
 - (a) carrying out an assessment in relation to the young person under section 107(1),
 - (b) preparing and maintaining a pathway plan for the young person under section 107(3), or
 - (c) reviewing the young person’s pathway plan under section 107(10).
- (2) The responsible local authority must ascertain whether the young person and his or her local authority foster parent wish to make a post-18 living arrangement.
- (3) A “post-18 living arrangement” is an arrangement under which—
 - (a) a category 3 young person—
 - (i) who is under the age of 21, and
 - (ii) who was being looked after by a local authority when he or she reached the age of 18 and, immediately before ceasing to be looked after, was a category 1 young person, and
 - (b) a person (a “former foster parent”) who was the young person’s local authority foster parent immediately before he or she ceased to be looked after, continue to live together after the young person has ceased to be looked after.
- (4) Where the young person and his or her local authority foster parent wish to make a post-18 living arrangement, the responsible local authority must provide advice and other support in order to facilitate the arrangement.
- (5) Subsection (4) does not apply if the responsible local authority considers that the making of a post-18 living arrangement between the young person and his or her local authority foster parent would not be consistent with the young person’s well-being.
- (6) Regulations may make provision about—
 - (a) the persons to whom information about post-18 living arrangements must be provided;

- (b) the manner in which that information must be provided.

109 Support for category 2 young people

- (1) The responsible local authority for a category 2 young person must safeguard and promote that person's well-being and, unless it is satisfied that the person's well-being does not require it, support the person by—
- (a) maintaining the person,
 - (b) providing the person with, or maintaining the person in, suitable accommodation, and
 - (c) providing support of such other descriptions as may be specified in regulations.
- (2) Support under subsection (1) may be in kind or in cash.
- (3) Regulations may make provision about the meaning of "suitable accommodation" and in particular about the suitability of landlords or other providers of accommodation.
- (4) Section 78(3) applies in relation to any decision by a local authority for the purposes of this section as it applies in relation to the decisions referred to in that section.

110 Support for category 3 young people

- (1) The responsible local authority for a category 3 young person must support that young person by—
- (a) contributing, to the extent that the young person's well-being requires it, to expenses incurred by the young person in living near the place where he or she is, or will be, employed or seeking employment;
 - (b) contributing, to the extent that the young person's well-being and educational or training needs require it, to expenses incurred by the young person in living near the place where he or she is, or will be, receiving education or training;
 - (c) making a grant to the young person, to the extent that the young person's well-being and educational or training needs require it, to enable him or her to meet expenses connected with his or her education or training;
 - (d) doing anything else it considers appropriate, to the extent that the young person's well-being requires it.
- (2) The responsible local authority for a category 3 young person who has a post-18 living arrangement must, in addition—
- (a) monitor the arrangement, and
 - (b) if the authority considers that the arrangement is consistent with the young person's well-being, provide advice and other support to the young person and the former foster parent with a view to maintaining the arrangement.
- (3) In subsection (2) "post-18 living arrangement" has the meaning given by section 108 and "former foster parent" has the same meaning as in that definition.
- (4) The support given under subsection (1)(d) and (2)(b) may be in kind or in cash.
- (5) Where support is provided to a former foster parent under subsection (2)(b), the support must include financial support.

- (6) The responsible local authority for a category 3 young person who pursues higher education in accordance with his or her pathway plan must pay the relevant amount to that young person.
- (7) The duty under subsection (6) is in addition to the responsible local authority's duty under subsection (1).
- (8) Subsection (9) applies where the responsible local authority for a category 3 young person is satisfied that the young person—
 - (a) is in full-time further or higher education,
 - (b) is being given support under subsection (1)(b) or (c) or has received a payment under subsection (6), and
 - (c) needs accommodation during a vacation because term-time accommodation is not available.
- (9) The responsible authority must—
 - (a) provide the young person with suitable accommodation during the vacation, or
 - (b) pay the young person enough to secure such accommodation.
- (10) The duties under this section are subject to section 111.

111 Cessation of duties in relation to category 3 young people

- (1) A responsible local authority's duties towards a category 3 young person cease when the young person reaches the age of 21, except in the circumstances set out in subsection (2).
- (2) Where the category 3 young person's pathway plan sets out a programme of education or training which extends beyond the date on which he or she reaches the age of 21—
 - (a) the duties under section 110(1)(b) and (c), (6) and (9) continue until the young person ceases to pursue that programme, and
 - (b) the duties under sections 105, 106 and 107(3) and (10) continue concurrently with those duties and cease at the same time.
- (3) For the purposes of subsection (2)(a), the responsible local authority must disregard any interruption in the young person's pursuance of a programme of education or training if it is satisfied that the young person will resume the programme as soon as is reasonably practicable.

