

*Draft Regulations laid before the National Assembly for Wales under section 187(2)(b),(f),(g),(j) and (k) of the Regulation and Inspection of Social Care (Wales) Act 2016, for approval by resolution of the National Assembly for Wales.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2017 No. (W.)**

**SOCIAL CARE, WALES**

**The Regulated Services (Service  
Providers and Responsible  
Individuals) (Wales) Regulations  
2017**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) introduces a new system of regulation of care and support services in Wales, replacing that established under the Care Standards Act 2000 (“the Care Standards Act”).

The Act introduces a new concept of “regulated services” which is defined in section 2 of the Act.

A person who wants to provide a regulated service must make an application for registration to the Welsh Ministers (in the exercise of their regulatory functions) specifying the regulated service that the person wants to provide. A person who is registered to provide a regulated service is referred to as a “service provider”.

The application for registration must specify the places at, from or in relation to which the service is to be provided. The application for registration must also designate an individual as the responsible individual in respect of each place at, from or in relation to which a regulated service is to be provided. The Welsh Ministers must be satisfied that the individual is a fit and proper person to be a responsible individual and that they are eligible to be a responsible individual.

In accordance with powers in section 27 of the Act, these Regulations impose requirements on service providers in relation to a regulated service, including

requirements as to the standard of care and support to be provided.

In accordance with powers in section 28 of the Act, these Regulations impose requirements on responsible individuals in relation to a place in respect of which the individual is designated.

These Regulations also provide for offences in the event of failure by a service provider or a responsible individual to comply with specified requirements.

Guidance has been published about how service providers and responsible individuals may comply with the requirements imposed by these Regulations (including how providers may meet any standards for the provision of a regulated service) and section 29 of the Act requires service providers and responsible individuals to have regard to this guidance.

As well as placing requirements on service providers, these Regulations also place requirements on other persons: on the “appointed person” in the event of the insolvency of the service provider and on the personal representatives of the deceased in the event of the death of a service provider who is an individual.

Part 1 of the Regulations contains definitions of certain terms used in the Regulations. In particular, the definition of “the service” means that, in relation to a care home service, secure accommodation service or residential family centre service, a reference to “the service” is a reference to the service provided at a particular location; in relation to a domiciliary support service, a reference to “the service” is a reference to the service provided in relation to a particular area.

Part 2 of the Regulations covers exceptions. The regulations in Part 2 are made under the powers in section 2(3) of the Act which enable the Welsh Ministers to prescribe things which, despite Schedule 1 to the Act (which sets out the definitions of regulated services), are not to be treated as regulated services. Regulations 2 and 4 set out the situations where the provision of accommodation is not to be treated as a care home service or as a residential family centre service respectively. Regulation 3 sets out the situations where the provision of care and support is not to be treated as a domiciliary support service.

Part 3 covers general requirements on the service provider as to the way the service is provided, including requirements in relation to the statement of purpose, the arrangements for monitoring and improvement, the support to be provided to the responsible individual, the steps to be taken to ensure the financial sustainability of the service and the policies and procedures which must be in place.

Part 4 covers the requirements as to the steps to be taken before the service provider agrees to provide care and support to an individual. A service provider must not agree to provide care and support unless they have first determined that the service is suitable to meet the individual's needs. Regulation 14 sets out the steps that must be taken and the matters which must be taken into account when making this determination. Where there is no local authority care and support plan in place, the steps to be taken include carrying out an assessment of the individual's needs.

Part 5 covers the requirements as to the steps to be taken once the service provider has agreed to provide care and support to an individual. Before the commencement of such provision, the provider must prepare an initial personal plan which, among other things, sets out how on a day to day basis the individual needs will be met. Within 7 days of the commencement of the provision, the service provider must carry out a detailed assessment of how the individual's care and support needs can best be met and this assessment then prompts a review of the initial personal plan, which will usually lead to a more comprehensive plan being prepared.

Part 5 also makes provision for the review of personal plans and the keeping and sharing of records of the personal plan.

Part 6 deals with the requirements as to the information to be provided to individuals on the commencement of the provision of care and support. Regulation 19 requires that this information must be in the form of a written guide and sets out detailed requirements about the guide, including its contents and format. More detail of the information it is expected the guide would usually contain is in the guidance issued under section 29 of the Act.

Part 7 contains requirements as to the standard of care and support to be provided. These include overarching requirements as well as more detailed requirements relating to continuity of care, the provision of information, meeting individual's language and communication needs and treating individuals with respect and sensitivity.

Part 8 contains specific requirements in relation to ensuring individuals are safe and protected from abuse, neglect and improper treatment. As well as requiring policies and procedures to be in place in relation to safeguarding and in relation to the appropriate use of control and restraint, the regulations in this Part place specific requirements as to the action to be taken in the event of an allegation or evidence of abuse.

Part 9 sets out additional requirements as to the standards of care and support which only apply where

accommodation is provided. This is where the regulated service is a care home service, a secure accommodation service or a residential family centre service. These requirements relate to arrangements for individuals to access health and other services and, where accommodation is provided to children, the designation of a link worker.

Part 10 contains requirements as to staffing, which include general requirements as to the deployment of sufficient numbers of staff together with specific requirements as to the deployment of registered nurses to work at a care home service in certain circumstances.

Part 10 contains specific requirements as to the fitness of individuals working at the service. These requirements apply not just to employees but extend also to volunteers and to other persons working at the service, which would include agency staff. The fitness requirements include a requirement for specific information and documents to be available, as set out in Schedule 1. Persons employed to manage the regulated service must be registered with Social Care Wales, the workforce regulator, but there is no longer a requirement, as there was under the Care Standards Act, for managers to be registered with the Welsh Ministers, as the service regulator. Certain categories of persons employed to work in certain regulated services which provide accommodation to children must also be registered with Social Care Wales within six months of commencing their employment.

Other requirements contained in Part 10 include requirements relating to supporting and developing staff, providing information to staff and the operation of a disciplinary procedure. To ensure that employees report incidents of abuse to an appropriate person, the regulations in this Part require the provider's disciplinary procedure to provide that a failure to report would be grounds for disciplinary proceedings.

Part 11 contains particular requirements which apply to providers in respect of domiciliary support services. This includes a requirement for a "schedule of visits" to be prepared which delineates the time allowed for each visit and the time allowed for travel between each visit. There is also a requirement for the provider to offer domiciliary care workers on non-guaranteed hours contracts the choice of alternative contractual arrangements.

Part 12 covers requirements as to premises, facilities and equipment. The requirements as to premises in regulations 44 to 46 only apply where accommodation is provided, whereas the requirements in regulation 47 apply in all cases.

The requirements in Part 12 apply to all providers of care home services, secure accommodation services or residential family centre services. In particular, regulations 45 and 46 contain specific requirements in relation to single occupancy and shared rooms, for adults and children respectively.

Part 13 sets out additional requirements which apply to service providers who are registered to provide a care home service, secure accommodation service or residential family centre service but only if the premises which are to be used for the provision of the service fall into one of three categories: a new or converted building; an extension to a building which is used for the purpose of providing an existing service ; a building which was used for the purpose of providing a service registered by another service provider but is unoccupied at the time of the service provider's registration..

The additional requirements in Part 13 set out more specific environmental standards, including standards as to en-suite bathrooms, room sizes and the amount of communal space.

Part 14 sets out requirements as to supplies, hygiene, health and safety and medicines. These requirements will apply to all regulated services, whether accommodation based or not.

Part 15 contains miscellaneous requirements on service providers, including requirements as to the keeping of records and the making of notifications to the service regulator and other bodies. Schedule 2 sets out the records which are required to be kept and Schedule 3 sets out the specific notifications which are required to be made.

Part 15 includes specific notification requirements which apply to secure accommodation services and care home services which provide accommodation to children.

Part 15 also contains requirements on the service provider to have a complaints policy and a whistleblowing policy in place.

Parts 16 to 20 contain the requirements imposed on responsible individuals. The regulations in these Parts are made under section 28 of the Act.

Part 16 sets out requirements on responsible individuals which relate to the effective management of the service. The responsible individual has a general duty to supervise the management of the service (regulation 66) and specific duties to appoint a fit person to manage the service (regulations 67 and 68), to put arrangements in place for the management of the service when the manager is absent (regulation 72) and

to visit the places where the service is being provided (regulation 73).

Part 17 contains requirements on responsible individuals for ensuring the effective oversight of the service. By placing these requirements on the responsible individual, the regulations in this Part ensure that a person of an appropriately senior level in the organisation is accountable for service quality and compliance. The responsible individual is required to make reports to the service provider on the adequacy of resources (regulation 74) and on other matters (regulation 75). The responsible individual is required to make arrangements for engagement with individuals and others so that their views on the quality of care and support provided can be taken into account by the service provider (regulation 76).

Part 18 sets out the requirements on the responsible individual for ensuring the compliance of the service with other requirements, including requirements as to the notification of incidents and complaints (regulation 77) and the keeping of records (regulation 78). The responsible individual must also put arrangements in place for ensuring that the provider's policies and procedures are kept up to date (regulation 79).

Part 19 sets out the requirements on the responsible individual in relation to monitoring, reviewing and improving the quality of care and support provided, including making a report to the service provider.

Part 20 sets out other requirements on the responsible individual, including requirements to make certain notifications to the service regulator, contained in Schedule 4.

Part 21 deals with offences. Regulation 85 is made under the powers in section 45 of the Act and provides that failure of a service provider to comply with the requirements of specified provisions in these Regulations is an offence. There is a further qualification which applies in the case of a service provider's failure to comply with certain requirements. In these cases, the regulation provides that this is only an offence if the failure to comply results in individuals being exposed to avoidable harm or significant risk of such harm or suffering a loss of money or property as a result of theft, misuse or misappropriation.

Regulation 86 provides that it is an offence for the responsible individual to fail to comply with the requirements of specified provisions in these Regulations. This regulation is made under section 46 of the Act.

Part 22 sets out specific requirements which apply when the service provider is insolvent or when a service provider who is an individual has died. In these

circumstances, the regulations in this Part place specific notification duties on the appointed person (in the case of insolvency) or the personal representatives (in the case of the death of a service provider who is an individual). Regulation 88 enables the personal representatives to act in the capacity of the service provider and the Act is modified so that in these circumstances the personal representatives are not required to register and one of the personal representatives can be designated as the responsible individual in respect of a place where the service is provided.

Part 23 (regulation 89) specifies the circumstances in which the Welsh Ministers (instead of a service provider) may designate an individual to be a responsible individual, despite the eligibility requirements of section 21(2) of the Act not being met in respect of the individual. This regulation is made under section 21(5) of the Act.

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 from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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2017

*Made*

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*Coming into force*

*2 April 2018*

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The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 2(3), 21(5), 27, 28, 30, 31, 45, 46, 186(1) and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016(1) and having consulted such persons as they think appropriate, as required by sections 27(4)(a) and 28(4) of that Act.

A draft of these Regulations was laid before the National Assembly for Wales under section 187(2)(b), (f), (g), (j) and (k) of that Act and has been approved by a resolution of the National Assembly for Wales.

