Welsh Assembly Government Circular 011/2011

Fulfilled Lives, Supportive Communities:
Implementation of the Children and Young Persons Act 2008

The Care Standards Act 2000
(Notification) (Wales) Regulations 2011 and Guidance

Notifications to be sent by the Registration Authority in Wales or England under Section 30A(2) of the Care Standards Act 2000

Date of Issue : March 2011
| Audience | Directors of Social Services  
Heads of Children’s Services  
Lead Members for Children’s Services  
For dissemination to Social Care workforce  
Residential Children Homes  
Residential Family Centres  
Fostering Agencies  
Voluntary Adoption and Adoption Support Agencies |
|---|---|
| Overview | This guidance is issued under section 7 of the Local Authority Social Services Act 1970 and section 60 of the Government of Wales Act 2006. Local Authorities are therefore required to act in accordance with this guidance unless circumstances indicate exceptional reasons which justify a variation.  

The Care and Social Services Inspectorate Wales (CSSIW) are required to notify to all local authorities in Wales and England when they take specific actions against providers of children’s homes, residential family centres, fostering agencies, voluntary adoption agencies and adoption support agencies. Actions include restricting new admissions to children’s homes or residential family centres or cancelling a provider’s registration.  

Similar duties apply to Ofsted. therefore local authorities who are the corporate parent and responsible for children placed outside Wales, may receive notification of any action taken by the English Regulator, Ofsted. |
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Summary

New measures introduced by amendments to the Care Standards Act 2000\(^1\) increase the range of enforcement options available to the Care and Social Service Inspectorate Wales (CSSIW) by providing powers to:

- restrict new admissions to children’s homes and residential family centres;
- suspend an individual’s registration as a service provider or manager including a procedure in urgent cases where the suspension has immediate effect;
- extend such suspensions;
- Impose conditions on registration with immediate effect by issuing a written notice to a provider or manager.

In addition, the Act\(^2\) introduces a procedure to ensure that when CSSIW or Ofsted take action against a regulated establishment or agency, local authorities in Wales and England are notified of the action.

The purpose of the notification is to allow the responsible local authority to consider the continuing safeguards and welfare of children who are accommodated in the establishment or who are being provided with a regulated service to which the notification relates.

The notification procedure applies to residential family centres, children’s homes, fostering agencies, voluntary adoption agencies and adoption support agencies.

It applies in Wales where a prosecution has been brought for a “relevant offence\(^3\) or where one of a number of other enforcement steps are taken i.e. where a decision has been taken to:-

- cancel registration of the establishment or agency;
- restrict admissions to a children’s home or residential family centre;
- bring a prosecution against a provider or manager;
- adopt a proposal to suspend the registration of a provider or a manager; or
- issue a notice to suspend the registration of a provider or a manager with immediate effect.

In such circumstances, CSSIW must notify all local authorities in Wales and England as soon as practicable. Parallel provisions to notify all local authorities apply to Ofsted where the relevant offence relates to regulated establishments in England\(^4\).

This guidance and the associated regulations\(^5\) come into force from 1 April 2011.

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2. As amended by Section 29 of the Children and Young Person Act 2008.
3. Relevant offence means an offence under part two of the Care Standards Act 2000 or regulations under this part; section 9(4) of the Adoption Act 1976; or regulations under section 9 of the Adoption and Children Act 2002.
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Background

1.1 These Regulations form part of wider suite of changes brought forward under the Children and Young Person Act 2008 and reflect the Welsh Assembly Government’s vision for the future of social services in Wales articulated in “A Sustainable Social Service in Wales – A Framework for Action”.

1.2 As the registration authority in Wales, the Care and Social Service Inspectorate Wales (CSSIW) currently has a range of powers to address shortcomings where social care providers are not complying with regulatory requirements. Failure to comply with the relevant primary or secondary legislation may constitute an offence for which the provider may be prosecuted and there are a range of civil enforcement steps which the registration authority can take. Guidance on the roles and responsibilities of the registration authority and social care providers in meeting the regulatory framework is contained on the CSSIW website

1.3 Powers in the Children and Young Persons Act 2008 and the Health and Social Care Act 2008 amend the Care Standards Act 2000 and introduce new measures that extend the range of enforcement options open to CSSIW. These powers provide that CSSIW can:

- restrict new admissions to children’s homes and residential family centres;
- provide for a suspension of a person’s registration as a service provider or a manager for a fixed period of time if they are failing to comply with the statutory requirements in respect of establishment; and
- extend the suspension period;
- impose conditions on registration with immediate effect by issuing a written notice to a provider or manager.

