



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 11

MISCELLANEOUS AND GENERAL

Miscellaneous

184 Research and provision of information

- (1) The Welsh Ministers may conduct, commission, or assist in the conduct of, research into any matter connected with—
 - (a) their functions under this Act,
 - (b) the functions mentioned in subsection (12),
 - (c) the functions of Local Health Boards under this Act, or
 - (d) the functions of Safeguarding Boards.
- (2) A local authority may conduct, commission, or assist in the conduct of, research into any matter connected with—
 - (a) any of its functions that are mentioned in subsection (12), or
 - (b) the functions of Safeguarding Boards.
- (3) A Local Health Board may conduct, commission, or assist in the conduct of, research into any matter connected with its functions under this Act.
- (4) The Welsh Ministers may require a local authority to provide them with information in connection with—
 - (a) the performance by the authority of any of its functions that are mentioned in subsection (12), and
 - (b) the persons in relation to whom the authority has exercised those functions.

- (5) The Welsh Ministers may require a Local Health Board to provide them with information in connection with—
 - (a) the performance of its functions under this Act, and
 - (b) the persons in relation to whom it has exercised those functions.
- (6) The Welsh Ministers may require the lead partner of a Safeguarding Board to provide them with information in connection with the performance by that Board of its functions.
- (7) The Welsh Ministers may require a voluntary organisation to provide them with information in connection with adults accommodated by the organisation or on its behalf.
- (8) A requirement under subsection (4), (5), (6) or (7) must be complied with by providing the information in such form and at such time as the Welsh Ministers may require.
- (9) Information required to be provided under subsection (4) may include information relating to and identifying individual children, but only if that information is needed to inform—
 - (a) the review and development of policy and practice relating to the well-being of children, or
 - (b) the conduct of research relating to the well-being of children.
- (10) The Welsh Ministers must in each year lay before the National Assembly for Wales a summary of the information provided to them under subsections (4), (5), (6) and (7), but the summary must not include information that identifies an individual child or allows an individual child to be identified.
- (11) In this section—
 - “the lead partner of a Safeguarding Board” (*“partner arweiniol Bwrdd Diogelu”*) is the Safeguarding Board partner specified as the lead partner in regulations under section 134, and
 - “Safeguarding Board” (*“Bwrdd Diogelu”*) means a Safeguarding Children Board or a Safeguarding Adults Board established under section 134.
- (12) The functions referred to in subsections (1), (2) and (4) are—
 - (a) any function of a local authority under this Act;
 - (b) any function of a local authority as a local mental health partner under the Mental Health (Wales) Measure 2010.

185 Adults in prison, youth detention accommodation or bail accommodation etc

- (1) In its application to an adult who is detained in prison or youth detention accommodation in Wales, this Act has effect as if references to being ordinarily resident in an area were references to being detained in prison or youth detention accommodation in that area.
- (2) In its application to an adult who is residing in approved premises in Wales, this Act has effect as if references to being ordinarily resident in an area were references to being resident in approved premises in that area.
- (3) In its application to an adult who is residing in any other premises in Wales because a requirement to do so has been imposed on the adult as a condition of the grant of bail

in criminal proceedings, this Act has effect as if references to being ordinarily resident in an area were references to being resident in premises in that area for that reason.

- (4) The provisions set out in subsection (5) do not apply in the case of an adult who is—
 - (a) detained in prison or youth detention accommodation, or
 - (b) residing in approved premises.
- (5) The provisions are—
 - (a) section 110 (support for category 3 young people);
 - (b) section 112 (support for category 4 young people);
 - (c) section 114 (support for category 5 young people and former category 5 young people);
 - (d) section 115 (support for category 6 young people and former category 6 young people).
- (6) Section 127 (adult protection and support orders) does not apply in the case of an adult who is detained in prison or youth detention accommodation.
- (7) See also section 187 for further modifications of this Act’s provisions in relation to—
 - (a) adults who are detained in prison or in youth detention accommodation, and
 - (b) adults who are residing in approved premises.