## PART 1

### General

#### **Title, commencement, application and interpretation**

1.—(1) The title of these Regulations is the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017.

(2) These Regulations come into force on 2 April 2018 and apply in relation to Wales.

(3) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“the 2014 Act” (“*Deddf 2014*”) means the Social Services and Well-being (Wales) Act 2014(2);

“care and support plan” (“*cynllun gofal a chymorth*”) means a plan under section 54 or section 83 of the 2014 Act;

“child” (“*plentyn*”) means a person who is aged under 18;

“child who is looked after by a local authority” (“*plentyn sy’n derbyn gofal gan awdurdod lleol*”) has the same meaning as in section 74 of the 2014 Act;

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(1) 2016 anaw 2

(2) 2014 anaw 4.

“general practitioner” (“*ymarferydd cyffredinol*”) means a registered medical practitioner<sup>(1)</sup> who—

- (a) provides primary medical services under Part 4 of the National Health Service (Wales) Act 2006<sup>(2)</sup>, or
- (b) provides services which correspond to services provided under Part 4 of the National Health Service (Wales) Act 2006, otherwise than in pursuance of that Act;

“health care professional” (“*proffesiynolyn gofal iechyd*”) means a person who is registered as a member of any profession to which section 60(2) of the Health Act 1999<sup>(3)</sup> applies;

“personal outcomes” (“*canlyniadau personol*”)—

- (a) in relation to an adult, means the outcomes that the adult wishes to achieve in day to day life;
- (b) in relation to a child, means—
  - (i) the outcomes that the child wishes to achieve, or
  - (ii) the outcomes that any persons with parental responsibility wish to achieve in relation to the child;

“personal plan” (“*cynllun personol*”) means the plan required to be prepared in accordance with regulation 15(1);

“placing authority” (“*awdurdod lleoli*”) in relation to a child provided with accommodation as part of a care home service or a secure accommodation service, means—

- (a) in the case of a child who is looked after by a local authority or local authority in England, that local authority;
- (b) in the case of a child who is not looked after by a local authority or local authority in England—
  - (i) if the child is being provided with accommodation by a voluntary organisation, that voluntary organisation;
  - (ii) if the child is accommodated in a qualifying school under arrangements made by a local authority (whether in the exercise of education functions within the meaning of section 579(1) of the

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(1) The definition of a “registered medical practitioner” in Schedule 1 to the Interpretation Act 1978 (c. 30) was substituted by S.I. 2002/3135, Schedule 1, paragraph 10 with effect from 16 November 2009.

(2) 2006 c. 42.

(3) 1999 c. 8.

Education Act 1996<sup>(1)</sup> or otherwise), that local authority;

(iii) in any other case, the child's parent;

and for the purposes of this definition "qualifying school" ("*ysgol gymhwysol*") means a school which is a care home service by virtue of the application of paragraph 1(3) of Schedule 1 to the Act;

"provider assessment" ("*asesiad darparwr*") means the assessment which is required to be carried out by the service provider under regulation 18;

"reasonable adjustments" ("*addasiadau rhesymol*") means such reasonable adjustments as would be required under the Equality Act 2010<sup>(2)</sup>;

"registered dental practitioner" ("*ymarferydd deintyddol cofrestredig*") means a person registered in the dentists register kept under the Dentists Act 1984<sup>(3)</sup> who—

- (a) provides primary dental services under Part 5 of the National Health Service (Wales) Act 2006, or
- (b) provides services which correspond to services provided under Part 5 of the National Health Service (Wales) Act 2006, otherwise than in pursuance of that Act;

"representative" ("*cynrychiolydd*") means any person having legal authority, or the consent of the individual to act on the individual's behalf;

"service commissioner" ("*comisiynydd y gwasanaeth*") means the local authority or NHS body which is responsible for making arrangements with the provider for care and support to be provided to an individual;

"service provider" ("*darparwr gwasanaeth*") has the same meaning as in section 3(1)(c) of the Act;

"staff" ("*staff*") includes—

- (a) persons employed by the service provider to work at the service as an employee or a worker, and
- (b) persons engaged by the service provider under a contract for services,

but does not include persons who are allowed to work as volunteers.

For the purpose of this definition, "employee" ("*cyflogai*") and "worker" ("*gweithiwr*") have the

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(1) 1996 c. 56.  
(2) 2010 c. 15.  
(3) 1984 c. 24.



same meanings as in section 230 of the Employment Rights Act 1996<sup>(1)</sup>;

“the individual” (“*yr unigolyn*”) means, unless the context indicates otherwise, the child or adult who is receiving care and support;

“the responsible individual” (“*yr unigolyn cyfrifol*”) has the same meaning as in section 21(1) of the Act;

“the service” (“*y gwasanaeth*”) means—

- (a) in relation to a care home service, a secure accommodation service or a residential family centre service, the service which is provided at a specified location;
- (b) in relation to a domiciliary support service, the service which is provided in relation to a specified area.

For the purpose of this definition—

- (i) “specified location” (“*lleoliad penodedig*”) means a location specified in a condition to the service provider’s registration as a place at which the service is to be provided<sup>(2)</sup>;
- (ii) “specified area” (“*ardal benodedig*”) means an area specified in a condition to the service provider’s registration as a place in relation to which the service is to be provided.

But this definition does not apply to references to “the service” (“*y gwasanaeth*”) in Part 22;

“the service regulator” (“*y rheoleiddwr gwasanaethau*”) means the Welsh Ministers in the exercise of their regulatory functions<sup>(3)</sup>;

“the statement of purpose” (“*y datganiad o ddiben*”) means the statement of purpose for the place at, from or in relation to which the service is provided<sup>(4)</sup>;

“the workforce regulator” (“*rheoleiddwr y gweithlu*”) means Social Care Wales.

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(1) 1996 c. 18.

(2) Section 7(3)(a)(i) of the Act provides that the grant of an application under section 6 of the Act must be subject to a condition specifying the places at, from or in relation to which the service provider is to provide a regulated service.

(3) “Regulatory functions” is defined in section 3(1)(b) of the Act.

(4) Regulation 3 of the Regulated Services (Registration) (Wales) Regulations 2017 requires a person who wants to provide a care home service, secure accommodation service or residential family centre service to provide a statement of purpose for each place at which the service is to be provided; a person who wants to provide an adoption service, a fostering service, an adult placement services or an advocacy service must provide a statement of purpose for each place from which the service is to be provided; a person who wants to provide a domiciliary support service must provide a statement of purpose for each place in relation to which the service is to be provided.

## PART 2

### Exceptions

#### Care home services

2.—(1) The following things are not to be treated as a care home service, despite paragraph 1 of Schedule 1 to the Act (regulated services: definitions, care home services)—

- (a) the provision of accommodation, together with nursing or care, to an adult—
  - (i) in the course of a family or personal relationship, and
  - (ii) for no commercial consideration;
- (b) the provision of accommodation, together with nursing or care, to adults for a period of less than 28 days in any 12 month period or for a number of periods which in total are less than 28 days in any 12 month period;
- (c) the provision of accommodation, together with nursing, where the accommodation is vested—
  - (i) in the Welsh Ministers for the purposes of their functions under the National Health Service (Wales) Act 2006;
  - (ii) in an NHS trust;
  - (iii) in a Local Health Board.
- (d) the provision of accommodation, together with care, where the accommodation is provided—
  - (i) by an institution within the further education sector; or
  - (ii) by a university.

But this exception does not apply if the number of persons to whom such accommodation is provided is more than one tenth of the number of students to whom it provides both education and accommodation.

For the purposes of this paragraph, “further education sector” (“*sector addysg bellach*”) has the same meaning as in section 91(3) of the Further and Higher Education Act 1992<sup>(1)</sup>;

- (e) the provision of accommodation, together with care, where the accommodation provided constitutes day care for children, within the

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(1) 1992 c. 13.

meaning of section 19(3) of the Children and Families (Wales) Measure 2010<sup>(1)</sup>.

But this exception does not apply if—

- (i) in any 12 month period there are 28 or more periods of 24 hours during which more than 15 hours of day care are provided in relation to any one child (whether or not the child is aged under 12);
  - (ii) the accommodation is provided to a disabled child.
- (f) the provision of accommodation, together with care, where the accommodation is provided for children aged 16 and over only for the purposes of enabling the children to undergo training or an apprenticeship.

But this exception does not apply if the accommodation is provided to a disabled child;

- (g) the provision of accommodation, together with care, where the accommodation is provided to children at an approved bail hostel or approved probation hostel;
- (h) the provision of accommodation, together with care, where the accommodation is an institution for young offenders provided under or by virtue of section 43(1) of the Prison Act 1952<sup>(2)</sup>;
- (i) the provision of accommodation, together with care, where the accommodation is provided to children because of their vulnerability or need for the purposes of—
  - (i) a holiday;
  - (ii) a leisure, recreational, sporting, cultural or educational activity;

But this exception does not apply—

- (i) in any case where the accommodation is provided to a disabled child;
- (ii) if the accommodation is provided to any one child for more than 28 days in any 12 month period, unless the accommodation is only provided to children over the age of 16.

(2) For the purposes of paragraph (1)(e), (f) and (i) of this regulation, a child is “disabled” if the child has a disability for the purposes of the Equality Act 2010.

(3) See regulation 5 for the meaning of family or personal relationship.

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(1) 2010 nawm 1.

(2) 1952 c. 52.

### **Domiciliary support services**

**3.—(1)** The following things are not to be treated as a domiciliary support service, despite paragraph 8 of Schedule 1 to the Act (regulated services: definitions, domiciliary support services)—

- (a) the provision of support only;
- (b) the provision of care and support to four or fewer individuals at any one time;
- (c) the provision of care and support for an adult—
  - (i) in the course of a family or personal relationship, and
  - (ii) for no commercial consideration;
- (d) the provision of care and support for a child by a parent, relative or foster parent;
- (e) the provision of care and support by a carer where such care and support is provided without the involvement of an undertaking acting as an employment agency or employment business (within the meaning given to those expressions by section 13 of the Employment Agencies Act 1973<sup>(1)</sup>), and where the carer works wholly under the direction and control of a related third party;
- (f) arrangements for the supply of carers to a service provider by an undertaking acting as an employment agency or employment business for the purpose of the provision of a regulated service by the service provider;
- (g) the provision of care and support where the care and support is provided by a person managing a prison or other similar custodial establishment.

(2) In paragraph (1)(e) and (f), “carer” means an individual who provides care to a person referred to in paragraph 8(1) of Schedule 1 to the Act.

(3) In paragraph (1)(e), “related third party” means—

- (a) an individual with parental responsibility (within the meaning of section 3 of the Children Act 1989<sup>(2)</sup>) for a child to whom care and support is to be provided;
- (b) an individual with power of attorney or other lawful authority to make arrangements on behalf of the individual to whom care and support is to be provided;
- (c) a group of individuals mentioned in either of sub-paragraphs (a) or (b) making

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(1) 1973 c. 35.

(2) 1989 c. 41.

arrangements on behalf of no more than four named individuals to whom care and support is to be provided;

- (d) a trust established for the purpose of providing services to meet the care and support needs of a named individual.

