



# Children and Families (Wales) Measure 2010

## 2010 nawm 1

### PART 1

#### CHILD POVERTY, PLAY AND PARTICIPATION

#### CHAPTER 1

#### ERADICATING CHILD POVERTY

##### *Broad aims*

### **1 Broad aims for contributing to the eradication of child poverty**

- (1) This section applies for the purposes of this Part.
- (2) The broad aims for contributing to the eradication of child poverty are—
  - (a) to increase income for households including one or more children with a view to ensuring that, so far as reasonably practicable, there are no households in the relevant income group;
  - (b) ensuring that, so far as reasonably practicable, children living in households in the relevant income group are not materially deprived;
  - (c) to promote and facilitate paid employment for parents of children;
  - (d) to provide parents of children with the skills necessary for paid employment;
  - (e) to reduce inequalities in educational attainment between children;
  - (f) to support parenting of children;
  - (g) to reduce inequalities in health between children and between parents of children (so far as necessary to ensure the well-being of their children);
  - (h) to ensure that all children grow up in decent housing;
  - (i) to ensure that all children grow up in safe and cohesive communities;

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- (j) to reduce inequalities in participation in cultural, sporting and leisure activities between children and between parents of children (so far as necessary to ensure the well-being of their children);
  - (k) to help young persons participate effectively in education and training;
  - (l) to help young persons take advantage of opportunities for employment;
  - (m) to help young persons participate effectively and responsibly in the life of their communities.
- (3) For the purposes of subsection (2)(a), the “relevant income group”, in relation to a household, is every household including one or more children where household income is less than 60% of median income in the United Kingdom.
- (4) For the purposes of subsection (2)(b), the “relevant income group”, in relation to a household, is every household including one or more children where household income is less than 70% of median income in the United Kingdom.
- (5) Regulations may provide for the determination of material deprivation and median income in relation to a household for the purposes of this section.
- (6) If no regulations under subsection (5) are in force, a Welsh authority is to make its own determination of material deprivation and median income in relation to a household for the purposes of this section.
- (7) In this section “young persons” means persons who have attained the age of 11 but not the age of 26.
- (8) The Welsh Ministers may by order—
- (a) amend or omit any paragraph of subsection (2);
  - (b) add paragraphs to that subsection;
  - (c) amend or omit such additional paragraphs;
  - (d) amend or omit subsections (3), (4), (5), (6) and (7);
  - (e) add subsections which relate to subsection (2);
  - (f) amend or omit such additional subsections;
  - (g) make any amendments to this Part that are necessary or expedient in consequence of any provision made under paragraphs (a) to (f).

### *Strategies*

## **2 strategies for contributing to the eradication of child poverty**

- (1) A Welsh authority must prepare and publish a strategy for contributing to the eradication of child poverty in Wales which sets out each of the following—
- (a) objectives chosen by the authority (subject to subsections (3) and (4)) which—
    - (i) relate to one or more of the broad aims for contributing to the eradication of child poverty, and
    - (ii) may be pursued in the exercise of its functions;
  - (b) any objectives specified in relation to the authority in regulations under subsection (5);
  - (c) actions to be performed and functions to be exercised by the authority for the purpose of achieving the objectives under paragraph (a) and, if any objectives

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are specified in relation to the authority in regulations under subsection (5), paragraph (b).

- (2) A Welsh authority must take all reasonable steps to perform the actions and exercise the functions referred to in subsection (1)(c) in accordance with its strategy.
- (3) The Welsh Ministers and a local authority must choose a range of objectives under subsection (1)(a) relating to all of the broad aims for the eradication of child poverty.
- (4) The Welsh Ministers must also choose objectives under subsection (1)(a) which—
  - (a) relate to their powers to provide funding to any person, and
  - (b) promote the broad aims for the eradication of child poverty.
- (5) The Welsh Ministers may specify objectives for a Welsh authority in regulations if—
  - (a) the objectives relate to one or more of the broad aims for contributing to the eradication of child poverty, and
  - (b) the objectives may be pursued by the Welsh authority in the exercise of its functions.
- (6) Regulations under subsection (5) may also provide that subsection (1)(a) and paragraph (c) of that subsection (as it relates to paragraph (a)) do not apply to a Welsh authority to the extent specified in the regulations.
- (7) For the purposes of this section, a reference to an action to be performed or a function to be exercised by a Welsh authority is a reference to an action or function which is within the powers of the Welsh authority.
- (8) For provision about the preparation and publication of strategies, see sections 3 to 5 of this Measure and section 26 of the Children Act 2004 (c. 31).

