

2011 No. 1010

**CHILDREN AND YOUNG PERSONS, ENGLAND AND
WALES**

**The Visits to Children in Long-Term Residential Care
Regulations 2011**

<i>Made</i> - - - -	<i>29th March 2011</i>
<i>Laid before Parliament</i>	<i>31st March 2011</i>
<i>Coming into force</i> - -	<i>25th April 2011</i>

The Secretary of State for Education and the Welsh Ministers, acting jointly in exercise of the powers conferred by section 86A(4)(a) of the Children Act 1989(b), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Visits to Children in Long-Term Residential Care Regulations 2011 and come into force on 25th April 2011.

Interpretation

2. In these Regulations—

“the 1989 Act” means the Children Act 1989;

“A” means an accommodated child within the meaning of paragraph 8A(2) of Schedule 2 to the 1989 Act(c);

“R” means a representative of the responsible local authority;

“responsible local authority” means—

(a) where a notification has been made under section 85(1)(d) of the 1989 Act, the responsible authority as defined in section 85(3);

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- (a) Section 86A was inserted by section 18 of the Children and Young Persons Act 2008 (c. 23) (“the 2008 Act”). Section 86A(5) provides that regulations under section 86A are to be made by the Secretary of State and the Welsh Ministers acting jointly.
- (b) 1989 c. 41.
- (c) Paragraph 8A of Schedule 2 was inserted by section 19 of the 2008 Act and provides that “accommodated children” are those children in respect of whose accommodation the local authority have been notified under section 85 or 86.
- (d) Section 85(1) was amended by: the National Health Service and Community Care Act 1990 (c. 19), paragraph 36(5) of Schedule 9; the Health Authorities Act 1995 (c. 17), paragraph 118(9) of Schedule 1; the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), paragraphs 75 and 81 of Schedule 4; the 2008 Act, section 17(1) and (2); and S.I. 2000/90 and 2007/961.

- (b) where a notification has been made under section 86(1)(a) of the 1989 Act, the local authority(b) within whose area the establishment is carried on;

“working day” means any day other than a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(c).

Frequency of visits

3.—(1) Where a notification has been made with respect to A, and A’s needs for the purposes of the 1989 Act have not been assessed by any local authority in the twelve months ending with the date of notification, the responsible local authority must make arrangements to ensure that R visits A—

- (a) within seven working days of that notification, and
- (b) thereafter, at intervals of not more than six months.

(2) Where A’s needs have been assessed in the twelve months ending with the date of notification, the responsible local authority must make arrangements to ensure that R visits A—

- (a) within three months of that notification, and
- (b) thereafter, at intervals of not more than six months.

(3) In addition to visits in accordance with paragraph (1) or (2), the responsible local authority must make arrangements to ensure that R visits A—

- (a) whenever reasonably requested to do so by A, and
- (b) whenever the responsible local authority is satisfied that circumstances require A to be visited in order to safeguard and promote A’s welfare.

Circumstances of visit

4. On each visit, R must speak to A in private unless –

- (a) A, being of sufficient age and understanding to do so, refuses,
- (b) R considers it inappropriate to do so, having regard to A’s age and understanding, or
- (c) R is unable to do so.

Reports of visits

5.—(1) R must provide a written report of each visit to the responsible local authority.

(2) R’s report must include R’s assessment of—

- (a) A’s wishes and feelings about the accommodation, so far as R has been able to ascertain them,
- (b) whether A’s welfare is adequately safeguarded and promoted,
- (c) whether further visits by R, in addition to those set out in regulation 3(1) or (2), are required in order to safeguard and promote A’s welfare,
- (d) any services which R considers appropriate to be made available with a view to promoting contact between A and A’s family, and

(a) Section 86(1) was amended by the Care Standards Act 2000 (c. 14), paragraph 14(1) and (2) of Schedule 4 to and by section 17(6), (7)(a), (b) and (c) of the 2008 Act.

(b) “Local authority” is defined in section 105(1) of the 1989 Act. Further, by virtue of the Isles of Scilly (Children Act 1989) Order 2010 (S.I. 2010/1116), any reference to a local authority in the 1989 Act is to be construed, in relation to the Isles of Scilly, as a reference to the Council of the Isles of Scilly.

(c) 1971 c.80.

- (e) any other steps that should be taken by the responsible local authority exercising its functions under the 1989 Act to safeguard and promote A’s welfare(a).
- (3) The responsible local authority must give a copy of the report to—
- (a) A, unless it would not be appropriate to do so, having regard to A’s age and understanding,
 - (b) any parent of A’s and any person who is not A’s parent but who has parental responsibility(b) for A unless to do so would place A at risk of significant harm,
 - (c) where different from the responsible local authority, the local authority in whose area A is accommodated, and
 - (d) any other person with responsibility for safeguarding and promoting A’s welfare under the 1989 Act.

29th March 2011

Sarah Teather
Minister of State
Department for Education

29th March 2011

Gwenda Thomas
Deputy Minister for Social Services
under authority of the Minister for Health and Social Services
One of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 86A of the Children Act 1989, which imposes a duty on local authorities to make arrangements for children in long-term residential care to be visited by a representative of the authority. Section 86A of that Act is a new provision which was inserted by section 18 of the Children and Young Persons Act 2008.

Regulation 3 prescribes the frequency with which a representative of the authority must visit the accommodated child.

Regulation 4 requires the representative of the authority to speak to the accommodated child in private during each visit, unless it would be inappropriate to do so.

Regulation 5 requires the representative to prepare a report of each visit. It also sets out the contents of the report and the persons to whom the local authority must give a copy.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

(a) Every responsible local authority which has been notified has a duty, under section 85(4) or 86(3) of the 1989 Act, to: (i) take such steps as are reasonably practicable to enable it to determine whether A’s welfare is adequately safeguarded and promoted whilst A is accommodated; and (ii) to consider the extent to which it should exercise any of its functions under the 1989 Act with respect to A.

(b) “Parental responsibility” is defined in section 3 of the 1989 Act and means “all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property”.