

2015 No. 1818 (W. 261)

**CHILDREN AND YOUNG
PERSONS, WALES**

**The Care Planning, Placement and
Case Review (Wales) Regulations
2015**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about care planning for looked after children (i.e. children who are looked after by a local authority (“LA”), whether or not they are in the care of the LA by virtue of a care order), and associated matters.

They are made under provisions within Part 6 of the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”), which replaces, in relation to Wales, the provision formerly made by Part 3 of and Schedule 2 to the Children Act 1989 (as amended in particular by the Children and Young Persons Act 2008) (“the 1989 Act”) and under provisions within Part 4 of the 1989 Act.

They are also, in part, consolidating Regulations which revoke and replace provisions in earlier Regulations (details of which are set out in Schedule 11) dealing with care planning, placement decisions and the review of a looked after child’s case.

Part 2 deals with the LA’s arrangements for looking after the child. It specifies when the LA’s plan for the care and support of the child (the care and support plan) must be produced (*regulation 4*), its content (*regulation 5*) and makes provision for the LA to revise the plan and provide copies (*regulation 6*). It makes provision for a registered medical practitioner or registered nurse to carry out an assessment of the child’s health, and for the provision of health care (*regulation 7*). It sets out the steps to be followed when a LA makes a decision under section 34(6) of the 1989 Act to refuse to allow contact with a child (*regulations 8 and 9*).

Part 3 contains general provisions about placements. It contains provisions about the placement plan to be prepared by the LA (*regulation 10*), about steps to be taken to avoid disruption of a child's education as a result of a change in placement (*regulation 11*), special provisions about placements outside Wales and outside England and Wales (*regulations 12 and 13*), to whom notification of a placement must be given (*regulation 14*) and the circumstances in which a placement may be terminated (*regulation 15*).

Part 4 makes provision about particular types of placement – with parents (*regulations 16 to 21*), and with local authority foster parents (*regulations 22 to 26*). It also makes provision about the placement of children with particular prospective adopters in accordance with section 81(11) of the 2014 Act and about the temporary approval of such persons as local authority foster parents in respect of a particular child. It also contains provision about other arrangements under section 81(6)(d) of the 2014 Act (*regulation 30*).

Part 5 specifies arrangements to be made for a child to be visited by a representative of the LA, the frequency, circumstances and consequences of such visits (*regulations 31 to 33 and 35*), and the advice and other support that must be made available to the child between such visits (*regulation 34*). Part 5 also contains details of the considerations a LA must have in mind when deciding whether to appoint an independent visitor for a looked after child.

Part 6 contains provisions about the LA's reviews of the child's case – the general responsibility for carrying out reviews (*regulation 38*), the timing and conduct of reviews, including the role of the independent reviewing officer (*regulations 39 to 42*) and arrangements for implementing decisions and keeping records of reviews (*regulations 43 and 44*).

Part 7 sets out arrangements to be made by the LA for ceasing to look after a child. This Part is a re-enactment of provisions which were formerly in the Children (Leaving Care) (Wales) Regulations 2001, which prescribed (in accordance with paragraph 19B of Schedule 2 to the 1989 Act) the criteria required for a child to be designated as an "eligible child" for the purposes of the 1989 Act. The 2014 Act does not replicate the terminology contained within the 1989 Act and *regulation 47* of these Regulations specifies the relevant period and age in accordance with section 104(2) of the 2014 Act in order to determine if a child who is looked after by a LA is a category 1 young person for the purposes of the 2014 Act. It contains new obligations for a LA to provide information about the making of and the support available for persons who wish to make a post-18 living arrangement (in accordance with section 108 of the 2014 Act).

Part 8 deals with the additional functions, qualifications and experience of independent reviewing officers (*regulations 53 and 54*) and the definition of an independent visitor appointed under section 98 of the 2014 Act (*regulation 55*).

Part 9 deals with the application of the Regulations, subject to specified modifications, to children who are remanded to local authority accommodation or youth detention accommodation and to children who are in the care of a local authority who, having been convicted of an offence, are detained in prison or youth detention accommodation or who are required to reside in approved or other specified premises.

Part 10 contains miscellaneous provisions including the application of the Regulations (subject to modifications) to short break placements. Part 10 also contains provision about a LA's responsibilities in relation to the keeping of records.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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**CHILDREN AND YOUNG
PERSONS, WALES**

The Care Planning, Placement and
Case Review (Wales) Regulations
2015

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The Welsh Ministers, in exercise of the powers conferred by the provisions in Schedule 1, make the following Regulations⁽¹⁾:

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Care Planning, Placement and Case Review (Wales) Regulations 2015 and they come into force on 6 April 2016.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

(1) See section 197(1) of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (“the 2014 Act”) for the definitions of “specified and “regulations”.

“the 1989 Act” (“*Deddf 1989*”) means the Children Act 1989(1);

“the 2012 Act” (“*Deddf 2012*”) means the Legal Aid, Sentencing and Punishment of Offenders Act 2012(2);

“the 2014 Act” (“*Deddf 2014*”) means the Social Services and Well-being (Wales) Act 2014(3);

“the Fostering Regulations” (“*y Rheoliadau Maethu*”) means the Fostering Services (Wales) Regulations 2003(4);

“appropriate person” (“*person priodol*”) means—

- (a) P, where C is to live, or lives, with P;
- (b) F, where C is to be placed, or is placed, with F;
- (c) where C is to be placed, or is placed, in a children’s home, the person who is registered under Part 2 of the Care Standards Act 2000(5) in respect of that home; or
- (d) where C is to be placed, or is placed, in accordance with other arrangements under section 81(6)(d) of the 2014 Act, the person who will be responsible for C at the accommodation;

“area authority” (“*awdurdod yr ardal*”) means the local authority or local authority in England(6) for the area in which C is placed, or is to be placed, where this is different from the responsible authority;

“C” (“*C*”) means a child who is looked after by the responsible authority(7);

“care and support plan” (“*cynllun gofal a chymorth*”) means the plan for the future care and support of C prepared and maintained in accordance with section 83 of the 2014 Act;

“case record” (“*cofnod achos*”) has the meaning given in regulation 63;

“connected person” (“*person cysylltiedig*”) means a relative(8), friend or other person connected with C;

“detention placement plan” (“*cynllun lleoli dan gadwad*”) has the meaning given in regulation 58;

“director” (“*cyfarwyddwr*”) means the person in charge of a secure training centre;

(1) 1989 c. 41.
(2) 2012 c. 10.
(3) 2014 anaw 4.
(4) S.I. 2003/237 (W. 35).
(5) 2000 c.14.
(6) “Local authority” and “local authority in England” are defined in section 197(1) of the 2014 Act.
(7) For the meaning of a child who is “looked after” see section 74 of the 2014 Act.
(8) “Relative” is defined in section 197(1) of the 2014 Act.

“F” (“*F*”) means a person who is approved as a local authority foster parent⁽¹⁾ and with whom it is proposed to place C or, as the case may be, with whom C is placed;

“fostering service provider” (“*darparwr gwasanaeth maethu*”) means—

(a) a fostering service provider within the meaning given in regulation 2(1) of the Fostering Regulations⁽²⁾, and

(b) a fostering service provider within the meaning given in regulation 2(1) of the Fostering Services (England) Regulations 2011⁽³⁾;

“full assessment process” (“*proses asesu gyflawn*”) has the meaning given in regulation 26(2)(d);

“general practitioner” (“*ymarferydd cyffredinol*”) means a registered medical practitioner⁽⁴⁾ who—

(a) provides primary medical services under Part 4 of the National Health Service (Wales) Act 2006⁽⁵⁾, or

(b) provides services which correspond to services provided under Part 4 of the National Health Service (Wales) Act 2006, otherwise than in pursuance of that Act;

“governor” (“*llywodraethwr*”) means the person in charge of a young offender institution;

“health care provider” (“*darparwr gofal iechyd*”) means, in the case of a placement in Wales, a local health board⁽⁶⁾, or in the case of a placement in a local authority area in England, the National Health Service Commissioning Board⁽⁷⁾ and any

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- (1) “Local authority foster parent” is defined for the purposes of the 2014 Act in section 197(1) of that Act.
- (2) This definition is set out in identical terms in the Fostering Services (England) Regulations 2011 (S.I. 2011/581) in respect of local authority foster parents approved in England. S.I. 2011/581.
- (3) The definition of a “registered medical practitioner” in Schedule 1 to the Interpretation Act 1978 (c. 30) was substituted by S.I. 2002/3135, Schedule 1, paragraph 10 with effect from 10 November 2009.
- (4) 2006 c. 42 (“the 2006 Act”). Primary medical services may be provided under a “general medical services contract” in accordance with section 42 of the 2006 Act, or in accordance with arrangements made under section 41(2)(a) of the 2006 Act (Local Health Board Medical Services) or arrangements under section 41(2)(b) of the 2006 Act (Alternative Provider Medical Services).
- (5) Local health board established in accordance with section 11 of the National Health Service (Wales) Act 2006 (c. 42).
- (6) The National Health Service Commissioning Board is established by section 1H of the National Health Service Act 2006 (c. 41) (“the 2006 Act”), as inserted by section 9(1) of the Health and Social Care Act 2012 (c. 7).

relevant clinical commissioning group⁽¹⁾) and in any other case, the equivalent body in the country in which C is placed or is to be placed;

“health plan” (“*cynllun iechyd*”) has the meaning given in regulation 5(1)(b)(i);

“IFS team” (“*tîm integredig cymorth i deuluoedd*”) means an integrated family support team established by a local authority with the participation of a local health board in accordance with section 57 of the Children and Families (Wales) Measure 2010⁽²⁾;

“independent visitor” (“*ymwelydd annibynnol*”) means the independent person appointed to be C’s visitor under section 98 of the 2014 Act;

“IRO” (“*SAA*”) means the independent reviewing officer appointed for C’s case under section 99(1) of the 2014 Act;

“LAC Education Co-ordinator” (“*Cydgysylltydd Addysg PDG*”) means the person designated by the responsible authority to co-ordinate personal education plans and to address the educational needs of looked after children and care leavers within the area of the responsible authority;

“lead director for children and young people’s services” (“*cyfarwyddwr arweiniol ar gyfer gwasanaethau plant a phobl ifanc*”) means the officer of the responsible authority appointed for the purposes of section 27 of the Children Act 2004⁽³⁾;

“link worker” (“*gweithiwr dolen gyswllt*”) means a member of staff of a children’s home appointed in accordance with the requirements of the Children’s Homes (Wales) Regulations 2002⁽⁴⁾ with particular responsibility for protecting and promoting the health and educational well-being of a child and for liaison with education and health care providers on that child’s behalf;

“nominated officer” (“*swyddog enwebedig*”) means the director for social services or other senior officer of the responsible authority nominated in writing by the director of social services to act on his or her behalf for the purposes of these Regulations;

“P” (“*P*”) means—

(a) a person who is C’s parent;

(1) A clinical commissioning group is a body established under section 14D of the 2006 Act. Section 14D is inserted by section 25(1) of the Health and Social Care Act 2012. *See also* section 11 of the 2006 Act, which is inserted by section 10 of the Health and Social Care Act 2012.

(2) 2010 nawm 1.

(3) 2004 c. 31.

(4) S.I. 2002/327 (W. 40); the requirement to appoint a “link worker” was inserted in regulation 11 by the Children’s Homes (Wales) (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/311 (W. 28)).

- (b) a person who is not C’s parent but who has parental responsibility for C; or
- (c) where C is in the care of the responsible authority and there was a child arrangements order⁽¹⁾ which regulated C’s living arrangements in force immediately before the care order was made, a person named in the child arrangements order as a person with whom C was to live⁽²⁾;

“pathway plan” (“*cynllun llwybr*”) has the meaning given in section 107 of the 2014 Act;

“personal adviser” (“*cynghorydd personol*”) means the personal adviser arranged for C in accordance with section 106 of the 2014 Act;

“personal education plan” (“*cynllun addysg personol*”) has the meaning given in regulation 5(b)(ii);

“placement” (“*lleoliad*”) means—

- (a) arrangements made by the responsible authority for C to live with P in accordance with section 81(2) of the 2014 Act, where C is in the care of the responsible authority, or
- (b) arrangements made by the responsible authority to provide for C’s accommodation and maintenance by any of the means specified in section 81(6) of the 2014 Act;

“placement plan” (“*cynllun lleoli*”) has the meaning given in regulation 10(1)(a) and forms part of C’s care and support plan;

“R” (“*R*”) means the representative of the responsible authority who visits C in accordance with arrangements made by it under section 97 of the 2014 Act;

“registered dental practitioner” (“*ymarferydd deintyddol cofrestredig*”) means a person registered in the dentists register under section 14 of the Dentists Act 1984⁽³⁾ who—

(1) Section 12 of the Children and Families Act 2014 (c. 6) removed the definitions of “residence order” and “contact order” in section 8(1) of the 1989 Act and replaced it with a new order, “the child arrangements order”.

