

# **Briefing Paper**

## **Social Services and Well-being (Wales) Act 2014 Part 6: Looked After and Accommodated Children**

### **Introduction**

Local authorities operate within the overall policy framework set by the Welsh Government. The Welsh Ministers' policy intentions in relation to looked after children, include seeking to de-escalate the need for formal intervention in their lives, and to strengthen the capacity of families to care for their children wherever it is safe to do so.

It is the Programme for Government along with the Social Services and Well-being (Wales) Act 2014 which establish the importance of improving the lives and well-being of children who become looked after.

### **Part 6 of the of the Social Services and Well-being (Wales) Act**

The Social Services and Well-being (Wales) Act came into force on 6 April 2016 and has reformed social services law. It provides the statutory framework for improving the well-being of people who need care and support, carers who need support, and for transforming social services in Wales. It has transformed the way that social services are delivered, primarily through promoting people's independence to give them stronger voice and control.

Part 6 of the Act is the legislation which provides for looked after and accommodated children in Wales, including children and young people who are leaving or who have left care.

The principal duty of a local authority in looking after any child, is described (in section 78) as:

- to safeguard and promote the child's well-being
- to make such use of services available for children cared for by their own parents as appears to the authority reasonable in the child's case.

The overall purpose of Part 6 is:

- to safeguard and promote the well-being of looked after and accommodated children and care leavers,
- to enable each child or young person to achieve recovery and healing from past harm,
- to enable each child or young person to achieve personal well-being outcomes.

A child or young person's personal wellbeing outcomes must relate to national well-being outcomes. Decisions about what those outcomes are and how they can be achieved for individuals, will reflect the particular circumstances, needs and aspirations of the child or young person, their views, wishes and feelings and (where appropriate) those of their parents. The extent to which a child or young person can contribute to, and participate in defining and achieving those outcomes will depend upon their age and understanding, and they should be supported in this by a range of professionals and other people, including (as appropriate) their parents, family and friends, social workers, independent reviewing officers, independent visitors and advocates.

In general, the personal well-being outcomes for a child or young person will come under the following headings:

- protection from abuse and neglect
- promotion of physical and mental health and emotional well-being
- promotion of physical, intellectual, emotional, social and behavioural development
- maintenance or development of family or other significant personal relationships
- involvement in education, training and recreation activities
- development and maintenance of social relationships and involvement in the local community
- social and economic well-being (including not living in poverty)
- living in suitable accommodation.

## **The Code of Practice on the exercise of Social Services functions in relation to Part 6**

Local authorities, when exercising their social services functions, must act in accordance with the requirements contained in the associated code of practice. This provides guidance on the duties. Chapters of the code address the following subjects:

- **Chapter 1: Care and support planning duties** - including health and education.
- **Chapter 2: Placements** - the ways in which looked after children are to be accommodated and maintained.
- **Chapter 3: Keeping in touch** - visits to looked after children, children in detention, and the role of independent visitors.
- **Chapter 4: Review of cases** - The role and functions of the Independent Reviewing Officer.
- **Chapter 5: Leaving care** - Arrangements for leaving care, personal advisers, pathway plans and assessments, suitable accommodation and support for higher education.
- **Chapter 6: Post-18 living arrangements** - to continue living with their former foster carers.
- **Chapter 7: Secure accommodation.**
- **Chapter 8: Children in other types of establishment** - Children accommodated by health and education authorities, or in care homes or independent hospitals.
- **Chapter 9: Death of a looked after child** - Notification and other arrangements.

Any person exercising any functions in relation to a looked after or accommodated child or young person, or in relation to those leaving or who have left care must:

- ascertain and have regard to the child or young person's views, wishes and feelings, so far as is reasonably practicable.
- have regard to the importance of promoting and respecting the child or young person's dignity.

