



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1988 (Cy. 298)

2015 No. 1988 (W. 298)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

**PLANT A PHOBL IFANC,
CYMRU**

**CHILDREN AND YOUNG
PERSONS, WALES**

**Rheoliadau Plant (Llety Diogel)
(Cymru) 2015**

**The Children (Secure
Accommodation) (Wales)
Regulations 2015**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn gosod gofynion mewn perthynas â lleoli plant mewn llety diogel.

Mae rheoliad 2 yn nodi'r cyfnod hwyaf y caniateir i awdurdod lleol gadw plentyn mewn llety diogel heb awdurdodiad gan lys. Mae rheoliad 3 yn gosod gofynion gweithdrefnol ar yr awdurdod lleol mewn perthynas â threfniadau o'r fath.

Mae rheoliad 4 yn gosod cyfyngiadau ar bwy gaiff wneud cais i lys am awdurdodiad i gadw plentyn mewn llety diogel. Mae rheoliad 5 yn ei gwneud yn ofynnol bod awdurdodau lleol yn hysbysu pobl benodol wrth wneud cais o'r fath, ac mae rheoliadau 6 a 7 yn nodi'r cyfnodau hwyaf y caiff llys eu hawdurdodi.

Mae rheoliad 8 yn atal awdurdod lleol rhag lleoli plentyn mewn llety diogel yn unman ac eithrio mewn cartref plant sydd wedi ei gofrestru at y diben hwnnw. Mae rheoliadau 9, 10 ac 11 yn ymdrin â'r gofynion i hysbysu ynghylch lleoliad o'r fath a'r gofynion ar awdurdodau lleol i wneud trefniadau i adolygu lleoliadau diogel. Rhaid i'r personau sy'n adolygu lleoliad wneud argymhelliad i'r awdurdod lleol ynghylch pa un a ddylai'r lleoliad barhau ai peidio. Mae rheoliad 12 yn nodi'r cofnodion y mae'n rhaid eu cynnal mewn perthynas â lleoliadau diogel.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose requirements in relation to the placement of children in secure accommodation.

Regulation 2 sets the maximum period which a local authority can hold a child in secure accommodation without authorisation from a court. Regulation 3 imposes procedural requirements on the local authority in relation to such arrangements.

Regulation 4 imposes restrictions on who may apply to a court for authorisation to hold a child in secure accommodation. Regulation 5 requires local authorities to notify certain people when making such an application and regulations 6 and 7 set the maximum periods which a court may authorise.

Regulation 8 prevents a local authority from placing a child in secure accommodation anywhere other than a children's home registered for that purpose. Regulations 9, 10 and 11 deal with the requirements for notification of such a placement and the requirements local authorities to make arrangements to review secure placements. The persons reviewing a placement must make a recommendation to the local authority about whether the placement should continue. Regulation 12 sets out the records which must be maintained in relation to secure placements.

Mae rheoliadau 13 i 16 yn ymdrin â'r modd y cymhwysir adran 119 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 ("y Ddeddf") i grwpiau penodol o blant. Mae rheoliad 13 yn ei gwneud yn ofynnol bod awdurdodau lleol yn cael cymeradwyaeth Gweinidogion Cymru cyn lleoli plentyn sydd o dan 13 oed mewn llety diogel. Mae rheoliad 14 yn nodi categorïau penodol o blant nad yw adran 119 o'r Ddeddf yn gymwys iddynt a rheoliad 15 yn nodi rhai plant yr addesir ar eu cyfer y prawf a nodir yn adran 119. Mae rheoliad 16 yn darparu ar gyfer ceisiadau am gadw plentyn mewn llety diogel gan bersonau ac eithrio awdurdodau lleol sy'n gofalu am blant, ac ar gyfer addasu darpariaethau adran 119 i ffitio'r amgylchiadau hynny.

Mae rheoliadau 17, 18 ac 19 yn ymdrin â diwygiadau canlyniadol ac achlysurol i rheoliadau sy'n gymwys o ran Cymru cyn i'r Rheoliadau hyn ddod i rym.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi drwy gysylltu â'r Grŵp Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ.

Regulations 13 to 16 deal with how section 119 of the Social Services and Well-being (Wales) Act 2014 ("the Act") applies to particular groups of children. Regulation 13 requires local authorities to have the approval of the Welsh Ministers before placing a child under the age of 13 in secure accommodation. Regulation 14 identifies certain categories of children to whom section 119 of the Act does not apply and section 15 identifies certain children in relation to whom the test set out in section 119 is modified. Section 16 provides for persons other than local authorities who are looking after children to make applications to hold a child in secure accommodation and for modification of the provisions of section 119 to fit those circumstances.