(2) Any reference to a child who is in the care of an authority means a child who is in their care by virtue of a care order, *see* section 105(1) of the 1989 Act.

(3) 1984 c. 24.

(a) provides primary dental services under Part 5 of the National Health Service (Wales) Act 2006(1), or

(b) provides services which correspond to services provided under Part 5 of the National Health Service (Wales) Act 2006, otherwise than in pursuance of that Act;

“responsible authority” (*“awdurdod cyfrifol”*) means the local authority that looks after C;

“registered manager” (*“rheolwr cofrestredig”*) means the person who is registered under Part 2 of the Care Standards Act 2000(2) as a manager of a secure children’s home;

“remand to local authority accommodation” (*“remánd i lety awdurdod lleol.”*) has the meaning given in section 91(3) of the 2012 Act(3);

“remand to youth detention accommodation” (*“remánd i lety cadw ieuenctid”*) has the meaning given in 91(4) of the 2012 Act;

“secure children’s home” (*“cartref plant diogel”*) has the meaning given in section 102(11) of the 2012 Act(4);

“secure training centre” (*“canolfan hyfforddi ddiogel”*) has the meaning given in section 43(1)(d) of the Prison Act 1952(5);

“special educational needs” (*“anghenion addysgol arbennig”*) and “special educational provision” (*“darpariaeth addysgol arbennig”*) have the meanings given in section 312 of the Education Act 1996(6);

“temporary approval” (*“cymeradwyaeth dros dro”*) has the meaning given in regulation 26(1);

“working day” (*“diwrnod gwaith”*) means any day other than—

(1) 2006 c. 42 (“the 2006 Act”). Primary medical services may be provided under a “general medical services contract” in accordance with section 42 of the 2006 Act, or in accordance with arrangements made under section 41(2)(a) of the 2006 Act (Local Health Board Medical Services) or arrangements under section 41(2)(b) of the 2006 Act (Alternative Provider Medical Services).

(2) 2000 c. 14.

(3) That is, remand to accommodation provided by or on behalf of local authority in accordance with section 92 of the 2012 Act.

(4) That is, accommodation which is provided in a children’s home (within the meaning of the Care Standards Act 2000) which— (a) provides accommodation for the purposes of restricting liberty, and (b) in respect of which a person is registered under Part 2 of that Act.

(5) 1952 c. 52.

(6) 1996 c. 56; section 312 was amended by paragraph 23 of the Schedule 7 and Schedule 8 to the Education Act 1997 (c. 44), paragraphs 57 and 71 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31), paragraph 56 of Schedule 9 to the Learning and Skills Act 2000 (c. 21), and paragraph 3 of Schedule 1 to the Education and Inspections Act 2006 (c. 40).

- (a) a Saturday or Sunday,
- (b) Christmas day or Good Friday, or
- (c) a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971⁽¹⁾; and

“young offender institution” (*“sefydliad troseddwyr ifanc”*) has the meaning given in section 43(1)(aa) of the Prison Act 1952⁽²⁾.

(2) In these Regulations any reference to C being “detained” (*“dan gadwad”*) means that C, having been convicted of an offence, is—

- (a) detained in prison⁽³⁾ or in youth detention accommodation, or
- (b) residing in approved premises, or
- (c) residing in any other premises because a requirement to do so has been placed on C as a condition of the grant of bail in criminal proceedings, and

immediately before such detention or requirement to reside was imposed C was in the care of the responsible authority.

(3) In these Regulations any reference to any document or other record includes any such document or record that is kept or provided in a readily accessible form and includes copies of original documents and electronic methods of recording information.

3. These Regulations do not apply in relation to any child who is looked after by a local authority and who has been placed for adoption under the Adoption and Children Act 2002⁽⁴⁾ unless the child falls within regulation 56.

PART 2

Arrangements for looking after a child

Care planning

4.—(1) Where C is not in the care of the responsible authority and a care and support plan for C has not already been prepared, the responsible authority must assess C’s needs for services to achieve or maintain a

(1) 1971 c. 80.
(2) Section 43(1)(aa) was inserted by section 170 of, and paragraph 11 of Schedule 15 to, the Criminal Justice Act 1988 (c. 33) and by section 148(1) of, and paragraph 3 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4).
(3) “Prison”, “youth detention accommodation”, “approved premises”, and “bail in criminal proceedings” are defined in section 188(1) of the 2014 Act.
(4) 2002. c.28.

reasonable standard of health or development, and prepare such a plan⁽¹⁾.

(2) Where C has a care and support plan prepared in accordance with section 54 of the 2014 Act, the responsible authority must take the information recorded in that plan into account in its assessment under paragraph (1).

(3) Except in the case of a child to whom section 31A of the 1989 Act (care orders: care plans) applies⁽²⁾, the care and support plan must be prepared before C is first placed by the responsible authority or, if it is not practicable to do so, within 10 working days of the start of the first placement.

(4) When assessing C's needs under paragraph (1), the responsible authority must consider whether the accommodation provided for C meets the requirements of Part 6 of the 2014 Act.

(5) Unless paragraph (6) applies, the care and support plan should, so far as is reasonably practicable, be agreed by the responsible authority with—

(a) any parent of C's and any person who is not C's parent but who has parental responsibility for C, or

(b) if there is no such person, the person who was caring for C immediately before the responsible authority arranged a placement for C.

(6) Where C is aged 16 or over and agrees to be provided with accommodation under section 76 of the 2014 Act, the care and support plan must be agreed with C by the responsible authority.

(7) Where a care and support plan prepared in accordance with this Part satisfies the requirements for a care plan required by section 31A of the 1989 Act, it may be treated as a "section 31A plan".

(8) Where C was first placed by the responsible authority before 6 April 2016 the care and support plan must be prepared as soon as reasonably practicable.

Preparation and content of the care and support plan

5.—(1) The care and support plan must include a record of the following information—

(a) the long term plan for C's upbringing ("the plan for permanence");

(b) the arrangements made by the responsible authority to meet C's needs in relation to—

(1) This includes a plan prepared under section 31A of the 1989 Act.

(2) In the case of a child to whom section 31A applies, the court will set the timetable within which the care plan must be prepared.

- (i) health, including the information set out in paragraph 1 of Schedule 2 (“the health plan”),
 - (ii) education and training, including the information set out in paragraph 2 of Schedule 2 (“the personal education plan”),
 - (iii) emotional and behavioural development,
 - (iv) identity, with particular regard to C’s religious persuasion, racial origin, sexual orientation, and cultural and linguistic background,
 - (v) family and social relationships and in particular the information set out in paragraph 3 of Schedule 2,
 - (vi) social presentation, and
 - (vii) self-care skills;
- (c) except in a case where C is in the care of the responsible authority but is not provided with accommodation by it by any of the means referred to in section 81 of the 2014 Act, details of the arrangements made and accommodation provided for C (“the placement plan”);
- (d) the name of the IRO;
- (e) details of the views, wishes and feelings of those persons ascertained and considered by the responsible authority in accordance with sections 6(2) and (4), 7(2) and 78(3) of the 2014 Act about the arrangements referred to in sub-paragraph (b), the placement plan and any change, or proposed change in the care and support plan;
- (f) where C is—
- (i) a victim, or there is reason to believe C may be a victim, of trafficking in human beings within the meaning of the Council of Europe Convention on Action against Trafficking in Human Beings,
 - (ii) an unaccompanied asylum seeking child within the meaning of the Immigration Rules and has applied, or has indicated to the responsible authority an intention to apply, for asylum and has not been granted indefinite leave to remain,

that fact.

(2) In this regulation, “Immigration Rules” (“*Rheolau Mewnffudo*”) means the rules for the time being laid down by the Secretary of State as mentioned in section 3(2) of the Immigration Act 1971(1).

(1) 1981 c. 77.

6.—(1) The responsible authority must keep C’s care and support plan under review in accordance with Part 6 and, if it is of the opinion some change is required, it must revise the plan or make a new plan accordingly.

(2) Unless otherwise provided in these Regulations, the responsible authority must not make any significant change to the care and support plan unless the proposed change has first been considered at a review of C’s case, undertaken in accordance with Part 6.

(3) Subject to paragraph (4), the responsible authority must give a copy of the care and support plan—

- (a) to C, unless, in the opinion of the responsible authority, it would not be appropriate to do so having regard to C’s age and understanding,
- (b) to P,
- (c) to the IRO,
- (d) where C is to be placed, or is placed, with F, to the fostering service provider that approved F, in accordance with the Fostering Regulations or the Fostering Services (England) Regulations 2011,
- (e) where C is to be placed, or is placed, in a children’s home, to the person who is registered under Part 2 of the Care Standards Act 2000 in respect of that home, and
- (f) where C is to be placed, or is placed, in accordance with other arrangements under section 81(6)(d) of the 2014 Act, to the person who will be responsible for C at the accommodation.

(4) The responsible authority may decide not to give a copy of the care and support plan, or a full copy of the care and support plan, to P if it considers to do so would put C at risk of harm⁽¹⁾.

Health care

7.—(1) Before C is first placed by it or, if that is not reasonably practicable, before the first review of C’s case, the responsible authority must make arrangements for a registered medical practitioner or a registered nurse to—

- (a) carry out an assessment of C’s state of health, which may include a physical examination, and
- (b) provide a written report of the assessment, addressing the matters specified in paragraph 1 of Schedule 2 with particular reference to C’s state of mental health,

(1) “Harm” is defined in section 197(1) of the 2014 Act.

as soon as reasonably practicable.

(2) Paragraph (1) does not apply if, within a period of 3 months immediately preceding the placement, an assessment of C's state of health has been carried out and the responsible authority has obtained a written report that meets the requirements of that paragraph and it is satisfied that no significant changes have occurred within the period since the assessment was made.

(3) The responsible authority must make arrangements for a registered medical practitioner or a registered nurse or a registered midwife acting under the supervision of a registered medical practitioner to review C's state of health and provide a written report of each review, addressing the matters specified in paragraph 1 of Schedule 2 with particular reference to C's state of mental health—

- (a) at least once, and more frequently if C's well-being requires it, in every period of 6 months before C's fifth birthday, and
- (b) at least once, and more frequently if C's well-being requires it, in every period of twelve months after C's fifth birthday.

(4) Paragraphs (1) and (3) do not apply if C refuses consent to the assessment, being of sufficient age and understanding to do so.

(5) The responsible authority must take all reasonable steps to ensure that C is provided with appropriate health care services, in accordance with the health plan, including—

- (a) medical and dental care and treatment, and
- (b) advice and guidance on health, personal care and health promotion issues.

(6) The responsible authority must ensure that C is—

- (a) registered with a general practitioner as soon as practicable and in any event not later than 10 working days after the placement is made; and
- (b) under the care of a registered dental practitioner as soon as practicable and in any event not later than 20 working days after the placement is made.

(7) The responsible authority must ensure as far as practicable, that C continues to be registered with a general practitioner and under the care of a registered dental practitioner, throughout the duration of the placement.

(8) Where C was first placed by the responsible authority before 6 April 2016 and paragraph (2) does not apply, and no assessment of C's health has taken place or C has not been registered with a general practitioner or placed under the care of a registered

dental practitioner, this regulation applies as if that placement had been made on 6 April 2016.

Contact with a child in care

8. When considering whether contact between C and any of the persons mentioned in paragraphs (a) to (d) of section 34(1) of the 1989 Act is consistent with safeguarding and promoting C’s well-being, the responsible authority must have regard to C’s care and support plan.

9.—(1) This regulation applies if C is in the care of the responsible authority and the responsible authority has decided under section 34(6) of the 1989 Act (refusal of contact as a matter of urgency) to refuse to allow contact that would otherwise be required by virtue of section 34(1) of the 1989 Act⁽¹⁾ or an order under section 34 of that Act (parental contact etc. with children in care).