1.5 CSSIW also has powers to impose conditions on a provider’s registration, or in extreme cases to take action to cancel an establishment or agency’s registration.

1.6 The regulations also provide CSSIW with more flexible enforcement powers, to allow for a more proportionate and responsive system that promotes early remedial action by the registered provider.

1.7 To ensure children accommodated across the borders of Wales and England parallel regulations governing regulated establishment in England place similar duties on Ofsted.

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6 http://wales.gov.uk/topics/health/publications/socialcare/guidance1/services/?lang=en
7 http://wales.gov.uk/cssiwsubsite/newcssiw/aboutus/providingsocialcare/childservices/jsessionid=qvTVyNLvJSCwTkyn0Rt9pHq2hIvkG7RIQhdYzH10nLQ747JHS1R1Q11531853584?lang=en
The New Arrangements

2.1 Children accommodated away from home are particularly vulnerable. The children falling within the scope of this guidance and associated regulations are those who are looked after by the local authority but can also include children accommodated away from home (under section 85 and 86 of the Children Act 1989) for health or education reasons.

2.2 The purpose of the revised legislation is to introduce a procedure to ensure that CSSIW or Ofsted alert every local authority that has arranged accommodation for the child in the establishment (or those considering placing a child) that certain sorts of enforcement action have been taken against the provider or manager of that establishment. Notification is not required for every type of enforcement action (e.g. imposition of conditions of registration).

2.3 Under the new arrangements, CSSIW and Ofsted will notify all local authorities in Wales and England about certain enforcement action that they take against children’s homes, residential family centres, fostering agencies, voluntary adoption agencies or adoption support agencies (and in England, Social Work Service Providers).

2.4 Notification will be issued where CSSIW or Ofsted:

- decide to cancel the registration of a manager or provider;
- restrict accommodation at a children’s home or residential family centre; or
- bring a prosecution against a manager or provider;
- adopt a proposal to suspend the registration of a manager or provider or a proposal to extend a suspension;
- issue a notice to suspend the registration of a provider or a manager with immediate effect or a notice to extend the suspension with immediate effect.

2.5 The information contained in each notification will be determined by the nature of the enforcement step in question. Details of the information local authorities can expect to receive from CSSIW or Ofsted in respect of the individual offences are set out in Annex B and C.

2.6 On receipt of the notification, the responsible local authority will be required to consider the continuing safeguards and welfare of children who are accommodated in the establishment or who are being provided with a regulated service where enforcement action has taken place.
Wales : Notification Processes

2.7 In Wales, the CSSIW will notify local authorities in writing as set out in the Chief Inspectors letter at Annex D. In summary, local authorities will receive a written notification by recorded delivery post, addressed to the Director of Children’s Services / Director of Social Services.

2.8 Notifications from Ofsted to Welsh local authorities will be by registered letter to Heads of Children’s Services. Ofsted have indicated their intention to introduce electronic notification in the future.

2.9 Example of the notification templates that local authorities can expect to provide from CSSIW are attached at Annex E.

England : Notification Processes

2.10 The Act places a reciprocal duty on Ofsted to send notifications to all local authorities in Wales and England when it takes enforcement action against children’s social care settings in England and from April 2011 these reciprocal arrangements will be in place for England. The CSSIW and Ofsted have jointly developed their respective notification to ensure clarity on cross border notifications.

Action Local Authorities must take on Receipt of Notification

3.1 On receipt of a notification, local authorities are required to consider the nature of the notification, and for children who are looked after whether a review of the child’s care plan should be undertaken under the Review of Child Care Cases (Wales) Regulations 2007.

3.2 For children who are accommodated under section 85 and 86 of the Children Act 1989, the responsible authority should review the placement arrangements of the child to ensure the safety and wellbeing of the child and that the placement continues to be in the child’s best interest.

3.3 Local authorities must also have regard to the Visits to Children in Long-term Residential Care Regulations 2011 which come into force on 25 April 2011 in relation to visits and further support to children accommodated under section 85 and 86. These regulations clarify the frequency and circumstances in which a child is to be visited as well as additional functions of the representative of the local authority.

3.4 In discharging these new duties, local authorities must have regard to the statutory guidance Towards a Stable Life and Brighter Future and the relevant regulatory requirements in particular the review of cases and out of area placements. In particular, relevant authorities should consider whether or not the information contained within the notification will have a substantial impact on the welfare and safety of the child and whether an alternative placement is appropriate.

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3.5 Relevant authorities should satisfy themselves that the placement remains consistent with the child’s care plan and initial decisions of the authority in making arrangements for the placement of the child in that establishment and that the notification has not resulted in a relevant and material change to arrangements for:

- safeguarding and promoting welfare;
- child’s health and education;
- other services appropriate and necessary to support the effectiveness of the placement in meeting the child’s well-being.