### **3 Strategies prepared by the Welsh Ministers**

- (1) The Welsh Ministers—
  - (a) must publish their first strategy under this Part in 2010,
  - (b) must keep their strategy under review, and
  - (c) may from time to time remake or revise their strategy.
- (2) Before making, remaking or revising their strategy, the Welsh Ministers must consult—
  - (a) the Secretary of State, and
  - (b) such other persons as they consider appropriate.
- (3) The provisions of subsection (2)(a) are not to be interpreted as conferring a power or duty on the Secretary of State.
- (4) The Welsh Ministers must publish a strategy when they make it and whenever they remake it; and, if they revise the strategy without remaking it, they must publish either the revisions or the strategy as revised (as they consider appropriate).
- (5) If the Welsh Ministers publish a strategy or revisions under subsection (4) they must lay a copy of the strategy or revisions before the National Assembly for Wales.
- (6) The Welsh Ministers must in 2013 and in every third year after 2013—
  - (a) publish a report containing an assessment of the extent to which—

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- (i) the objectives contained in their strategy for contributing to the eradication of child poverty have been achieved, and
  - (ii) if an objective has not been achieved, progress that has been made towards achieving the objective;
- (b) lay a copy of the report before the National Assembly for Wales.

#### **4 Strategies prepared by local authorities (children’s services authorities)**

(1) The duty of a local authority to publish a strategy under section 2(1) is discharged on publication by the authority of a plan under section 26 of the Children Act 2004 (c. 31).

(2) The Children Act 2004 (c. 31) is amended as follows.

(3) In section 26 (children and young people’s plans)—

(a) for subsection (1), substitute—

“(1A) A children’s services authority in Wales must, in accordance with regulations made by the Welsh Ministers, prepare and publish a plan setting out the authority’s strategy for discharging their functions in relation to children and relevant young persons.

(1B) A children’s services authority in Wales must include in their plan—

- (a) the arrangements made or to be made under section 25 by the authority;
- (b) the children’s services authority’s strategy under section 2 of the Children and Families (Wales) Measure 2010 (strategies for contributing to the eradication of child poverty).

(1C) A children’s services authority in Wales may include in their plan—

- (a) the strategy or proposals in relation to children and relevant young persons of any partner of the authority;
- (b) the strategy under section 2 of the Children and Families (Wales) Measure 2010 (strategies for contributing to the eradication of child poverty) of any partner of the authority.

(1D) The powers of a children’s services authority in subsection (1C) are subject to any duty imposed in regulations under subsection (2)(a).”;

(b) in subsection (3)(b), for “person or body with whom a children’s services authority in Wales makes or proposes to make such arrangements” substitute “partner”;

(c) for subsection (6) substitute—

“(6) In this section—

“partner” means any person or body with whom a children’s services authority in Wales has made an arrangement under section 25;

“relevant young persons” means the persons, in addition to children, in relation to whom arrangements under section 25 may be made.”.

(4) In section 66 (regulations and orders), after subsection (6) insert—

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“(7) Any statutory instrument containing regulations made under section 26 by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(8) Paragraphs 33 to 35 of Schedule 11 to the Government of Wales Act 2006 make provision about the National Assembly for Wales procedures that apply to any statutory instrument containing regulations or an order made in exercise of functions conferred upon the National Assembly for Wales by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.”.