(4) See regulation 5 for the meaning of family or personal relationship.

### **Residential family centre services**

4. The following things are not to be treated as a residential family centre service, despite paragraph 3 of Schedule 1 to the Act (regulated services: definitions, residential family centre services)—

- (a) the provision of accommodation for children and their parents where the accommodation is provided in a hospital<sup>(1)</sup>;
- (b) the provision of accommodation for children and their parents where the accommodation is provided in a hostel or a domestic violence refuge;
- (c) in any other case, the provision of accommodation for children and their parents the main purpose of which is the provision of accommodation together with other services and facilities to adult individuals and the fact that those individuals may be parents, or may be accompanied by their children, is incidental to the main purpose of the provision of the accommodation.

### **Meaning of family or personal relationship**

5. For the purposes of this Part—

- (a) a family relationship includes a relationship between two persons who—
  - (i) live in the same household, and
  - (ii) treat each other as though they were members of the same family;
- (b) a personal relationship is a relationship between or among friends;
- (c) a friend of a person (A) includes a person who is a friend of a member of A's family.

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(1) "Hospital" is defined in paragraph 9 of Schedule 1 to the Act and includes an independent clinic.

## PART 3

### General requirements on service providers

#### **Requirements in relation to the provision of the service**

6. The service provider must ensure that the service is provided with sufficient care, competence and skill, having regard to the statement of purpose.

#### **Requirements in relation to the statement of purpose**

7.—(1) The service provider must provide the service in accordance with the statement of purpose.

(2) The service provider must—

(a) keep the statement of purpose under review, and

(b) where appropriate, revise the statement of purpose.

(3) Unless paragraph (4) applies, the service provider must notify the persons listed in paragraph (6) of any revision to be made to the statement of purpose at least 28 days before it is to take effect.

(4) This paragraph applies in cases where it is necessary to revise the statement of purpose with immediate effect.

(5) If paragraph (4) applies, the service provider must, without delay, notify the persons listed in paragraph (6) of any revision made to the statement of purpose.

(6) The persons who must be notified of any revision to the statement of purpose in accordance with paragraph (3) or (5) are—

(a) the service regulator,

(b) the individuals,

(c) the placing authority (where relevant), and

(d) any representative, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

(7) The service provider must provide the up to date statement of purpose to any person on request, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

#### **Requirements in relation to monitoring and improvement**

8.—(1) The service provider must ensure that there are effective arrangements in place for monitoring, reviewing and improving the quality of care and support provided by the service.

(2) Those arrangements must include arrangements for seeking the views of—

- (a) individuals,
- (b) any representatives, unless this is not appropriate or would be inconsistent with the individual's well-being,
- (c) in the case of an individual who is a child provided with accommodation as part of a care home service, the placing authority,
- (d) service commissioners, and
- (e) staff,

on the quality of care and support provided by the service and how this can be improved.

(3) When making any decisions on plans for improvement of the quality of care and support provided by the service, the service provider must—

- (a) take into account the views of those persons consulted in accordance with paragraph (2), and
- (b) have regard to the quality of care report prepared by the responsible individual in accordance with regulation 80(4).

#### **Requirements in relation to the responsible individual**

**9.**—(1) This regulation does not apply to a service provider who is an individual.

(2) A service provider to whom this regulation applies must ensure that the person who is designated as the responsible individual—

- (a) is supported to carry out their duties effectively, and
- (b) undertakes appropriate training.

(3) In the event that the service provider has reason to believe that the responsible individual has not complied with a requirement imposed by the regulations in Parts 16 to 20, the provider must—

- (a) take such action as is necessary to ensure that the requirement is complied with, and
- (b) notify the service regulator.

(4) During any time when the responsible individual is unable to fulfil their duties, the service provider must ensure that there are arrangements in place for—

- (a) the effective management of the service,
- (b) the effective oversight of the service,
- (c) the compliance of the service with the requirements of the regulations in Parts 3 to 15, and

- (d) monitoring, reviewing and improving the quality of the care and support provided by the service.

(5) If the responsible individual is unable to fulfil their duties for a period of more than 28 days, the service provider must—

- (a) notify the service regulator, and
- (b) inform the service regulator of the interim arrangements.

### **Requirements in relation to the responsible individual where the service provider is an individual**

**10.**—(1) This regulation applies where the service provider is an individual.

(2) If this regulation applies, the individual must undertake appropriate training for the proper discharge of his or her duties as the responsible individual.

(3) During any time when the individual is absent, he or she must ensure that there are arrangements in place for—

- (a) the effective management of the service,
- (b) the effective oversight of the service,
- (c) the compliance of the service with the requirements of the regulations in Parts 3 to 15, and
- (d) monitoring, reviewing and improving the quality of the care and support provided by the service.

(4) If the individual is unable to fulfil their duties as a responsible individual for a period of more than 28 days, he or she must—

- (a) notify the service regulator, and
- (b) inform the service regulator of the interim arrangements.

### **Requirements in relation to the financial sustainability of the service**

**11.**—(1) The service provider must take reasonable steps to ensure that the service is financially sustainable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The service provider must maintain appropriate and up to date accounts for the service.

(3) The service provider must provide copies of the accounts to the Welsh Ministers within 28 days of being requested to do so.

(4) The Welsh Ministers may require accounts to be certified by an accountant.



## **Requirements to provide the service in accordance with policies and procedures**

**12.**—(1) The service provider must ensure that the following policies and procedures are in place for the service—

Admissions and commencement of the service (see Part 5, regulation 14)

Safeguarding (see Part 8, regulation 27)

Supporting individuals to manage their money (see Part 8, regulation 28)

Use of control or restraint (see Part 8, regulation 29)

Staff support and development (see Part 10, regulation 36)

Staff discipline (see Part 10, regulation 39)

Infection control (see Part 14, regulation 56)

Medication (see Part 14, regulation 58)

Complaints (see Part 15, regulation 64)

Whistleblowing (see Part 15, regulation 65)

(2) Where the service includes the provision of accommodation for children, the service provider must have a policy in place on the prevention of bullying, procedures for dealing with an allegation of bullying and a procedure to be followed when any child for whom accommodation is provided is absent without permission (see regulation 27(5)).

(3) The service provider must have such other policies and procedures in place as are reasonably necessary to support the aims and objectives of the regulated service set out in the statement of purpose.

(4) The service provider must ensure that the content of the policies and procedures which are required to be in place by virtue of paragraphs (1) to (3) is—

- (a) appropriate to the needs of individuals for whom care and support is provided,
- (b) consistent with the statement of purpose, and
- (c) kept up to date.

(5) The service provider must ensure that the service is provided in accordance with those policies and procedures.

## **Duty of candour**

**13.** The service provider must act in an open and transparent way with—

- (a) individuals who are receiving care and support,
- (b) any representatives of those individuals, and

- (c) in the case of a child who is provided with accommodation, the placing authority.

## PART 4

### Requirements on service providers as to the steps to be taken before agreeing to provide care and support

#### **Suitability of the service**

**14.**—(1) The service provider must not provide care and support for an individual unless the service provider has determined that the service is suitable to meet the individual's care and support needs and to support the individual to achieve their personal outcomes.

(2) The service provider must have in place a policy and procedures on admissions and commencement of the service.

(3) The determination under paragraph (1) must take into account—

- (a) the individual's care and support plan,
- (b) if there is no care and support plan, the service provider's assessment under paragraph (4),
- (c) any health or other relevant assessments,
- (d) the individual's views, wishes and feelings,
- (e) any risks to the individual's well-being,
- (f) any risks to the well-being of other individuals to whom care and support is provided,
- (g) any reasonable adjustments which the service provider could make to enable the individual's care and support needs to be met, and
- (h) the service provider's policy and procedures on admissions and commencement of the service.

(4) In a case where the individual does not have a care and support plan, the service provider must—

- (a) assess the individual's care and support needs, and
- (b) identify their personal outcomes.

(5) The assessment required by paragraph (4) must be carried out by a person who—

- (a) has the skills, knowledge and competence to carry out the assessment, and
- (b) has received training in the carrying out of assessments.

(6) In making the determination in paragraph (1), the service provider must involve the individual, the placing authority (if applicable) and any representative. But the service provider is not required to involve a representative if—

- (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or
- (b) involving the representative would not be consistent with the individual's well-being.

## PART 5

### Requirements on service providers as to the steps to be taken on commencement of the provision of care and support

#### **Personal plan**

**15.**—(1) The service provider must prepare a plan for the individual which sets out—

- (a) how on a day to day basis the individual's care and support needs will be met,
- (b) how the individual will be supported to achieve their personal outcomes,
- (c) the steps which will be taken to mitigate any identified risks to the individual's well-being, and
- (d) the steps which will be taken to support positive risk-taking and independence, where it has been determined this is appropriate.

(2) The plan which is required to be prepared under paragraph (1) is referred to in these Regulations as a personal plan.

(3) The personal plan must be prepared prior to commencement of the provision of care and support to the individual, unless paragraph (4) applies.

(4) This paragraph applies in a case where the individual is in urgent need of care and support and there has been no time to prepare a personal plan prior to the commencement of the provision of care and support to the individual.

(5) If paragraph (4) applies, the personal plan must be prepared within 24 hours of the commencement of the provision of care and support to the individual.

(6) When preparing a personal plan, the service provider must involve the individual, the placing authority (if applicable) and any representative. But the service provider is not required to involve a representative if—

- (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or
  - (b) involving the representative would not be consistent with the individual's well-being.
- (7) In preparing the personal plan, the service provider must take into account—
- (a) the individual's care and support plan,
  - (b) if there is no care and support plan, the service provider's assessment under regulation 14(4),
  - (c) any health or other relevant assessments,
  - (d) the individual's views, wishes and feelings,
  - (e) any risks to the individual's well-being, and
  - (f) any risks to the well-being of other individuals to whom care and support is provided.

### **Review of personal plan**

**16.**—(1) The personal plan must be reviewed as and when required but at least every three months.

(2) In the case of a looked after child, any review of the personal plan must be aligned with the reviews required to be carried out by the local authority under the Care Planning, Placement and Case Review (Wales) Regulations 2015<sup>(1)</sup>.

(3) Reviews of a personal plan must include a review of the extent to which the individual has been able to achieve their personal outcomes.

(4) When carrying out a review under this regulation, the service provider must involve the individual, the placing authority (if applicable) and any representative. But the service provider is not required to involve a representative if—

- (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or
- (b) involving the representative would not be consistent with the individual's well-being.

(5) Following the completion of any review required by this regulation, the service provider must consider whether the personal plan should be revised and revise the plan as necessary.

### **Records of personal plans**

**17.** The service provider must—

- (a) keep a record of—

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(1) S.I. 2015/1818 (W. 261).

- (i) the personal plan and any revised plan, and
- (ii) the outcome of any review, and
- (b) give a copy of the personal plan and any revised plan to—
  - (i) the individual,
  - (ii) any representative, unless this is not appropriate or would be inconsistent with the individual's well-being, and
  - (iii) where a child is provided with accommodation as part of a care home service, the placing authority.