**Children’s Commissioning Support Resource [CCSR]**

4.1 *Toward a Stable Life and a Brighter Future* also set out the long term aim that all placements (other than family and friends placements) of children and young people under the Children Act 1989 will be made by means of the Children’s Commissioning Support Resource (CCSR). All providers registered with CSSIW are encouraged to register with the CCSR which also includes providers registered by Ofsted that offer placements to Welsh authorities.

4.2 In addition to the written notifications to all local authorities, the CSSIW will notify CCSR so that the database can record the action against the relevant provider. In the first instance this will be achieved by placing an electronic copy of the notification on the secure CCSR ‘bulletin board’. The bulletin board item will be targeted purely at local authority stakeholders using the CCSR system. CCSR will ensure that local authority stakeholders are made aware that this facility will be invoked in addition to the direct distribution that CSSIW will undertake. The CSSIW will advise local authorities of this new functionality on the CCSR.
The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 30A(3) and (4) and 118(5) to (7) of the Care Standards Act 2000.

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Care Standards Act 2000 (Notification) (Wales) Regulations 2011 and come into force on 1 April 2011.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations “the Act” means the Care Standards Act 2000.

Information to be contained in a notification sent under section 30A(2) of the Act

2.—(1) Notifications sent under section 30A(2) of the Act must contain where appropriate the information set out in paragraphs (2), (3), (4) and (5).
(2) Notifications under all paragraphs of section 30A(2) must contain —

(a) a description of the establishment or agency;
(b) the registration certificate number of the establishment or agency;
(c) the name and address of the person carrying on or managing the establishment or agency;
(d) the date on which the notification is sent; and
(e) the paragraph of section 30A(2) of the Act under which the notification is being sent.

(3) A notification under section 30A(2)(aa) or (ab) (decided to adopt or give notice to suspend or extend such a suspension) must contain the duration and reason for the suspension.

(4) A notification under section 30A(2)(b) (notification of proceedings for a relevant offence) must contain —

(a) the date on which the summons was issued;
(b) a summary of the alleged relevant offence; and
(c) the date of the first court hearing, if known.

(5) A notification under section 30A(2)(c) (notice restricting accommodation at certain establishments under section 22B of the Act) must contain the date on which the notice is to cease to have effect, if specified.

Notifications under section 30A(3) of the Act

3. The information which the registration authority must provide to each local authority in respect of a person who carries on or manages an establishment or agency (‘P’) in the circumstances specified is as follows—

(a) where P has been served with a notice under section 30A(2)(a) (notice of a decision to adopt a proposal under section 17(4)(a) of the Act) and has appealed the notice —

(i) the fact that P has appealed that notice; and
(ii) the outcome of P’s appeal.
(b) in relation to a notice served on P under section 30A(2)(aa) or (ab) of the Act (decided to adopt or give notice to suspend or extend such a suspension) and P has appealed that notice —

(i) the fact that P has appealed that notice; and

(ii) the outcome of P’s appeal.

(c) in relation to a notice served on P under section 30A(2)(b) of the Act (notification of proceedings for a relevant offence) —

(i) the outcome of proceedings against P for that relevant offence; and

(ii) where P has appealed against the outcome, the outcome of the appeal.

(d) in relation to a notice served on P under section 30A(2)(c) of the Act (notice restricting accommodation at certain establishments under section 22B of the Act) —

(i) that P has appealed that notice; and

(ii) the outcome of P’s appeal.

Gwenda Thomas
Deputy Minister for Social Services under authority of the Minister for Health and Social Services, one of the Welsh Ministers.

18 January 2011
EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations are made under the Care Standards Act 2000 (“the Act”) and apply in relation to Wales. The Welsh Ministers are the registration authority in relation to Wales for the purposes of Part 2 of the Act.

Section 30A(2) of the Act provides that the registration authority must notify all local authorities in England and Wales as soon as practicable if they take any of the actions specified in section 30A(2) against a person (“P”) carrying on or managing an establishment or agency specified in section 30A(6) (these are children’s homes, residential family centres, fostering agencies, voluntary adoption agencies, adoption support agencies and providers of social work services). The information to be included in those notifications is set out in regulation 2.

Section 30A(3) provides for further notifications in relation to P to be sent when the registration authority becomes aware of the prescribed circumstances. Regulation 3 prescribes the circumstances.