Regulations 17, 18 and 19 deal with consequential and incidental amendments to regulations which have application in relation to Wales prior to the coming into force of these Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained by contacting the Health and Social Services Group, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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Regulations 2015

Gwnaed 2 Rhagfyr 2015
Yn dod i rym 6 Ebrill 2016

Made 2 December 2015
Coming into force 6 April 2016

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Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adran 104(4)(c) o Ddeddf Plant 1989(1) a pharagraff 4(1) o Atodlen 4, paragraff 7 o Atodlen 5 a pharagraff 10 o Atodlen 6 i'r Ddeddf honno, adran 22(8)(b) ac adran 118(7) o Ddeddf Safonau Gofal 2000(2) ac adrannau 87, 119(2) a (7) a 196(2) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(3) yn gwneud y Rheoliadau a ganlyn.

Yn unol ag adran 196(6) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014, mae drafft o'r offeryn hwn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru ac wedi ei gymeradwyo drwy benderfyniad Cynulliad Cenedlaethol Cymru.

Enwi, cychwyn, cymhwyso a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Plant (Llety Diogel) (Cymru) 2015.

(2) Daw'r Rheoliadau hyn i rym ar 6 Ebrill 2016.

(3) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(4) Yn y Rheoliadau hyn—

ystyr “awdurdod lleol” (“*local authority*”) yw awdurdod lleol yng Nghymru oni ddynodir i'r gwrthwyneb;

ystyr “y Ddeddf” (“*the Act*”) yw Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014;

ystyr “llety diogel” (“*secure accommodation*”) yw llety yng Nghymru a ddarperir at y diben o gyfyngu ar ryddid plant y mae adran 119 o'r Ddeddf yn gymwys iddynt;

ystyr “ymwelydd annibynnol” (“*independent visitor*”) yw person a benodir gan awdurdod lleol o dan adran 98 o'r Ddeddf.

(5) Yn y Rheoliadau hyn, mae cyfeiriad at gofrestru cartref plant, neu at berson a gofrestrir mewn perthynas â chartref plant, yn gyfeiriad at gofrestru o dan Ran 2 o Ddeddf Safonau Gofal 2000.

The Welsh Ministers, in exercise of the powers conferred by section 104(4)(c), paragraph 4(1) of Schedule 4, paragraph 7 of Schedule 5 and paragraph 10 of Schedule 6 to the Children Act 1989(1) section 22(8)(b) and section 118(7) of the Care Standards Act 2000(2), sections 87, 119(2) and (7) and 196(2) of the Social Services and Well-being (Wales) Act 2014(3) make the following Regulations.

In accordance with section 196(6) of the Social Services and Well-being (Wales) Act 2014, a draft of this instrument was laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement, interpretation and application

1.—(1) The title of these Regulations is the Children (Secure Accommodation) (Wales) Regulations 2015.

(2) These Regulations come into force on 6 April 2016.

(3) These Regulations apply in relation to Wales.

(4) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Social Services and Well-being (Wales) Act 2014;

“independent visitor” (“*ymwelydd annibynnol*”) means a person appointed by a local authority under section 98 of the Act;

“local authority” (“*awdurdod lleol*”) means a Welsh local authority unless the contrary is indicated;

“secure accommodation” (“*llety diogel*”) means accommodation in Wales which is provided for the purpose of restricting the liberty of children to whom section 119 of the Act applies.

(5) In these Regulations a reference to a children's home being registered, or to a person registered in respect of a children's home, is a reference to registration under Part 2 of the Care Standards Act 2000.

(1) 1989 p. 41.
(2) 2000 p. 14.
(3) 2014 dccc 4.

(1) 1989 c. 41.
(2) 2000 c. 14.
(3) 2014 anaw 4.

Cyfnod Hwyaſ heb Awdurdodiad Llys

Cyfnod hwyaf mewn llety diogel heb awdurdodiad llys

2.—(1) Yn ddarostyngedig i baragraff (2) a (3), y cyfnod hwyaf, na chaiff awdurdod lleol gadw plentyn mewn llety diogel y tu hwnt iddo heb awdurdodiad y llys, yw cyfnod cyfanredol o 72 o oriau (pa un ai'n olynol neu beidio) mewn unrhyw gyfnod o 28 diwrnod.

(2) Os—

- (a) cedwir plentyn mewn llety diogel ar unrhyw adeg rhwng 12 canol dydd ar y diwrnod cyn gŵyl gyhoeddus neu ddydd Sul a 12 canol dydd ar y diwrnod ar ôl yr ŵyl gyhoeddus neu'r dydd Sul,
- (b) yn ystod yr amser hwnnw, byddai'r cyfnod hwyaf o 72 awr yn dod i ben, ac
- (c) yn ystod y 27 diwrnod cyn y diwrnod y dechreuodd y cyfnod diweddaraf mewn llety diogel, roedd y plentyn eisoes wedi ei gadw mewn llety diogel am gyfnod cyfanredol o fwy na 48 o oriau,

estynnir y cyfnod hwyaf tan 12 canol dydd ar y diwrnod cyntaf nad yw'n ŵyl gyhoeddus nac yn ddydd Sul.