112 Support for category 4 young people

- (1) The responsible local authority for a category 4 young person must support that young person, to the extent that his or her educational or training needs require it, by—
 - (a) contributing to expenses incurred by the young person in living near the place where he or she is, or will be, receiving education or training;
 - (b) making a grant to the young person to enable him or her to meet expenses connected with his or her education or training.
- (2) The responsible local authority for a category 4 young person who pursues higher education in accordance with his or her pathway plan must pay the relevant amount to that young person.

Status: This is the original version (as it was originally enacted).

- (3) The duty under subsection (2) is in addition to the responsible local authority's duty under subsection (1).
- (4) Where the responsible local authority for a category 4 young person is satisfied that the young person is in full-time further or higher education and needs accommodation during a vacation because term-time accommodation is not available, it must—
 - (a) provide the young person with suitable accommodation during the vacation, or
 - (b) pay the young person enough to secure such accommodation.
- (5) The responsible local authority for a category 4 young person may take its duty under subsection (2) into account in assessing the young person's need under section 107(4) and in discharging its duties under subsections (1) and (4).
- (6) The duties under this section are subject to section 113.

113 Cessation of duties in relation to category 4 young people

- (1) A responsible local authority's duties towards a category 4 young person cease when the young person ceases to pursue a programme of education or training in accordance with his or her pathway plan.
- (2) For the purposes of subsection (1), the responsible local authority may disregard any interruption in the young person's pursuance of a programme of education or training if it is satisfied that the young person will resume the programme as soon as is reasonably practicable.

114 Support for category 5 young people and former category 5 young people

- (1) The responsible local authority for a category 5 young person must consider whether the conditions in subsection (2) are satisfied in relation to the young person.
- (2) The conditions are that—
 - (a) the young person needs support of a kind which it can give under this section, and
 - (b) the local authority is satisfied that the person by whom the young person was being looked after does not have the necessary facilities for advising or befriending him or her.
- (3) If the conditions are satisfied the local authority must advise and befriend the young person and may give that person support in the manner described in subsection (4).
- (4) The support may be given—
 - (a) in kind;
 - (b) by contributing to expenses incurred by the young person in living near the place where he or she is, or will be, employed or seeking employment;
 - (c) by contributing to expenses incurred by the young person in living near the place where he or she is, or will be, receiving education or training;
 - (d) by making a grant to the young person to enable him or her to meet expenses connected with his or her education or training;
 - (e) by providing accommodation, if support may not be given in respect of the accommodation under paragraphs (b) to (d);

- (f) in cash.
- (5) A local authority may also give support in the manner described in paragraphs (c) and (d) of subsection (4) to a young person who—
 - (a) is under the age of 25, and
 - (b) would be a category 5 young person if he or she were under the age of 21.
- (6) Where a local authority is giving support in the manner described in subsection (4) (c) or (d) it may disregard any interruption in the young person's pursuance of a programme of education or training if it is satisfied that the young person will resume the programme as soon as is reasonably practicable.
- (7) Where a local authority is satisfied that a young person for whom it may provide support under subsection (4) or (5) is in full-time further or higher education and needs accommodation during a vacation because term-time accommodation is not available, it must—
 - (a) provide the person with suitable accommodation during the vacation, or
 - (b) pay the person enough to secure such accommodation.

115 Support for category 6 young people and former category 6 young people

- (1) The responsible local authority for a category 6 young person must consider whether the conditions in subsection (2) are satisfied in relation to the young person.
- (2) The conditions are that—
 - (a) the young person needs support of a kind which the local authority can give under this section, and
 - (b) where the young person is a category 6 young person by virtue of section 104(3)(b) to (e), the local authority is satisfied that the person by whom the young person was being looked after, accommodated or fostered (within the meaning of that subsection) does not have the necessary facilities for advising or befriending him or her.
- (3) If the conditions are satisfied—
 - (a) the local authority must advise and befriend the young person, if that person is a category 6 young person by virtue of section 104(3)(a) or (b), and
 - (b) in any other case, the local authority may advise and befriend the young person.
- (4) Where as a result of this section, a local authority is under a duty, or is empowered, to advise and befriend a young person, it may give that person support in the manner described in subsection (5).
- (5) The support may be given—
 - (a) in kind;
 - (b) where the young person is a category 6 young person by virtue of section 104(3)(a)—
 - (i) by contributing to expenses incurred by the young person in living near the place where he or she is, or will be, employed or seeking employment;
 - (ii) by contributing to expenses incurred by the young person in living near the place where he or she is, or will be, receiving education or training;

Status: This is the original version (as it was originally enacted).