(1) 2000 c. 14. Section 30A was inserted into the Care Standards Act (“the Act”) by the Children and Young Persons Act 2008. “Prescribed” means prescribed in regulations made in relation to Wales by the National Assembly for Wales. Functions of the National Assembly for Wales under these sections of the Care Standards Act 2000 were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

2) See section 30A(6) of the Act for a list of the establishments and agencies to which section 30A applies.

(3) See section 30A(7) of the Act for the definition of “relevant offence”.

Annex B

Information to be Contained in All Notifications Issued under Section 30A(2) of the Care Standards Act 2000

All notifications will contain:-

- a description of the establishment or agency;
- the registration certificate number of the establishment or agency;
- the name and address of the person carrying on or managing the establishment or agency;
- the date on which the notification is sent; and
- the paragraph of section 30A(2) of the Act under which the notification is being sent.

In addition, the following information will be included in notifications in respect of specific actions listed below.

i) Decision to adopt or give notice to suspend or extend such a suspension (section 30A(2)(aa) or (ab))

A notification in respect of a decision to adopt or give notice to suspend or extend such a suspension must also contain:

- the duration of the suspension; and
- the reason for the suspension.

ii) Proceedings for a Relevant Offence (section 30A(2)(b))

A notification in respect of a notification of proceedings for a relevant offence must also contain:-

- the date on which the summons was issued;
- a summary of the alleged relevant offence; and
- the date of the first court hearing, if known.

iii) Decision to Restrict Accommodation at Relevant Establishment

A notification in respect of a decision to restrict accommodation at a children’s home or family residential centre must also contain:-

- the date on which the notice is to cease to have effect, if specified.

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9 Relevant offence means an offence under Part two of the Care Standards Act 2000 or regulations under this part; section 9(4) of the Adoption Act 1976; or regulations under section 9 of the Adoption and Children Act 2002
Annex C

Information to be Contained in All Notifications Issued under Section 30A(3) of the Care Standards Act 2000

The information which the registration authority must provide to each local authority in respect of a person who carries on or manages an establishment or agency in the circumstances specified is as follows:-

Cancellation of Registration

- where the person has been served with notice of a decision to adopt a proposal to cancel a registration (under section 30A(2)(a)) and has appealed the notice:-
  - that the person has appealed the notice; and
  - the outcome of that appeal.

Suspension of Registration

- where the person has been served with notice of a decision to adopt or give notice to suspend or extend such a suspension (under section 30A(2)(aa) or (ab)) and they have appealed that notice:-
  - that the person has appealed the notice; and
  - the outcome of that appeal.

Prosecution

- where the person has been served with notice of a decision to notify of proceedings for a relevant offence (under section 30A(2)(b)):-
  - the outcome of proceedings for that relevant offence; and
  - the outcome of that appeal.

Restriction of Admissions

- in relation to a notice served on the person in respect of a decision to issue a notice restricting accommodation at certain establishments (under section 30A(2)(c)):-
  - that the person has appealed the notice; and
  - the outcome of that appeal.
Dear Director

Notifications of enforcement action against children's social care providers

I am writing to inform you about a new notifications process that CSSIW will launch from April this year.

As you may be aware, section 30A of the Care Standards Act 2000 (as inserted by s29 of the Children and Young Persons Act 2008) is due to commence on 1 April 2011. This section requires Ofsted and CSSIW to send a notification to every local authority in Wales and England when we take certain enforcement action against a children's social care provision. This includes action taken against a children's home, voluntary adoption agency, adoption support agency, independent fostering agency or a residential family centre.

We will send your local authority a written notification by recorded delivery post (addressed to the Director of Children's Services/Director of Social Services) where we:

- issue a notice of decision to cancel the registration of a manager or provider
- issue a summons to prosecute
- restrict accommodation at a children's home or residential family centre.

The notification will include information about what action we have taken; the name of the registered provider; and the name and address of the setting involved.

We will send an additional notification to inform you where a provider or manager appeals against our enforcement action and the outcome of that appeal. We will also notify you where we lift a restriction of accommodation or when a cancellation takes effect.

These notifications should assist you in reviewing the placement of any child, young person or family that you have at these settings.

I hope that this information is useful. If you have any further queries about these notifications, please contact us at our email box.

Yours sincerely

Imelda Richardson
Chief Inspector, CSSIW
10 March 2011

Sent by email

Dear Director of Children’s Services/Social Services

Notifications of enforcement action against children’s social care providers

As you may be aware, section 30A of the Care Standards Act 2000 (as inserted by s29 of the Children and Young Persons Act 2008) is due to commence on 1 April 2011. This section requires us to send a notification to every local authority in England and Wales when we take certain enforcement action against a children’s social care provision. This includes action taken against a children’s home, voluntary adoption agency, adoption support agency, independent fostering agency or a residential family centre.