(3) Pan fo llys yn rhoi awdurdodiad i gadw plentyn mewn llety diogel, rhaid diystyru unrhyw gyfnod pan gedwid y plentyn mewn llety diogel cyn cyfnod yr awdurdodiad hwnnw, wrth gyfrifo'r cyfnod hwyaf mewn perthynas ag unrhyw gyfnodau dilynol mewn llety diogel ar ôl i'r cyfnod a awdurdodwyd gan y llys ddod i ben.

Gofyniad pan fo plentyn dan gadwad heb awdurdodiad llys

3.—(1) Cyn bo awdurdod lleol yn lleoli plentyn mewn llety diogel heb awdurdodiad llys, rhaid iddo yn gyntaf greu cofnod ysgrifenedig sy'n nodi—

- (a) y rhesymau pam y mae'n credu bod y seiliau o dan adran 119(1) o'r Ddeddf wedi eu bodloni;
- (b) diben y lleoliad; ac
- (c) y rhesymau pam y mae'n credu bod y lleoliad yn angenrheidiol.

(2) Rhaid i'r awdurdod lleol ddarparu copi o'r cofnod hwnnw i'r canlynol—

- (a) y plentyn ac unrhyw berson sy'n darparu cynrychiolaeth gyfreithiol i'r plentyn;
- (b) rhieni'r plentyn;

Maximum Period Without Court Authorisation

Maximum period in secure accommodation without court authorisation

2.—(1) Subject to paragraph (2) and (3), the maximum period beyond which a local authority may not keep a child in secure accommodation without the authority of the court is an aggregate of 72 hours (whether or not consecutive) in any period of 28 days.

(2) Where—

- (a) a child is kept in secure accommodation at any time between 12 midday on the day before and 12 midday on the day after a public holiday or a Sunday,
- (b) during that time the maximum period of 72 hours would otherwise expire, and
- (c) the child has in the 27 days before the day on which the latest period in secure accommodation began, already been kept in secure accommodation for an aggregate of more than 48 hours,

the maximum period is extended until 12 midday on the first day which is not a public holiday or a Sunday.

(3) Where a court gives authority for a child to be held in secure accommodation, any period during which the child was kept in secure accommodation prior to that period of authorisation shall be disregarded in calculating the maximum period in relation to any subsequent periods in secure accommodation after the court-authorized period has expired.

Requirement where child detained without court authority

3.—(1) Before a local authority places a child in secure accommodation without court authority it must first create a written record setting out—

- (a) the reasons why it believes the grounds under section 119(1) of the Act are met;
- (b) the purpose of the placement; and
- (c) the reasons why it considers that the placement is necessary.

(2) The local authority must provide a copy of that record to—

- (a) the child and any person providing legal representation to the child;
- (b) the child's parents;

- (c) unrhyw berson nad yw'n rhiant y plentyn ond sydd â chyfrifoldeb rhiant amdano;
- (d) ymwelydd annibynnol y plentyn os penodwyd un; ac
- (e) unrhyw berson arall y tybia'r awdurdod lleol y dylid ei hysbysu.

Awdurdodiad Llys

Ceisiadau i'r llys

4.—(1) Yr awdurdod lleol (gan gynnwys awdurdod lleol yn Lloegr) sy'n gofalu am y plentyn, yn unig, a gaiff wneud ceisiadau i lys o dan adran 119 o'r Ddeddf (yn ddarostyngedig i'r pŵer sydd gan awdurdod lleol i drefnu ar gyfer cyflawni ei swyddogaethau gan berson arall o dan adran 101 o Ddeddf Llywodraeth Leol 1972(1) neu adrannau 14 i 20 o Ddeddf Llywodraeth Leol 2000(2)).

(2) Ond pan fo rheoliad 16 o'r Rheoliadau hyn yn gymwys ac yn addasu adran 119 o'r Ddeddf gan wneud yr adran honno'n gymwys i blant ac eithrio rhai sy'n derbyn gofal gan awdurdod lleol, caniateir ceisiadau i lys gan y Bwrdd Iechyd Lleol, Ymddiriedolaeth GIG, neu awdurdod lleol sy'n arfer ei swyddogaethau addysg, sydd yn darparu llety i blentyn y mae adran 119 o'r Ddeddf yn gymwys iddo.

Dylatswydd i hysbysu rhieni ac eraill ynghylch bwriad i leoli plentyn mewn llety diogel

5. Pan fo awdurdod lleol yn bwriadu gwneud cais i lys er mwyn lleoli plentyn y mae'r awdurdod yn gofalu amdano mewn llety diogel, rhaid i'r awdurdod, i'r graddau y mae'n rhesymol ymarferol, hysbysu'r canlynol cyn gynted ag y bo modd—

- (a) rhieni'r plentyn;
- (b) unrhyw berson nad yw'n rhiant y plentyn ond sydd â chyfrifoldeb rhiant amdano;
- (c) ymwelydd annibynnol y plentyn os penodwyd un; a
- (d) unrhyw berson arall y tybia'r awdurdod lleol y dylid ei hysbysu.

- (c) any person who is not a parent but has parental responsibility for the child;
- (d) the child's independent visitor, if one has been appointed; and
- (e) any other person who that local authority considers should be informed.

