

Recent developments in children's social care law and policy relating to Wales

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Launch of the report on the Care Crisis Review – 29 June 2018

The sector-led Care Crisis Review was initiated in response to comments by the President of the Family Division, Sir James Munby, that family courts in England and Wales faced a crisis because of the increasing number of care applications, but had no strategy to deal with it. It was funded by the Nuffield Foundation and facilitated by Family Rights Group. An initial meeting in Wales was held in January (reported [here](#)) and the work culminated in a series of reports published in June, which can be downloaded [here](#). These include survey results, options for change and a detailed report on the factors that have led to the increase, highlighting similarities and differences between England and Wales. There are also more local variations in implementation of law and practice. At the Wales launch event held in Cardiff on 29 June, the Minister for Children, Older People and Social Care, Huw Irranca-Davies AM, spoke on the need for system-wide change and a well-targeted cross-government response to the reports, involving local authorities, families and the judiciary. This work is to be taken forward by his [Ministerial Advisory Group](#) and the [Family Justice Network](#).

Stakeholder meeting of the Family Justice Observatory – 21 June 2018

A meeting of researchers and practitioners was held in Cardiff on 21 June to explain the functions of the new Family Justice Observatory in building research capacity and summarising knowledge on priority topics to produce guidelines and practical tools for social workers and lawyers in practice. The priority areas for Wales agreed by those attending were:

- Long-term placement stability and wellbeing outcomes
- Sibling planning and contact
- Litigants in person (including kinship care applications)
- Contact in high-conflict private law cases

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The development team includes Professor David Ford, Director of the [SAIL Databank](#), Swansea University.

Information about the ongoing work of the Observatory (to be launched in spring 2019) is available on the Nuffield Foundation website.

Special Guardianship – new regulations and guidance

Following a public consultation by Welsh Government, the National Assembly passed new [regulations](#) to amend and update those issued in 2005, and a [Code of Practice](#) (comprising statutory and non-statutory guidance) which came into force on 2 July. Major changes include: a more detailed schedule of matters to be included in a SG assessment for the court and additional duties and guidance on providing support to special guardians and the children placed with them.

Child Practice Review

An [extended Child Practice Review](#) was published by the Cardiff and Vale of Glamorgan Safeguarding Board on 2nd August, in relation to the death of 17-month-old Elsie Scully-Hicks in May 2016, two months after being adopted. While the review found that practice in planning and assessment had been thorough, opportunities to identify risk had been missed. The review makes a number of recommendations for agency improvements in practice (health, local authority and the adoption service).

Court judgments

Use of attachment theory

GM v Carmarthenshire CC and LLM [2018] EWFC 36

This was an application by a mother to discharge the care order relating to her eight-year-old son. The case was heard by Mr Justice Mostyn, a High Court judge, at Swansea Family Court in May and the judgment can be read [here](#). The judge was very critical about the evidence given by the local authority social worker, guardian and independent social work expert witness, especially the use of attachment theory, which he found vague and inappropriate. His comments (especially at paras. 17-19) have led to some concerns that attachment assessments are no longer accepted as expert evidence in family courts, but as this case was heard at Family Court level, it does not create binding precedent. Nevertheless, [this column in Community Care by David Shemmings](#) is very helpful in advising on a more constructive approach to the use of attachment theory in social work assessments.

Secure accommodation

A Child (Secure Accommodation Order) [2018] EWFC B33

This was [a judgment by HHJ Gareth Jones](#) at Prestatyn Family Court. He directed that part of the judgment is transcribed at public expense and copies sent to the press. When the application had been listed in March, there were 17 pending referrals for secure beds in secure accommodation units throughout England and Wales. The young person concerned was involved not only with a Children Act 1989 application, but also potentially with the criminal justice system and there were possibilities that a placement might become available outside the jurisdiction, in Scotland, or through 'criminal beds' in Leeds. However these did not materialise. The 15-year-old was at risk and had a history of absconding. The judge described her as a fragile individual. He complained that, previously, when a secure unit could be identified, an individual plan was put before the court but that it was now not possible to provide a plan.

A placement was eventually found for the young person concerned, but a considerable distance away. The distance involved meant that local authority key workers, the young person's guardian and solicitor and her family all had to make long journeys.

The judge concluded:

'This part of my judgment is being published to draw attention to the very significant problems which have arisen, (in this area at least), with the provision of secure accommodation facilities. These orders are not, by any means, made routinely, but they do arise from time to time. The circumstances of the current application are by no means unusual and, regrettably, the shortage of suitable places has now become chronic.'

He said that he hoped the publication of the judgment would mean that these difficulties would become known to Welsh Government and the UK Government in London, 'and the general public who can see what actually is taking place so far as vulnerable young people in North Wales are concerned'.

Voluntary accommodation under S 76 Social Services and Well-being (Wales) Act 2014

Williams & Another v London Borough of Hackney [2018] UKSC 37

This is not a case from Wales, nor is Welsh legislation directly mentioned but it is an important [Supreme Court judgment](#) about s. 20 Children Act 1989, that applies equally to s. 76 SS&WB(W) Act 2014 in Wales. The case involved questions about the parents' consent to s. 20. This final paragraph [64] by Lady Hale should be noted:

'Parents with parental responsibility always have a qualified right to object and an unqualified right to remove their children at will (subject to any court orders about where the child is to live). Section 20 gives local authorities no compulsory powers over parents or their children and must not be used in such a way as to give the impression that it does. It is obviously good practice in every case that parents should be given clear and accurate information, both orally and in writing, both as to their own rights and as to the responsibilities of the local authority, before a child is accommodated under section 20 or as soon as practicable thereafter.'