



HYSBYSIAD YNGHYLCH GWELLIANNAU NOTICE OF AMENDMENTS

Cyflwynwyd ar 27 Ionawr 2014
Tabled on 27 January 2014

Bil Gwasanaethau Cymdeithasol a Llesiant (Cymru) Social Services and Well-being (Wales) Bill

Darren Millar

292

Section 4, page 6, after line 32, insert –

‘() A person exercising functions under this Act in relation to an adult falling within subsection (2)(a) or (b), who is aged 60 or over, must, in addition, have due regard to the United Nations Principles for Older Persons.’.

Adran 4, tudalen 6, ar ôl llinell 35, mewnosoder –

‘() Rhaid i berson sy’n arfer swyddogaethau o dan y Ddeddf hon mewn perthynas ag oedolyn sy’n dod o fewn is-adran (2)(a) neu (b), sy’n 60 oed neu hŷn, yn ogystal, roi sylw i Egwyddorion y Cenhedloedd Unedig ar gyfer Pobl Hŷn.’.

Kirsty Williams

293

To insert a new section –

‘() **Statutory principles**

(1) In making decisions under this Act the principles in subsection (2) apply.

(2) The principles are –

(a) the welfare of any child in need of care and support shall be the paramount consideration, as stated in the welfare principle in section 1 of the Children Act 1989;

(b) in the case of an adult, anything done under this Act must seek to maximise their

- independence and autonomy;
- (c) decisions made under this Act should promote the dignity, safety and well-being of a person in need of care and support, or of a carer in need of support;
 - (d) a person must be involved so far as is practicable in any decision made in relation to their care assessments, the planning, developing and the reviewing of their care and support, or relating to the support provided in their role as carers, as is appropriate having regard to their level of understanding and willingness to participate, and in addition in the case of a child as is compatible with the welfare principle;
 - (e) where a person's ability to communicate is impaired through disability, age or otherwise, appropriate support should be provided to enable them to participate in decisions that affect them to an extent as is appropriate in the circumstances and in the case of a child compatible with the welfare principle;
 - (f) the wishes of any person must be respected and followed wherever practicable, safe and appropriate, and in the case of a child compatible with their level of understanding and the welfare principle;
 - (g) people have the right to make decisions that to others may appear irrational, unwise or eccentric unless in the case of a child they do not have the necessary level of understanding to make such decisions, or such decisions are incompatible with the welfare principle;
 - (h) it must be presumed that a person is the best judge of their own well-being, except in cases where they lack the necessary legal capacity to make that assessment or in addition in the case of a child, they do not have the necessary level of understanding to make that assessment;
 - (i) the least restrictive intervention should be adopted when it is necessary to interfere with a person's human rights, in particular but not exclusively their right to family life, private life and home.
- (3) With the exception of the welfare principle in subsection 2(a) which in all cases involving children will be the paramount consideration, the above principles are not listed in order of priority nor do they necessarily have equal weight.'

I fewnosod adran newydd –

'(1) Egwyddorion statudol

- (1) Wrth wneud penderfyniadau o dan y Ddeddf hon, mae'r egwyddorion yn is-adran (2) yn gymwys.
- (2) Yr egwyddorion yw –
 - (a) llesiant unrhyw blentyn y mae arno angen gofal neu gymorth yw'r brif ystyriaeth, fel y nodir yn yr egwyddor llesiant yn adran 1 o Ddeddf Plant 1989;
 - (b) yn achos oedolyn, rhaid i unrhyw beth a wneir o dan y Ddeddf hon geisio cynyddu'i annibyniaeth a'i ymreolaeth i'r eithaf;
 - (c) dylai penderfyniadau a wneir o dan y Ddeddf hon hyrwyddo urddas diogelwch a llesiant person y mae arno angen gofal a chymorth, neu urddas, diogelwch a llesiant gofalwr y mae arno angen cymorth;

- (d) i'r graddau y mae hynny'n ymarferol, rhaid i berson fod yn rhan o unrhyw benderfyniad a wneir mewn perthynas â'i asesiadau gofal, y gwaith o gynllunio, datblygu ac adolygu'i ofal a'i gymorth, neu mewn perthynas a'r cymorth sy'n cael ei ddarparu iddo yn ei rôl fel gofalwr, fel sy'n briodol o ystyried ei lefel o ddealltwriaeth a'i barodrwydd i gymryd rhan, ac yn ychwanegol, yn achos plentyn, fel sy'n gydnaws â'r egwyddor llesiant;
 - (e) pan fo anabledd, oed neu rywbeth arall yn amharu ar allu person i gyfathrebu, dylid darparu cymorth priodol i'w alluogi i gymryd rhan mewn penderfyniadau sy'n effeithio arno i'r graddau sy'n briodol o dan yr amgylchiadau ac, yn achos plentyn, fel sy'n gydnaws a'r egwyddor llesiant;
 - (f) rhaid parchu dymuniadau unrhyw berson a'u dilyn ym mha le bynnag y mae hynny'n ymarferol, yn ddiogel ac yn briodol ac, yn achos plentyn, yn gydnaws â'i lefel o ddealltwriaeth a'r egwyddor llesiant;
 - (g) mae gan bobl yr hawl i wneud penderfyniadau a allai ymddangos i eraill yn afresymol, yn annoeth neu'n ecsentrig oni bai, yn achos plentyn, nad oes ganddo'r lefel angenrheidiol o ddealltwriaeth i wneud penderfyniadau o'r fath, neu fod penderfyniadau o'r fath yn anghydnaws â'r egwyddor llesiant;
 - (h) rhaid rhagdybio mai'r unigolyn yw'r person mwyaf cymwys i wneud penderfyniadau ynglŷn â'i lesiant ei hun, ac eithrio mewn achosion pan nad oes ganddo'r cymhwyster cyfreithiol angenrheidiol i wneud yr asesiad hwnnw neu, yn ychwanegol yn achos plentyn, nad oes ganddo'r lefel angenrheidiol o ddealltwriaeth i wneud yr asesiad hwnnw;
 - (i) dylid mabwysiadu'r ymyriad sy'n cyfyngu leiaf ar yr unigolyn pan fydd yn angenrheidiol ymyrryd â hawliau dynol person, yn arbennig, ond nid yn unig, ei hawl i fywyd teuluol, bywyd preifat a chartref.
- (3) Ar wahân i'r egwyddor llesiant yn is-adran 2(a), sef y brif ystyriaeth ym mhob achos sy'n ymwneud a phlant, nid yw'r egwyddorion uchod wedi'u rhestru mewn trefn blaenoriaeth ac ni roddir yr un pwyslais arnynt o reidrwydd chwaith.'