Court Authorisation

Applications to court

4.—(1) Applications to court under section 119 of the Act may only be made by the local authority (including an English local authority) which is looking after the child (subject to the power of a local authority to arrange for its functions to be carried out by another person under section 101 of the Local Government Act 1972(1) or sections 14 to 20 of the Local Government Act 2000(2)).

(2) But where regulation 16 of these Regulations applies to modify section 119 of the Act so that it applies in relation to children other than those being looked after by a local authority, then applications to court can be made by the Local Health Board, NHS Trust or local authority in the exercise of education functions which is providing accommodation for a child and to whom section 119 of the Act applies.

Duty to inform parents and others of intention to place child in secure accommodation

5. Where a local authority intends to apply to a court to place a child whom it is looking after in secure accommodation, it must, as far as is reasonably practicable, notify, as soon as possible—

- (a) the child's parents;
- (b) any person who is not a parent but has parental responsibility for the child;
- (c) the child's independent visitor, if one has been appointed; and
- (d) any other person who that local authority considers should be informed.

(1) 1972 p. 70.
(2) 2000 p. 22.

(1) 1972 c. 70.
(2) 2000 c. 22.

Cyfnodau hwyaf awdurdodiad gan y llys

6.—(1) Yn ddarostyngedig i baragraff (2), pan fo plentyn wedi ei wneud yn destun cais o dan adran 119 o'r Ddeddf, y cyfnod cychwynnol hwyaf y caiff llys awdurdodi cadw plentyn mewn llety diogel yw tri mis.

(2) Pan fo plentyn yn ddarostyngedig i gais i estyn y cyfnod mewn llety diogel o dan adran 119 o'r Ddeddf, y cyfnod pellach hwyaf y caiff llys ei awdurdodi ar unrhyw un adeg yw 6 mis.

Cyfnod hwyaf awdurdodiad ar gyfer plant sydd ar remánd

7.—(1) Y cyfnod hwyaf y caiff llys, o bryd i'w gilydd, awdurdodi cadw plentyn, a roddwyd ar remánd i lety awdurdod lleol o dan adran 91(3) o Ddeddf Cymorth Cyfreithiol, Dedfrydu a Chosbi Troseddwyd 2012 (1), mewn llety diogel (pa un ai am gyfnod cyntaf ynteu cyfnod ychwanegol) yw cyfnod y remánd.

(2) Mae'r cyfeiriad at "awdurdod lleol" ym mharagraff (1) yn cynnwys awdurdod lleol yn Lloegr.

Gofynion mewn perthynas â lleoliadau mewn llety diogel

Lleoliad mewn cartref plant sydd wedi ei gofrestru

8. Ni chaiff awdurdod lleol leoli plentyn mewn llety diogel ac eithrio mewn cartref sydd wedi ei gofrestru fel cartref plant sy'n darparu llety at y diben o gyfyngu ar ryddid(2).

Dyletswydd i roi gwybodaeth am leoliad mewn llety diogel

9.—(1) Pan leolir plentyn mewn llety diogel mewn cartref plant a ddarperir gan berson ac eithrio'r awdurdod lleol syn gofalu am y plentyn, rhaid i'r person cofrestredig mewn cysylltiad â'r cartref plant hwnnw roi gwybod i'r awdurdod lleol sy'n gofalu am y plentyn, fod y plentyn wedi ei leoli yn y cartref, o fewn 12 awr ar ôl dechreuad y lleoliad.

Maximum periods of authorisation by the court

6.—(1) Subject to paragraph (2), where a child has been made the subject of an application under section 119 of the Act, the maximum initial period for which a court may authorise the child to be kept in secure accommodation is three months.

(2) Where a child is subject to an application to extend the period in secure accommodation under section 119 of the Act the maximum further period which a court may authorise at any one time is 6 months.

Maximum period of authorisation for remanded children

7.—(1) The maximum period for which a court may from time to time authorise a child who has been remanded to local authority accommodation under section 91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(1) to be kept in secure accommodation (whether the period is the initial period or a further period) is the period of the remand.

(2) The reference to "local authority" in paragraph (1) includes an English local authority.

Requirements in relation to placements in secure accommodation

Placement in a children's home which is registered

8. A local authority may only place a child in secure accommodation in a home which is registered as a children's home providing accommodation for the purpose of restricting liberty(2).

Duty to give information of placement in secure accommodation

9.—(1) Where a child is placed in secure accommodation in a children's home which is provided by a person other than the local authority which is looking after the child, the person registered in respect of the children's home must inform the local authority which is looking after the child that the child has been placed there within 12 hours of the placement beginning.

(1) 2012 p. 10.

(2) Gweler adran 4(8)(a) o Ddeddf Safonau Gofal 2000 sy'n pennu'r mathau o sefydliad y gwneir yn ofynnol eu bod yn cofrestru o dan Ran 2 o'r Ddeddf honno.

(1) 2012 c. 10.

