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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation – summary of response

Investigating deaths of children in secure accommodation

Amendments to the Children's Homes (Wales) Regulations 2002

January 2017

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CONSULTATION REPORT

1. Background

- 1.1. From 28 October to 16 December 2016, the Welsh Government consulted on proposed amendments to the Children's Homes (Wales) Regulations 2002. The consultation included the draft Children's Homes (Wales) (Amendment) Regulations 2017.
- 1.2. Informal consultation with key stakeholders had taken place during 2015, and informed the drafting of the amending regulations.
- 1.3. The proposed changes will facilitate investigations by the Prisons and Probation Ombudsman (PPO) into any death of a child in a secure children's home in Wales. They place requirements on the registered person of a secure children's home in Wales to:
 - notify the PPO of the death of a child accommodated in the home
 - grant the PPO access to the premises of the home and to the home's documents and records;
 - allow the PPO to take away copies of any of the home's documents and records from the premises, provided the PPO has secure arrangements for doing so;
 - allow the PPO (with consent) to interview in private any children, parents or relatives, or persons working in the home.

Similar provisions are already in place in England.

2. Consultation questions

- 2.1. Was asked the following consultation questions:
 - Do you agree with the extension of the PPO's remit to cover the investigations of deaths in secure children's homes in Wales?
 - Do you agree with the proposals to place requirements on the registered person of a secure children's home, as set out in the draft regulations?
 - Do you have any comments on the draft regulations?

3. Responses

- 3.1. There were five consultation responses, from the following organisations:
 - The City of Cardiff Council
 - City and County of Swansea
 - South Wales Police
 - Children's Commissioner for Wales
 - Public Health Wales NHS Trust.
- 3.2. The five responses all agreed with the proposed extension of the PPO's remit, and the proposed new requirements on the registered person of a secure children's home. The proposals were regarded as sensible and would remove the inconsistency between the way deaths in secure accommodation are investigated in Wales and in England. They would also allow for independent scrutiny in such cases.
- 3.3. Public Health Wales stated that the PPO had the requisite independence, expertise and experience in conducting such investigations, and noted the excellent performance and reputation of the PPO's Fatal Incidents Investigations Team and the high levels of satisfaction in published stakeholder surveys.
- 3.4. The Children's Commissioner drew attention to the Concluding Observations of the UN Committee on the Rights of the Child 2016, which recommended that 'automatic, independent and public reviews of unexpected death or serious injury involving children, including in custody, care and mental health care institutions' should be introduced in all parts of the UK. The commissioner saw the introduction of these amendments as a positive step in ensuring that all such incidents are identified and investigated as a matter of course.
- 3.5. The responses from Swansea Council, South Wales Police and Public Health Wales all stressed the importance of ensuring that the new arrangements took account of the All-Wales Procedural Response to Unexpected Deaths in Childhood (PRUDiC). The importance of the PPO having relevant knowledge and expertise in children's social care arrangements and procedures in Wales was emphasised. The police emphasised the need for the different agencies to work together within PRUDiC to establish promptly roles and actions in respect of removal of items and interviewing witnesses.
- 3.6. Public Health Wales asked that the PPO be made aware of the Child Death Review Programme, and that the programme team be notified of any child death in a secure children's home in Wales and copied into any relevant PPO reports.

4. Welsh Government response

- 4.1. The small number of responses to this consultation was expected, given that the proposals were uncontroversial and key stakeholders had already been sounded out informally when these changes were first considered in 2015. The one secure children's home in Wales, Hillside Secure Children's Home in Neath, was included in the informal consultation and expressed no concerns about the new requirements placed on providers.
- 4.2. The Welsh Government intends to lay the Children's Homes (Wales) (Amendment) Regulations 2017 (and an Explanatory Memorandum) before the National Assembly for Wales by the end of January 2017, with a coming into force date of 1 April 2017. A Regulatory Impact Assessment is not required.
- 4.3. These provisions will eventually be superseded by new regulations on secure accommodation providers under section 27 of the Regulation and Inspection of Social Care (Wales) Act 2016, which are expected to come into force in April 2019. No changes to the nature of the provisions are expected as a result, except that the notification of a death to the PPO will fall to the 'responsible individual' for the secure accommodation service under the 2016 Act rather than the registered manager. Regulations on secure accommodation under the 2016 Act will be subject to public consultation in 2018.
- 4.4. Discussions have already taken place with the Ministry of Justice and the PPO's office about extending the PPO's remit to include investigations into deaths in secure accommodation in Wales. The Ministry of Justice intends to extend the remit by April 2017 to coincide with the coming into force of the new regulations.
- 4.5. Consideration was given to the All-Wales Procedural Response to Unexpected Deaths in Childhood (PRUDiC) when drawing up the proposals to facilitate investigations by the PPO. The Welsh Government will hold further discussions with the PPO's office and Public Health Wales to ensure that the procedural arrangements for any investigations take account of, and fit into, the PRUDiC process.
- 4.6. A children's rights assessment is being published alongside this report, and will take due account of the UN Committee's Concluding Observations 2016.

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