**SOCIAL SERVICES AND WELL-BEING (WALES) ACT**

**SUMMARY – March 2017**

**Looked After and Accommodated Children**

# Introduction

This is a summary of the Social Services and Well-being (Wales) Act 2014 Part 6 and relevant aspects of Part 11 relating to children and young people in prison, youth detention or bail accommodation. This summary forms part of the suite of learning materials that have been developed to support the implementation of the Act. It is intended for anyone who would like to know more about changes relating to looked after and accommodated children, including care leavers.

# Context

Part 6 of the Act is specifically about looked after and accommodated children and young people, and those leaving care, and together with Part 2 it replaced most of Part III of the Children Act 1989. Section 17 of the Children Act (children in need) is not replicated in Part 6. The assessment of children in need and their families, and the delivery of any services to meet those needs, is covered under Parts 3 and 4 of the Act, which introduced national eligibility for care and support. It is important to note, however, that children and young people are included throughout the Act in all its 11 parts and everyone involved in supporting looked after children and care leavers needs to understand the specific requirements of Part 6, as well as the overarching duties, responsibilities and ethos in the Act.

The numbers of looked after children and young people in Wales have been rising. The Act seeks to address this and aims to change the way children and families’ care and support needs are met. Key to the Act for children and young people is the importance of promoting their upbringing by their family. This means seeking to
de-escalate the need for formal intervention in their lives and to strengthen the capacity of families to care for their children wherever it is safe to do so. Where it is necessary to look after a child, the Act seeks to achieve greater stability for children by increasing the choice of placements locally, supporting continuation of important relationships and school life, and finding the right permanency solution sooner.

There is an overarching duty in the Act to promote well-being. Well-being is defined with eight aspects common to all ages: physical and mental health and emotional well-being; protection from abuse and neglect; education, training and recreation; family and personal relationships; involvement in the local community; securing rights and entitlements; social and economic well-being (including not living in poverty); and living in suitable accommodation. The principal duty of the Act in relation to looked after children (section 78) is to safeguard and promote the child’s well-being.

Other overarching duties include regard for a child or young person’s culture, beliefs, views, wishes and feelings and, for children under 16, those of the person with parental responsibility. Key principles in Part 1 of the UN Convention on the Rights of the Child, the European Convention on Human Rights and UN Convention on the Rights of Disabled People also apply.

# Care and Support Planning and Review

Assessing the needs of children and deciding how best to meet those needs is set out in Parts 3 and 4 of the Act. The Part 6 care and support plan for a looked after child will build upon any plan previously made under Part 4 of the Act. It will contain information about how the child’s well-being and developmental needs will be met,
as well as the arrangements for the current and longer term care for the child. It incorporates all plans in one place, including the child’s health plan, personal education plan and a placement plan.

Achieving ‘permanence’ will be a key consideration from the time a child becomes looked after, and the care and support plan should set out how this is to be achieved: it should include a long term plan for the child’s upbringing (the permanence plan) to which everyone is working.

Local authorities must appoint an Independent Reviewing Officer (IRO) to regularly review and monitor the care and support plan. The Act introduced changes to the role of the IRO to enable them to have more effective oversight of the child’s case and ensure the plan meets their needs and is understood by the child.

From the age of 16, a pathway plan should be prepared, based on and including the care and support plan and setting out the young person’s aspirations and personal goals, as well as actions for all involved to enable a successful transition to adulthood.

## Advocacy

The child is central to the care and support planning process. The child must be empowered and supported to express their needs, views and wishes, and actively listened to. They must be able to fully participate in the process and in decisions that affect them. The Act restated the duty to provide advocacy and assistance to looked after children and to inform them of their right to have these supports.

# Placements

Section 79 of the Act places a duty on local authorities to provide accommodation for looked after children. In keeping with the duty and aim of promoting the upbringing of a child by their family, there is a clear emphasis in the Act that, unless it is not consistent with the child’s well-being, arrangements must be made for the child who needs accommodation to live with a parent or a person with parental responsibility or residence / child arrangement order. Where this is not possible, preference should be given to placement with a relative, friend or other person connected to the child.