(2) See section 4(8)(a) of the Care Standards Act 2000 which sets out the types of establishment which are required to register under Part 2 of that Act.

(2) Rhaid i'r awdurdod lleol sy'n gofalu am y plentyn gadarnhau wedyn, wrth y person cofrestredig—

- (a) ei awdurdodiad i gadw'r plentyn mewn llety diogel;
- (b) cyfnod yr awdurdodiad; ac
- (c) manylion unrhyw orchymyn gan lys sy'n awdurdodi'r lleoliad.

Penodi personau i adolygu lleoliadau

10. Rhaid i awdurdod lleol sy'n penderfynu lleoli plentyn mewn llety diogel benodi o leiaf 3 pherson i adolygu'r penderfyniad o fewn 15 diwrnod ar ôl dechrau'r lleoliad, ac wedyn fesul ysbaid o ddim mwy na 3 mis tra bo'r lleoliad mewn llety diogel yn parhau.

Adolygiadau o leoliad mewn llety diogel

11.—(1) Rhaid i'r personau a benodir o dan reoliad 10 ystyried, gan roi sylw i les y plentyn a leolwyd, y materion canlynol—

- (a) a yw'r criteria ar gyfer cadw'r plentyn mewn llety diogel yn parhau'n gymwys;
- (b) a yw'r lleoliad mewn llety diogel yn parhau'n angenrheidiol, neu a fyddai llety o unrhyw ddisgrifiad arall yn diwallu anghenion y plentyn yn well.

(2) Wrth gynnal adolygiad o'r lleoliad, rhaid i'r personau a benodir, i'r graddau y bo'n rhesymol ymarferol, ganfod a chymryd i ystyriaeth ddymuniadau a theimladau—

- (a) y plentyn;
- (b) rhieni'r plentyn;
- (c) unrhyw berson nad yw'n rhiant y plentyn ond sydd â chyfrifoldeb rhiant amdano;
- (d) unrhyw berson arall a fu'n gofalu am y plentyn ac y tybia'r personau a benodwyd y dylid cymryd ei safbwyntiau i ystyriaeth;
- (e) ymwelydd annibynnol y plentyn, os penodwyd un;
- (f) y person sy'n rheoli'r llety diogel y lleolir y plentyn ynddo.

(3) Rhaid i'r personau a benodir wneud argymhelliad i'r awdurdod lleol ynghylch a ddylai lleoliad y plentyn hwnnw mewn llety diogel barhau.

(4) Rhaid i'r awdurdod lleol, i'r graddau y mae'n rhesymol ymarferol, hysbysu pob un o'r rhai y mae'n ofynnol cymryd eu safbwyntiau i ystyriaeth o dan baragraff (2) ynghylch yr argymhelliad a wnaed o

(2) The local authority looking after the child must then confirm to the registered person—

- (a) its authorisation for the child to be held in secure accommodation;
- (b) the period of authorisation; and
- (c) details of any order made by a court authorising the placement.

Appointment of persons to review placements

10. A local authority which decides to place a child in secure accommodation must appoint at least 3 persons to review the decision within 15 working days of the start of the placement and then at intervals not exceeding three months where the placement in secure accommodation continues.

Reviews of placement in secure accommodation

11.—(1) The persons appointed under regulation 10 must consider, having regard to the welfare of the child in question—

- (a) whether the criteria for keeping the child in secure accommodation continue to apply;
- (b) whether the placement in secure accommodation continues to be necessary or whether any other description of accommodation would better meet the child's needs.

(2) In undertaking a review of the placement, the persons appointed must, so far as is reasonably practicable, ascertain and take into account the wishes and feelings of—

- (a) the child;
- (b) the child's parents;
- (c) any person not being a parent but who has parental responsibility for the child;
- (d) any other person who has had care of the child whose views the persons appointed consider should be taken into account;
- (e) the child's independent visitor if one has been appointed;
- (f) the person managing the secure accommodation in which the child is placed.

(3) The persons appointed must make a recommendation to the local authority about whether the placement of that child in secure accommodation should continue.

(4) The local authority must, as far as is reasonably practicable, inform all those whose views are required to be taken into account under paragraph (2) of the recommendation made by the review and of what

ganlyniad i'r adolygiad, a'r camau, os oes rhai, y mae'r awdurdod yn bwriadu eu cymryd yng ngoleuni'r argymhelliad

Cofnodion sydd i'w cadw mewn perthynas â phlentyn mewn llety diogel mewn cartref plant

12. Pan leolir plentyn mewn llety diogel mewn cartref plant, rhaid i'r personau sydd wedi eu cofrestru mewn cysylltiad â'r cartref gynnal cofnod ar gyfer y plentyn hwnnw, sy'n cynnwys y canlynol—