We will send your local authority a written notification by recorded delivery post (addressed to the Director of Children’s Services/Social Services) where we:

- issue a notice of decision to cancel the registration of a manager or provider
- issue a summons to prosecute
- restrict accommodation at a children’s home or residential family centre.

The notification will include information about what action we have taken; the name of the registered provider; and the name and address of the setting involved.

We will send an additional notification to inform you where a provider or manager appeals against our enforcement action and the outcome of that appeal. We will also notify you where we lift a restriction of accommodation or when a cancellation takes effect.
These notifications should assist you in reviewing the placement of any child, young person or family that you have at these settings.

You should also note that the Care Standards Act places a reciprocal duty on the Welsh regulator, the Care and Social Services Inspectorate Wales (CSSIW), to send notifications to all local authorities in England and Wales when it takes enforcement action against children’s social care settings in Wales. CSSIW will write separately to you about these notifications.

I hope that this information is useful. If you have any further queries about these notifications, please contact us at socialcare@ofsted.gov.uk.

Yours sincerely

[Signature]

John Goldup
National Director, Inspection Development
To: XX
Of: [address]

This document is to give you Notice under section 30A of the Care Standards Act 2000 that the Welsh Ministers, being the registration authority in respect of [P (to include name and address) descriptor of establishment / agency, registration certificate number] has decided on [date] to:

adopt a proposal under section 17(4)(a) to cancel the registration of P in respect of the establishment or agency which has been appealed on [XX] and resulted in the Tribunal deciding [XX] [Where relevant P’s registration was cancelled on [XX]] (section 30A(2)(a))

Signed Name

XX, Care and Social Services Inspectorate Wales [address and telephone number] on behalf of the Welsh Ministers.

Dated
To: XX
Of: [address]

This document is to give you Notice under section 30A of the Care Standards Act 2000 that the Welsh Ministers, being the registration authority in respect of [P (to include name and address) descriptor of establishment / agency, registration certificate number] has decided on [date] to:

adopt a proposal under section 17(4)(aa) to suspend the registration of P in respect of the establishment or agency or to extend any such suspension for [state duration and reason] which has been appealed by P on [XX] and resulted in the Tribunal deciding [XX] [Where relevant: and the notice ceased to have effect on [XX]] (section 30A(2)(aa))

Signed Name

XX, Care and Social Services Inspectorate Wales [address and telephone number] on behalf of the Welsh Ministers.

Dated
To:  
XX

Of:  
[address]

This document is to give you Notice under section 30A of the Care Standards Act 2000 that the Welsh Ministers, being the registration authority in respect of [P (to include name and address) descriptor of establishment / agency, registration certificate number] has decided on [date] to:

give a notice under section 20B to suspend the registration of P in respect of the establishment or agency or to extend any such suspension for [state duration and reason] which has been appealed by P on [XX] and resulted in the Tribunal deciding [XX] [Where relevant: and the notice ceased to have effect on [XX]](section 30A(2)(ab))

Signed  
Name

XX, Care and Social Services Inspectorate Wales [address and telephone number] on behalf of the Welsh Ministers.

Dated
Care and Social Services Inspectorate Wales

Notification to Local Authorities in Wales and England
(section 30A Care Standards Act 2000)

To: XX
Of: [address]

This document is to give you Notice under section 30A of the Care Standards Act 2000 that the Welsh Ministers, being the registration authority in respect of [P (to include name and address) descriptor of establishment / agency, registration certificate number] has decided on [date] to:

bring proceedings against P for a relevant offence which it alleges P committed in relation to the establishment or agency by way of a summons dated [XX] for the following alleged offence(s) [state] for which the first hearing is on [date] for which it was decided [XX] [Where relevant: and P has appealed [XX]; for which the appeal found [XX]] (section 30A(2)(b))

Signed Name

XX, Care and Social Services Inspectorate Wales [address and telephone number] on behalf of the Welsh Ministers.

Dated
Care and Social Services Inspectorate Wales

Notification to Local Authorities in Wales and England
(section 30A Care Standards Act 2000)

To: XX
Of: [address]

This document is to give you Notice under section 30A of the Care Standards Act 2000 that the Welsh Ministers, being the registration authority in respect of [P (to include name and address) descriptor of establishment / agency, registration certificate number] has decided on [date] to:

serve a notice on P under section 22B which is to cease on [date]. P has appealed the notice and it has been decided that [XX] [Where relevant: and the notice is to cease to have effect on [XX]] (section 30A(2)(c))

Signed Name

XX, Care and Social Services Inspectorate Wales [address and telephone number] on behalf of the Welsh Ministers.

Dated