## **5 Strategies prepared by other Welsh authorities**

- (1) In this section a reference to a “Welsh authority” does not include—
  - (a) the Welsh Ministers;
  - (b) a local authority.
- (2) Subsection (3) applies to the strategy of a Welsh authority under section 2.
- (3) Regulations may make provision as to—
  - (a) the period to which a strategy is to relate;
  - (b) when and how a strategy must be published;
  - (c) keeping a strategy under review;
  - (d) consultation to be carried out before a strategy is published.
- (4) Subsection (5) applies to a Welsh authority if both of the following paragraphs apply—
  - (a) the Welsh authority exercises functions in relation to one or more local authority areas;
  - (b) the Welsh authority has entered into an arrangement under section 25 of the Children Act 2004 (c. 31) with each of those local authorities.
- (5) The duty of a Welsh authority under section 2(1) to publish a strategy is discharged if the strategy is an integral part of a plan published under section 26 of the Children Act 2004 (c. 31) by each local authority with which it has entered into an arrangement under section 25 of that Act.

### *The Welsh authorities*

## **6 The Welsh authorities**

- (1) For the purposes of this Measure, each of the following is a “Welsh authority”—
  - (a) the Welsh Ministers;
  - (b) a local authority;
  - (c) a Local Health Board;
  - (d) a Welsh fire and rescue authority, that is an authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies;
  - (e) a National Park authority in Wales;
  - (f) the Countryside Council for Wales;
  - (g) the Higher Education Funding Council for Wales;

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- (h) the Public Health Wales National Health Service Trust;
  - (i) the National Museum of Wales;
  - (j) the Arts Council of Wales;
  - (k) the National Library of Wales;
  - (l) the Sports Council for Wales.
- (2) The Welsh Ministers may by order—
- (a) amend or omit any paragraph of subsection (1), except paragraphs (a) and (b);
  - (b) add paragraphs to that subsection;
  - (c) amend or omit such additional paragraphs;
  - (d) make any amendments to section 5 that are necessary or expedient in consequence of any provision made under paragraphs (a) to (c).
- (3) Before making an order under subsection (2) to include a person within subsection (1) or to remove a person from subsection (1), the Welsh Ministers must consult that person.
- (4) The Welsh Ministers must not exercise their power under subsection (2) so as to include any of the following within subsection (1)—
- (a) a person who does not have functions of a public nature;
  - (b) a person whose principal functions do not relate to one or more of the fields in Part 1 of Schedule 5 to the Government of Wales Act 2006 (c. 32);
  - (c) a tribunal.
- (5) If the Welsh Ministers exercise their power under subsection (2) so as to include a person within subsection (1) who has functions of both a public and a private nature, they must include that person only in relation to those of its functions which are of a public nature.

*Services to tackle child poverty*

**7 Local authority duty to secure the availability of free childcare**

- (1) A local authority must secure that childcare of a prescribed description is available free of charge for such periods as may be prescribed for each child of a prescribed description in its area who—
- (a) has attained such age as may be prescribed, but
  - (b) is under compulsory school age.
- (2) This duty is subject to the provisions of regulations made under section 10(1)(c).
- (3) In this section “childcare” means—
- (a) child minding or day care within the meaning of Part 2 in respect of which the provider is required to be registered under that Part, or
  - (b) care provided by a person of a description approved in accordance with a scheme made by the Welsh Ministers under section 12(5) of the Tax Credits Act 2002 (c. 21).

## **8 Parental support services: powers of a local authority**

- (1) A local authority may provide, secure the provision of or participate in the provision of parental support services to parents of children.
- (2) A local authority may not charge for anything provided under subsection (1).
- (3) In this section and in section 10 “parental support services” means any of the following—
  - (a) training in parenting skills;
  - (b) any other service to promote or facilitate effective parenting.

## **9 Health support services: powers of a local authority**

- (1) A local authority may provide, secure the provision of or participate in the provision of health support services.
- (2) A local authority may not provide, secure the provision of or participate in the provision of nursing services under subsection (1) for any part of its area without the consent of the Local Health Board for that part of its area.
- (3) A local authority may not charge for anything provided under subsection (1).
- (4) In this section and in section 10, “health support services” means services providing assistance in relation to the health of children or parents of children (so far as necessary to secure the well-being of their children), apart from assistance that amounts to the provision of medical, dental, ophthalmic, or pharmaceutical services.