Kirsty Williams

294

Section 11, page 10, after line 21, insert—

- '() Regulations made under this section shall clarify that visits to deliver personal care in an adult's home should not normally be commissioned to last less than thirty minutes, excluding travel time.'

Adran 11, tudalen 10, ar ôl llinell 23, mewnosoder—

- '() Bydd rheoliadau a wneir o dan yr adran hon yn egluro na ddylai ymweliadau i ddarparu gofal personol yng nghartref oedolyn gael eu comisiynu fel arfer i bara llai na thri deg munud, ac eithrio amser teithio.'

Kirsty Williams 295

Section 14, page 13, after line 22, insert –

‘() The service must provide for information to be available in a range of accessible formats.’.

Adran 14, tudalen 13, ar ôl llinell 31, mewnosoder –

‘() Rhaid i’r gwasanaeth ddarparu bod gwybodaeth ar gael mewn amrywiaeth o ffurfiau hygyrch.’.

Kirsty Williams 296

Section 16, page 15, leave out lines 26 to 27.

Adran 16, tudalen 15, hepgorer llinellau 29 hyd at 30.

Kirsty Williams 297

Section 18, page 17, leave out lines 15 to 16.

Adran 18, tudalen 17, hepgorer llinellau 16 hyd at 17.

Kirsty Williams 298

Section 21, page 20, leave out lines 1 to 2.

Adran 21, tudalen 20, hepgorer llinellau 1 hyd at 2.

Kirsty Williams 299

Section 26, page 22, line 17, leave out subsection (4) and insert –

‘() The eligibility criteria are met where one or more of the following circumstances apply –

- (a) there is, or will be, an inability to carry out several personal care or domestic routines;
- (b) the individual is, or will be, unable to maintain control over several aspects of their day-to-day life;
- (c) involvement in several aspects of work, education, training or recreation cannot or will not be sustained;
- (d) several domestic, family and personal relationships cannot or will not be sustained;
- (e) there is abuse or neglect or risk of abuse or neglect.

() In the case of a child the eligibility criteria are met where subsection (*first subsection to be inserted by amendment 299*) applies or there is harm or risk of harm.’.

Adran 26, tudalen 22, llinell 20, hepgorer is-adran (4) a mewnosoder –

‘() Bodlonir y meini prawf cymhwysra pan fydd un neu ragor o’r amgylchiadau a ganlyn yn gymwys –

- (a) bod, neu bydd, analluedd i ymgymryd â sawl tasg arferol o ran gofal personol neu ddomestig;

- (b) nad yw'r unigolyn, neu na fydd yr unigolyn, yn gallu cynnal rheolaeth dros sawl agwedd ar ei fywyd pob dydd;
 - (c) na ellir cynnal sawl agwedd ar waith, addysg, hyfforddiant neu weithgareddau hamdden neu na fydd yr agweddau hynny yn cael eu cynnal;
 - (d) na ellir cynnal sawl perthynas ddomestig, deuluol neu bersonol neu na fydd y perthnasoedd hynny yn cael eu cynnal;
 - (e) bod camdriniaeth neu esgeulustod neu risg o gamdriniaeth neu esgeulustod.
- () Yn achos plentyn, bodlonir y meini prawf cymhwysytra pan fydd is-adran (*yr is-adran cyntaf sy'n cael ei fewnosod gan welliant 299*) yn gymwys neu pan fydd niwed neu risg o niwed.'.

William Graham

75A

As an amendment to amendment 75, line 25, after 'support', insert '(including financial support)'.
Fel gwelliant i welliant 75, llinell 23, ar ôl 'arall', mewnosoder '(gan gynnwys cymorth ariannol)'.

William Graham

75B

As an amendment to amendment 75, after line 26, insert –

'() Regulations may make further provision about post-18 living arrangements.'

Fel gwelliant i welliant 75, ar ôl llinell 24, mewnosoder –

'() Caiff rheoliadau wneud darpariaeth bellach am drefniadau byw ôl-18.'

William Graham

75C

As an amendment to amendment 75, after line 26, insert –

'() Every local authority shall give such publicity to post-18 living arrangements as they consider appropriate.'

Fel gwelliant i welliant 75, ar ôl llinell 24, mewnosoder –

'() Rhaid i bob awdurdod lleol roi unrhyw gyhoeddusrwydd i drefniadau byw ôl-18 y mae'n ystyried ei fod yn briodol.'

William Graham

76A

As an amendment to amendment 76, line 5, after 'support', insert '(including financial support)'.
Fel gwelliant i welliant 76, llinell 5, ar ôl 'arall', mewnosoder '(gan gynnwys cymorth ariannol)'.