- (iii) by making a grant to the young person to enable him or her to meet expenses connected with his or her education or training;
 - (c) by providing accommodation, if support may not be given in respect of the accommodation under paragraph (b);
 - (d) in cash.
- (6) A local authority may also give support in the manner described in subsection (5)(b)(ii) and (iii) to a young person who—
- (a) is under the age of 25, and
 - (b) if he or she were under the age of 21, would be a category 6 young person by virtue of section 104(3)(a).
- (7) Where a local authority is giving support in the manner described in subsection (5)(b)(ii) or (iii) it may disregard any interruption in the young person’s pursuance of a programme of education or training if it is satisfied that the young person will resume the programme as soon as is reasonably practicable.
- (8) Where a local authority is satisfied that a young person for whom it may provide support under subsection (4) or (6) is in full-time further or higher education and needs accommodation during a vacation because term-time accommodation is not available, it must—
- (a) provide the person with suitable accommodation during the vacation, or
 - (b) pay the person enough to secure such accommodation.

116 Supplementary provision about support for young persons in further or higher education

- (1) Regulations may, for the purposes of sections 110(6) and 112(2)—
- (a) specify the relevant amount;
 - (b) specify the meaning of “higher education”;
 - (c) make provision as to the payment of the relevant amount;
 - (d) make provision as to the circumstances in which the relevant amount (or any part of it) may be recovered by a local authority from a young person to whom a payment has been made under those provisions.
- (2) Regulations may make provision for the meaning of “full-time” (“*llawnamser*”), “further education” (“*addysg bellach*”), “higher education” (“*addysg uwch*”) and “vacation” (“*gwyliau*”) for the purposes of sections 110(8), 112(4), 114(7) and 115(8).

117 Charging for provision under sections 109 to 115

- (1) A local authority may impose a charge for support (other than advice) under sections 109 to 115.
- (2) A charge imposed under subsection (1)—
- (a) may only cover the cost that the local authority incurs in meeting the needs to which the charge applies;
 - (b) may be imposed—
 - (i) on the young person who receives the support, if that person has reached the age of 18;
 - (ii) on a person with parental responsibility for the young person who receives the support, if the young person is under 18 years of age.

Status: This is the original version (as it was originally enacted).

- (3) A person is not liable to pay a charge under this section during any period when the person is in receipt of a benefit which falls within a category specified in regulations.
- (4) In subsection (3) “benefit” includes any allowance, payment, credit or loan.
- (5) The power to make regulations under section 61 or 62 applies to charges under this section in relation to support as it applies to charges under section 59 in relation to care and support.
- (6) Regulations may apply any provision made in or under sections 63 to 68 or sections 70 to 73 to charging under this section with or without specified modifications.

118 Information

- (1) Where it appears to a local authority that a young person—
 - (a) with whom it is under a duty to keep in touch under section 105,
 - (b) whom it has been advising and befriending under section 114 or 115, or
 - (c) to whom it has been giving other support under section 114 or 115,proposes to live, or is living, in the area of another local authority or a local authority in England, it must inform that other authority.
- (2) Where a child who is accommodated in Wales—
 - (a) by a voluntary organisation or in a private children’s home,
 - (b) by or on behalf of any Local Health Board or Special Health Authority,
 - (c) by or on behalf of a clinical commissioning group or the National Health Service Commissioning Board,
 - (d) by or on behalf of local authority in the exercise of education functions,
 - (e) by or on behalf of a local authority in England in the exercise of education functions,
 - (f) in any care home or independent hospital, or
 - (g) in any accommodation provided by or on behalf of an NHS Trust or by or on behalf of an NHS Foundation Trust,ceases to be so accommodated after reaching the age of 16, the person by whom or on whose behalf the child was accommodated or who carries on or manages the home or hospital (as the case may be) must inform the local authority or local authority in England within whose area the child proposes to live.
- (3) Subsection (2) only applies by virtue of paragraphs (b) to (g), if the accommodation has been provided for a consecutive period of at least three months.
- (4) In a case where a child was accommodated by or on behalf of a local authority, or a local authority in England, in the exercise of education functions, subsection (2) applies only if the authority which accommodated the child is different from the authority within whose area the child proposes to live.