## **10 Regulations about services to tackle child poverty**

- (1) Regulations may—
  - (a) require a local authority to secure the provision of parental support services of a prescribed description free of charge for prescribed parents of children in its area;
  - (b) require a local authority to secure the provision of health support services of a prescribed description free of charge for prescribed children or prescribed parents of children in its area;
  - (c) provide that the duty in section 7(1) is to apply only in one or more parts of a local authority area;
  - (d) provide that a requirement in regulations under paragraph (a) or (b) is to apply only in one or more parts of a local authority area.
- (2) Regulations under paragraph (c) or (d) of subsection (1) may (among other things)—
  - (a) specify one or more areas within a local authority area;
  - (b) provide for the specification of one or more areas by a local authority.

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## CHAPTER 2

### PLAY AND PARTICIPATION

#### *Play opportunities*

#### **11 Local authority duties in respect of play opportunities for children**

- (1) A local authority must assess the sufficiency of play opportunities in its area for children in accordance with regulations.
- (2) Regulations may include provision about—
  - (a) the matters to be taken into account in assessing sufficiency;
  - (b) the date by which a first assessment is to be carried out;
  - (c) frequency of assessments;
  - (d) review of assessments;
  - (e) publication of assessments.
- (3) A local authority must secure sufficient play opportunities in its area for children, so far as reasonably practicable, having regard to its assessment under subsection (1).
- (4) A local authority must—
  - (a) publish information about play opportunities in the authority’s area for children, and
  - (b) keep the information published up to date.
- (5) In performing its duties under this section, a local authority must have regard (among other things)—
  - (a) to the needs of children who are disabled persons (within the meaning of section 1 of the Disability Discrimination Act 1995 (c. 50));
  - (b) to the needs of children of different ages.
- (6) In this section—
 

“play” includes any recreational activity;

“sufficient”, in relation to play opportunities, means sufficient having regard to quantity and quality.

#### *Participation*

#### **12 Participation of children in local authority decision making**

- (1) A local authority must make such arrangements as it considers suitable to promote and facilitate participation by children in decisions of the authority which might affect them.
- (2) A local authority must—
  - (a) publish information about its arrangements under subsection (1), and
  - (b) keep the information published up to date.
- (3) Section 176 of the Education Act 2002 (c. 32) is repealed by this subsection.



## CHAPTER 3

### INSPECTION, GUIDANCE AND DIRECTIONS

#### *Inspection*

#### **13 Inspection**

- (1) The Welsh Ministers may by regulations make provision—
  - (a) for the inspection of the exercise by a local authority of functions under sections 7 to 12;
  - (b) for the publication of reports of the inspections in such manner as the Welsh Ministers consider appropriate.
- (2) The regulations may provide for the inspections to be organised by—
  - (a) the Welsh Ministers, or
  - (b) Her Majesty's Chief Inspector of Education and Training in Wales, or any other person, under arrangements made with the Welsh Ministers.
- (3) The regulations may provide that for the purposes of the law of defamation any report published under the regulations is privileged unless the publication is shown to have been made with malice.
- (4) Regulations made under subsection (3) do not limit any privilege subsisting apart from provision in such regulations.

#### **14 Powers of entry**

- (1) Any person authorised by the Welsh Ministers may, for the purposes of regulations made under section 13, at any reasonable time enter—
  - (a) any premises owned or controlled by a local authority;
  - (b) any premises falling within subsection (3).
- (2) But subsection (1) does not authorise entry to premises used wholly or mainly as a private dwelling.
- (3) The premises referred to in subsection (1)(b) are premises—
  - (a) which are used, or proposed to be used, by any person in connection with services or facilities secured by a local authority;
  - (b) or which the person authorised under subsection (1) reasonably believes to be so used, or proposed to be so used.
- (4) Authorisation under subsection (1)—
  - (a) may be given for a particular occasion or period;
  - (b) may be given subject to conditions.
- (5) A person exercising any power conferred by subsection (1) or section 15 must, if so required, produce some duly authenticated document showing that person's authority to do so.