(2) The responsible authority must immediately give written notification to the following persons of the information specified in paragraph (3) (“the specified information”)—

- (a) C, unless it would not be appropriate to do so having regard to C’s age and understanding,
- (b) P,
- (c) where immediately before the care order was made a person had care of C by virtue of an order made in exercise of the High Court’s inherent jurisdiction with respect to children, that person,
- (d) any other person whose views, wishes and feelings the responsible authority consider to be relevant, and
- (e) the IRO.

(3) The specified information is—

- (a) the responsible authority’s decision;
- (b) the date of the decision;
- (c) the reasons for the decision;
- (d) the duration of the decision (if applicable); and
- (e) remedies available in case of dissatisfaction.

(4) The responsible authority may depart from the terms of any order made under section 34 of the 1989 Act by agreement with the person in relation to whom the order is made, provided that—

- (a) C, being of sufficient age and understanding, also agrees, and

(1) Section 34(1) of the 1989 Act was amended by section 139(1) of and paragraphs 54 and 59 to Schedule 3 to the Adoption and Children Act 2002 (c. 38).

(b) written notification of the specified information is sent within 5 working days to the persons listed in paragraph (2).

(5) Where the responsible authority has decided to vary or suspend any arrangements made (otherwise than under an order under section 34 of the 1989 Act) with a view to affording any person contact with C, the responsible authority must immediately give written notification containing the specified information to the persons listed in paragraph (2).

(6) The responsible authority must record any decision made under this regulation in C's care and support plan.

PART 3

Placements – general provisions

Placement plan

10.—(1) Subject to paragraphs (2) and (4), before making arrangements in accordance with section 81 of the 2014 Act for C's placement, the responsible authority must—

- (a) incorporate within C's care and support plan details of the plan for C's placement ("the placement plan") which—
 - (i) sets out how the placement will contribute to meeting C's needs, and
 - (ii) includes all the matters specified in Schedule 3 as are applicable, having regard to the type of the placement, and
- (b) ensure that—
 - (i) C's views, wishes and feelings have been ascertained and given due consideration, and
 - (ii) the IRO has been informed.

(2) If it is not reasonably practicable to prepare the placement plan before making the placement, the placement plan must be prepared within 5 working days of the start of the placement.

(3) The placement plan must be agreed with, and signed by, the appropriate person.

(4) Where the arrangements for C's placement were made before 6 April 2016, the responsible authority must prepare the placement plan as soon as reasonably practicable.

Avoidance of disruption in education

11.—(1) Subject to paragraphs (2) and (3), if C is a registered pupil at a school in the fourth key stage⁽¹⁾, a decision to make any change to C's placement that would have the effect of disrupting the arrangements made for C's education must not be put into effect until it has been approved by the nominated officer.

(2) Before approving a decision under paragraph (1), the nominated officer must be satisfied that—

- (a) the requirements of regulation 10(1)(b)(i) have been complied with,
- (b) the educational provision made for C at the placement will promote C's educational achievement and is consistent with C's personal education plan,
- (c) the designated person⁽²⁾ at the school has been consulted,
- (d) the LAC Education Co-ordinator has been consulted,
- (e) the IRO has been consulted, and
- (f) where C is placed in a children's home, C's link worker has been consulted.

(3) Paragraph (1) does not apply in any case where—

- (a) the responsible authority terminates C's placement in accordance with regulation 15(3), or
- (b) it is necessary for any other reason to change C's placement in an emergency,

and in such a case the responsible authority must make appropriate arrangements to promote C's educational achievement as soon as reasonably practicable.

(4) In any case not falling within paragraph (1), but where the responsible authority proposes making any change to C's placement that would have the effect of disrupting the arrangements made for C's education or training, the responsible authority must ensure that other arrangements are made for C's education or training that meets C's needs and are consistent with C's personal education plan.

(5) In this regulation—

- (a) "registered pupil" ("*disgybl cofrestredig*") has the meaning given in section 20(7) of the Children and Young Persons Act 2008⁽³⁾, and

(1) "Fourth key stage" is defined in section 91(2) of the 2014 Act.

(2) The "designated person" in the case of a maintained school means the member of staff designated by the governing body in accordance with section 20(1) of the 2008 Act and in this case the meaning given to "school" is set out in section 434(5) of the Education Act 1996 (c. 56).

(3) 2008 c. 23.

- (b) “school” (“ysgol”) has the meaning given in section 4 of the Education Act 1996(1).

Placements out of area

Placement decision

12.—(1) A responsible authority may only decide to place C outside its area if it is satisfied that there is no placement available within its area capable of meeting C’s needs (“an out of area placement”).

(2) Where paragraph (1) applies, the responsible authority must seek an out of area placement for C, in accordance with the following order of preference,—

- (a) within a local authority whose area borders that of the responsible authority;
- (b) within a local authority in England whose area borders that of the responsible authority;
- (c) within any other local authority;
- (d) within a local authority in England, or
- (e) subject to the requirements of section 124 of the 2014 Act, outside England and Wales(2).

(3) Subject to paragraph (5), where a responsible authority is satisfied that an out of area placement is necessary in C’s case, the decision to place C in an out of area placement must not be put into effect until—

- (a) the decision has been referred to and approved by a panel,
- (b) the panel’s approval of that decision is recorded in writing giving reasons for its approval, and
- (c) that record of approval is endorsed in writing by the nominated officer to confirm his or her approval.

(4) Before approving a decision under paragraph (1), the panel and the nominated officer must each be satisfied that—

- (a) the requirements of regulation 10(1)(b)(i) have been complied with,
- (b) the placement is the most appropriate placement available for C and is consistent with C’s care and support plan,
- (c) C’s relatives(3) have been consulted, where appropriate,
- (d) the IRO has been consulted,

(1) That is, an educational institution, outside the further and higher education sectors, for providing primary and/ or secondary education.

(2) Section 124 of the 2014 Act requires the permission of the court in such cases.

(3) “Relative” is defined in section 197(1) of the 2014 Act.

- (e) where C has special education needs met in a special educational plan, the local authority or local authority in England in whose area it is proposed to place C has been notified of the placement and agreement has been reached with that authority in respect of the meeting of C's special educational needs during C's placement in its area, and
 - (f) if C has health needs which require attention, the health care provider for the area of the local authority or local authority in England has been notified and, in appropriate cases, agreement has been reached with the health care provider in respect of the meeting of C's health needs.
- (5) In the case of a placement made in an emergency—
- (a) paragraph (3) does not apply;
 - (b) paragraph (4) applies subject to the modifications in sub-paragraph (c);
 - (c) the responsible authority must ensure that—
 - (i) a record of the decision is made in writing, giving reasons for the decision,
 - (ii) the record is endorsed by the nominated officer to confirm his or her agreement with the decision,
 - (iii) paragraph (4)(a) and (b) are complied with before the placement is made,
 - (iv) paragraph (4)(c) and (d) are complied with within 5 working days of the placement being made, and
 - (v) paragraph (4)(e) and (f) are complied with as soon as possible after the placement has been made.
- (6) Where a placement is made in accordance with paragraph (5)—
- (a) the responsible authority must refer the placement to a panel as soon as practicable after the placement is made and in any event not later than 25 working days after the placement is made, and
 - (b) the placement must be notified to the local authority or the local authority in England in whose area C has been placed not later than 5 working days after the placement is made.
- (7) The record of any decision made in accordance with this regulation must be made available to the lead member for children's services for the responsible authority.
- (8) In this regulation—
- “notified” (“*hysbysu*”) in paragraph (6)(b) means that the responsible authority must provide—

- (a) details of its assessment of C's needs and the reasons why the placement chosen is the most appropriate way of meeting C's needs, and
- (b) a copy of C's care and support plan if it has not already been provided;

“panel” (“*panel*”) means a panel of representatives from such agencies as may assist a responsible authority in planning the placement for a C and in meeting C's needs during the placement and must include a representative from the local authority or local authority in England in whose area C is to be placed and, in appropriate cases, any relevant health care or education provider.

Placement outside England and Wales

13.—(1) This regulation applies if—

- (a) C is in the care of the responsible authority, and
- (b) the responsible authority makes arrangements to place C outside England and Wales in accordance with the provisions of section 124 of the 2014 Act (arrangements to assist a child to live outside England and Wales).

(2) The responsible authority must take steps to ensure that, so far as is reasonably practicable, requirements corresponding with the requirements which would have applied under these Regulations had C been placed in Wales, are complied with.

(3) The responsible authority must include in the care and support plan details of the arrangements made by the responsible authority to supervise C's placement.

Notification of placement

14.—(1) Subject to paragraph (3), the responsible authority must give written notice to the persons listed in paragraph (2) of the arrangements for C's placement before the placement is made or, if an emergency placement is necessary, within 5 working days of the start of the placement, unless it is not reasonably practicable to do so.

(2) The persons referred to in paragraph (1) are—

- (a) C, unless it would not be appropriate to do so having regard to C's age and understanding,
- (b) P,
- (c) if C is in the care of the responsible authority, any person who is allowed contact with C under section 34(1) of the 1989 Act and any person who has contact with C by virtue of an order under section 34 of that Act (parental contact etc. with children in care),

- (d) if C is looked after but is not in the care of the responsible authority, any person who has contact with C pursuant to an order made under section 8 of the 1989 Act (child arrangements orders and other orders with respect to children),
- (e) any person who was caring for C immediately before the arrangements were made,
- (f) the local health board (or, in the case of a child living or to be placed in a local authority area in England, the National Health Service Commissioning Board⁽¹⁾ and the clinical commissioning group⁽²⁾) for the area in which C is living and, if different, for the area in which C is to be placed,
- (g) C's registered medical practitioner and, where applicable, the registered medical practitioner with whom C is to be registered during the placement,
- (h) any educational establishment attended by, or person providing education or training for, C,
- (i) the LAC Education Co-ordinator for the area in which C is living, and if different, for the area in which C is to be placed,
- (j) the IRO, and
- (k) where C is placed in a children's home, C's link worker.

(3) The responsible authority may decide not to give notification to any or all of the persons listed in paragraphs (2)(b) to (e), if to do so would place C at risk of harm.

Termination of placement by the responsible authority

15.—(1) Subject to paragraphs (3) and (5), the responsible authority may only terminate C's placement following a review of C's case in accordance with Part 6.

(2) Subject to paragraphs (3) and (4), before terminating C's placement, the responsible authority must—

- (a) make other arrangements for C's accommodation, in accordance with section 81 of the 2014 Act,
- (b) inform the IRO,

(1) The National Health Service Commissioning Board is established by section 1H of the National Health Service Act 2006 (c. 41) ("the 2006 Act"), as inserted by section 9(1) of the Health and Social Care Act 2012 (c. 7) ("the 2012 Act").

(2) A clinical commissioning group is a body established under section 14D of the 2006 Act. Section 14D is inserted by section 25(1) of the 2012 Act. *See also* section 11 of the 2006 Act, which is inserted by section 10 of the 2012 Act.

(c) so far as is reasonably practicable, give written notification of its intention to terminate the placement to—

(i) all the persons to whom notification of the placement was given under regulation 14,

(ii) the person with whom C is placed,

(iii) where C is placed in the area of another local authority or local authority in England, that authority.

(3) Where there is an immediate risk of harm to C, or to protect others from serious injury the responsible authority must terminate C's placement, and in those circumstances—

(a) paragraph (1) does not apply, and

(b) the responsible authority must comply with paragraph (2)(a) and (b) as soon as reasonably practicable.

(4) If it is not reasonably practicable to notify any person in accordance with paragraph (2)(c), then the responsible authority must give written notification to that person, within 5 working days of the date on which the placement is terminated, of the fact that the placement has been terminated.

(5) This regulation does not apply where C's placement is terminated—

(a) under regulation 20(c)(ii) (circumstances in which a child may be placed with P before assessment completed),

(b) under regulation 24(2) (termination of an emergency placement),

(c) under regulation 27(6), or

(d) where section 82 of the 2014 Act (review of child's case before making alternative arrangements for accommodation) applies.

PART 4

Provision for different types of placement

CHAPTER 1

Placement of a child in care with P

Application

16.—(1) This Chapter applies if C is in the care of the responsible authority and the responsible authority, acting in accordance with section 81(2) of the 2014 Act, proposes to place C with P.