### **Provider assessment**

**18.**—(1) Within 7 days of the commencement of the provision of care and support for an individual, the service provider must—

- (a) assess how the individual's care and support needs can best be met,
- (b) assess how the individual can best be supported to achieve their personal outcomes,
- (c) ascertain the individual's views, wishes and feelings,
- (d) assess any risks to the individual's well-being, and
- (e) assess any risks to the well-being of other individuals to whom care and support is provided.

(2) The assessment under paragraph (1) is referred to in these Regulations as a provider assessment.

(3) A provider assessment must be carried out by a person who—

- (a) has the skills, knowledge and competence to carry out the assessment, and
- (b) has received training in the carrying out of assessments.

(4) A provider assessment must take into account—

- (a) the individual's care and support plan, if available,
- (b) the service provider's assessment under regulation 14(4), if applicable,
- (c) any health or other relevant assessments,
- (d) the individual's views, wishes and feelings,
- (e) any risks to the individual's well-being, and
- (f) the service provider's policy and procedures on admissions and commencement of the service.

(5) When carrying out or revising a provider assessment, the service provider must involve the

individual, the placing authority (if applicable) and any representative. But the service provider is not required to involve a representative if—

- (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or
- (b) involving the representative would not be consistent with the individual's well-being.

(6) A provider assessment must be kept under review and revised as necessary.

(7) Following the completion of the provider assessment and any revised assessment, the personal plan must be reviewed and revised as necessary.

(8) The service provider must keep a record of a provider assessment and give a copy of the assessment to the individual, any representative and, where the child is provided with accommodation by a care home service, the placing authority.

## PART 6

### Requirements on service providers as to the information to be provided to individuals on commencement of the provision of care and support

#### **Information about the service**

**19.**—(1) The service provider must prepare a written guide to the service.

- (2) The guide must be—
  - (a) dated, reviewed at least annually and updated as necessary,
  - (b) in an appropriate language, style, presentation and format, having regard to the statement of purpose for the service,
  - (c) given to all individuals who are receiving care and support,
  - (d) in the case of child who is looked after by a local authority, given to the placing authority, and
  - (e) made available to others on request, unless this is not appropriate or would be inconsistent with the well-being of an individual.

(3) The guide must contain the following information—

- (a) information about how to raise a concern or make a complaint;
- (b) information about the availability of advocacy services.

(4) The service provider must ensure that all individuals receive such support as is necessary to enable them to understand the information contained in the guide.

### **Service agreement**

**20.**—(1) The service provider must ensure that every individual is given a signed copy of any agreement relating to—

- (a) the care and support provided to the individual;
- (b) any other services provided to the individual.

(2) The service provider must ensure that individuals receive such support as is necessary to enable them to understand the information contained in any such agreement.

## **PART 7**

Requirements on service providers as to the standard of care and support to be provided

### **Standards of care and support - overarching requirements**

**21.**—(1) The service provider must ensure that care and support is provided in a way which protects, promotes and maintains the safety and well-being of individuals.

(2) The service provider must ensure that care and support is provided to each individual in accordance with the individual's personal plan.

(3) The service provider must ensure that care and support is provided in way which—

- (a) maintains good personal and professional relationships with individuals and staff; and
- (b) encourages and assists staff to maintain good personal and professional relationships with individuals.

(4) If, as a result of a change in the individual's assessed needs, the service provider is no longer able to meet those needs, even after making any reasonable adjustments, the provider must immediately give written notification of this to the individual, any representative, the service commissioner and the placing authority.

### **Continuity of care**

**22.** The service provider must put arrangements in place to ensure that individuals receive such continuity of care as is reasonable to meet their needs for care and support.

## **Information**

**23.**—(1) The service provider must ensure that individuals have the information they need to make or participate in assessments, plans and day to day decisions about the way care and support is provided to them and how they are supported to achieve their personal outcomes.

(2) Information provided must be available in the appropriate language, style, presentation and format, having regard to—

- (a) the nature of the service as described in the statement of purpose;
- (b) the level of the individual's understanding and ability to communicate;
- (c) in the case of a child, the child's age.

(3) The service provider must ensure that the individual receives such support as is necessary to enable them to understand the information provided.

## **Language and communication**

**24.**—(1) The service provider must take reasonable steps to meet the language needs of individuals.

(2) The service provider must ensure that individuals are provided with access to such aids and equipment as may be necessary to facilitate the individual's communication with others.

## **Respect and sensitivity**

**25.**—(1) The service provider must ensure that individuals are treated with respect and sensitivity.

(2) This includes, but is not limited to,—

- (a) respecting the individual's privacy and dignity;
- (b) respecting the individual's rights to confidentiality;
- (c) promoting the individual's autonomy and independence;
- (d) having regard to any relevant protected characteristics (as defined in section 4 of the Equality Act 2010) of the individual.



## PART 8

### Requirements on service providers - safeguarding

#### **Safeguarding - overarching requirement**

**26.** The service provider must provide the service in a way which ensures that individuals are safe and are protected from abuse, neglect and improper treatment.

#### **Safeguarding policies and procedures**

**27.**—(1) The service provider must have policies and procedures in place—

- (a) for the prevention of abuse, neglect and improper treatment, and
- (b) for responding to any allegation or evidence of abuse, neglect or improper treatment.

(2) In this regulation, such policies and procedures are referred to as safeguarding policies and procedures.

(3) The service provider must ensure that their safeguarding policies and procedures are operated effectively.

(4) In particular, where there is an allegation or evidence of abuse, neglect or improper treatment, the service provider must—

- (a) act in accordance with their safeguarding policies and procedures,
- (b) take immediate action to ensure the safety of all individuals for whom care and support is provided,
- (c) make appropriate referrals to other agencies, and
- (d) keep a record of any evidence or the substance of any allegation, any action taken and any referrals made.

(5) Where the service includes the provision of accommodation for children, the service provider must have the following policies and procedures in place—

- (a) a policy on the prevention of bullying;
- (b) procedures for dealing with an allegation of bullying;
- (c) the procedure to be followed when any child for whom accommodation is provided is absent without permission.

#### **Supporting individuals to manage their money**

**28.**—(1) The service provider must have a policy and procedures in place about supporting individuals to manage their money and must ensure that the

service is provided in accordance with such policy and procedures.

(2) The policy and procedures which are required by this regulation to be in place must set out the steps which are to be taken to enable and support people to manage their own money and to protect individuals from financial abuse.

(3) Where an individual's money is held by the service provider for any purpose (apart from moneys held for the purpose of paying charges payable by the individual in accordance with any agreement with the service provider), the policy and procedures required by this regulation must provide—

- (a) that the money is held in an account in the individual's name or in an account which enables clear demarcation of each individual's money;
- (b) any such account is not used in connection with the management of the service.

(4) The service provider must ensure so far as practicable that persons working at the service do not act as the agent of an individual.

#### **The appropriate use of control and restraint**

**29.**—(1) Care and support must not be provided in a way which includes acts intended to control or restrain an individual unless those acts—

- (a) are necessary to prevent a risk of harm posed to the individual or another individual, and
- (b) are a proportionate response to such a risk.

(2) Control or restraint must not be used unless it is carried out by staff who are trained in the method of control or restraint used.

(3) The service provider must have a policy on the use of control or restraint and ensure that any control or restraint used is carried out in accordance with this policy.

(4) A record of any incident in which control or restraint is used must be made within 24 hours.

(5) For the purposes of this regulation, a person controls or restrains an individual if that person—

- (a) uses, or threatens to use, force to secure the doing of an act which the individual resists, or
- (b) restricts the individual's liberty of movement, whether or not the individual resists, including by the use of physical, mechanical or chemical means.

#### **Prohibition on the use of corporal punishment**

**30.**—(1) A service provider who provides a care home service, a secure accommodation service or a

residential family centre service must ensure that persons working at the service use no form of corporal punishment at any time against any child to whom accommodation is provided.

(2) A service provider who provides a domiciliary support service must ensure that persons working at the service use no form of corporal punishment at any time against any child to whom care and support is provided.

### **Deprivation of liberty**

**31.** An individual must not be deprived of their liberty for the purpose of receiving care and support without lawful authority.

### **Interpretation of Part 8**

**32.** In this Part—

“abuse” (“*camdriniaeth*”) means physical, sexual, psychological, emotional or financial abuse and, in relation to a child, any other harm.

For the purposes of this definition—

(a) “financial abuse” (“*camdriniaeth ariannol*”) includes—

(i) having money or other property stolen;

(ii) being defrauded;

(iii) being put under pressure in relation to money or other property;

(iv) having money or other property misused;

(b) “harm” (“*niwed*”) has the same meaning as in section 197(1) of the 2014 Act;

“improper treatment” (“*triniaeth amhriodol*”) includes discrimination or unlawful restraint, including inappropriate deprivation of liberty under the terms of the Mental Capacity Act 2005(1);

“neglect” (“*esgeulustod*”) has the same meaning as in section 197(1) of the 2014 Act.

## **PART 9**

**Requirements on service providers which only apply where accommodation is provided**

### **Access to health and other services**

**33.—**(1) This regulation applies to a service provider in respect of a care home service, a secure

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(1) 2005 c. 9.

accommodation service or a residential family centre service which the provider is registered to provide.

(2) A service provider to whom this regulation applies must put arrangements in place for individuals—

- (a) to be registered with a general practitioner,
- (b) to be placed under the care of a registered dental practitioner,
- (c) to be able to access treatment, advice and other services from any health care professional as necessary, and
- (d) to be supported to access such services.

(3) In the case of a care home service which provides accommodation wholly or mainly for children or in the case of secure accommodation service, the service provider must designate a member of staff to be the “link worker” for each child and must ensure that—

- (a) a child's link worker participates in any review involving consideration of the child's educational progress, whether conducted under regulations made under section 102 of the 2014 Act, the Care Planning, Placement and Case Review (Wales) Regulations 2015 or otherwise;
- (b) a child's link worker participates in any review involving consideration of any aspect of a child's health, whether conducted under regulations made under section 102 of the 2014 Act, the Care Planning, Placement and Case Review (Wales) Regulations 2015, or otherwise.

(4) In paragraph (3) of this regulation “link worker” means a staff member of a care home service for children who is of appropriate seniority with particular responsibility for protecting and promoting the health and educational welfare of an individual child and for liaison with education and health care providers on that child's behalf.

## PART 10

### Requirements on service providers as to staffing

#### **Staffing - overarching requirements**

**34.**—(1) The service provider must ensure that at all times a sufficient number of suitably qualified, trained, skilled, competent and experienced staff are deployed to work at the service, having regard to—

- (a) the statement of purpose for the service;
- (b) the care and support needs of the individuals;

- (c) supporting individuals to achieve their personal outcomes;
- (d) the requirements of the regulations in Parts 3 to 15.

(2) In the case of a care home service where any individual to whom accommodation is provided has been assessed as needing 24 hour nursing care, the service provider must ensure that there is a sufficient number of suitably qualified registered nurses deployed to work at the service at all times.

(3) The service provider must be able to demonstrate the way in which the determination has been made as to—

- (a) the types of staff deployed, and
- (b) the numbers of staff of each type deployed.