## 15 Powers of inspection

- (1) A person entering premises under section 14 may (subject to any conditions imposed under section 14(4)(b))—
  - (a) inspect the premises;
  - (b) inspect, take copies of and remove from the premises any documents or records relating to the discharge by the local authority of its functions under sections 7 to 12;
  - (c) inspect any other item and remove it from the premises;
  - (d) interview in private any person working at the premises.
- (2) The power in subsection (1)(b) includes—
  - (a) power to require any person holding or accountable for documents or records kept on the premises to produce them, and
  - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) The power in subsection (1)(b) does not include power—
  - (a) to require a person to produce any document or record in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or
  - (b) to take copies of such a document or record or to remove it.
- (4) In connection with inspecting any such documents, a person authorised for the purposes of section 14 (subject to any conditions imposed under section 14(4)(b))—
  - (a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he or she considers is or has been in use in connection with the documents, and
  - (b) may require a person within subsection (5) to afford him or her such reasonable assistance as may be required for that purpose.
- (5) A person is within this subsection if he or she is—
  - (a) the person by whom or on whose behalf the computer is or has been used, or
  - (b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.
- (6) A person entering premises under section 14 (subject to any conditions imposed under section 14(4)(b)) may require any person to afford him or her such facilities and assistance with respect to matters within the person's control as are necessary to enable him or her to exercise powers under section 14 or this section.
- (7) Any person who without reasonable excuse—
  - (a) obstructs a person exercising any power under section 14(1) or this section, or
  - (b) fails to comply with any requirement imposed under this section,is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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## **16 Power to require information**

- (1) The Welsh Ministers may at any time require any person specified in subsection (3) to provide them with any information, documents, records (including personal records) or other items—
  - (a) which relates or relate to the exercise by a local authority of its functions under sections 7 to 12, and
  - (b) which the Welsh Ministers—
    - (i) consider necessary or expedient to have for the purpose of any of their functions relating to the exercise by a local authority of its functions under sections 7 to 12, or
    - (ii) consider necessary or expedient for any person exercising functions under sections 14 to 15 to have for the purpose of those functions.
- (2) The Welsh Ministers may share anything obtained under subsection (1) with any person exercising functions under sections 14 to 15.
- (3) The persons referred to in subsection (1) are—
  - (a) a local authority;
  - (b) any person with whom the authority have entered into arrangements—
    - (i) in the exercise of any of its functions under sections 7 to 12, or
    - (ii) in connection with any related activity.
- (4) The power in subsection (1) includes, in relation to information, documents or records kept by means of a computer, power to require provision of them in a legible form which can be taken away.
- (5) The power in subsection (1) does not include power to require the provision of information, documents or records in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (6) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### *Guidance and directions*

## **17 Guidance**

- (1) The Welsh Ministers may give guidance to another Welsh authority from time to time about—
  - (a) the exercise of functions under sections 1 to 10, or
  - (b) any action to promote the broad aims for contributing to the eradication of child poverty.
- (2) A Welsh authority must have regard to the guidance when exercising its functions.
- (3) In exercising its functions under sections 11 and 12, a local authority must have regard to any guidance given from time to time by the Welsh Ministers.

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## **18 Directions**

- (1) This section applies if the Welsh Ministers are satisfied that any other Welsh authority is failing, or is likely to fail, to comply with any duty under section 2, 7, 10, 11 or 12.
- (2) The Welsh Ministers may direct the Welsh authority to take any action which the Welsh Ministers consider necessary or expedient to secure its compliance with the requirements of the relevant duty.
- (3) A direction given under this section—
  - (a) must be given in writing;
  - (b) may be varied or revoked by a later direction;
  - (c) is enforceable by mandatory order on the application of the Welsh Ministers.