(2) Nothing in this Chapter requires the responsible authority to remove C from P's care if C is living with P before a placement decision is made about C.

Effect of contact order

17. The responsible authority must not place C with P if to do so would be incompatible with any order made by the court under section 34 of the 1989 Act (parental contact etc. with children in care).

Assessment of P's suitability to care for a child

18. Before deciding to place C with P, the responsible authority must—

- (a) assess the suitability of P to care for C, including the suitability of—
 - (i) the proposed accommodation, and
 - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that C will live,
- (b) take into account all the matters specified in Schedule 4(1) in making its assessment,
- (c) consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the placement will safeguard and promote C's well-being and meet C's needs set out in the care and support plan, and
- (d) review C's case in accordance with Part 6.

Decision to place a child with P

19.—(1) The decision to place C with P must not be put into effect until it has been approved by the nominated officer, and the responsible authority has prepared a placement plan for C.

(2) Before approving a decision under paragraph (1), the nominated officer must be satisfied that—

- (a) the requirements of regulation 10(1)(b)(i) have been complied with,
- (b) the requirements of regulation 18 have been complied with,
- (c) the placement will safeguard and promote C's well-being,
- (d) the IRO has been consulted, and
- (e) the views, wishes and feelings of any other person, whom the responsible authority considers to be relevant, have been considered.

(1) Schedule 4 contains provision specifying the matters which a responsible authority must take into account when assessing the suitability of P to care for C.

Circumstances in which a child may be placed with P before assessment completed

20. Where the nominated officer considers it to be necessary and consistent with C's well-being, the responsible authority may place C with P before its assessment under regulation 18 ("the assessment") is completed, provided that it—

- (a) arranges for P to be interviewed in order to obtain as much of the information specified in Schedule 4 about P and the other persons living in P's household who are aged over 18 years as can be readily ascertained at that interview,
- (b) ensures that the assessment and review of C's case are completed in accordance with the requirements in regulation 18 within 10 working days of C being placed with P, and
- (c) ensures that a decision in accordance with regulation 19 is made and approved within 10 working days after the assessment is completed, and—
 - (i) if the decision is to confirm the placement, review the placement plan and, if appropriate amend it, and
 - (ii) if the decision is not to confirm the placement, terminate the placement.

Support for P

21. Where C is placed, or is to be placed, with P, the responsible authority must provide such services and support to P as appear to the responsible authority to be necessary to safeguard and promote C's well-being and it must record details of such services and support in C's care and support plan.

CHAPTER 2

Placement with local authority foster parents

Interpretation

22.—(1) In this Chapter—

"approved" (*"cymeradwy"*) means a person has been approved as a local authority foster parent either—

- (a) in accordance with the Fostering Regulations; or
- (b) in accordance with the Fostering Services (England) Regulations 2011⁽¹⁾; or

(1) S.I. 2011/581.

- (c) in the case of a placement of C with a particular prospective adopter (“A”), in accordance with regulation 28; or
- (d) in a case of a placement of C with a connected person on a temporary basis, in accordance with regulation 26; and

“registered person” (“*person cofrestredig*”) has the same meaning as in the Fostering Regulations⁽¹⁾.

(2) Where C is placed jointly with two persons each of whom is approved as a local authority foster parent⁽²⁾, any reference in these Regulations to a local authority foster parent is to be interpreted as referring equally to both such persons and any requirement to be satisfied by or relating to a particular local authority foster parent must be satisfied by, or treated as relating to, both of them.

Conditions to be complied with before placing a child with a local authority foster parent

23.—(1) This regulation applies where the responsible authority proposes to place C with F.

(2) The responsible authority may only place C with F if—

- (a) F is approved by—
 - (i) the responsible authority, or
 - (ii) provided that the conditions specified in paragraph (3) are also satisfied, another fostering service provider,
- (b) the terms of F’s approval are consistent with the proposed placement, and
- (c) F has entered into a foster care agreement either with the responsible authority or with another fostering service provider in accordance with regulation 28(5)(b) of the Fostering Regulations or in accordance with regulation 27(5)(b) of the Fostering Services (England) Regulations 2011.

(3) The conditions referred to in paragraph (2)(a)(ii) are that—

- (a) the fostering service provider by whom F is approved consents to the placement, and

(1) “Registered provider” is defined in regulation 2(1) of the Fostering Regulations (and in identical terms in regulation 2(1) of the Fostering Services (England) Regulations 2011 (S.I. 2011/581).

(2) “Local authority foster parent” is defined in section 197(1) of the 2014 Act as (a) an English local authority foster parent approved in accordance with regulations made by virtue of paragraph 12F of Schedule 2 to the Children Act 1989 (regulations providing for approval of English local authority foster parents); (b) a Welsh local authority foster parent approved in accordance with regulations made by virtue of section 93 of the Social Services and Well-being (Wales) Act 2014 (regulations providing for approval of Welsh local authority foster parents).

- (b) where any other local authority or local authority in England currently have a child placed with F, that authority consents to the proposed placement.

Emergency placement with a local authority foster parent

24.—(1) Where it is necessary to place C in an emergency, the responsible authority may place C with any local authority foster parent who has been approved in accordance with the Fostering Regulations or the Fostering Services (England) Regulations 2011, even if the terms of that person’s approval are not consistent with the placement, provided that the placement is for no longer than 6 working days.

(2) When the period of 6 working days referred to in paragraph (1) expires, the responsible authority must terminate the placement unless the terms of that person’s approval have been amended to be consistent with the placement.

Placement following consideration in accordance with section 81(11) of the 2014 Act

25.—(1) This regulation applies where the responsible authority decides to place C with a particular prospective adopter (“A”) in accordance with section 81(11) of the 2014 Act.

(2) The decision to place C must not be put into effect until it has been approved by the nominated officer and the responsible authority has prepared a placement plan for C.

(3) Before approving a decision under paragraph (2) the nominated officer must—

- (a) be satisfied that the placement is the most appropriate placement available for C and it is in C’s best interests to be placed with A,
- (b) be satisfied that the requirements of regulation 10(1)(b) have been complied with, and
- (c) if their whereabouts are known to the responsible authority, notify the parent or guardian of C of the proposed placement.

Temporary approval of a relative, friend or other person connected with C

26.—(1) Where the responsible authority is satisfied that—

- (a) the most appropriate placement for C is with a connected person, notwithstanding that the connected person is not approved as a local authority foster parent, and
- (b) it is necessary for C to be placed with the connected person before the connected

person's suitability to be a local authority foster parent has been assessed in accordance with the Fostering Regulations or the Fostering Services (England) Regulations 2011,

it may approve that person as a local authority foster parent for a temporary period not exceeding 16 weeks ("temporary approval") provided that it first complies with the requirements of paragraph (2).

(2) Before making a placement under paragraph (1), the responsible authority must—

- (a) assess the suitability of the connected person to care for C, including the suitability of—
 - (i) the proposed accommodation, and
 - (ii) all other persons aged 18 and over who are members of the household in which it is proposed that C will live,taking account all the matters set out in Schedule 5,
- (b) provide such services to support the connected person as appear to the responsible authority to be necessary to safeguard and promote C's well-being and it must record details of such services and support in C's care and support plan,
- (c) consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the proposed arrangements will safeguard and promote C's well-being and meet C's needs set out in the care and support plan,
- (d) unless sub-paragraph (e) applies, make immediate arrangements for the suitability of the connected person to be a local authority foster parent to be assessed in accordance with the Fostering Regulations ("the full assessment process") before the temporary approval expires,
- (e) where the connected person is or will be seeking to be assessed as suitable to be a local authority foster parent under the Fostering Services (England) Regulations 2011, the responsible authority may request the cooperation of the fostering service provider which is undertaking the assessment to complete the process before the temporary approval expires, and
- (f) make a written agreement with the connected person to the effect that the connected person agrees to—
 - (i) care for C as if C were a member of the connected person's family,

- (ii) permit any person authorised by the responsible authority to visit C,
- (iii) permit the removal of C from the placement at any time,
- (iv) ensure that all information relating to C and to C's family is kept confidential, and
- (v) honour contact arrangements made in accordance with any order of the court or made by the responsible authority.

Expiry of temporary approval

27.—(1) Subject to paragraph (4), the responsible authority may extend the temporary approval of a connected person if—

- (a) it is likely to expire before the full assessment process is completed, or
- (b) the connected person, having undergone the full assessment process, is not approved and seeks a review of the decision in accordance with regulations made under section 87 of the 2014 Act⁽¹⁾ or under paragraph 12F(1)(b) of Schedule 2 to the 1989 Act.

(2) In a case falling within paragraph (1)(a), the responsible authority may extend the period of temporary approval once for a further period of up to 8 weeks.

(3) In a case falling within paragraph (1)(b), the responsible authority may extend the period of temporary approval until the outcome of the review is known.

(4) Before deciding whether to extend the temporary approval in the circumstances set out in paragraph (1), the responsible authority must first—

- (a) consider whether placement with the connected person is still the most appropriate placement available,
- (b) seek the views of the fostering panel established by the fostering service provider in accordance with the Fostering Regulations or in accordance with the Fostering Services (England) Regulations 2011, and
- (c) inform the IRO.

(5) A decision to extend temporary approval must be made by the nominated officer.

(1) Section 92 (regulations about the placing of children with local authority foster parents and prospective adopters) and section 93 (regulations providing for the approval of local authority foster parents) of the 2014 Act provide examples of the way in which the power to make regulations under section 87 of that Act may be exercised by the Welsh Ministers.

(6) If the period of temporary approval and of any extension to that period expires and the connected person has not been approved as a local authority foster parent in accordance with the Fostering Regulations or the Fostering Services (England) Regulations 2011, the responsible authority must terminate the placement after first making other arrangements for C's accommodation.

Temporary approval of a particular prospective adopter as a foster parent

28.—(1) Where the responsible authority is satisfied that—

(a) the most appropriate placement for C is with a person who is not approved as a local authority foster parent, but that person is the prospective adopter with whom it proposes to place C for adoption (“A”), and

(b) it is in C's best interests to be placed with A, the responsible authority may approve A as a local authority foster parent for a temporary period (“temporary approval period”) provided that the responsible authority first complies with the requirements of paragraph (2).

(2) Before approving A as local authority foster parent under paragraph (1), the responsible authority must—

(a) assess A's suitability to care for C as a foster parent, and

(b) consider whether, in all the circumstances and taking into account the services to be provided by the responsible authority, the proposed arrangements will safeguard and promote C's well-being and meet C's needs as set out in the care and support plan.

(3) The temporary approval period expires—

(a) on C's placement with A being terminated by the responsible authority;

(b) on A's approval as a prospective adopter being terminated;

(c) on A being approved as a foster parent in accordance with the Fostering Regulations or the Fostering Services (England) Regulations 2011;

(d) if A gives written notice to the responsible authority that they no longer wish to be temporarily approved as a foster parent in relation to C, with effect from 28 days from the date on which the notice is received by the responsible authority; or

- (e) on C being placed for adoption with A in accordance with the Adoption and Children Act 2002(1).

Independent fostering agencies – discharge of authority functions

29.—(1) A responsible authority may make arrangements in accordance with this regulation for the duties imposed on it by regulation 15(3) and regulation 23 to be discharged on its behalf by a registered person.

(2) No arrangements may be made under this regulation unless the responsible authority has entered into a written agreement with the registered person which includes the information set out in paragraph 1 of Schedule 6, and where the responsible authority proposes to make an arrangement under this regulation in relation to a particular child, the written agreement must also include the matters set out in paragraph 2 of Schedule 6.

(3) The responsible authority must report to the Chief Inspector of the Care and Social Services Inspectorate Wales any concerns it may have about the services provided by a registered person.

CHAPTER 3

Other arrangements

General duties of the responsible authority when placing a child in other arrangements

30. Before placing C in accommodation in an unregulated setting under section 81(6)(d) (“other arrangements”) of the 2014 Act, the responsible authority must—

- (a) be satisfied that the accommodation is suitable for C having regard to the matters set out in Schedule 7,
- (b) unless it is not reasonably practicable, arrange for C to visit the accommodation, and
- (c) inform the IRO.

(1) 2002 c. 38.

PART 5

Visits by the responsible authority's representative etc.

