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Welsh Government

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Social Services and Well-being (Wales) Act

PART 11: Children and young people in the secure estate



#SSWbAct

The new approach

- On 6 April 2016 new 'care and support' arrangements under the Act will come into force – the focus is on:
 - 'people' including children and their families, adults and carers
 - meeting a person's need for care and support to maximise their wellbeing and encourage independence
 - increasing the amount, range and use of preventative services available in the community to maximise citizen independence and enable greater self-control of their wellbeing outcomes

The new approach

The key elements of the 2014 Act are:

- Information, Advice and Assistance
- Assessment
- Eligibility Criteria
- Care and Support Plans, and Review
- Portability of Care and Support

These are all applicable for children and young people in the secure estate just as for those living within the community

Children and young people in the secure estate

From April 2016 local authorities in Wales will be responsible for assessing and meeting the care and support needs of:

- Welsh children who are in the secure estate whether in England or Wales;
- certain categories of English children placed in the secure estate in Wales

What is dis-applied

The Act has been constructed on an inclusive basis with the exception that those in custody cannot:

- be carers;
- receive direct payments;
- express a preference for their accommodation while in custody except for the purposes of planning for their release; and
- have a right to their property being cared for while away from home.

ALL other provisions of the Act apply including the Information, Advice and Assistance Service and preventative and well-being services.

Section 186 SSWB Act

The Welsh Home local authority must:

- meet the care and support needs of children whether they are detained in England or Wales, just as they would if they were living in the community.
- design its procedures and services to be able to meet the care and support needs of those children.
- adjust the delivery of care and support arrangements to meet the needs of the population and regime of the relevant secure estate.

Code of Practice



Social Services and
Well-being (Wales) Act 2014
Part 11 Code of Practice (Miscellaneous and General)



<http://intranet/English/News/Events/Pages/Stuck-for-a-meeting-venue.aspx>

<http://www.ccwales.org.uk/the-act/>

Table of responsibilities

Ordinary residency of child	Status of child	Detention location	Local authority's responsibility
A migrant or child with no ordinary residency		Detained in Wales	Welsh LA where the child is detained to meet their care & support needs
Child is an ordinary resident of a Welsh LA	Regardless of whether the child had any previous involvement with social services	Detained in Wales	Child's Welsh Home LA to meet their care & support needs
Child is ordinary resident of a Welsh LA	If the child was under S20 or S31 (Children Act 1989) prior to being detained.	Detained in England	It is the responsibility of the child's Welsh Home LA to meet the care and support needs

Table of responsibilities

Ordinary residency of child	Status of child	Detention location	Local authority's responsibility
Child is ordinary resident of an English LA	If the child was S20 or S31 (Children Act 1989) prior to being detained.	Detained in Wales	It is the responsibility the English home local authority to meet the care and support needs the children (A)
Child is ordinary resident of an English LA	If the child was either not known to social services , or has been assessed as being under S17 (Children Act 1989) prior to being detained.	Detained in Wales	The Welsh local authority where the child is detained is responsible for the care and support needs of that child.
Child is ordinary resident of a Welsh LA	If the child has either had no prior involvement with social services, or had been assessed under S17 (Children Act 1989) prior to being detained.	Detained in England	For this group of children there is dual responsibility on the Welsh Home LA of the child under SSWB Act and the English LA where the child is detained under the Children Act 1989. (B)

Code of Practice Part 11

Paragraph A - The Children Act 1989, and the regulations made under it, notably the Care, Planning, Placement and Review of Cases (England) Regulations 2010 and the Visits to Former Looked After Children in Detention (England) Regulations 2010 are the basis upon which the English home local authority retains responsibility for these children. In addition, section 186(6) of the 2014 Act disapplies sections 21, 37 and 38 from having any application in relation to former section 20 children detained in Wales whose responsible local authority is in England.

Paragraph B– Both the Welsh home local authority and the English local authority share responsibility where the child is detained. Both have responsibility for a Welsh child who is in detention in England but where there has been no prior involvement of social services, or the child has been assessed as a child in need under S17 of the Children Act 1989. Both the Welsh and English local authorities in question will need to agree between them who takes the primary responsibility and how this is taken forward on a case by case basis. This agreement will need to be set out in a **Memorandum of Understanding** between the two local authorities.

Code of Practice Part 11

The code of practice for Part 11 sets out what duties the local authority must:

- continue in relation to category 2, 5 and 6 young people while they are detained: Personal advisers, pathway assessments and post 18 living arrangements
- discontinue in relation to young people while they are detained: Support/ accommodate/ education/ training.
- recognise the duties under sections 109, 114 and 115 that are triggers again when the young person is released.
- Part 6 also has duties -

Part 6 – looked after and accommodated children

- Part 6 of the Act sets out provisions for ‘looked after children’, ‘accommodated children’ and care leavers.
- S97 extends duties of local authorities so that they are responsible for visiting all children in prison.
- While children are in the secure estate they are NOT entitled to the care leavers provisions but these must be reinstated on release.

Code of practice Part 11

Transition to adulthood

- When a child in the secure estate reaches 18 they are legally regarded as an adult. As the young person is transferred to a new facility the LA where they are located will take responsibility for their care and support.
- In practice such moves should be considered on a case by case basis and the best interest's of the child/ young person should prevail.
- The Welsh Home LA must remember its duties in relation to care leavers

Code of practice Part 11

Safeguarding children:

- Under the SSWB Act from April 2016 safeguarding children boards are responsible for protecting children within their areas.
- **Hillside Secure Children's Home** is managed by the local authority - registered and inspected by CSSIW.
- Day to day responsibilities for safeguarding arrangements – registered manager under the oversight of the LA.
- The safeguarding boards and the registered manager at Hillside Secure Children home **must** establish mechanisms to clearly set out how their shared duties to safeguard children in the unit will be exercised.

Code of practice Part 11

Safeguarding children:

- Parc YOI and other YOIs are subject to Prison Service Instruction 8/2012 Care and Management of Young People.
- PSI 8/2012 is currently being revised and will be re-issued to take into account SSWB Act.
- The Act requires the YOI to produce, publish and agree with the new safeguarding children board (from April) a safeguarding children policy statement & to review this annually.

Supplementary Guidance and pathways

- Supplementary Guidance and a national pathway for children and young people in the secure estate – to be published shortly.
- Provides context and background on the secure estate for children and young people
- Highlights the importance of considering families & children affected by parental imprisonment
- Partnership arrangements
- Workforce requirements
- Step by step journey through the secure estate and preparing for release with key professionals identified at each stage

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