(4) The service provider must ensure that arrangements are made for the support and development of staff.

(5) The service provider must ensure that the employment or engagement of any persons on a temporary basis or on a non-guaranteed hours contract does not prevent individuals receiving such continuity of care as the provider has determined in accordance with regulation 22 as is reasonable to meet their needs for care and support.

(6) In paragraph (5) of this regulation, “non-guaranteed hours contract” has the same meaning as in regulation 42.

### **Fitness of staff**

**35.**—(1) The service provider must not—

- (a) employ a person under a contract of employment to work at the service unless that person is fit to do so;
- (b) allow a volunteer to work at the service unless that person is fit to do so;
- (c) allow any other person to work at the service in a position in which he or she may in the course of his or her duties have regular contact with individuals who are receiving care and support or with other persons who are vulnerable unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to work at the service unless—

- (a) the person is of suitable integrity and good character;
- (b) the person has the qualifications, skills, competence and experience necessary for the work he or she is to perform;

- (c) the person is able by reason of their health, after reasonable adjustments are made, of properly performing the tasks which are intrinsic to the work for which he or she is employed or engaged;
- (d) the person has provided full and satisfactory information or documentation, as the case may be, in respect of each of the matters specified in Part 1 of Schedule 1 and this information or documentation is available at the service for inspection by the service regulator;
- (e) where the person is employed by the service provider to manage the service, the person is registered as a social care manager with Social Care Wales;
- (f) where the person is employed by the service provider to work in a capacity other than as a manager and in the course of their employment the person provides care and support to any person in connection with—
  - (i) a care home service within the meaning of Part 1 of the Act which is provided wholly or mainly to children; or
  - (ii) a secure accommodation service within the meaning of Part 1 of the Act,
 the person is registered as a social care worker with Social Care Wales no later than the relevant date (see paragraph (8) for the meaning of “the relevant date”).

(3) The certificate referred to in paragraphs 2 and 3 of Schedule 1 (referred to in this regulation as a DBS certificate) must be applied for by, or on behalf of the service provider, for the purpose of assessing the suitability of a person for the post referred to in paragraph (1). But this requirement does not apply if the person working at the service is registered with the Disclosure and Barring Service update service (referred to in this regulation as the DBS update service).

(4) Where a person being considered for a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person’s DBS certificate status for the purpose of assessing the suitability of that person for that post.

(5) Where a person appointed to a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person’s DBS certificate status at least annually.

(6) Where a person appointed to a post referred to in paragraph (1) is not registered with the DBS update service, the service provider must apply for a new DBS certificate in respect of that person within three years of the issue of the certificate applied for in

accordance with paragraph (3) and thereafter further such applications must be made at least every three years.

(7) If any person working at the service is no longer fit to work at the service as a result of one or more of the requirements in paragraph (2) not being met, the service provider must—

- (a) take necessary and proportionate action to ensure that the relevant requirements are complied with;
- (b) where appropriate, inform—
  - (i) the relevant regulatory or professional body;
  - (ii) the Disclosure and Barring Service.

(8) In paragraph (2)(f) of this regulation, “the relevant date” is either—

- (a) six months from the date on which the person commenced their employment, or
- (b) such later date as the service regulator may in exceptional circumstances agree.

(9) In this regulation, “the Disclosure and Barring Service” (“*y Gwasanaeth Datgelu a Gwahardd*”) and “DBS” (“*GDG*”) mean the body established by section 1 of the Safeguarding Vulnerable Groups Act 2006<sup>(1)</sup>.

### **Supporting and developing staff**

**36.**—(1) The service provider must have a policy in place for the support and development of staff.

(2) The service provider must ensure that any person working at the service (including a person allowed to work as a volunteer)—

- (a) receives an induction appropriate to their role;
- (b) is made aware of his or her own responsibilities and those of other staff.
- (c) receives appropriate supervision and appraisal;
- (d) receives core training appropriate to the work to be performed by them;
- (e) receives specialist training as appropriate;
- (f) receives support and assistance to obtain such further training as is appropriate to the work they perform.

(3) The service provider must ensure that any person employed to work at the service is supported to maintain their registration with the appropriate regulatory or occupational body.

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(1) 2006 c. 47.

### **Compliance with employer's code of practice**

**37.** The service provider must adhere to the code of practice on the standards of conduct and practice expected of persons employing or seeking to employ social care workers, which is required to be published by Social Care Wales under section 112(1)(b) of the Act.

### **Information for staff**

**38.—(1)** The service provider must ensure that all persons working at the service (including any person allowed to work as a volunteer) are provided with information about the service and the way it is provided.

(2) The service provider must ensure that there are arrangements in place to make staff aware of any codes of practice about the standards of conduct expected of social care workers, which is required to be published by Social Care Wales under section 112(1)(a) of the Act.

### **Disciplinary procedures**

**39.—(1)** The service provider must put in place and operate a disciplinary procedure.

(2) The disciplinary procedure must include—

- (a) provision for the suspension, and the taking of action short of suspension, of an employee, in the interests of the safety or well-being of people using the service;
- (b) provision that a failure on the part of an employee to report an incident of abuse, or suspected abuse, to an appropriate person, is grounds on which disciplinary proceedings may be instituted.

(3) For the purpose of paragraph (2)(b), an appropriate person is—

- (a) the service provider,
- (b) the responsible individual,
- (c) an officer of the service regulator,
- (d) an officer of the local authority for the area in which the service is provided,
- (e) in the case of an incident of abuse or suspected abuse of a child, an officer of the National Society for the Prevention of Cruelty to Children, or
- (f) a police officer.



## PART 11

### Requirements on service providers in respect of domiciliary support services

#### Application of regulations in this Part

40. The regulations in this Part only apply to a service provider in respect of the provision of a domiciliary support service which the provider is registered to provide.

#### Delineation of travel time and care time

41.—(1) A service provider to whom this regulation applies must—

- (a) prepare a schedule of visits in respect of each domiciliary care worker working at the service; and
- (b) provide a copy of the relevant schedule of visits to the domiciliary care worker to whom that schedule relates.

(2) The schedule of visits must delineate the time allocated for travel time, the time allocated for each visit and (if applicable) the time allocated for rest breaks.

(3) The time allocated for travel time must be sufficient having regard to—

- (a) the distance between the location of one scheduled visit and the next scheduled visit; and
- (b) any other factors which might reasonably be expected to affect travel time, such as traffic congestion and the availability of parking at the location of the scheduled visits.

(4) The time allocated for each visit—

- (a) must be sufficient to enable care and support to be provided to the individual in accordance with their personal plan; and
- (b) must not be less than 30 minutes unless either condition A, B or C, as described in section 8 of the Act, is met.

(5) A service provider to whom this regulation applies must ensure that a record is kept of the time spent by each domiciliary care worker on travel time, visits and rest breaks.

(6) For the purposes of this regulation—

“domiciliary care worker” (*“gweithiwr gofal cartref”*) means a person who provides care and support to individuals as part of a domiciliary support service and includes—

- (a) a person employed by the service provider as an employee or a worker; and

(b) a person engaged by the service provider under a contract for services.

For the purposes of this definition, the terms “employed” (“*a gyflogir*”), “employee” (“*cyflogai*”) and “worker” (“*gweithiwr*”) have the same meanings as in section 230 of the Employment Rights Act 1996;

“schedule of visits” (“*amserlen ymweliadau*”) means a schedule of the visits which a domiciliary care worker is required to make during the course of a day or a week;

“travel time” (“*amser teithio*”) includes the time spent travelling between the location of one scheduled visit and the location of the next scheduled visit but does not include any time spent travelling from the home of the domiciliary care worker to the location of the first scheduled visit or any time spent travelling from the location of the last scheduled visit to the home of the domiciliary care worker;

“visit” (“*ymweliad*”) means a visit to an individual for the purpose of providing a domiciliary support service.

#### **Offering domiciliary care workers on non-guaranteed hours contracts the choice of alternative contractual arrangements**

**42.**—(1) If the conditions in paragraph (2) are met, a service provider to whom this regulation applies must offer a domiciliary care worker the choice of continuing to be employed under either of the following types of contractual arrangement—

- (a) a contract of employment where the number of hours required to be worked per week is at least the average number of hours worked per week during the preceding three months;
- (b) a contract of employment where the number of hours required to be worked per week is less than the average number of hours worked per week during the preceding three months.

But this requirement does not prevent the service provider employing a domiciliary care worker on any other type of contractual arrangement which has been agreed between the provider and the worker, including a further non-guaranteed hours contract.

- (2) The conditions referred to in paragraph (1) are—
- (a) the domiciliary care worker has been employed by the service provider under a non-guaranteed hours contract for the qualifying period,
  - (b) the domiciliary care worker has worked regular hours during the three months preceding the end of the qualifying period,

- (c) the provider has decided that there is a continuing need for the hours to be worked on an ongoing basis, and
- (d) the domiciliary care worker has performed satisfactorily during the qualifying period.

(3) For the purposes of this regulation—

“domiciliary care worker” (*“gweithiwr gofal cartref”*) means a person who provides care and support to individuals as part of a domiciliary support service and includes a person employed by the service provider as an employee or a worker but does not include a person engaged by the service provider under a contract for services;

“non-guaranteed hours contract” (*“contract oriau heb eu gwarantu”*) means a contract of employment or other worker’s contract under which—

- (a) the undertaking to do work or perform services is an undertaking to do so conditionally on the employer making work or services available to the worker, and
- (b) there is no certainty that any such work or services will be made available to the worker.

For the purpose of this definition, an employer makes work or services available to a worker if the employer requests or requires the worker to do the work or perform the services;

“the qualifying period” (*“y cyfnod cymhwysol”*) is—

- (a) in any case where the worker has commenced employment after the relevant date, the period of three months from the date the employment commenced;
- (b) in any case where the worker commenced employment before the relevant date, the period of three months ending with the commencement date;
- (c) in any case where the worker has previously been offered the choice of an alternative contractual arrangement in accordance with the requirements of this regulation and has chosen to remain on a non-guaranteed hours contract, the period of three months from the date any such choice was made.

For the purposes of this definition—

“the commencement date” (*“y dyddiad cychwyn”*) is the date on which this regulation comes into force;

“the relevant date” (*“y dyddiad perthnasol”*) is the date which falls three months before the commencement date.

- (4) For the purposes of this regulation—
- (a) the terms “contract of employment” (“*contract cyflogaeth*”), “employer” (“*cyflogwr*”), “employee” (“*cyflogai*”), “employment” (“*cyflogaeth*”) and “employed” (“*cael ei gyflogi*”, “*wedi ei gyflogi*”, “*a gyflogir*”) have the same meanings as in section 230 of the Employment Rights Act 1996;
  - (b) “worker” (“*gweithiwr*”) has the same meaning as in section 230 of the Employment Rights Act 1996, except that a person engaged under a contract for services is not a worker for the purpose of this regulation. Any reference to a worker's contract is to be construed accordingly.

## PART 12

### Requirements on service providers as to premises, facilities and equipment

#### **Overarching requirement**

**43.** The service provider must ensure that the premises, facilities and equipment are suitable for the service, having regard to the statement of purpose for the service.