Frequency of visits

31.—(1) As part of its arrangements for supervising C's well-being, the responsible authority must ensure that its representative ("R") visits C in accordance with this regulation, wherever C is living.

(2) Subject to paragraphs (3) to (6), the responsible authority must ensure that R visits C—

- (a) within one week of the start of any placement,
- (b) at intervals of not more than 6 weeks for the first year of any placement, and
- (c) thereafter—
 - (i) where the placement is intended to last until C is 18, at intervals of not more than 3 months, and
 - (ii) in any other case, at intervals of not more than 6 weeks.

(3) Where regulation 20 applies, the responsible authority must ensure that R visits C—

- (a) at least once a week until the first review carried out in accordance with Part 6, and
- (b) thereafter at intervals of not more than 6 weeks.

(4) Where regulation 26 applies, or where an interim care order has been made in relation to C under section 38 of the 1989 Act (interim orders) and C is living with P, the responsible authority must ensure that R visits C—

- (a) at least once a week until the first review carried out in accordance with Part 6, and
- (b) thereafter at intervals of not more than 4 weeks.

(5) Where a care order has been made in relation to C under section 31 of the 1989 Act (care and supervision orders) and C is living with P, the responsible authority must ensure that R visits C—

- (a) within one week of the making of the care order, and
- (b) thereafter at intervals of not more than 6 weeks.

(6) Where C is in the care of the responsible authority but another person is responsible for the arrangements under which C is living for the time being ("C's living arrangements"), the responsible authority must ensure that R visits C—

- (a) within one week of the start of C's living arrangements and within one week of any change to C's living arrangements,
 - (b) at intervals of not more than 6 weeks for the first year thereafter, and
 - (c) at intervals of not more than 3 months in any subsequent year.
- (7) In addition to visits in accordance with paragraphs (2) to (6), the responsible authority must ensure that R visits C—
- (a) whenever reasonably requested to do so by—
 - (i) C,
 - (ii) where paragraphs (2), (3) or (4) apply, the appropriate person, or
 - (iii) where paragraph (5) applies, the person responsible for C's living arrangements,
 - (b) within one week of first receiving notification under section 30A(1) of the Care Standards Act 2000(2) (notification of matters relating to persons carrying on or managing certain establishments or agencies), where the children's home in which C is placed for the time being is referred to in the notification.

Conduct of visits

32.—(1) On each visit, R must speak to C in private unless—

- (a) C, being of sufficient understanding to do so, refuses,
- (b) R considers it inappropriate to do so, having regard to C's age and understanding, or
- (c) R is unable to do so.

(2) When visiting C in accordance with this Part, R must—

- (a) ensure that C's views, wishes and feelings are ascertained and given due consideration,
- (b) consider whether C's well-being is being adequately safeguarded and promoted within the placement,
- (c) monitor the achievement of actions and outcomes identified in the care and support plan and contribute (if required) to the review of the care and support plan,
- (d) monitor any contact arrangements in place and, where necessary, consider whether support, or additional support, is required to promote contact arrangements,

(1) Section 30A was inserted by section 29 of the 2008 Act.
 (2) 2000 c. 14.

- (e) identify whether additional support or services are required to support the placement.

Consequences of visits

33. Where as a result of a visit carried out in accordance with this Part, R's assessment is that C's well-being is not adequately safeguarded and promoted by the placement, the responsible authority must review C's case in accordance with Part 6.

Advice and other support for the child

34. When making arrangements in accordance with section 97(3)(b) of the 2014 Act for advice and other support to be available to C between R's visits, the responsible authority must ensure that—

- (a) the arrangements—
 - (i) are appropriate having regard to C's age and understanding, and
 - (ii) give due consideration to C's religious persuasion, racial origin, sexual orientation, cultural and linguistic background, and to any disability C may have,
- (b) C's views, wishes and feelings about the arrangements are ascertained and taken into consideration, and
- (c) as far as is reasonably practicable having regard to C's age and understanding, C knows how to seek appropriate advice and other support from it.

Records of visits undertaken by R

35. R must ensure that a written record is made of any visit undertaken in accordance with this Part which must include—

- (a) R's written assessment, having regard to C's views, wishes and feelings, as to whether C's well-being is being adequately safeguarded and promoted whilst in the placement,
- (b) details of advice or support R considers are required by C.

Appointment of an independent visitor

36.—(1) As part of its arrangements for supervising C's well-being, the responsible authority must consider whether it is appropriate to appoint an independent visitor to visit C wherever C is living in any case where—

- (a) C has not lived with a parent or a person with parental responsibility during the previous 12 months,

- (b) contact between C and a parent or a person with parental responsibility has not occurred or has been infrequent, or
 - (c) it would be in C's best interests to do so.
- (2) When making a decision under paragraph (1), the responsible authority must consider—
- (a) whether the appointment of an independent visitor would make a positive contribution to C's well-being;
 - (b) where C is placed at a distance from home, or where C is placed in the area of another local authority or a local authority in England, whether the placement makes it difficult to maintain contact arrangements;
 - (c) whether C is able to go out independently or whether C experiences difficulties in communicating or with building positive relationships;
 - (d) whether C is likely to engage in behaviour which may put C at risk of forming inappropriate relationships;
 - (e) where C is placed in a children's home, whether C's well-being would be promoted by the opportunity to establish a relationship with an independent visitor.

37. Where the responsible authority determines in accordance with regulation 36 that it is appropriate to appoint an independent visitor for C, it must explain to C (according to C's age and understanding) the role of an independent visitor.

PART 6

Reviews of the child's case

General duty of the responsible authority to review the child's case

38.—(1) The responsible authority must review C's case in accordance with this Part.

(2) The responsible authority must not make any significant change to C's care and support plan unless the proposed change has first been considered at a review of C's case, unless this is not reasonably practicable.

(3) Nothing in this Part prevents any review of C's case being carried out at the same time as any other review, assessment or consideration of C's case under any other provision.

Timing of reviews

39.—(1) The responsible authority must first review C's case within 20 working days of the date on which C becomes looked after.

(2) The second review must be carried after an interval of not more than three months after the first, and subsequent reviews must be carried out at intervals of no more than 6 months.

(3) Nothing in this regulation prevents the responsible authority from carrying out a review before the time specified in paragraph (1) or (2) and it must do so if—

- (a) the responsible authority considers that C is, or has been, persistently absent from a placement,
- (b) the responsible authority is notified by the appropriate person, P or the area authority is concerned that C is at risk of harm,
- (c) subject to paragraph (4), if C so requests,
- (d) the IRO so requests,
- (e) regulation 33 applies,
- (f) where C is provided with accommodation under section 77(2)(b) or (c) of the 2014 Act and a review would not otherwise occur before C ceases to be so provided with accommodation,
- (g) where C is in the care of the authority and is detained and a review would not otherwise occur before C ceases to be so detained, or
- (h) where C is looked after but is not in the care of the responsible authority and—
 - (i) the responsible authority proposes to cease to provide accommodation for C, and
 - (ii) accommodation will not subsequently be provided for C by C's parents (or one of them) or any person who is not C's parent but who has parental responsibility for C,
- (i) C is part of a family whose case has been referred to an IFS team and the family has been notified their case will be supported by such a team.

(4) The responsible authority is not required to carry out a review pursuant to paragraph (3)(c) if the IRO considers that a review before the time specified in paragraph (1) or (2) is not justified.

Conduct of reviews

Responsible authority policy on reviews

40.—(1) The responsible authority must prepare and implement a written policy regarding the manner in which it will review cases in accordance with this Part.

(2) The responsible authority must provide a copy of its policy to—

- (a) C, unless it would not be appropriate to do so having regard to C's age and understanding,
- (b) C's parents, or any person who is not C's parent but who has parental responsibility for C, and
- (c) any other person whose views the responsible authority considers to be relevant.

Considerations to which the responsible authority must have regard

41.—(1) The considerations to which the responsible authority must have regard in reviewing every case are set out in paragraph 1 of Schedule 8.

(2) The additional considerations to which the responsible authority must have regard in reviewing C's case where C is part of a family which is being supported by an IFS team are set out in paragraph 2 of Schedule 8.

Role of the IRO

42.—(1) The IRO must—

- (a) as far as reasonably practicable, attend any meeting held as part of the review ("the review meeting") and, if attending the review meeting, chair it,
- (b) speak to C in private about the matters to be considered at the review unless C, being of sufficient understanding to do so, refuses or the IRO considers it inappropriate having regard to C's age and understanding,
- (c) ensure that, so far as reasonably practicable, the views, wishes and feelings of C's parents, or any person who is not C's parent but who has parental responsibility for C, have been ascertained and taken into account, and
- (d) ensure the review is conducted in accordance with this Part and in particular—
 - (i) that the persons responsible for implementing any decision taken in consequence of the review are identified, and

- (ii) that any failure to review the case in accordance with this Part or to take proper steps to implement decisions taken in consequence of the review are brought to the attention of an officer at an appropriate level of seniority within the responsible authority.

(2) The IRO may, if not satisfied that sufficient information has been provided by the responsible authority to enable proper consideration of any of the matters in Schedule 8, adjourn the review meeting once for not more than 20 working days, and no proposal considered in the course of the review may be implemented until the review has been completed.

Arrangements for implementing decisions arising out of reviews

43. The responsible authority must—

- (a) make arrangements to implement decisions made in the course, or as a result, of the review, and
- (b) inform the IRO of any significant failure to make such arrangements or any significant change of circumstances occurring after the review that affects those arrangements.

Records of reviews

44. The responsible authority must ensure that a written record of the review is prepared, and that the information obtained in the course of the review, details of proceedings at the review meeting, and any decisions made in the course of or as a result of the review are included in C's case record.

PART 7

Arrangements made by the local authority for ceasing to look after a child

Decision to cease looking after C

45.—(1) In any case where C is aged 16 or 17 and is not in the care of the responsible authority, the decision to cease looking after C must not be put into effect until it has been approved by the responsible authority's director of social services.

(2) Before approving a decision under paragraph (1), the director of social services must be satisfied—

- (a) regulation 10(1)(b)(i) has been complied with,
- (b) C's IRO has been consulted,
- (c) C's relatives have been consulted, where appropriate, and

- (d) regulation 46, or regulations 47 – 51 (as appropriate) have been complied with.

Arrangements for ceasing to look after a child who is not a category 1 young person

46. In any case where C is not in the care of the responsible authority and is not likely to be a category 1 young person⁽¹⁾ when the local authority cease to look after him or her, the care and support plan (or where regulation 58 applies, the detention placement plan) must include details of the advice and other support that the responsible authority intends to provide for C when C ceases to be looked after by it.

Category 1 young persons

Meaning of category 1 young person

47.—(1) For the purposes of section 104(2) of the 2014 Act the prescribed period is 13 weeks and the prescribed age is 14.

(2) For the purposes of section 104(6)(b) of the 2014 Act, if C is a child to whom regulation 62 applies, C is not a category 1 young person despite falling within section 104(2) of that Act.

General duties

48. If C is a category 1 young person, the responsible authority must—

- (a) assess C's needs in accordance with regulation 49, and
- (b) prepare C's pathway plan in accordance with regulation 51.

Assessment of needs

49.—(1) The responsible authority must complete the assessment of C's needs in accordance with section 107(1) of the 2014 Act not more than 3 months after the date on which C reaches the age of 16 or becomes a category 1 young person after that age.

(2) In carrying out its assessment of C's likely needs when C ceases to be looked after, the responsible authority must take account of the following considerations—

- (a) C's state of health (including physical, emotional and mental health) and development;
- (b) C's continuing need for education, training or employment;

(1) "Category 1 young person" is defined in section 104(2) of the 2014 Act.

- (c) where C falls within regulation 5(1)(f), any needs C has as a result of that status;
- (d) the support that will be available to C from C's parents and other connected persons;
- (e) where C is a category 1 young person who has been placed with a local authority foster parent—
 - (i) whether C and F have decided that they wish to make a post-18 living arrangement⁽¹⁾, or
 - (ii) what information the responsible authority must provide C and F to assist them in making such a decision;
- (f) C's actual and anticipated financial resources and capacity to manage personal finances independently;
- (g) the extent to which C possesses the practical and other skills necessary for independent living;
- (h) C's need for continuing care, support and accommodation;
- (i) the views, wishes and feelings of—
 - (i) C,
 - (ii) any parent of C's and any person who is not C's parent but who has parental responsibility for C,
 - (iii) the appropriate person;
- (j) the views of—
 - (i) any person or educational institution that provides C with education or training, and if C has a statement of special educational needs, the responsible authority that maintains the statement,
 - (ii) the IRO,
 - (iii) any person providing health (whether physical, mental or emotional health) or dental care or treatment to C,
 - (iv) the personal adviser appointed for C, and
 - (v) any other person whose views the responsible authority or C consider may be relevant.