186 Children in youth detention accommodation, prison or bail accommodation etc

- (1) In subsection (2), a “relevant child” means a child who, having been convicted of an offence—
 - (a) is detained in youth detention accommodation or in prison,
 - (b) is residing in approved premises, or
 - (c) is residing in any other premises because a requirement to do so has been imposed on the child as a condition of the grant of bail in criminal proceedings.
- (2) Where a relevant child, immediately before being convicted of an offence—
 - (a) has needs for care and support that are being met by a local authority under Part 4,
 - (b) is looked after by a local authority by virtue of being provided with accommodation by the authority, or
 - (c) is ordinarily resident in the area of a local authority, but does not come within paragraph (a) or (b),the child is to be treated for the purposes of this Act as being within that local authority’s area while he or she is a relevant child (and is not to be treated as being ordinarily resident or within any other local authority’s area).
- (3) The provisions set out in subsection (4) do not apply in relation to a child who, having been convicted of an offence—
 - (a) is detained in youth detention accommodation or in prison, or
 - (b) is residing in approved premises.
- (4) The provisions are—
 - (a) section 79 (provision of accommodation for children in care);
 - (b) section 80 (maintenance of looked after children);
 - (c) section 81 (ways in which looked after children are to be accommodated and maintained);

- (d) section 82 (review of child's case before making alternative arrangements for accommodation);
 - (e) section 109 (support for category 2 young people);
 - (f) section 114 (support for category 5 young people and former category 5 young people);
 - (g) section 115 (support for category 6 young people and former category 6 young people);
 - (h) paragraph 1 of Schedule 1 (liability to contribute towards maintenance of looked after children).
- (5) Section 119 (use of accommodation for restricting liberty) does not apply in relation to—
- (a) a child who, having been convicted of an offence—
 - (i) is detained in youth detention accommodation or in prison, or
 - (ii) is residing in approved premises, or
 - (b) a child who is remanded to youth detention accommodation under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- (6) The provisions set out in subsection (7) do not apply in relation to a child who—
- (a) having been convicted of an offence—
 - (i) is detained in youth detention accommodation or in prison, or
 - (ii) is residing in approved premises, and
 - (b) immediately before being convicted, was provided with accommodation by a local authority in England under section 20 of the Children Act 1989.
- (7) The provisions are—
- (a) section 21 (duty to assess the needs of a child for care and support);
 - (b) section 37 (duty to meet care and support needs of a child);
 - (c) section 38 (power to meet care and support needs of a child).
- (8) See also section 187 for further modifications of this Act's provisions in relation to—
- (a) children who are detained in youth detention accommodation or in prison, and
 - (b) children who are residing in approved premises.

187 Persons in prison, youth detention accommodation or bail accommodation etc

- (1) A person is not a carer for the purposes of this Act if the person—
 - (a) is detained in prison or youth detention accommodation, or
 - (b) having been convicted of an offence, is residing in approved premises.
- (2) Regulations under section 50 or 51 (direct payments) may not require or allow payments to be made towards the cost of meeting a person's needs for care and support if that person, having been convicted of an offence, is—
 - (a) detained in prison or in youth detention accommodation, or
 - (b) residing in approved premises.
- (3) The power under section 57 (preference for particular accommodation) may not be exercised in the case of a person who is—
 - (a) detained in prison or in youth detention accommodation, or
 - (b) residing in approved premises,

except for the purpose of making provision with respect to accommodation for the person on the person's release from prison or youth detention accommodation (including temporary release), or on the person's ceasing to reside in the approved premises.

- (4) Section 58 (protecting property of persons being cared for away from home) does not apply in the case of a person who is—
- (a) detained in prison or in youth detention accommodation, or
 - (b) residing in approved premises.