- (a) enw, dyddiad geni a rhyw y plentyn;
- (b) manylion y gorchymyn gofal neu ddarpariaeth statudol arall, yn rhinwedd y cyfryw y lleolwyd y plentyn yn y cartref plant;
- (c) manylion yr awdurdod lleol sy'n lleoli'r plentyn ac enw'r swyddog awdurdodi;
- (d) dyddiad ac amser dechrau'r lleoliad mewn llety diogel;
- (e) y rheswm am y lleoliad;
- (f) cyfeiriad y man lle'r oedd y plentyn yn byw cyn y lleoliad;
- (g) enwau a manylion perthnasol y personau a hysbyswyd ynghylch lleoliad y plentyn yn rhinwedd rheoliad 5;
- (h) manylion unrhyw orchmynion llys a wnaed mewn perthynas â'r plentyn o dan adran 119;
- (i) manylion unrhyw adolygiadau a wnaed o dan reoliad 11;
- (j) dyddiad ac amser unrhyw gyfnodau pan mae'r plentyn dan glo ar ei ben ei hun mewn unrhyw ystafell ac eithrio yn ei ystafell wely yn ystod amser gwely arferol, enw'r person sy'n awdurdodi gweithredu felly, y rheswm am wneud hynny, a'r dyddiad ac amser y mae'r plentyn yn peidio â bod dan glo yn yr ystafell honno; a
- (k) dyddiad ac amser rhyddhau'r plentyn o lety diogel a chyfeiriad y plentyn ar ôl ei ryddhau o'r llety diogel.

Cymhwyso adran 119 i gategoriâu penodol o blant

Lleoli plentyn sydd o dan 13 oed mewn llety diogel

13.—(1) Ni chaiff awdurdod lleol leoli plentyn sydd o dan 13 mlwydd oed mewn llety diogel heb gael cymeradwyaeth ymlaen llaw gan Weinidogion Cymru ar gyfer lleoli'r plentyn hwnnw.

(2) Caiff Gweinidogion wneud y gymeradwyaeth yn ddarostyngedig i ba bynnag delerau ac amodau ag y tybiant yn briodol.

action, if any, it proposes to take in the light of the recommendation.

Records to be kept in respect of a child in secure accommodation in a children's home

12. When a child is placed in secure accommodation in a children's home the persons who are registered in respect of the children's home must maintain a record for that child which includes—

- (a) the name, date of birth and sex of that child;
- (b) details of the care order or other statutory provision by virtue of which the child is placed in the children's home;
- (c) details of the local authority placing the child and the name of the authorising officer;
- (d) the date and time of the start of the placement in secure accommodation;
- (e) the reason for the placement;
- (f) the address of the place where the child was living before the placement;
- (g) the names and relevant details of the persons informed by virtue of regulation 5 of the child's placement;
- (h) details of any court orders made in respect of the child under section 119;
- (i) details of reviews undertaken under regulation 11;
- (j) the date and time of any periods when the child is locked on his own in any room other than his bedroom during usual bedtime hours, the name of the person authorising this action, the reason for it and the date on which and time at which the child ceases to be locked in that room; and
- (k) the date and time of the child's discharge and the child's address following discharge from secure accommodation.

Application of section 119 to particular categories of children

Placement of a child aged under 13 in secure accommodation

13.—(1) A local authority may not place a child under the age of 13 years in secure accommodation without the prior approval of the Welsh Ministers in relation to the placement of that child.

(2) The Welsh Ministers may make the approval subject to such terms and conditions as they see fit.

Plant nad yw adran 119 yn gymwys iddynt

14. Nid yw adran 119 yn gymwys i blentyn—

- (a) sydd dan gadwad o dan unrhyw ddarpariaeth o Ddeddf Iechyd Meddwl 1983(1) neu y gwnaed gorchymyn mewn perthynas ag ef o dan adran 90 neu 91 o Ddeddf Pwerau'r Llysoedd Troseddol (Dedfrydu) 2000(2) (cadw yn ôl ewyllys Ei Mawrhydi neu am gyfnod penodedig);
- (b) sy'n destun gorchymyn asesu plentyn a wnaed o dan adran 43 o Ddeddf Plant 1989(3) ac a gedwir i ffwrdd o gartref yn unol â'r gorchymyn hwnnw;
- (c) sydd yn 16 neu 17 oed ac a letyir o dan adran 76 o'r Ddeddf;
- (d) sydd ar remánd i lety cadw ieuenctid ac a drinnir fel pe bai'n derbyn gofal yn rhinwedd adran 104(1) o Ddeddf Cymorth Cyfreithiol, Dedfrydu a Chosbi Troseddwyd 2012(4).

Plant dan gadwad y mae adran 119 yn gymwys iddynt gydag addasiadau: plant dan gadwad o dan Ddeddf yr Heddlu a Thystiolaeth Droseddol 1984

15.—(1) Mae adran 119 o'r Ddeddf yn cael effaith yn ddarostyngedig i'r addasiad a bennir ym mharagraff (2) mewn perthynas â phlant sy'n derbyn gofal gan awdurdod lleol, sydd rhwng 12 ac 16 mlwydd oed ac sydd dan gadwad o dan adran 38(6) o Ddeddf yr Heddlu a Thystiolaeth Droseddol 1984(5) (plant dan gadwad).