(1) "Post-18 living arrangement" is defined in section 108(3) of the 2014 Act. The responsible authority has a duty to ascertain if any C, who is a category 1 young person who has been placed with F wishes to make a post-18 living arrangement upon ceasing to be looked after (*see* section 108(2) of the 2014 Act) and to facilitate such an arrangement where it considers to do so would be consistent with C's well-being (*see* section 108(4) and (5) of that Act).

Pathway assessments and plans: post-18 living arrangements

50.—(1) In order to discharge its duty under section 108(2) of the 2014 Act⁽¹⁾, a responsible authority must provide the information referred to in paragraph (2) about post-18 living arrangements to the following persons—

- (a) C, where C is placed with F or in a children’s home, when preparing or reviewing C’s pathway plan;
- (b) C, where C is a category 1 young person who has been placed with F, when preparing or reviewing C’s pathway plan;
- (c) any F with whom the responsible authority has placed C, when preparing or reviewing C’s pathway plan;
- (d) any former foster parent⁽²⁾ of C;
- (e) a parent or other person who had parental responsibility for C before C was placed with F (unless to do so would place C at risk of harm);
- (f) where C is placed in a children’s home, C’s link worker;
- (g) the IRO;
- (h) R;
- (i) where one has been appointed for C, an independent visitor;
- (j) a category 3 young person who is participating in a post-18 living arrangement;
- (k) a former foster parent who is participating in a post-18 living arrangement;
- (l) any other person whom the responsible authority considers requires such information.

(2) The information referred to in paragraph (1)—

- (a) includes—
 - (i) details of the responsible authority’s duties under section 108 of the 2014 Act,
 - (ii) a copy of the responsible authority’s policy on post-18 living arrangements,
 - (iii) information about the financial implications attendant upon the making of a post-18 living arrangement as they apply to both C and to F,
 - (iv) information about the eligibility for and alternatives to a post-18 living arrangement that are available for C,

(1) Section 108(2) of the 2014 Act requires the responsible authority to ascertain if C and F wish to make a post-18 living arrangements when C ceases to be looked after.

(2) “Former foster parent” is defined in section 108(3) of the 2014 Act.

- (v) details of other sources of information, advice and support available to help C and F make a decision about seeking to make a post-18 living arrangement,
 - (vi) information about the support available to category 3 young persons and their former foster parents who make a post-18 living arrangement during the course of such an arrangement,
 - (vii) updates on any changes to the responsible authority's policy or practice relating to the making and support afforded during a post-18 living arrangement, and
- (b) must be provided in a format that is appropriate for the age and understanding of the recipient.

The pathway plan

51.—(1) The pathway plan must be prepared as soon as possible after the assessment of C's needs and must include, in particular—

- (a) C's care and support plan, and
- (b) the information referred to in Schedule 9.

(2) The pathway plan must, in relation to each of the matters referred to in paragraphs 2 to 11 of Schedule 9, set out—

- (a) the manner in which the responsible authority proposes to meet C's needs, and
- (b) the date by which, and by whom, any action required to implement any aspect of the plan will be carried out.

Functions of the personal adviser

52. The personal adviser's functions in relation to C are to—

- (a) provide advice (including practical advice) and support,
- (b) participate in reviews of C's case carried out under Part 6,
- (c) liaise with the responsible authority in the implementation of the pathway plan,
- (d) co-ordinate the provision of services and take reasonable steps to ensure C makes use of such services,
- (e) remain informed about C's progress and wellbeing, and
- (f) maintain a written record of their contacts with C.

PART 8

Independent reviewing officers and independent advisers

Additional functions of independent reviewing officers

53.—(1) The IRO must ensure that, having regard to C’s age and understanding, C has been informed by the responsible authority of the steps C may take under the 1989 Act and the 2014 Act and in particular, where appropriate—

- (a) C’s right to apply, with leave, for an order under section 8 of the 1989 Act (child arrangements orders and other orders with respect to children) and, where C is in the care of the responsible authority, to apply for the discharge of the care order, and
- (b) the availability of the procedure established by it under section 174 of the 2014 Act for considering any representations (including complaints) C may wish to make about the discharge by the responsible authority of its functions, including the availability of assistance to make such representations under section 178 of the 2014 Act.

(2) If C wishes to take legal proceedings under the 1989 Act, the IRO must—

- (a) establish whether an appropriate adult is able and willing to assist C to obtain legal advice or bring proceedings on C’s behalf, and
- (b) if there is no such person, assist C to obtain such advice.

(3) In the following circumstances the IRO must consider whether it would be appropriate to refer C’s case to a Welsh family proceedings officer⁽¹⁾—

- (a) in the opinion of the IRO, the responsible authority has failed in any significant respect—
 - (i) to prepare C’s care and support plan in accordance with these Regulations,
 - (ii) to review C’s case in accordance with these Regulations, or to implement effectively any decision taken in consequence of a review, or
 - (iii) is otherwise in breach of its duties to C in any material respect, and
- (b) having drawn the failure to the attention of persons at an appropriate level of seniority

⁽¹⁾ “Welsh family proceedings officer” is defined in section 197(1) of the 2014 Act as having the meaning given by section 35 of the Children Act 2004 (c. 31).

within the responsible authority, it has not been addressed to the satisfaction of the IRO within a reasonable period of time.

(4) When consulted by the responsible authority about any matter concerning C, or when informed of any matter relating to C in accordance with these Regulations, the IRO must—

- (a) ensure that the responsible authority has ascertained, and, subject to C's age and understanding, given due consideration to, C's views, wishes and feelings concerning the matter in question, and
- (b) consider whether to request a review of C's case.

Qualifications and experience of independent reviewing officers

54.—(1) The IRO must be registered as a social worker in a register maintained by the Care Council for Wales or in Part 16 of the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001⁽¹⁾ or in a corresponding register maintained under the law of Scotland or Northern Ireland.

(2) The IRO must have sufficient relevant social work experience with children and families to perform the functions of an independent reviewing officer set out in section 100 of the 2014 Act and under these Regulations in an independent manner and having regard to C's best interests.

(3) The responsible authority must not appoint any of the following as the IRO—

- (a) a person involved in preparing C's care and support plan or the management of C's case,
- (b) R,
- (c) C's personal adviser,
- (d) a person with management responsibilities in relation to a person mentioned in subparagraphs (a) to (c), or
- (e) a person with control over the resources allocated to the case.

Independent visitors

55. A person appointed by the responsible authority as an independent visitor under section 98 of the 2014 Act is to be regarded as independent of that authority where the person appointed is not connected with the responsible authority by virtue of being—

(1) S.I. 2002/254.

- (a) a member of the responsible authority or any of its committees or sub-committees, whether elected or co-opted,
- (b) an officer of the responsible authority employed in the exercise of any of the following functions—
 - (i) the functions conferred on or exercisable by the responsible authority in its capacity as local education authority,
 - (ii) the functions conferred on or exercisable by the responsible authority which are social services functions (within the meaning of Schedule 2 to the 2014 Act so far as those functions relate to children),
 - (iii) the functions conferred on the responsible authority under sections 61 to 63 and 103 to 118 of the 2014 Act (so far as not falling within sub-paragraph (ii)),
 - (iv) the functions conferred on the responsible authority by sections 25, 26, 28 and 29 of the Children Act 2004⁽¹⁾,
 - (v) the functions conferred on the responsible authority in accordance with section 33 of the National Health Service (Wales) Act 2006⁽²⁾ or section 75 of the National Health Service Act 2006⁽³⁾, or
- (c) a spouse, civil partner or other person (whether of different sex or the same sex) living in the same household as the partner of, a person falling within paragraphs (a) or (b).

PART 9

Application of these Regulations with modifications to children on remand or to children who are detained

Application of these Regulations with modifications to children on remand and to children who are detained

56.—(1) These Regulations apply with the modifications set out in this Part while C is—

- (a) remanded to local authority accommodation,

(1) 2004 c. 31. Section 25 was amended by section 39 of and paragraphs 4(1) and 5 of Part 1 of Schedule 3 to the Offender Management Act 2007 (c. 21) (“the 2007 Act). Section 28 was amended by section 39 of and paragraphs 4(1) and 6 of Part 1 of Schedule 3 to the 2007 Act. Section 29 was amended by section 2 of and paragraphs 264 and 267 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c. 43).

(2) 2006 c. 42.

(3) 2006 c. 41.

- (b) remanded to youth detention accommodation (“YDA”), or
 - (c) detained⁽¹⁾.
- (2) In these Regulations—
- (a) where C is remanded to local authority accommodation or to YDA, references to the “responsible authority” are to be read as if they were references to the local authority designated by the court under section 92(2) or section 102(6), as the case may be, of the 2012 Act,
 - (b) where C is remanded to YDA or is detained, references to being “placed” are to be read as if they were references to C being so remanded or detained,
 - (c) where C is remanded to YDA or is detained—
 - (i) references to the “placement plan”⁽²⁾ are to be read as if they were references to the “detention placement plan”, and
 - (ii) where C is a looked after child only by reason of being so remanded, references to the “care and support plan” are also to be read as references to the “detention placement plan”.

Modifications to Part 2

57.—(1) Part 2 (arrangements for looking after a child) applies with the following modifications.

(2) Where C is a looked after child only by reason of being remanded to local authority accommodation—

- (a) in regulation 4(3), the care and support plan must be prepared within 5 working days of C being so remanded, and
- (b) regulation 5(1)(a) does not apply.

(3) Where C is remanded to YDA and was a looked after child immediately before being so remanded, or where C is detained—

- (a) regulation 5(1)(c) does not apply, and instead the care and support plan must include a detention placement plan,
- (b) in regulation 6(3), the responsible authority must also give a copy of the care and support plan to the director, governor or registered manager (as the case may be) of the prison or YDA, and
- (c) regulation 7(1) to (4) does not apply.

⁽¹⁾ See regulation 2(2) for a definition of “detained”.

⁽²⁾ See regulations 5 and 10 for the provision about the placement plan, which forms part of C’s care and support plan and sets out details of the arrangements for the placement and accommodation to be provided for C.

(4) Where C is a looked after child only by reason of being remanded to YDA—

- (a) regulation 5 does not apply, and instead the responsible authority must prepare a detention placement plan, which also includes details of the views, wishes and feelings of the persons that are ascertained and considered by the responsible authority in accordance with sections 6(2) and (4), 7(2) and 78(3) of the 2014 Act about the detention placement plan, and the views, wishes and feelings of those persons in relation to any change, or proposed change, to the detention placement plan,
- (b) regulation 7(1) to (4) does not apply, and regulation (5) applies with the modification that for “health plan” there is substituted “detention placement plan”.

Modifications to Part 3

58.—(1) Part 3 applies with the following modifications.

(2) Where C a looked after child only by reason of being remanded to YDA, regulations 10, 11, 12 and 15 do not apply, and instead—

- (a) the responsible authority must prepare a plan for the remand (“the detention placement plan”) within 10 working days of C’s remand to YDA which—
 - (i) sets out how the prison, YDA or premises in which C is required to reside will meet C’s needs, and
 - (ii) includes the name and address of the YDA and the matters specified in Schedule 10.

(3) Where C is remanded to YDA and was a looked after child immediately before being so remanded or, where C is detained—

- (a) regulations 10, 11, 12 and 15 do not apply, and instead the responsible authority must prepare a detention placement plan in accordance with sub-paragraph (b);
- (b) the responsible authority must prepare a detention placement plan for the remand or detention (which will be included within C’s care and support plan) within 10 working days of C’s remand to YDA or detention, which—
 - (i) sets out how the prison, YDA or premises in which C is required to reside will meet C’s needs, and
 - (ii) includes, as appropriate, the name and address of the prison, YDA, or premises

in which C is required to reside and the matters specified in Schedule 10;

(c) the IRO must be informed of the remand or detention.