188 Interpretation of sections 185 to 187

- (1) In sections 185 to 187—

“approved premises” (*“mangre a gymeradwywyd”*) has the meaning given by section 13 of the Offender Management Act 2007;

“bail in criminal proceedings” (*“mechnïaeth mewn achos troseddol”*) has the meaning given by section 1 of the Bail Act 1976;

“prison” (*“carchar”*) has the same meaning as in the Prison Act 1952 (see section 53(1) of that Act);

“youth detention accommodation” (*“llety cadw ieuenctid”*) means—

- (a) a secure children's home;
- (b) a secure training centre;
- (c) a young offender institution;
- (d) accommodation provided, equipped and maintained by the Welsh Ministers under section 82(5) of the Children Act 1989 for the purpose of restricting the liberty of children;
- (e) accommodation, or accommodation of a description, for the time being specified by order under section 107(1)(e) of the Powers of Criminal Courts (Sentencing) Act 2000 (youth detention accommodation for purposes of detention and training orders).

- (2) For the purposes of sections 185 to 187—

- (a) a person who is temporarily absent from prison or youth detention accommodation is to be treated as detained in prison or youth detention accommodation for the period of absence;
- (b) a person who is temporarily absent from approved premises is to be treated as residing in approved premises for the period of absence;
- (c) a person who is temporarily absent from other premises in which the person is required to reside as a condition of the grant of bail in criminal proceedings is to be treated as residing in the premises for the period of absence.

189 Provider failure: temporary duty on local authority

- (1) This section applies where a person registered under Part 2 of the Care Standards Act 2000 in respect of an establishment or agency (within the meaning of that Act) becomes unable to carry on or manage the establishment or agency because of business failure.
- (2) A local authority must for so long as it considers necessary (and in so far as it is not already required to do so) meet—
- (a) those of an adult's needs for care and support, and

- (b) those of a relevant carer's needs for support, which were, immediately before the registered person became unable to carry on or manage the establishment or agency, being met in the authority's area by the establishment or agency (but this is subject to section 190).
- (3) A local authority is required to meet needs under subsection (2) regardless of—
 - (a) whether the relevant person is ordinarily resident in its area;
 - (b) whether the authority has carried out a needs assessment or a financial assessment;
 - (c) whether the authority would otherwise have a duty to meet those needs under this Act.
- (4) A local authority may impose a charge for meeting needs under subsection (2) (except in so far as those needs are met by the provision of information or advice).
- (5) A charge under subsection (4)—
 - (a) may be imposed only in respect of needs which were not, immediately before the registered person became unable to carry on or manage the establishment or agency, being met—
 - (i) under arrangements made by a local authority discharging its duty under section 35 or 40, or exercising its power under section 36 or 45, or
 - (ii) by the provision of accommodation or services all or part of the cost of which was paid for by direct payments made by virtue of section 50 or 52;
 - (b) may cover only the cost that the local authority incurs in meeting those needs.
- (6) Sections 60 to 67, 70, 71 and 73 apply to charging under subsection (4) as they apply to charging under section 59, and accordingly a local authority's power to impose a charge under that subsection is subject to—
 - (a) the provision made in regulations under section 61 or 62 (if any), and
 - (b) the authority's duties under sections 63, 66 and 67 (if applicable).
- (7) If the relevant person is not ordinarily resident in the area of the local authority which is required to meet needs under subsection (2), the authority—
 - (a) must, in meeting needs under that subsection which were being met under arrangements made by another local authority discharging its duty under section 35 or 40 or exercising its power under section 36 or 45, co-operate with that authority;
 - (b) must, in meeting needs under that subsection which were being met under arrangements all or part of the cost of which was paid for by another local authority by means of direct payments made by virtue of section 50 or 52, co-operate with that authority;
 - (c) may recover from the other local authority mentioned in paragraph (a) or (b) the cost it incurs in meeting those of the adult's needs or the relevant carer's needs referred to in the paragraph in question.
- (8) Any dispute between local authorities about the application of this section is to be determined under section 195 as if it were a dispute of the type mentioned in subsection (1) of that section.
- (9) In this section and (where relevant) in section 190 and 191—

Status: This is the original version (as it was originally enacted).

