

# CHILDREN ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 3 - Children's Services in Wales

##### General

##### *Section 25: Co-operation to improve well-being: Wales*

133. As in section 10 in relation to England, the purpose of this section is to create a statutory framework for local co-operation between local authorities in Wales, key partner agencies ("relevant partners") and other relevant bodies ("other bodies or partners"), including the voluntary and community sectors, in order to improve the well-being of children in the area. The duty to make these arrangements is placed on local authorities and a duty to co-operate is placed on the partner agencies listed in *subsection (4)*.
134. *Subsection (1)* imposes the duty on each local authority to make arrangements to promote co-operation between the authority, its relevant partners (listed in *subsection (4)*) and other bodies exercising functions or engaged in activities relating to children in the local authority's area. The duty on each relevant partner to co-operate is in *subsection (5)*.
135. *Subsection (2)* sets out the purposes of the arrangements and *subsection (3)* requires a local authority, when making those arrangements, to have regard to the importance of parents and other persons caring for children in improving the well-being of children.
136. *Subsection (6)* gives a power for all the specified partners to pool budgets and other non-pecuniary resources in support of these arrangements. A pooled fund is defined at *subsection (7)*.
137. *Subsection (8)* creates a power for the Assembly to issue guidance on how these arrangements should work. The guidance will be used to explain the expected practical manifestations of co-operation between the core partners and wider relevant bodies, including the voluntary sector and users of services. These will include: effective working together to understand the needs of local children and young people, agreeing the contribution each agency should make to meet those needs, effective sharing of information at a strategic level, and integrated planning of services. The guidance will, in particular, make clear that there is no expectation that Children's Trusts will be created in Wales. *Subsection (9)* provides that the Assembly must obtain the consent of the Secretary of State before giving guidance under *subsection (8)* to non-devolved bodies.

##### *Section 26: Children and young people's plans: Wales*

138. This section creates a power for the Assembly, by regulations, to require children's services authorities in Wales to prepare and publish a single plan or a framework of plans for services to children and young people. This is intended to provide for greater coherence as to the precise obligation of children's services authorities and their

partners and to give a statutory basis to the Children and Young People's Framework Partnerships and Children's Partnerships that are already in existence. It will rationalise their relationship with the Young People's Partnerships that already have a statutory basis under section 123 of the Learning and Skills Act 2000.

139. *Subsections (2) and (3)* set out the particular provisions which regulations under this section may make.
140. *Subsection (4)* provides for regulations to require the Assembly's approval of a children's services authority's plan and for the Assembly's modification of such before publication.
141. *Subsection (5)* requires a children's services authority to have regard to Assembly guidance in discharging its planning functions.
142. *Subsection (6)* provides a definition of 'relevant young persons'.

### ***Section 27: Responsibility for functions under sections 25 and 26***

143. *Subsection (1)* of this section requires a local authority in Wales to appoint a lead director for children and young people's services with responsibility for co-ordinating and over-seeing the arrangements made under sections 25 and 26. This will not affect the existing service delivery responsibilities of the Chief Education Officer and the Director of Social Services. It is anticipated that an existing director, or even the chief executive, will usually be appointed as the 'lead director'. The lead director will ensure that the partnership planning process is given a high profile within the local authority and acts as a driver for strategic planning for children and young people in the local authority area. At the elected member level his responsibilities will be matched by a 'lead member for children and young people's services'. As with the lead director, the lead member may also hold other responsibilities.
144. *Subsections (2) and (3)* require NHS trusts and Local Health Boards, as the local authorities' most significant statutory partners in providing services for children and young people, to appoint lead executive and non-executive directors (in the case of an NHS trust) and a lead officer and member (in the case of a Local Health Board) to deal with the arrangements under section 25. As with local authorities, these persons may also hold other responsibilities.
145. *Subsection (4)* provides for the Assembly to give guidance relating to this section. In practice, it is expected that this guidance will be integrated with that under section 25.

### ***Section 28: Arrangements to safeguard and promote welfare: Wales***

146. Reference should be made to the notes in respect of section 11, which makes the equivalent provision in respect of England. This section imposes a duty on specified bodies or persons to make arrangements to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children. The aim of this duty is to:
  - complement the general co-operation duty (section 25);
  - ensure that agencies give appropriate priority to their responsibilities towards children;
  - encourage agencies to share early concerns about safety and welfare of children and to ensure preventative action before a crisis develops.
147. *Subsection (1)* lists those bodies and persons to whom the section is to apply, and *subsection (2)* sets out the duty. The reference in *subsection (1)(h)* to services under section 123 of the Learning and Skills Act 2000 is to youth support services provided as part of the 'Extending Entitlement' initiative.

*These notes refer to the Children Act 2004 (c.31)  
which received Royal Assent on 15th November 2004*

148. *Subsection (4)* provides that those persons and bodies mentioned shall have regard to guidance given to them by the Assembly. In the case of a police authority, a chief officer of police, a local probation board, a youth offending team or a secure establishment the guidance will not be issued by the Assembly but by the Secretary of State after consultation with the Assembly, as stated in *subsection (5)*.

***Section 29: Information databases: Wales***

149. The notes to section 12 apply, save that in Wales guidance will be given and directions issued by the Assembly. Regulations under this section may only be made with the consent of the Secretary of State.

***Section 30: Inspection of functions under this Part***

150. This section makes provision for the functions of a children's services authority in Wales to be subject to inspection by the Assembly.

***Sections 31-34: Local Safeguarding Children Boards: Wales***

151. The notes to sections 13 to 16 apply save that, in Wales, guidance to devolved bodies will be given by the Assembly. Guidance to non-devolved bodies will be given by the Assembly only with the consent of the Secretary of State. Regulations that make provision in relation to Board partners whose functions are not devolved to the Assembly may only be made with the consent of the Secretary of State.