(4) Where C falls within paragraph (2) or (3)—

(a) the responsible authority must ensure that C's views, wishes and feelings have been ascertained and given due consideration;

(b) the detention placement plan must be agreed with and signed by the director, governor, or registered manager (as the case may be) of the prison or YDA, or the premises in which C is required to reside.

(5) Where C is remanded to local authority accommodation, regulation 10(1) applies with the modification that the placement plan must be prepared within 5 working days of C being so remanded.

Disapplication of Part 4

59. Part 4 (provision for different types of placement) does not apply where C is remanded to YDA or where C is detained.

Modification of Part 5

60. Part 5 (visits by the responsible authority's representative etc.) applies with the modification that in regulation 31(7)(a), the responsible authority must ensure that R visits C, where C is remanded to YDA or C is detained, whenever reasonably requested to do so by the director, governor or registered manager (as the case may be) of the prison, YDA or the premises in which C is required to reside.

Modification of Part 6

61. Part 6 (reviews) applies with the modification that in regulation 41, the considerations to which the responsible authority must have regard in reviewing C's case where C is remanded to YDA or where C is detained are set out in paragraphs 1, 4, and 6 to 13 of Schedule 8 (considerations to which the responsible authority must have regard when reviewing C's case).

PART 10

Miscellaneous

Application of these Regulations with modifications to short breaks

62.—(1) In the circumstances set out in paragraph (2), these Regulations apply with the modifications set out in paragraph (3).

- (2) The circumstances are that—
- (a) C is not in the care of the responsible authority,
 - (b) the responsible authority has arranged to place C in a series of short-term placements with the same person or in the same accommodation (“short breaks”), and
 - (c) the arrangement is such that—
 - (i) no single placement is intended to last for more than 4 weeks,
 - (ii) at the end of each such placement C returns to the care of C’s parent or a person who is not C’s parent but who has parental responsibility for C, and
 - (iii) the short breaks do not exceed 120 days in total in any period of 12 months.
- (3) The modifications are that—
- (a) regulations 5 and 10 do not apply, but instead the care and support plan must set out the arrangements that have been made to meet C’s needs, with particular regard to—
 - (i) C’s health and emotional and behavioural development, in particular in relation to any disability⁽¹⁾ C may have,
 - (ii) promoting contact between C and C’s parents and any other person who is not C’s parent but who has parental responsibility for C, during any period when C is placed,
 - (iii) C’s leisure interests, and
 - (iv) promoting C’s educational achievement, and must include the name and address of C’s registered medical practitioner, and the information set out in paragraph 3 of Schedule 3, where appropriate,
 - (b) regulations 7, 14 and 63(2)(b) do not apply,
 - (c) regulation 31(2) does not apply, but instead the responsible authority must ensure that R visits C on days when C is in fact placed, at regular intervals to be agreed with the IRO and C’s parents (or any person who is not C’s parent but who has parental responsibility for C) and recorded in the care and support plan before the start of the first placement and in any event—
 - (i) the first visit must take place within the first 7 placement days of the start of the first placement, or as soon as practicable thereafter, and

(1) “Disabled” and “disability” are defined in accordance with section 3 of the 2014 Act.

- (ii) subsequent visits at intervals of not more than 6 months, for as long as the short breaks continue,
- (d) regulation 39 does not apply, but instead—
 - (i) the responsible authority must first review C’s case within 3 months of the start of the first placement, and
 - (ii) the second and subsequent reviews must be carried out at intervals of not more than 6 months.

Records – establishment of records

63.—(1) The responsible authority must establish and maintain a written case record for C (“C’s case record”), if one is not already in existence.

- (2) The case record must include—
 - (a) C’s care and support plan, including any changes made to the care and support plan and any subsequent plans,
 - (b) reports obtained under regulation 7,
 - (c) any other document created or considered as part of any assessment of C’s needs, or of any review of C’s case,
 - (d) any court order relating to C,
 - (e) details of any arrangements that have been made by the responsible authority with any other local authority or with an independent fostering agency under regulation 29 and Schedule 6, or with a provider of social work services, under which any of the responsible authority’s functions in relation to C are discharged by that local authority or independent fostering agency or provider of social work services.

Records - retention and confidentiality

64.—(1) The responsible authority must retain C’s case record either—

- (a) until the seventy-fifth anniversary of C’s birth, or
- (b) if C dies before attaining the age of 18, for fifteen years beginning with the date of C’s death.

(2) The responsible authority must secure the safe keeping of C’s case record and take any necessary steps to ensure that information contained in it is treated as confidential subject only to—

- (a) any provision of, or made under or by virtue of, a statute under which access to such a record or information may be obtained or given,

- (b) any court order under which access to such a record or information may be obtained or given.

Revocations

65. The Regulations set out in Schedule 11 to these Regulations are revoked to the extent specified in that Schedule.

Mark Drakeford

Minister for Health and Social Services, one of the
Welsh Ministers

21 October 2015

SCHEDULES

SCHEDULE 1 Preamble

Provisions conferring power on the Welsh Ministers which are exercised in the making of these Regulations

<i>Enactment power</i>	<i>conferring</i>
The 2014 Act	Sections 81(6)(d), 83(5) 84, 87, 97(4)(a), 97(5), 98(1)(a), 100(1)(b), 100(2)(a), 102(1), 102(2), 104(2)(c), 104(6), 106(4), 107(7)(c), 107(8), 107(9), 108(6), and 196(2)
The Children Act 1989	Sections 31A and 34(8).

SCHEDULE 2 Regulation 5

Care and support plans

Information to be included in the health plan

1.—(1) C's state of health including C's physical, oral, emotional and mental health.

(2) C's health history including, as far as practicable, C's family's health history.

(3) The effect of C's health and health history on C's development.

(4) Existing arrangements for C's medical and dental care, appropriate to C's needs, including—

- (a) routine checks of C's general state of health, including dental health;
- (b) treatment and monitoring for identified health (including physical, emotional and in particular mental health) or dental care needs;
- (c) preventive measures such as vaccination and immunisation;
- (d) screening for defects of vision or hearing; and
- (e) advice and guidance on promoting health and effective personal care (including mental health and oral care).

(5) Any planned changes to existing arrangements.

(6) The role of the appropriate person, and of any other person who cares for C, in promoting C's health.

Information to be included in the personal education plan

2.—(1) C's educational and training history including information about educational institutions attended and C's attendance and conduct record, C's academic and other achievements; and C's special educational needs, if any.

(2) Existing arrangements for C's education and training including details of any special educational provision and any other provision made to meet C's particular educational or training needs and to promote C's educational achievement.

(3) C's leisure interests.

(4) Where any change to the arrangements for C's education or training is necessary, provision made to minimise disruption to that education or training.

(5) The role of the appropriate person and of any other person who cares for C in promoting C's educational achievements and leisure interests.

Family and social relationships

3.—(1) If C has a sibling for whom the responsible authority or another authority is providing accommodation, and the children have not been placed together, the arrangements made to promote contact between them, so far as is consistent with C's well-being.

(2) If C is looked after by, but is not in the care of, the responsible authority, details of any order relating to C made under section 8 of the 1989 Act.

(3) If C is a child in the care of the responsible authority, details of any order relating to C made under section 34 of the 1989 Act (parental contact etc. with children in care).

(4) Any other arrangements made to promote and maintain contact in accordance with section 95 of the 2014 Act, so far as is reasonably practicable and consistent with C's well-being, between C and—

(a) any parent of C's and any person who is not C's parent but who has parental responsibility for C; and

(b) any other connected person.

(5) Where section 98(1) of the 2014 Act (independent visitors for looked after children) applies, the arrangements made to appoint an independent visitor for C or, if section 98(6) of that Act applies (appointment of independent visitor not made where child objects), that fact.

Matters to be dealt with in the placement plan

Information to be included in C's placement plan

1.—(1) How on a day to day basis C will be cared for and C's well-being will be safeguarded and promoted by the appropriate person.

(2) Any arrangements made for contact between C and any parent of C's and any person who is not C's parent but who has parental responsibility for C, and between C and other connected persons including, if appropriate—

- (a) the reasons why contact with any such person would not be reasonably practicable or would not be consistent with C's well-being,
- (b) if C is not in the care of the responsible authority, details of any order made under section 8 of the 1989 Act,
- (c) if C is in the care of the responsible authority, details of any order relating to C made under section 34 of the 1989 Act,
- (d) the arrangements made for notifying any changes in the arrangements for contact.

(3) The arrangements made for C's health (including physical, emotional and mental health) and dental care including—

- (a) the name and address of C's general practitioner and registered dental practitioner and, where applicable, any general practitioner or registered dental practitioner with whom C is to be registered following the placement,
- (b) any arrangements for the giving or withholding of consent to medical or dental examination or treatment for C.

(4) The arrangements made for C's education and training including—

- (a) the name and address of any school at which C is a registered pupil,
- (b) the name of the designated person for looked after pupils at that school (if applicable); the name and address of any other education institution that C attends, or of any other person who provides C with education or training,
- (c) where C has a statement of special educational needs, details of the local education authority that maintains the statement.

(5) The arrangements made for R to visit C in accordance with Part 5, the frequency of visits and the arrangements made for advice and other support to be available to C between visits in accordance with regulation 34.

(6) If an independent visitor is appointed, the arrangements made for that person to visit C.

(7) The circumstances in which the placement may be terminated and C removed from the appropriate person's care in accordance with regulation 15.

(8) The name and contact details of—

- (a) the IRO;
- (b) C's independent visitor (if one is appointed);
- (c) R; and
- (d) if C is a category 1 young person, the personal adviser appointed for C.

Additional information to be included where C is placed with P

2.—(1) A record of—

- (a) the assessment of P's suitability to care for C, including consideration of the matters set out in Schedule 4,
- (b) C's views, wishes and feelings and those of any other person whose views are sought by the responsible authority,
- (c) the decision of the responsible authority to place C with P.

(2) Details of support and services to be provided to P during the placement.

(3) The obligation on P to notify the responsible authority of any relevant change in circumstances, including any intention to change address, any changes in the household in which C lives, and any serious incident involving C.

(4) The obligation on P to ensure that any information relating to C or C's family or any other person given in confidence to P in connection with the placement is kept confidential, and that such information is not disclosed to any person without the consent of the responsible authority.

(5) The circumstances in which it is necessary to obtain prior approval of the responsible authority for C to live in a household other than P's household.

(6) The arrangements for requesting a change to the placement plan.

(7) The circumstances in which the placement will be terminated in accordance with regulation 20(c)(ii).

Additional information to be included where C is placed with F, in a children's home or in other arrangements

3.—(1) A record of the responsible authority's determination under regulation 23(2).

(2) The type of accommodation to be provided, the address and, where C is placed in other arrangements under section 81(6)(d) of the 2014 Act, the name of the person who will be responsible for C at that accommodation on behalf of the responsible authority (if any).

(3) Where—

- (a) the responsible authority has, or is notified of, child protection concerns relating to C, or
- (b) C has gone missing from the placement or from any previous placement,

the day to day arrangements put in place by the appropriate person to keep C safe.

(4) C's personal history, religious persuasion, cultural and linguistic background, sexual orientation, and racial origin.

(5) Where C is looked after but is not in the care of the responsible authority—

- (a) the expected duration of the arrangements and the steps which should be taken to bring the arrangements to an end, including arrangements for C to return to live with C's parents, or any person who is not C's parent but who has parental responsibility for C; and
- (b) where C is aged 16 or over and agrees to being provided with accommodation under section 76 of the 2014 Act, that fact.

(6) The respective responsibilities of the responsible authority, C's parents, and any person who is not C's parent but who has parental responsibility for C.

(7) Any delegation of authority to make decisions about C's care and upbringing by the persons mentioned in sub-paragraph (6) (as appropriate) to—

- (a) the responsible authority,
- (b) F, and
- (c) where C is placed in a children's home, the appropriate person,

in relation to the matters set out in sub-paragraph (8), and identifying any matters about which the persons mentioned in sub-paragraph (6) consider that C may make a decision.

(8) The matters referred to in sub-paragraph (7) are—

- (a) medical and dental treatment,
- (b) education,

- (c) leisure and home life,
- (d) faith and religious observance,
- (e) use of social media,
- (f) any other matters which the persons mentioned in sub-paragraph (6) consider appropriate.

(9) The responsible authority's arrangements for the financial support of C during the placement.