“registered person” (“*person cofrestredig*”), in relation to an establishment or agency, means the person registered under Part 2 of the Care Standards Act 2000 in respect of that establishment or agency;

“relevant carer” (“*gofalwr perthnasol*”) means a carer who—

- (a) is an adult, and
- (b) provides or intends to provide care for another adult;

“relevant person” (“*person perthnasol*”) means—

- (a) in a case involving an adult’s needs for care and support, that adult;
- (b) in a case involving a relevant carer’s needs for support, the adult needing care.

190 Provider failure: exception to temporary duty

(1) A local authority is not required to meet needs which were, immediately before the registered person became unable to carry on or manage the establishment or agency, being met—

- (a) under arrangements made by a local authority in England under Part 1 of the Care Act 2014;
- (b) under arrangements made by a local authority in Scotland discharging its duty under section 12 or 13A of the Social Work (Scotland) Act 1968 or section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003;
- (c) under arrangements made by a Health and Social Care trust under Article 15 of the [Health and Personal Social Services \(Northern Ireland\) Order 1972 \(S.I. 1972/1265 \(N.I. 14\)\)](#) or section 2 of the Carers and Direct Payments Act (Northern Ireland) 2002;
- (d) by the provision of accommodation or services all or part of the cost of which was paid for by direct payments made—
 - (i) by virtue of section 57 of the Health and Social Care Act 2001,
 - (ii) as a result of the choice made by the adult pursuant to section 5 of the Social Care (Self-directed Support) (Scotland) Act 2013, or
 - (iii) by virtue of section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002.

(2) Pending the commencement of Part 1 of the Care Act 2014, subsection (1)(a) is to be read as if there were substituted for it—

- “(a) under arrangements made by or by means of services provided by a local authority in England under—
 - (i) Part 3 of the National Assistance Act 1948,
 - (ii) section 45 of the Health Services and Public Health Act 1968,
 - (iii) section 117 of the Mental Health Act 1983,
 - (iv) Schedule 20 to the National Health Service Act 2006, or
 - (v) section 2 of the Carers and Disabled Children Act 2000;”.

(3) Pending the commencement of section 5 of the Social Care (Self-directed Support) (Scotland) Act 2013, subsection (1)(d)(ii) is to be read as if there were substituted for it—

- “(ii) under section 12B of the Social Work (Scotland) Act 1968, or”.

191 Provider failure: supplementary

- (1) A local authority becomes subject to the duty under section 189(2) as soon as it becomes aware of the business failure.
- (2) Section 34 (how to meet needs) and sections 46 to 49 (meeting needs: exceptions and restrictions) apply to meeting needs under section 189 as they apply to meeting needs under sections 35 to 45.
- (3) Regulations may make provision about the persons whom the local authority must involve in connection with meeting needs under section 189(2).
- (4) Where a person whose needs are being met by a local authority under section 189(2) is also being provided with continuing NHS care under arrangements made by a Local Health Board no part of whose area is in the local authority's area, the Local Health Board is to be treated as a relevant partner of the authority for the purposes of sections 162 and 164.
- (5) In subsection (4) "continuing NHS care" means services or facilities provided by virtue of sections 3(1)(e) and 12 of the National Health Service (Wales) Act 2006.
- (6) Where a local authority considers it necessary to do so for the purpose of carrying out its duty under section 189(2), it may request the registered person, or such other person involved in the establishment or agency's business as it considers appropriate, to provide it with information.
- (7) Regulations must make provision for the purposes of section 189 and this section as to the interpretation of references to business failure or to being unable to do something because of business failure; and the regulations may, in particular, specify circumstances in which a person is to be treated as unable to carry on or manage an establishment or agency because of business failure.

192 Amendment of the National Assistance Act 1948

In section 49 of the National Assistance Act 1948 (expenses of council officers acting as receivers), after "Act" insert ", other than one in Wales,".