#### **Premises – accommodation-based services only**

**44.**—(1) The requirements in this regulation only apply to service providers who are registered to provide a care home service, secure accommodation service or residential family centre service.

(2) The service provider must ensure that the physical design, layout and location of the premises used for the provision of the service is suitable to—

- (a) achieve the aims and objectives set out in the statement of purpose;
- (b) meet the care and support needs of the individuals;
- (c) support individuals to achieve their personal outcomes.

(3) In particular, the service provider must ensure that the premises used for the provision of the service meet the requirements of paragraphs (4) to (6) of this regulation.

(4) Premises must be—

- (a) accessible, adequately lit, heated and ventilated;
- (b) secure from unauthorised access;
- (c) suitably furnished and equipped;

- (d) of sound construction and kept in good structural repair externally and internally;
- (e) fitted and adapted as necessary, in order to meet the needs of individuals;
- (f) organised so that equipment used for the provision of the service is appropriately located;
- (g) free from hazards to the health and safety of individuals and any other persons who may be at risk, so far as is reasonably practicable;
- (h) properly maintained;
- (i) kept clean to a standard which is appropriate for the purpose for which they are being used.

(5) Premises must have bedrooms which—

- (a) include appropriate facilities to meet the care and support needs of the individual (if the room is single occupancy) or individuals (if the room is shared) occupying the bedroom;
- (b) are of an adequate size, having regard to —
  - (i) whether the room is shared or single occupancy;
  - (ii) the layout and furniture;
  - (iii) the equipment required to meet the needs of the individual (if the room is single occupancy) or individuals (if the room is shared);
  - (iv) the number of staff required to meet the needs of the individual (if the room is single occupancy) or individuals (if the room is shared);
- (c) are comfortable for the individual (if the rooms is single occupancy) or individuals (if the room is shared);
- (d) allow the individual (if the room is single occupancy) or individuals (if the room is shared) both freedom of movement and privacy.

(6) Premises must have sitting, recreational and dining space which is provided separately from the individual's own private rooms and any such space must be—

- (a) suitable and sufficient, having regard to the statement of purpose;
- (b) located so as to enable all persons using the space to access any such space easily and safely.

(7) Any communal space used for the provision of the service must be suitable for the provision of social, cultural and religious activities appropriate to the circumstances of the individuals.

(8) Suitable facilities must be provided for individuals to meet visitors in private in a space which is separate from the individual's own private rooms.

(9) Premises must have toilets, bathrooms and showers which are—

- (a) of sufficient number and of a suitable type to meet the needs of the individuals;
- (b) appropriately equipped;
- (c) located so as to enable all persons to access them easily and safely.

(10) Premises must have external grounds which are accessible, suitable for, and safe for use by, individuals and appropriately maintained.

(11) Premises must have suitable facilities for staff which must include—

- (a) suitable storage facilities, and
- (b) where appropriate, suitable sleeping accommodation and changing facilities.

#### **Single occupancy and shared rooms - adults**

**45.**—(1) Where the service provider is providing a care home service which includes the provision of accommodation for individuals who are adults, the service provider must ensure that all adults are accommodated in single rooms. But this requirement does not apply if either—

- (a) the conditions in paragraph (2) are met, or
- (b) paragraph (3) applies.

(2) The conditions are —

- (a) an adult agrees to sharing a room with another adult;
- (b) sharing a room is consistent with the well-being of both adults;
- (c) the personal plans of both adults have been reviewed and revised as necessary;
- (d) the number of adults who are accommodated in shared rooms does not exceed 15% of the total number of adults accommodated by the service.

(3) This paragraph applies if the following conditions are met—

- (a) the care home service was registered as a care home under the Care Standards Act 2000;
- (b) the number of adults accommodated in shared rooms at the relevant time exceeded 15% of the total number of adults accommodated by the service at the relevant time;
- (c) all the adults who are accommodated in shared rooms were sharing a room with another adult at the relevant time.

(4) In paragraph (3) of this regulation, “the relevant time” means the time the service provider was registered under the Act as the provider of the care home service.

### **Single occupancy and shared rooms – children**

**46.**—(1) This regulation applies where the service provider is providing—

- (a) a care home service which includes the provision of accommodation for individuals who are children, or
- (b) a secure accommodation service.

(2) If this regulation applies, the service provider must ensure that each child is accommodated in a single room. But this requirement does not apply if the conditions in paragraph (3) are met.

(3) The conditions are—

- (a) the accommodation is provided in a care home service which was registered as a children’s home under the Care Standards Act 2000,
- (b) the accommodation provided was occupied at the time the service provider was registered under the Act,
- (c) the child is sharing a room with no more than one other child,
- (d) (except in the case of siblings) the other child is not of the opposite sex or of a significantly different age to him or her, and
- (e) sharing a room will promote the child’s well-being, is provided for in the child’s care and support plan and wherever practicable is agreed with the child.

### **Premises – all services**

**47.** The service provider must ensure that the premises used for the operation of the service have adequate facilities for—

- (a) the supervision of staff;
- (b) the secure storage of records.

### **Facilities and equipment**

**48.** The service provider must ensure that the facilities and equipment used for the provision of the service are—

- (a) suitable and safe for the purpose for which they are intended to be used;
- (b) used in a safe way;
- (c) properly maintained;

- (d) kept clean to a standard which is appropriate for the purpose for which they are being used;
- (e) stored appropriately.

## **PART 13**

### **Additional requirements on service providers in respect of premises – new accommodation**

#### **Application of Part 13**

**49.**—(1) This Part applies to service providers who are registered to provide an accommodation-based service and the premises used for the provision of the service fall within one of the categories in paragraph (2). But this Part does not apply if the service involves the provision of accommodation to four or fewer individuals.

(2) The categories are—

Category A: The premises used for the provision of the service consist of a new building or an existing building which has been converted for the purpose of providing the service, and, in either case, the building has not previously been used for the purpose of providing an accommodation-based service.

Category B: The premises consist of an extension to a building which is used for the purpose of providing the service at a place specified as a condition to the service provider's registration.

Category C: The premises consist of a building which was unoccupied immediately prior to the service provider's registration but was previously used for the purpose of providing an accommodation-based service at a place specified as a condition to the registration of another service provider.

(3) If this Part applies, the service provider must ensure that the requirements of regulations 50 to 54 are complied with.

(4) In this regulation, "accommodation-based service" means a care home service, a secure accommodation service or a residential family centre service.

#### **Additional requirements – en-suite bathrooms**

**50.** All bedrooms used for the provision of the service must have an en suite bathroom which includes an accessible wash hand basin, lavatory and shower.



### **Additional requirements – room sizes**

**51.**—(1) All bedrooms used for the provision of the service must have a minimum of 12 square metres of useable floor space unless paragraph (2) or (3) applies.

(2) This paragraph applies where the person living in the room has to use a wheelchair on a permanent and constant basis because of the nature of their disability.

(3) This paragraph applies where a bedroom is shared.

(4) If paragraph (2) applies, the bedroom must have a minimum of 13.5 square metres of useable floor space.

(5) If paragraph (3) applies, the bedroom must have a minimum of 16 square metres of useable floor space.

### **Additional requirements – communal space**

**52.** The amount of sitting, recreational and dining space which is used for the provision of the service in accordance with regulation 44(6) must be at least—

- (a) 4.1 square metres for each individual;
- (b) 5.1 square metres for wheelchair users.

### **Additional requirements – outdoor space**

**53.** The external grounds which are used for the provision of the service in accordance with regulation 44(10) must—

- (a) be accessible to individuals in wheelchairs or with other mobility problems,
- (b) have sufficient and suitable seating, and
- (c) be designed to meet the needs of all individuals including those with physical, sensory and cognitive impairments.

### **Additional requirements – passenger lift**

**54.** Where the accommodation used for the provision of the service is on more than one floor and this is consistent with the statement of purpose for the service, there must be a passenger lift.

## **PART 14**

### **Requirements on service providers as to supplies, hygiene, health and safety and medicines**

#### **Supplies**

**55.** The service provider must ensure that supplies are available of a sufficient quantity and of a suitable

type to deliver the service effectively and to meet the care and support needs of the individuals.

### **Hygiene and infection control**

**56.**—(1) The service provider must have arrangements in place to ensure—

- (a) satisfactory standards of hygiene in the delivery of the service;
- (b) the appropriate disposal of general and clinical waste.

(2) The service provider must have policies and procedures in place for the control of infection and to minimise the spread of infection and must ensure that the service is provided in accordance with these policies and procedures.

### **Health and safety**

**57.** The service provider must ensure that any risks to the health and safety of individuals are identified and reduced so far as reasonably practicable.

### **Medicines**

**58.**—(1) The service provider must have arrangements in place to ensure that medicines are stored and administered safely.

(2) These arrangements must include the arrangements for—

- (a) maintaining a sufficient supply of medicines;
- (b) the effective ordering, re-ordering, recording, handling and disposal of medicines;
- (c) regular auditing of the storage and administration of medicines.

(3) The service provider must have a policy and procedures in place in relation to the safe storage and administration of medicines and must ensure that the service is provided in accordance with this policy and these procedures.

## **PART 15**

### **Other requirements on service providers**

#### **Records**

**59.**—(1) The service provider must keep and maintain the records specified in Part 1 of Schedule 2 in respect of each place at, from or in relation to which the service is provided.

(2) Where the service provider is registered to provide a care home service, a secure accommodation

service or a residential family centre service, the service provider must in addition keep and maintain the records specified in Part 2 of Schedule 2 in respect of each place at which such a service is provided.

(3) The service provider must—

- (a) ensure that records relating to individuals are accurate and up to date;
- (b) keep all records securely;
- (c) make arrangements for the records to continue to be kept securely in the event the service closes;
- (d) in the case of records about a child accommodated in a care home service provided wholly or mainly for children, ensure that the records are delivered to the placing authority when the service ceases to be provided in respect of the child to whom the records relate;
- (e) make the records available to the service regulator on request;
- (f) retain records relating to adults for three years from the date of the last entry;
- (g) retain records relating to children for fifteen years from the date of the last entry, unless the records are returned to the placing authority in accordance with sub-paragraph (d);
- (h) ensure that individuals who use the service—
  - (i) can have access to their records; and
  - (ii) are made aware they can access their records.

### **Notifications**

**60.**—(1) The service provider must notify the service regulator of the events specified in Parts 1 and 2 of Schedule 3.

(2) Where the service provider is providing a care home service for children, the provider must—

- (a) notify the placing authority of the events specified in Part 3 of Schedule 3;
- (b) notify the local authority for the area in which the home is situated of the events specified in Part 4 of Schedule 3;
- (c) notify the appropriate police officer of the events specified in Part 5 of Schedule 3;
- (d) notify the health board in whose area the home is situated of the events specified in Part 6 of Schedule 3.

(3) The notifications required by paragraphs (1) and (2) must include details of the event.

(4) Unless otherwise stated, notifications must be made without delay and in writing.

(5) Notifications must be made in such manner and in such form as may be required by the service regulator.

