



# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 6

### LOOKED AFTER AND ACCOMMODATED CHILDREN

#### *Accommodation duties*

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

- (1) A local authority must take steps that secure, so far as reasonably practicable, that the local authority is able to provide the children mentioned in subsection (2) with accommodation that—
  - (a) is within the authority's area, and
  - (b) meets the needs of those children.
- (2) The children referred to in subsection (1) are those—
  - (a) that the local authority is looking after,
  - (b) in respect of whom the authority is unable to make arrangements under section 81(2), and
  - (c) whose circumstances are such that it would be consistent with their well-being for them to be provided with accommodation that is in the authority's area.
- (3) In discharging its duty under subsection (1), the local authority must have regard to the benefit of having—
  - (a) a number of accommodation providers in its area that is, in the authority's opinion, sufficient to discharge its duty, and
  - (b) a range of accommodation in its area capable of meeting different needs that is, in its opinion, sufficient to discharge its duty.
- (4) In this section "accommodation providers" means—

- (a) local authority foster parents, and
- (b) children's homes.

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

- (1) A local authority must provide accommodation for any child within its area who appears to the authority to require accommodation as a result of—
  - (a) there being no person who has parental responsibility for the child,
  - (b) the child being lost or having been abandoned, or
  - (c) the person who has been caring for the child being prevented (whether or not permanently, and for whatever reason) from providing the child with suitable accommodation or care.
- (2) Where a local authority provides accommodation under subsection (1) for a child who is ordinarily resident in the area of another local authority, that other local authority may take over the provision of accommodation for the child within—
  - (a) three months of being notified in writing that the child is being provided with accommodation, or
  - (b) such other longer period as may be specified.
- (3) A local authority must provide accommodation for any child within its area who has reached the age of 16 and whose well-being the authority considers is likely to be seriously prejudiced if it does not provide the child with accommodation.
- (4) A local authority may not provide accommodation under this section for any child if any person objects who—
  - (a) has parental responsibility for the child, and
  - (b) is willing and able to—
    - (i) provide accommodation for the child, or
    - (ii) arrange for accommodation to be provided for the child.
- (5) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of a local authority under this section.
- (6) Subsections (4) and (5) do not apply while any person—
  - (a) in whose favour a residence order is in force with respect to the child,
  - (b) who is a special guardian of the child, or
  - (c) who has care of the child by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children,
 agrees to the child being looked after in accommodation provided by or on behalf of the local authority.
- (7) Where there is more than one such person as is mentioned in subsection (6), all of them must agree.
- (8) Subsections (4) and (5) do not apply where a child who has reached the age of 16 agrees to being provided with accommodation under this section.

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

- (1) A local authority must make provision for the reception and accommodation of children who are removed or kept away from home under Part 5 of the Children Act 1989.
- (2) A local authority must receive, and provide accommodation for, children—
  - (a) in police protection whom it is requested to receive under section 46(3)(f) of the Children Act 1989;
  - (b) whom it is requested to receive under section 38(6) of the Police and Criminal Evidence Act 1984;
  - (c) with respect to whom it is the designated authority and who are—
    - (i) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 4 of Schedule 1 or paragraph 6 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach etc of referral orders and reparation orders);
    - (ii) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 21 of Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach etc of youth rehabilitation orders);
    - (iii) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 10 of the Schedule to the Street Offences Act 1959 (breach of orders under section 1(2A) of that Act);
    - (iv) the subject of a youth rehabilitation order imposing a local authority residence requirement or a youth rehabilitation order with fostering.
- (3) In subsection (2), the following terms have the same meanings as in Part 1 of the Criminal Justice and Immigration Act 2008 (see section 7 of that Act)—
  - “local authority residence requirement”;
  - “youth rehabilitation order”;
  - “youth rehabilitation order with fostering”.
- (4) Subsection (5) applies where—
  - (a) a child has been—
    - (i) removed under Part 5 of the Children Act 1989, or
    - (ii) detained under section 38 of the Police and Criminal Evidence Act 1984, and
  - (b) the child is not being provided with accommodation—
    - (i) by a local authority, or
    - (ii) in a hospital vested in the Welsh Ministers, an NHS Trust, an NHS Foundation Trust or the Secretary of State, or otherwise made available pursuant to arrangements made by a Local Health Board, an NHS Trust, an NHS Foundation Trust, the Welsh Ministers, the Secretary of State, the National Health Service Commissioning Board or a clinical commissioning group.
- (5) Any reasonable expenses of accommodating the child are recoverable from the local authority in whose area the child is ordinarily resident.