(2) Yr addasiad, ym mharagraff (1), yw y rhoddir, yn lle'r geiriau o "onid yw'n ymddangos" hyd at ddiwedd is-adran (1), y canlynol—

"onid yw'n ymddangos bod unrhyw lety arall ac eithrio llety a ddarperir at y diben o gyfyngu ar ryddid yn amhriodol oherwydd—

- (a) bod y plentyn yn debygol o ddianc o'r cyfryw lety arall, neu
- (b) bod y plentyn yn debygol o anafu ei hun neu bersonau eraill os cedwir y plentyn mewn unrhyw gyfryw lety arall."

Children to whom section 119 does not apply

14. Section 119 does not apply to a child—

- (a) who is detained under any provision of the Mental Health Act 1983(1) or in respect of whom an order has been made under section 90 or 91 of the Powers of the Criminal Courts (Sentencing) Act 2000(2) (detention at Her Majesty's Pleasure or for specified period);
- (b) who is the subject of a child assessment order made under section 43 of the Children Act 1989(3) and who is kept away from home pursuant to that order;
- (c) who is aged 16 or 17 and is accommodated under section 76 of the Act;
- (d) who is remanded to youth detention accommodation and is treated as looked after by virtue of section 104(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(4).

Detained children to whom section 119 applies subject to modifications: children detained under the Police and Criminal Evidence Act 1984

15.—(1) Section 119 of the Act has effect subject to the modification specified in paragraph (2) in relation to children who are being looked after by a local authority and are aged between 12 and 16 and are detained under section 38(6) of the Police and Criminal Evidence Act 1984(5) (detained children).

(2) The modification in paragraph (1) is that, for the words "unless it appears" to the end of subsection (1), there shall be substituted the following words—

"unless it appears that any accommodation other than that provided for the purpose of restricting liberty is inappropriate because—

- (a) the child is likely to abscond from such other accommodation, or
- (b) the child is likely to injure himself or herself or other people if he or she is kept in any such other accommodation."

(1) 1983 p. 20.
(2) 2000 p. 6.
(3) 1989 p. 41.
(4) 2012 p. 10.
(5) 1984 p. 60

(1) 1983 c. 20.
(2) 2000 c. 6.
(3) 1989 c. 41.
(4) 2012 c. 10
(5) 1984 c. 60.

Plant y mae adran 119 yn cael effaith mewn perthynas â hwy yn ddarostyngedig i addasiadau

16.—(1) Yn ddarostyngedig i reoliad 7 a pharagraffau (2) a (3) o'r rheoliad hwn mae adran 119 o'r Ddeddf, yn ogystal ag i blant sy'n derbyn gofal gan awdurdodau lleol (gan gynnwys awdurdodau lleol yn Lloegr), yn gwmwys hefyd i'r canlynol —

- (a) plant, ac eithrio rhai sy'n derbyn gofal gan awdurdod lleol (gan gynnwys awdurdod lleol yn Lloegr), a letyir gan—
 - (i) Byrddau Iechyd Lleol;
 - (ii) Ymddiriedolaethau Gwasanaeth Iechyd Gwladol (“Ymddiriedolaethau GIG”);
 - (iii) awdurdodau lleol sy'n arfer swyddogaethau addysg;
- (b) plant, ac eithrio rhai sy'n derbyn gofal gan awdurdod lleol, a letyir mewn cartrefi gofal neu ysbytai annibynnol.

(2) Mewn perthynas â'r plant a bennir ym mharagraff (1)(a), mae adran 119 yn cael effaith yn ddarostyngedig i addasiadau fel a ganlyn—

- (a) yn is-adran (1) yn lle'r geiriau “sy'n derbyn gofal gan awdurdod lleol neu awdurdod lleol yn Lloegr” rhodder “y darperir llety iddo gan Fwrdd Iechyd Lleol, Ymddiriedolaeth GIG neu awdurdod lleol sy'n arfer swyddogaethau addysg”;
- (b) yn is-adran (2)(c) yn lle'r geiriau “gan awdurdod lleol” rhodder “gan Fwrdd Iechyd Lleol, Ymddiriedolaeth GIG neu awdurdod lleol sy'n arfer swyddogaethau addysg”.

(3) Mewn perthynas â'r plant a bennir ym mharagraff (1)(b), mae adran 119 yn cael effaith yn ddarostyngedig i addasiadau fel a ganlyn—

- (a) yn is-adran (1) yn lle'r geiriau “sy'n derbyn gofal gan awdurdod lleol neu awdurdod lleol yn Lloegr” rhodder “y darperir llety iddo mewn cartref gofal neu mewn ysbyty annibynnol”; a
- (b) yn is-adran (2)(c) yn lle'r geiriau “gan awdurdod lleol” rhodder “gan berson sy'n cynnal cartref gofal neu ysbyty annibynnol”.