**Notification with respect to children admitted into, or discharged from, a place at which accommodation is provided to children**

**61.**—(1) This regulation applies where the service provider is registered to provide—

- (a) a care home service which provides accommodation to children (referred to in this regulation as “a children’s care home service”), or
- (b) a secure accommodation service.

(2) In this regulation, references to “the accommodation” are references to the place at which a children’s care home service or a secure accommodation service is provided.

(3) The service provider must notify, without delay, the local authority for the area in which the accommodation is located of every admission of a child into the accommodation and every discharge of a child from the accommodation.

(4) The service provider is not required to notify the local authority in paragraph (3) if that local authority is also the placing authority for the child in question.

(5) A notification under this regulation must be in writing and must state—

- (a) the child's name and date of birth;
- (b) whether the child is provided with accommodation under section 76 or 77 of the 2014 Act or, in the case a child placed by a local authority in England, whether the child is provided with accommodation under section 20 or 21 of the Children Act 1989;
- (c) whether the child is subject to a care or supervision order under section 31 of the Children Act 1989;
- (d) the contact details for—
  - (i) the child's placing authority; and
  - (ii) the independent reviewing officer appointed for the child's case; and
- (e) whether the child has a statement of special educational needs or an EHC plan and, if so, details of the local authority with responsibility for maintaining the statement of special educational needs or for the EHC plan.

(6) In this regulation, “EHC plan” has the meaning given in section 37(2) (education, health and care plans) of the Children and Families Act 2014<sup>(1)</sup>.

**Notification with respect to the death of a child accommodated in a secure children's home**

**62.**—(1) This regulation applies where a child to whom a secure accommodation service<sup>(2)</sup> is provided dies.

(2) Any requirements imposed by this regulation apply to the service provider of the secure accommodation service which was providing accommodation to the child at the time of the death.

(3) If this regulation applies, the service provider must without delay notify—

- (a) the appropriate office of the service regulator;
- (b) the placing authority;
- (c) the local authority in whose area the secure accommodation service is located;
- (d) the Local Health Board in whose area the secure accommodation service is located;
- (e) the Prisons and Probation Ombudsman for England and Wales (“the PPO”); and
- (f) the child's parent or person who has parental responsibility for the child.

(4) The service provider must allow the PPO to investigate the death by—

- (a) granting the PPO access to—
  - (i) the premises of the service, and
  - (ii) the service's documents and records;
- (b) allowing the PPO to take away from the premises copies of any documents or records accessed under sub-paragraph (a)(ii) provided that the PPO has secure arrangements for doing so; and
- (c) if they consent, allowing the PPO to interview in private any children, parents (or persons with parental responsibility) or relatives, or persons working at the service.

(5) A notification under this regulation—

- (a) must include details of—
  - (i) the circumstances of the death;

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<sup>(1)</sup> 2014 c. 6.

<sup>(2)</sup> A secure accommodation service is a regulated service under the Act (see section 2(1)(b) of the Act). Paragraph 2 of Schedule 1 to the Act defines “a secure accommodation service” as the provision of accommodation for the purpose of restricting the liberty of children at residential premises in Wales where care and support is provided to those children.

- (ii) the other persons, bodies or organisations (if any) who or which the service provider has notified or proposes to notify; and
- (iii) any actions the service provider has taken or proposes to take as a result of the death;

(b) must be made or confirmed in writing.

(6) In this regulation, references to PPO include a person appointed by, or working on behalf of, the PPO for the purposes of an investigation under paragraph (2).

### **Conflicts of interest (including prohibitions)**

**63.**—(1) The service provider must have effective arrangements in place to identify, record and manage potential conflicts of interest.

(2) The service provider must ensure that a person having a financial interest in the ownership of a care home service does not act as a medical practitioner for any individual for whom that service is provided.

### **Complaints policy and procedure**

**64.**—(1) The service provider must have a complaints policy in place and ensure that the service is operated in accordance with that policy.

(2) The service provider must have effective arrangements in place for dealing with complaints including arrangements for—

- (a) identifying and investigating complaints;
- (b) giving an appropriate response to a person who makes a complaint, if it is reasonably practicable to contact that person;
- (c) ensuring that appropriate action is taken following an investigation;
- (d) keeping records relating to the matters in subparagraphs (a) to (c).

(3) The service provider must provide a summary of complaints, responses and subsequent action to the service regulator within 28 days of being requested to do so.

(4) The service provider must—

- (a) analyse information relating to complaints and concerns; and
- (b) having regard to that analysis, identify any areas for improvement.

### **Whistleblowing**

**65.**—(1) The service provider must have arrangements in place to ensure that all persons

working at the service (including any person allowed to work as a volunteer) are able to raise concerns about matters that may adversely affect the health, safety or well-being of individuals for whom the service is provided.

(2) These arrangements must include—

- (a) having a whistleblowing policy in place and acting in accordance with that policy, and
- (b) establishing arrangements to enable and support people working at the service to raise such concerns.

(3) The provider must ensure that the arrangements required under this regulation are operated effectively.

(4) When a concern is raised, the service provider must ensure that—

- (a) the concern is investigated;
- (b) appropriate steps are taken following an investigation;
- (c) a record is kept of both the above.

## PART 16

### Requirements on responsible individuals for ensuring effective management of the service

#### **Supervision of management of the service**

**66.** The responsible individual must supervise the management of the service, which includes taking the steps described in regulations 64, 72 and 73.

#### **Duty to appoint a manager**

**67.**—(1) The responsible individual must appoint a person to manage the service. But this requirement does not apply if the conditions in paragraph (2) or (3) apply.

(2) The conditions are—

- (a) the service provider is an individual;
- (b) the service provider proposes to manage the service;
- (c) the service provider is fit to manage the service;
- (d) the service provider is registered as a social care manager with Social Care Wales; and
- (e) the service regulator agrees to the service provider managing the service.

(3) The conditions are—

- (a) the service provider is a partnership, body corporate or unincorporated body;

- (b) the service provider is registered to provide a care home service or residential family centre service at no more than two locations or is registered to provide a domiciliary support service in relation to no more than two areas;
- (c) the service provider proposes that the individual designated as the responsible individual for the service is to be appointed to manage the service;
- (d) that individual is fit to manage the service;
- (e) that individual is registered as a social care manager with Social Care Wales; and
- (f) the service regulator agrees to that individual managing the service.

(4) For the purposes of paragraph (2)(c), the service provider is not fit to manage the service unless the requirements of regulation 34(2) (fitness of staff) are met in respect of the service provider.

(5) The duty in paragraph (1) is not discharged if the person appointed to manage the service is absent for a period of more than three months.

#### **Fitness requirements for appointment of manager**

**68.**—(1) The responsible individual must not appoint a person to manage the service unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to manage the service unless the requirements of regulation 35(2) (fitness of staff) are met in respect of that person.

#### **Restrictions on appointing manager for more than one service**

**69.**—(1) The responsible individual must not appoint a person to manage more than one service, unless paragraph (2) applies.

(2) This paragraph applies if—

- (a) the service provider has applied to the service regulator for permission to appoint a manager for more than one service, and
- (b) the service regulator is satisfied that the proposed management arrangements—
  - (i) will not have an adverse impact on the health or well-being of individuals, and
  - (ii) will provide reliable and effective oversight of each service.



### **Duty to report the appointment of manager to service provider**

**70.** On the appointment of a manager in accordance with regulation 67(1), the responsible individual must give notice to the service provider of—

- (a) the name of the person appointed, and
- (b) the date on which the appointment is to take effect.

### **Duty to report appointment of manager to the workforce and service regulators**

**71.—(1)** On the appointment of a manager in accordance with regulation 67(1), the responsible individual must give notice to the workforce and service regulators of—

- (a) the name, date of birth and Social Care Wales registration number of the person appointed, and
- (b) the date on which the appointment is to take effect.

(2) In a case where the service provider is an individual and the service regulator has agreed to the service provider managing the service, the service provider must give notice to the workforce regulator of—

- (a) the name, date of birth and Social Care Wales registration number of the service provider, and
- (b) the date from which the service provider is to manage the service.

### **Arrangements when manager is absent**

**72.—(1)** The responsible individual must put suitable arrangements in place to ensure that the service is managed effectively at any time when there is no manager or when the manager is not present at the service.

(2) If there is no manager or the manager is not present at the service for a period of more than 28 days, the responsible individual must—

- (a) notify the service provider and the service regulator, and
- (b) inform them of the arrangements which have been put in place for the effective management of the service.

## Visits

**73.**—(1) In the case of care home services, secure accommodation services and residential family centre services<sup>(1)</sup>, the responsible individual must—

- (a) visit each place in respect of which the responsible individual is designated, and
- (b) meet with staff and individuals at each such place.

(2) In the case of any other regulated services<sup>(2)</sup>, the responsible individual must—

- (a) meet with members of staff who are employed to provide a regulated service at, from or in relation to each place in respect of which the responsible individual is designated, and
- (b) meet with individuals for whom a regulated service is being provided at, from or in relation to each such place.

(3) The frequency of such visits and meetings is to be determined by the responsible individual having regard to the statement of purpose but must be at least every three months.

## PART 17

### Requirements on responsible individuals for ensuring effective oversight of the service

#### Oversight of adequacy of resources

**74.**—(1) The responsible individual must report to the service provider on the adequacy of the resources available to provide the service in accordance with the requirements on service providers in Parts 3 to 15 of these Regulations.

(2) Such reports must be made on a quarterly basis.

(3) But this requirement does not apply where the service provider is an individual.

#### Other reports to the service provider

**75.**—(1) The responsible individual must, without delay, report to the service provider—

- (a) any concerns about the management or provision of the service;

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(1) See Schedule 1 to the Act for further provision about the meaning of care home services, secure accommodation services and residential family centre services.

(2) See section 2(1) of the Act for the services included within the definition of “regulated service”.

- (b) any significant changes to the way the service is managed or provided;
- (c) any concerns that the service is not being provided in accordance with the statement of purpose for the service.

(2) But this requirement does not apply where the service provider is an individual.

### **Engagement with individuals and others**

**76.**—(1) The responsible individual must put suitable arrangements in place for obtaining the views of—

- (a) the individuals who are receiving care and support,
- (b) any representatives of those individuals,
- (c) in the case of a child who is provided with accommodation, the placing authority,
- (d) service commissioners, and
- (e) staff employed at the service,

on the quality of care and support provided and how this can be improved.

(2) The responsible individual must report the views obtained to the service provider so that these views can be taken into account by the service provider when making any decisions on plans for improvement of the quality of care and support provided by the service.

## **PART 18**

### **Requirements on responsible individuals for ensuring the compliance of the service**

#### **Duty to ensure there are systems in place to record incidents and complaints**

**77.** The responsible individual must ensure that there are effective systems in place to record incidents, complaints and matters on which notifications must be made in accordance with regulations 60 to 62 and 84.

#### **Duty to ensure there are systems in place for keeping of records**

**78.** The responsible individual must ensure that there are effective systems in place in relation to the keeping of records, which include systems for ensuring the accuracy and completeness of records which are required to be kept by regulation 59.

