



Care Standards Act 2000

2000 CHAPTER 14

9 PART V

THE CHILDREN'S COMMISSIONER FOR WALES

72 Children's Commissioner for Wales

- (1) There shall be an office of the Children's Commissioner for Wales or Comisiynydd Plant Cymru.
- (2) Schedule 2 shall have effect with respect to the Children's Commissioner for Wales (referred to in this Act as "the Commissioner").

73 Review and monitoring of arrangements

- (1) The Commissioner may review, and monitor the operation of, arrangements falling within subsection (2), (3) or (4) for the purpose of ascertaining whether, and to what extent, the arrangements are effective in safeguarding and promoting the rights and welfare of children to whom this Part applies.
- (2) The arrangements falling within this subsection are the arrangements made by the providers of regulated children's services in Wales, or by the Assembly, for dealing with complaints or representations in respect of such services made by or on behalf of children to whom this Part applies.
- (3) The arrangements falling within this subsection are arrangements made by the providers of regulated children's services in Wales, or by the Assembly, for ensuring that proper action is taken in response to any disclosure of information which may tend to show—
 - (a) that a criminal offence has been committed;
 - (b) that a person has failed to comply with any legal obligation to which he is subject;
 - (c) that the health and safety of any person has been endangered; or

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- (d) that information tending to show that any matter falling within one of the preceding paragraphs has been deliberately concealed, in the course of or in connection with the provision of such services.
- (4) The arrangements falling within this subsection are arrangements made (whether by providers of regulated children’s services in Wales, by the Assembly or by any other person) for making persons available—
 - (a) to represent the views and wishes of children to whom this Part applies; or
 - (b) to provide such children with advice and support of any prescribed kind.
- (5) Regulations may confer power on the Commissioner to require prescribed persons to provide any information which the Commissioner considers it necessary or expedient to have for the purposes of his functions under this section.

74 Examination of cases

- (1) Regulations may make provision for the examination by the Commissioner of the cases of particular children to whom this Part applies.
- (2) The regulations may include provision about—
 - (a) the types of case which may be examined;
 - (b) the circumstances in which an examination may be made;
 - (c) the procedure for conducting an examination, including provision about the representation of parties;
 - (d) the publication of reports following an examination.
- (3) The regulations may make provision for—
 - (a) requiring persons to provide the Commissioner with information; or
 - (b) requiring persons who hold or are accountable for information to provide the Commissioner with explanations or other assistance,
 for the purposes of an examination or for the purposes of determining whether any recommendation made in a report following an examination has been complied with.
- (4) For the purposes mentioned in subsection (3), the Commissioner shall have the same powers as the High Court in respect of—
 - (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad); and
 - (b) the provision of information.
- (5) No person shall be compelled for the purposes mentioned in subsection (3) to give any evidence or provide any information which he could not be compelled to give or provide in civil proceedings before the High Court.
- (6) The regulations may make provision for the payment by the Commissioner of sums in respect of expenses or allowances to persons who attend or provide information for the purposes mentioned in subsection (3).

75 Obstruction etc

- (1) The Commissioner may certify an offence to the High Court where—

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- (a) a person, without lawful excuse, obstructs him or any member of his staff in the exercise of any of his functions under regulations made by virtue of section 73(5) or 74; or
 - (b) a person is guilty of any act or omission in relation to an examination under regulations made by virtue of section 74 which, if that examination were proceedings in the High Court, would constitute contempt of court.
- (2) Where an offence is so certified the High Court may inquire into the matter; and after hearing—
- (a) any witnesses who may be produced against or on behalf of the person charged with the offence; and
 - (b) any statement that may be offered in defence,
- the High Court may deal with the person charged with the offence in any manner in which it could deal with him if he had committed the same offence in relation to the High Court.

76 Further functions

- (1) Regulations may confer power on the Commissioner to assist a child to whom this Part applies—
- (a) in making a complaint or representation to or in respect of a provider of regulated children’s services in Wales; or
 - (b) in any prescribed proceedings,
- and in this subsection “proceedings” includes a procedure of any kind and any prospective proceedings.
- (2) For the purposes of subsection (1), assistance includes—
- (a) financial assistance; and
 - (b) arranging for representation, or the giving of advice or assistance, by any person,
- and the regulations may provide for assistance to be given on conditions, including (in the case of financial assistance) conditions requiring repayment in circumstances specified in the regulations.
- (3) The Commissioner may, in connection with his functions under this Part, give advice and information to any person.
- (4) Regulations may, in connection with the Commissioner’s functions under this Part, confer further functions on him.
- (5) The regulations may, in particular, include provision about the making of reports on any matter connected with any of his functions.
- (6) Apart from identifying any person investigated, a report by the Commissioner shall not—
- (a) mention the name of any person; or
 - (b) include any particulars which, in the opinion of the Commissioner, are likely to identify any person and can be omitted without impairing the effectiveness of the report,
- unless, after taking account of the public interest (as well as the interests of any person who made a complaint and other persons), the Commissioner considers it necessary for the report to mention his name or include such particulars.

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- (7) For the purposes of the law of defamation, the publication of any matter by the Commissioner in a report is absolutely privileged.

77 Restrictions

- (1) This Part does not authorise the Commissioner to enquire into or report on any matter so far as it is the subject of legal proceedings before, or has been determined by, a court or tribunal.
- (2) This Part does not authorise the Commissioner to exercise any function which by virtue of an enactment is also exercisable by a prescribed person.

78 Interpretation

- (1) This Part applies to a child to or in respect of whom regulated children’s services in Wales are provided.
- (2) In this Part, “regulated children’s services in Wales” means any of the following services for the time being provided in respect of children—
- (a) services of a description provided by or in Part II undertakings, so far as provided in Wales;
 - (b) services provided by local authorities in Wales in the exercise of relevant adoption functions or relevant fostering functions;
 - (c) services of a description provided by persons registered under Part XA of the 1989 Act, so far as provided in Wales;
 - (d) accommodation provided by schools or by an institution within the further education sector (as defined in section 91 of the Further and Higher Education Act 1992), so far as provided in Wales.
- (3) For the purposes of this Part—
- (a) in the case of the services mentioned in subsection (2)(a), the person who carries on the Part II undertaking is to be treated as the provider of the services;
 - (b) in the case of the services mentioned in subsection (2)(d), the relevant person (as defined in section 87 of the 1989 Act) is to be treated as the provider of the services.
- (4) For the purposes of this section, an establishment or agency, and an undertaking of any other description, is a Part II undertaking if the provider of the services in question is for the time being required to be registered under that Part.
- (5) Where the activities of an undertaking are carried on from two or more branches, each of those branches shall be treated as a separate undertaking for the purposes of this Part.
- (6) Regulations may provide—
- (a) for this Part to be treated as having applied to a child at any time before the commencement of this Part if regulated children’s services in Wales were at that time provided to or in respect of him;
 - (b) for references in this Part to children to whom this Part applies to include references to persons who, at any prescribed time, were such children.
- (7) In this Part—
- “information” includes information recorded in any form;

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“regulations” means regulations made by the Assembly.

(8) In this section, “relevant adoption functions” and “relevant fostering functions” have the same meanings as in Part III.