Children to whom section 119 has effect subject to modifications

16.—(1) Subject to regulation 7 and paragraphs (2) and (3) of this regulation section 119 of the Act applies, in addition to children looked after by local authorities (including English local authorities)—

- (a) to children, other than those looked after by a local authority (including an English local authority), who are accommodated by—
 - (i) Local Health Boards;
 - (ii) National Health Service Trusts (“NHS Trusts”);
 - (iii) local authorities in the exercise of education functions;
- (b) to children, other than those looked after by a local authority, who are accommodated in care homes or independent hospitals.

(2) In relation to children specified in paragraph (1)(a), section 119 has effect subject to the following modifications—

- (a) in subsection (1) replace the phrase “who is being looked after by a local authority or a local authority in England” with “who is being provided with accommodation by a Local Health Board, an NHS Trust or a local authority in the exercise of education functions”;
- (b) in subsection (2)(c) replace the phrase “by a local authority” with “by a Local Health Board, an NHS Trust or a local authority in the exercise of education functions”.

(3) In relation to the children specified in paragraph (1)(b), section 119 of the Act has effect subject to the following modifications—

- (a) in subsection (1) replace the words “who is being looked after by a local authority or a local authority in England” with the words “who is being provided with accommodation in a care home or an independent hospital”; and
- (b) in subsection (2)(c) replace the phrase “by a local authority” with the words “by a person carrying on a care home or an independent hospital”.

Datgymhwyso Rheoliadau Plant (Llety Diogel) 1991 o ran Cymru

17. Yn Rheoliadau Plant (Llety Diogel) 1991(1) mewnosoder y rheoliad canlynol ar ôl rheoliad 1—

“Disapplication to Wales

- 1A.—(1) These Regulations do not apply—
- (a) in relation to the placement of a looked after child by a Welsh local authority;
 - (b) in relation to the provider of a children’s home in Wales;
 - (c) in relation to an application to a court for authority to place a child in secure accommodation in Wales.
- (2) In relation to cases to which paragraph (1) applies refer to adran 119 of the Social Services and Wellbeing (Wales) Act 2014 and the Children (Secure Accommodation) (Wales) Regulations 2015.”

Dirymiadau

18. Mae’r Rheoliadau canlynol wedi eu dirymu—
- (a) Rheoliadau Plant (Llety Diogel) (Diwygio) (Cymru) 2006(2);
 - (b) Rheoliadau Plant (Llety Diogel) (Diwygio) (Cymru) 2013(3).

Datgymhwyso Rheoliadau o ran Cymru

19. Mae’r Rheoliadau canlynol wedi eu datgymhwyso o ran Cymru—
- (a) Rheoliadau Plant (Llety Diogel) (Rhif 2) 1991(4);
 - (b) Rheoliadau Plant (Llety Diogel) (Diwygio) 1992(5);
 - (c) Rheoliadau Plant (Llety Diogel) (Diwygio) 1995(6).

Disapplication of the Children (Secure Accommodation) Regulations 1991 to Wales

17. Insert into the Children (Secure Accommodation) Regulations 1991(1) the following regulation after regulation 1—

“Disapplication to Wales

- 1A.—(1) These Regulations do not apply—
- (a) in relation to the placement of a looked after child by a Welsh local authority;
 - (b) in relation to the provider of a children’s home in Wales;
 - (c) in relation to an application to a court for authority to place a child in secure accommodation in Wales.
- (2) In relation to cases to which paragraph (1) applies refer to section 119 of the Social Services and Wellbeing (Wales) Act 2014 and the Children (Secure Accommodation) (Wales) Regulations 2015.”

Revocations

18. The following Regulations are revoked—
- (a) the Children (Secure Accommodation) (Amendment) (Wales) Regulations 2006(2);
 - (b) the Children (Secure Accommodation) (Amendment) (Wales) Regulations 2013(3).

Disapplication of Regulations in relation to Wales

19. The following Regulations are disapplied in relation to Wales—
- (a) the Children (Secure Accommodation) (No. 2) Regulations 1991(4);
 - (b) the Children (Secure Accommodation) (Amendment) Regulations 1992(5);
 - (c) the Children (Secure Accommodation) (Amendment) Regulations 1995(6).

(1) O.S. 1991/1505.
(2) O.S. 2006/2986 (Cy. 276).
(3) O.S. 2013/663 (Cy. 76).
(4) O.S. 1991/2034.
(5) O.S. 1992/211.
(6) O.S. 1995/1398.

(1) S.I. 1991/1505.
(2) S.I. 2006/2986 (W. 276).
(3) S.I. 2013/663 (W. 76).
(4) S.I. 1991/2034.
(5) S.I. 1992/211.
(6) S.I. 1995/1398.

Mark Drakeford

Gweinidog Iechyd a Gwasanaethau Cymdeithasol, un
o Weinidogion Cymru
2 Rhagfyr 2015

Minister for Health and Social Services, one of the
Welsh Ministers
2 December 2015

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**PLANT A PHOBL IFANC,
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Rheoliadau Plant (Llety Diogel)
(Cymru) 2015

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