- have regard to the characteristics, culture and beliefs of the child or young person (including, for example, language).
- have regard to the importance of providing appropriate support to enable the child or young person to participate in decisions that affect them (to the extent to which this is appropriate in the circumstances, particularly where the child or young person's ability to communicate is limited for any reason)

Any person exercising functions under any part of the Act in relation to a child who has, or may have, care and support needs, or in respect of whom functions are exercisable under Part 6, must also:

- have regard to the importance of promoting the upbringing of the child by the child's family, in so far as doing so is consistent with promoting the child's well-being.
- where the child is under the age of 16, ascertain and have regard to the views, wishes and feelings of those with parental responsibility for the child, in so far as doing so is consistent with the well-being of the child, and reasonably practicable - Section 6(4)

### **United Nations Conventions**

In exercising their functions relating to looked after and accommodated children, local authorities are required by section 7, to have regard to Part 1 of the United Nations Convention on the Rights of the Child. Individuals must feel that they are an equal partner in their relationship with professionals. It is open to any individual to invite someone of their choice to support them to participate fully and express their views wishes and feelings. This support can be provided by someone's friends, family or wider support network, but professionals and individuals must ensure that judgements about the needs for independent professional advocacy are integral to the relevant duties under this code. When a child or young person believes that concern or problem is not being resolved and they intend to, or are, considering making a representation, local authorities must ensure that these children are advised of the availability of independent advocacy services and support to access those services.

When exercising social services functions in relation to disabled people who need care and support and disabled carers who need support, local authorities must have due regard to the United Nations Convention on the Rights of Disabled People.

### **Exceptional circumstances**

There may be exceptional circumstances in which a local authority will have to exercise its powers in relation to a looked after child in a way which is not consistent with these duties. A local authority is allowed to do this, but only for the purpose of protecting members of the public from serious injury.

### **Appendix A**

The full list of section headings in Part 6 of the Act are as follows:

#### ***PART 6 of the Social Services and Well-being (Wales) Act 2014***

#### ***LOOKED AFTER AND ACCOMMODATED CHILDREN***

#### ***Interpretation***

*74 Child or young person looked after by a local authority*

#### ***Accommodation duties***

*75 General duty of local authority to secure sufficient accommodation for looked after children*

*76 Accommodation for children without parents or who are lost or abandoned etc*

*77 Accommodation for children in police protection or detention or on remand etc*

#### ***Duties of local authorities in relation to looked after children***

*78 Principal duty of a local authority in relation to looked after children*

*79 Provision of accommodation for children in care*

*80 Maintenance of looked after children*

*81 Ways in which looked after children are to be accommodated and maintained*

*82 Review of child's case before making alternative arrangements for accommodation*

*83 Care and support plans*

*84 Regulations about care and support plans*

*85 Contributions towards maintenance of looked after children*

*86 Children's homes provided, equipped and maintained by the Welsh Ministers*

**Regulations about looked after children**

*87 Regulations about looked after children*

*88 Regulations about conditions under which a child in care is allowed to live with a parent etc*

*89 Regulations about placements of a kind mentioned in section 81(6)(d)*

*90 Regulations about placements out of area*

*91 Regulations about the avoidance of disruption in education*

*92 Regulations about the placing of children with local authority foster parents and prospective adopters*

*93 Regulations providing for approval of local authority foster parents*

*94 Regulations about agency arrangements*

**Contact and visits**

*95 Promotion and maintenance of contact between child and family*

*96 Family visits to or by children: expenses*

*97 Duty of local authority to ensure visits to, and contact with, looked after children and other children*

*98 Independent visitors for looked after children*

**Review of cases**

*99 Appointment of independent reviewing officer*

*100 Functions of the independent reviewing officer*

*101 Referred cases*

*102 Review of cases and inquiries into representations*

**Leaving care, accommodation and fostering**

*103 Befriending, advising and assisting looked after children*

*104 Young people entitled to support under sections 105 to 115*

*105 Keeping in touch*

*106 Personal advisers*

*107 Pathway assessments and plans: general*

*108 Pathway assessments and plans: post-18 living arrangements*

*109 Support for category 2 young people*

*110 Support for category 3 young people*

*111 Cessation of duties in relation to category 3 young people*

*112 Support for category 4 young people*

*113 Cessation of duties in relation to category 4 young people*

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

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

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

*117 Charging for provision under sections 109 to 115*

*118 Information*

### **Secure accommodation**

*119 Use of accommodation for restricting liberty*

### **Children accommodated in certain establishments**

*120 Assessment of children accommodated by health authorities and education authorities*

*121 Assessment of children accommodated in care homes or independent hospitals*

*122 Visitors for children notified to a local authority under section 120 or 121*

*123 Services for children notified to a local authority under section 120 or 121*

### **Moving looked after children to live outside the jurisdiction**

*124 Arrangements to assist children to live outside England and Wales*

### **Death of a looked after child**

*125 Death of children being looked after by local authorities*

Detailed commentary on each section can be found at

<http://www.legislation.gov.uk/anaw/2014/4/notes/division/2>.