(10) Where C is placed with F, the obligation on F to comply with the terms of the foster care agreement made under regulation 28(5)(b) of the Fostering Regulations or regulation 27(5)(b) of the Fostering Services (England) Regulations 2011.

SCHEDULE 4 Regulation 18

Matters to be taken into account when assessing the suitability of P to care for C

1. In respect of P—

- (a) P's capacity to care for children and in particular in relation to C to—
 - (i) provide for C's physical needs and appropriate medical and dental care,
 - (ii) protect C adequately from harm or danger, including from any person who presents a risk of harm to C,
 - (iii) ensure that the home environment is safe for C,
 - (iv) ensure that C's emotional needs are met and C is provided with a positive sense of self, including any particular needs arising from C's religious persuasion, racial origin, sexual orientation, cultural and linguistic background, and any disability C may have,
 - (v) promote C's learning and intellectual development through encouragement, cognitive stimulation and the promotion of educational success and social opportunities,
 - (vi) enable C to regulate C's emotions and behaviour, including by modelling appropriate behaviour and interactions with others, and
 - (vii) provide a stable family environment to enable C to develop and maintain secure attachments to P and other persons who provide care for C;

- (b) P's state of health including—
 - (i) P's physical health,
 - (ii) P's emotional health,
 - (iii) P's mental health,
 - (iv) P's medical history,
 - (v) any current or past issues of domestic violence,
 - (vi) any current or past issues regarding substance misuse,
 and the relevance or otherwise of any of these factors upon P's capacity to care for children and in particular C;
- (c) P's family relationships and composition of P's household, including particulars of—
 - (i) the identity of all other members of the household, including their age and the nature of their relationship with P and with each other, including any sexual relationship,
 - (ii) any relationship with any person who is a parent of C (whether or not resident in the same household as P),
 - (iii) other adults not being members of the household who are likely to have regular contact with C, and
 - (iv) any current or previous domestic violence between members of the household, including P;
- (d) P's family history, including—
 - (i) particulars of P's childhood and upbringing including the strengths and difficulties of P's parents or other persons who cared for P,
 - (ii) P's relationships with P's parents and siblings, and their relationships with each other,
 - (iii) P's educational achievement and of any specific learning difficulty or disability,
 - (iv) a chronology of significant life events, and
 - (v) particulars of other relatives and their relationships with C and P;
- (e) particulars of any criminal offences of which P has been convicted or in respect of which P has been cautioned;
- (f) P's past and present employment and other sources of income; and
- (g) the nature of the neighbourhood in which P's home is situated and resources available in the community to support C and P.

2. In respect of members of the household aged 18 and over, so far as is practicable, all the particulars specified in paragraph 1 except sub-paragraphs (d), (f) and (g).

SCHEDULE 5 Regulation 26

Matters to be taken into account when assessing the suitability of a connected person to care for C

1. In respect of the connected person—
 - (a) the nature and quality of any existing relationship with C;
 - (b) their capacity to care for children and in particular in relation to C to—
 - (i) provide for C's physical and emotional needs and ensure that C will have appropriate medical and dental care,
 - (ii) protect C adequately from harm or danger including from any person who presents a risk of harm to C,
 - (iii) ensure that the accommodation and home environment is suitable with regard to the age and developmental stage of C,
 - (iv) promote C's learning and development, and
 - (v) provide a stable family environment which will promote secure attachments for C, including the promotion of positive contact with P and other connected persons, unless to do so is not consistent with the duty to safeguard and promote C's well-being;
 - (c) their state of health, including current state of physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems;
 - (d) their family relationships and the composition of their household, including particulars of—
 - (i) the identity of all other members of the household, including their age and the nature of their relationship with the connected person and with each other, including any sexual relationship,
 - (ii) any relationship with any person who is a parent of C,
 - (iii) any relationship between C and other members of the household,

- (iv) other adults not being members of the household who are likely to have regular contact with C, and
- (v) any current or previous domestic violence between members of the household, including the connected person;
- (e) their family history, including—
 - (i) particulars of their childhood and upbringing, including the strengths and difficulties of their parents and other persons who cared for them,
 - (ii) their relationships with their parents and siblings, and their relationships with each other,
 - (iii) their educational achievement and any specific learning difficulty or disability,
 - (iv) a chronology of significant life events, and
 - (v) particulars of other relatives and their relationships with C and the connected person;
- (f) particulars of any criminal offences of which they have been convicted or in respect of which they have been cautioned;
- (g) their past and present employment and other sources of income; and
- (h) the nature of the neighbourhood in which their home is situated and resources available in the community to support C and the connected person.

2. In respect of members of the household aged 18 and over, so far as is practicable, all the particulars specified in paragraph 1 except sub-paragraphs (e), (f) and (g).

SCHEDULE 6 Regulation 29

Agreement with an independent fostering agency relating to the discharge of the responsible authority's functions

1. The agreement must contain the following information—

- (a) the services to be provided to the responsible authority by the registered person,
- (b) the arrangements for the selection by the responsible authority of F from those approved by the registered person,
- (c) a requirement for the registered person to submit reports to the responsible authority on

any placements as may be required by the responsible authority, and

- (d) the arrangements for the termination of the agreement.

2. Where the agreement relates to a particular child, it must also contain the following information—

- (a) F's details,
- (b) details of any services that C is to receive and whether the services are to be provided by the responsible authority or by the registered person,
- (c) the terms (including as to payment) of the proposed placement agreement,
- (d) the arrangements for record keeping about C and for the return of records at the end of the placement,
- (e) a requirement for the registered person to notify the responsible authority immediately in the event of concerns about the placement, and
- (f) whether and on what basis other children may be placed with F.

SCHEDULE 7 Regulation 30

Matters to be considered before placing C in accommodation in an unregulated setting under section 81(6)(d) of the 2014 Act

1. In respect of the accommodation, the—

- (a) facilities and services provided,
- (b) state of repair,
- (c) safety,
- (d) location,
- (e) support,
- (f) tenancy status, and
- (g) the financial commitments involved for C and their affordability.

2. In respect of C, C's—

- (a) views about the accommodation,
- (b) understanding of their rights and responsibilities in relation to the accommodation, and
- (c) understanding of the funding arrangements.

Considerations to which the responsible authority must have regard when reviewing C's case

1. The effect of any change in C's circumstances since the last review, in particular of any change made by the responsible authority to the C's care and support plan, whether decisions taken at the last review have been successfully implemented, and if not, the reasons for that.

2. Whether the responsible authority should seek any change in C's legal status.

3. Whether there is a plan for permanence for C.

4. The arrangements for contact and whether there is any need for changes to the arrangements in order to promote contact between C and P, or between C and other connected persons.

5. Whether C's placement continues to be the most appropriate available, and whether any change to the placement plan or any other aspects of the arrangements made to provide C with accommodation is, or is likely to become, necessary or desirable before the next review of C's case.

6. Whether C's placement safeguards and promotes C's well-being, and whether any safeguarding concerns have been raised.

7. C's educational needs, progress and development and whether any change to the arrangements for C's education and training is, or is likely to become, necessary or desirable to meet C's particular needs and to promote C's educational achievement before the next review of C's case, having regard to the advice of any person who provides C with education or training, in particular the designated person of any school at which C is a registered pupil.

8. C's leisure interests.

9. The report of the most recent assessment of C's state of health obtained in accordance with regulation 7 and whether any change to the arrangements for C's health care is, or is likely to become, necessary or desirable before the next review of C's case, having regard to the advice of any health care professional received since the date of that report, in particular C's general practitioner.

10. Whether C's needs related to C's identity are being met and whether any particular change is required, having regard to C's religious persuasion, racial origin, sexual orientation, and cultural and linguistic background.

11. Whether the arrangements made in accordance with regulation 34 continue to be appropriate and understood by C.

12. Whether any arrangements need to be made for the time when C will no longer be looked after by the responsible authority.

13. C's wishes and feelings, and the views of the IRO, about any aspect of the case and in particular about any changes the responsible authority has made since the last review or proposes to make to C's care and support plan.

14. Where regulation 31(3) applies, the frequency of R's visits.

15. Where C is a category 1 young person who has been placed with a local authority foster parent, ascertain whether C and F intend to make a post-18 living arrangement.

16. If paragraph 15 applies and if C wishes to make such an arrangement but F does not, consider whether C should be placed with a different local authority foster parent in order to facilitate the making of such an arrangement when C ceases to be looked after.

17. Where C falls within regulation 5(1)(f), whether C's needs as a result of that status are being met.

SCHEDULE 9 Regulation 51

Matters to be dealt with in the pathway plan

- 1.** The name of C's personal adviser.
- 2.** The nature and level of contact and personal support to be provided to C, and by whom.
- 3.** Details of the accommodation C is to occupy when C ceases to be looked after.
- 4.** Where C wishes to make a post-18 living arrangement, details of the advice and support the responsible authority will provide to facilitate and support C in the making of such an arrangement.
- 5.** The plan for C's continuing education or training when C ceases to be looked after.
- 6.** How the responsible authority will assist C in obtaining employment or other purposeful activity or occupation.
- 7.** The support to be provided to enable C to develop and sustain appropriate family and social relationships.

8. A programme to develop the practical and other skills C needs to live independently.

9. The financial support to be provided to enable C to meet accommodation and maintenance costs.

10. C's health care needs, including any physical, emotional or mental health needs and how they are to be met when C ceases to be looked after.

11. The responsible authority's contingency plans for action to be taken in the event that the pathway plan ceases to be effective for any reason.

SCHEDULE 10 Regulations 5 and 58

Matters to be dealt with in the detention placement plan

1. How on a day to day basis C will be cared for and how C's well-being will be safeguarded and promoted by the staff of the prison, YDA or premises in which C is required to reside.

2. Any arrangements for contact between C and any parent of C's or any person who is not C's parent but who has parental responsibility for C, and between C and any other connected person including, if appropriate—

- (a) the reasons why contact with any such person would not be reasonably practicable or would not be consistent with C's well-being,
- (b) if C is not in the care of the responsible authority, details of any order made under section 8 of the 1989 Act,
- (c) the arrangements for notifying any changes in the arrangements for contact.

3. The arrangements made for R to visit C in accordance with Part 5, the frequency of such visits and the arrangements made for advice and other support to be available to C between visits in accordance with regulation 34.

4. If an independent visitor is appointed, the arrangements made for them to visit C.

5. The arrangements made by the staff of the prison, YDA or premises in which C is required to reside for C's health (including physical, emotional and mental health) and dental care.

6. The arrangements made by the staff of the prison, YDA or premises in which C is required to reside for C's education and training including—

- (a) the name and address of any educational or training institution C was attending, or any other person providing C with education or training, immediately before C's remand or detention,
- (b) where C has a statement of special educational needs, details of the local authority (or local authority in England) that maintains the statement.

7. C's personal history, religious persuasion, cultural and linguistic background, sexual orientation, and racial origin, and the arrangement put in place by the staff of the prison, YDA or premises in which C is required to reside for meeting the needs relating to C's identity.

8. The arrangements put in place by the staff of the prison, YDA or premises in which C is required to reside for supporting C to develop self-care skills.

9. The name and contact details of—

- (a) the IRO,
- (b) C's independent visitor (if one is appointed),
- (c) R,
- (d) if C is a category 1 young person, the personal advisor appointed for C.

10. Details of how C's well-being should be adequately safeguarded and promoted when C ceases to be remanded to YDA or detained, in particular—

- (a) whether C will be provided with accommodation by the responsible authority or another local authority or a local authority in England, and
- (b) whether any other services should be provided by the responsible authority or by another local authority under the 2014 Act, or a local authority in England in exercise of its duties under the 1989 Act.

SCHEDULE 11 Regulation 65

Revocations

The Regulations set out in the Table are revoked to the extent specified—

<i>Regulations revoked</i>	<i>Series number</i>	<i>Extent of revocation</i>
Contact with Children Regulations 1991	S.I. 1991/891	The whole Regulations

Definition of Independent Visitors (Children) Regulations 1991	S.I. 1991/892	The whole Regulations
Placement of Children with Parents etc Regulations 1991	S.I. 1991/893	The whole Regulations
Children (Short-term Placements) (Miscellaneous Amendments) Regulations 1995	S.I. 1995/2015	The whole Regulations* (* regulation 2 has already been revoked in relation to Wales)