If neither of these is possible, a range of sufficient alternative provision should be available, including foster carers and children’s homes, supported lodgings and secure accommodation (the Act specifies certain grounds, such as history of absconding, for placement in the latter). Consideration must always be given to the placement enabling the child to live locally and close to home, to support contact and allow for continuity of health care and education or training. Regulations make it clear on the circumstances when an out of authority placement can be considered.

Local authorities must maintain the child’s placement and put in place support and services, including supports under Parts 3 and 4, to increase the capacity of the carer to meet the child’s needs and identified outcomes from the care and support plan. A **placement plan** must be agreed and incorporated, detailing how the placement will contribute to meeting the identified child’s needs in the care and support plan.

# Contacts and Visits

Regulations set out the *minimum* frequency of visits to the looked after child, wherever they are living, by a local authority representative, usually the child’s social worker. However, more frequent or additional visits may be required depending on the needs of the child. The functions of the visits include ensuring that the child’s well-being continues to be safeguarded and promoted, that the child feels supported and receives any advice or information they need. Visits also give an opportunity to engage with the child about their hopes and aspirations and how the placement is contributing to the outcomes of the placement and achievement of personal goals. The Act sets out a similar visiting and advice and support requirement where a local authority has received notification that a child is accommodated in either health or education establishments, care homes or independent hospitals.

There is a further duty to appoint an independent visitor to befriend and advise a looked after child if, for instance, there is little contact between the child and parent.

# Leaving Care

Preparation and planning for greater independence should be integral to care and support planning throughout the child’s looked after period. From the age of 16, a **pathway plan** should be prepared, building on and including the care and support plan and setting out the young person’s aspirations and personal goals, as well as actions for all involved to enable a successful transition to adulthood. The Act defines six categories of young people in respect of leaving care:

1. Looked after child aged 16-17
2. Care leaver aged under 18
3. Care leaver aged 18 or over
4. Young person who reconnects to care for education and training
5. Young person who left care under a Special Guardianship Order
6. Young person who did not qualify as a care leaver

It is important that everyone involved with care leavers is aware of the statutory responsibilities and the levels and types of assistance that should be provided to care leavers in each of the six categories, including:

* The appointment of a personal advisor for care leavers to keep in touch, offer support and advice, and participate in implementing and reviewing the plan.
* Providing and maintaining the young person in suitable accommodation from a range of both supported and independent and semi-independent options.
* Providing assistance, including financial, and vacation accommodation, to meet education, training or employment needs.

The Act introduced new duties, ‘post 18 living arrangements’, towards young people in foster care who wish to continue living with their foster parents after age 18. The Welsh Government has developed the “When I am Ready” scheme through which the statutory duties to facilitate post-18 living will be fulfilled.

# Young People in the Secure Estate

Part 11 of the Act and regulations changed responsibilities for the care and support of children and young people in the secure estate. The child’s home local authority must continue to fulfil its duties towards a child in care under S31 of the Children Act 1989 whilst detained eg to offer advice, carry out visits, reviews or assessments with the aim of continuing to meet their personal well-being outcomes. Regulations state that children who are looked after, but not in care, cease to be looked after when detained, but the Visits to Children in Detention (Wales) Regulations 2015 ensure that the local authority continues to have a duty to visit and keep in touch with these children and arrange for appropriate advice and support to be available to them.

Some of the Part 6 duties towards care leavers, eg pathway assessments and plans and appointment of personal advisors, continue to apply during the period that the young person is detained. These also apply in a situation where a looked after child reaches 18, and hence transitions to adulthood, while in the secure estate. However, certain provisions are suspended relating to accommodation and maintenance for looked after children and support for some categories of care leavers as there is no ability to fulfil these while the young person is detained. These are reapplied when the young person is released.