### **Duty to ensure policies and procedures are up to date**

**79.** The responsible individual must put suitable arrangements in place to ensure that the service provider's policies and procedures are kept up to date, having regard to the statement of purpose.

## **PART 19**

### **Requirements on responsible individuals for monitoring, reviewing and improving the quality of the regulated service**

#### **Quality of care review**

**80.**—(1) The responsible individual must put suitable arrangements in place to establish and maintain a system for monitoring, reviewing and improving the quality of care and support provided by the service.

(2) The system established under paragraph (1) must make provision for the quality of care and support to be reviewed as often as required but at least every six months.

(3) As part of any review undertaken, the responsible individual must make arrangements for—

- (a) considering the outcome of the engagement with individuals and others, as required by regulation 76;
- (b) analysing the aggregated data on incidents, notifiable incidents, safeguarding matters, whistleblowing, concerns and complaints;
- (c) reviewing any action taken in relation to complaints;
- (d) considering the outcome of any audit of the accuracy and completeness of records.

(4) On completion of a review of the quality of care and support in accordance with this regulation, the responsible individual must prepare a report to the service provider which must include—

- (a) an assessment of the standard of care and support provided, and
- (b) recommendations for the improvement of the service.

(5) But the requirement in paragraph (4) does not apply where the service provider is an individual.

### **Statement of compliance with the requirements as to standards of care and support**

**81.**—(1) The responsible individual must prepare the statement required to be included in the annual return under section 10(2)(b) of the Act, in so far as it relates to the place or places in respect of which the responsible individual has been designated.

(2) When preparing the statement, the responsible individual must have regard to the assessment of the standard of care and support which is contained in a report prepared in accordance with regulation 80(4).

## **PART 20**

### **Other requirements on responsible individuals**

#### **Support for staff raising concerns**

**82.** The responsible individual must ensure that the provider's whistleblowing policy is being complied with and that the arrangements to enable and support people working at the service to raise such concerns are being operated effectively.

#### **Duty of candour**

**83.** The responsible individual must act in an open and transparent way with—

- (a) individuals who are receiving care and support;
- (b) any representatives of those individuals;
- (c) in the case of a child who is provided with accommodation, the placing authority.

#### **Notifications**

**84.**—(1) The responsible individual must notify the service regulator of the events specified in Schedule 4

(2) The notifications required by paragraph (1) must include details of the event.

(3) Unless otherwise stated, notifications must be made without delay and in writing.

(4) Notifications must be made in such manner and in such form as may be required by the service regulator.

## PART 21

### Offences

#### Offences – service providers

**85.**—(1) It is an offence for a service provider to fail to comply with a requirement of any of the provisions specified in paragraph (2)(1).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 7(3), 7(5), 11(3), 12(1), 12(2), 19(1), 19(2), 19(3), 20(1), 35(1), 38(1), 59(1), 59(2), 59(3), 60(1), 60(2), 60(4), 61(3) and 62(3).

(3) A service provider commits an offence if the provider fails to comply with a requirement of any of the provisions specified in paragraph (4) and such failure results in—

- (a) avoidable harm (whether of a physical or psychological nature) to an individual,
- (b) an individual being exposed to a significant risk of such harm occurring, or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by an individual of the money or property concerned.

(4) The provisions specified for the purposes of paragraph (3) are the provisions of regulations 6, 7(1), 12(5), 14(1), 14(3), 15(1), 15(3), 15(5), 16(1), 16(5), 18(1), 18(6), 18(7), 21(1), 21(2), 22, 26, 33(1), 34(1), 34(2) and 34(3).

#### Offences – responsible individuals

**86.**—(1) It is an offence for the responsible individual to fail to comply with a requirement of any of the provisions specified in paragraph (2)(2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 67(1), 68(1), 71(1), 71(2), 73(1), 73(2), 73(3), 74(1), 74(2), 75(1), 80(4), 81(1), 84(1) and 84(3).

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(1) For penalties upon conviction for an offence under this regulation, see section 51(1) of the Act.

(2) For penalties upon conviction for an offence under this regulation, see section 51(1) of the Act.

## PART 22

### Service providers who are liquidated etc. or who have died

#### **Appointment of liquidators etc.**

**87.**—(1) An appointed person must—

- (a) without delay, give written notification to the service regulator of their appointment and the reasons for their appointment;
- (b) within 28 days of their appointment, notify the service regulator of their intentions regarding the future operation of the service.

(2) In this regulation—

“appointed person” (*“person a benodir”*) has the same meaning as in section 30 of the Act;

“the service” (*“y gwasanaeth”*) means the regulated service or services which the service provider to which the appointment relates is registered to provide.

#### **Death of service provider**

**88.**—(1) Where a service provider who is an individual has died, the personal representatives of the individual must—

- (a) without delay, give written notification of the death to the service regulator;
- (b) within 28 days of the death, notify the service regulator of their intentions regarding the future operation of the service.

(2) The personal representatives of the individual may act in the capacity of the service provider for a period not exceeding 28 days or for such longer period (not exceeding one year) as the service regulator may agree.

(3) Where the personal representatives are acting in the capacity of the service provider in accordance with paragraph (2), Part 1 of the Act applies with the following modifications—

- (a) section 5 (requirement to register) does not apply;
- (b) in section 21(2) (responsible individuals) after paragraph (a) insert—

“(aa) where the personal representatives of a service provider who has died are acting in the capacity of the service provider, be one of the personal representatives;”.

(4) In this regulation, “the service” means the regulated service or services which the service

provider who has died was registered to provide at the time of their death.

## PART 23

### Regulations under section 21(5) of the Act

#### **Designation of responsible individual by Welsh Ministers**

**89.** The Welsh Ministers (instead of a service provider) may designate an individual to be a responsible individual, despite the requirements of section 21(2) of the Act not being met in respect of the individual, in the following circumstances—

- (a) the service provider is an individual who has died and the personal representatives of the service provider have notified the service regulator that they do not intend to make an application under section 11(1)(c) of the Act;
- (b) the service provider is an individual and they have notified the service regulator—
  - (i) that they are no longer able to comply with their duties as a responsible individual, and
  - (ii) the reasons for this being the case;
- (c) the service provider is a corporate body or partnership and they have notified the service regulator—
  - (i) that the individual designated by the service provider as the responsible individual is no longer able to comply with their duties as a responsible individual,
  - (ii) the reasons for this being the case, and
  - (iii) that there is no other individual who is eligible to be a responsible individual and who is able to comply with the duties of a responsible individual.





Minister for Children and Social Care under authority  
of the Cabinet Secretary for Health and Social  
Services, one of the Welsh Ministers  
Date

**PART 1**

Information and documents to be available in respect of persons working in regulated services

**1.** Proof of identity including a recent photograph.

**2.** Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997<sup>(1)</sup>, a copy of a valid<sup>(2)</sup> criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request).

**3.** Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of a valid<sup>(3)</sup> enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children (within the meaning of section 113BA(2) of that Act) or suitability information relating to vulnerable adults (within the meaning of section 113BB(2) of that Act).

**4.** Two written references, including a reference from the last employer, if any.

**5.** Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable verification of the reason why the employment or position ended.

**6.** Documentary evidence of any relevant qualification.

**7.** Where relevant, documentary evidence of registration with Social Care Wales.

**8.** A full employment history, together with a satisfactory written explanation of any gaps in employment.

**9.** Evidence of satisfactory linguistic ability for the purposes of providing care and support to those individuals for whom the worker is to provide care and support.

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<sup>(1)</sup> 1997 c. 50.

<sup>(2)</sup> For the meaning of “valid”, see Part 2 of this Schedule.

<sup>(3)</sup> For the meaning of “valid”, see Part 2 of this Schedule.

**10.** Details of registration with or membership of any professional body.

## PART 2

### Interpretation of Part 1

**11.** For the purposes of paragraphs 2 and 3 of Part 1 of this Schedule—

- (a) if the person to whom the certificate relates is not registered with the DBS update service, a certificate is only valid if—
  - (i) it has been issued in response to an application by the service provider in accordance with regulation 34(3) or (6), and
  - (ii) no more than three years have elapsed since the certificate was issued;
- (b) if the person to whom the certificate relates is registered with the DBS update service, the certificate is valid regardless of when it was issued.

## SCHEDULE 2 Regulation 59

### Records to be kept in respect of regulated services

#### PART 1

#### Records to be kept in respect of all regulated services

**1.** In respect of each individual, records of—

- (a) all relevant assessments;
- (b) personal plans;
- (c) reviews of personal plans;
- (d) care and support plans;
- (e) reviews of care and support plans;
- (f) care provided, including daily records or records of specific care interventions;
- (g) correspondence, reports and records in relation to additional support provided by education, health and other allied services.

**2.** A record of any charges by the service provider to individuals for the provision of care and support and any additional services.

**3.** A record of all medicines kept in the service for each individual and the date and time on which they were administered to the individual.

**4.** A record of all money or other valuables deposited by the individual for safekeeping or received on the individual's behalf, which must include a record of—

- (a) the date on which the money or valuables were deposited or received;
- (b) the date on which any money or valuables were—
  - (i) returned to the individual, or
  - (ii) used, at the request of the individual, on their behalf;
- (c) where applicable, the purpose for which the money or valuables were used;
- (d) the written acknowledgment of the return of the money or valuables.

**5.** A record of the following events that occur in the service—

- (a) any serious accident, injury or illness which is significantly detrimental to the well-being of an individual;

- (b) the outbreak of infectious disease in the service;
- (c) any theft or burglary;
- (d) any safeguarding referral made in respect of an individual;
- (e) falls and consequent treatment provided to an individual;
- (f) incidence of pressure ulcers and of consequent treatment provided to an individual;
- (g) date and circumstances of any measures of control, restraint or discipline used on an individual.

**6.** A record of every fire practice, drill or test of fire equipment (including fire alarm equipment) conducted in the service and of any action taken to remedy defects in the fire equipment.

**7.** A record of all complaints made by individuals or their representatives or by persons working at the service about the operation of the service, and the action taken by the service provider in respect of any such complaint.

**8.** A record of all persons working at the service, which must include the following matters—

- (a) the person's full name, address, date of birth, qualifications and experience;
- (b) a copy of the person's birth certificate and passport (if any);
- (c) a copy of each reference obtained in respect of the person;
- (d) the dates on which the person commences and ceases to be so employed;
- (e) the position the person holds at the service, the work he or she performs and the number of hours for which he or she is employed each week;
- (f) records of disciplinary action and any other records in relation to the person's employment;
- (g) a record of the date of a DBS certificate and whether there was any action taken as a result of the content of the certificate.

**9.** A copy of the duty roster of persons working at the service, and a record of whether the roster was actually worked as intended.

## PART 2

Additional records to be kept in respect of care home services, secure accommodation services and residential family centre services

**10.** A record of any furniture brought by an individual into the room occupied by him or her.

**11.** A record of any of the following events that occur in the service—

- (a) any fire;
- (b) unexplained or unauthorised absence;
- (c) death of an individual.

**12.** A record of all visitors to the service, including the names of visitors and the persons they are visiting.

## SCHEDULE 3 Regulation 60

### Notifications by the service provider

#### PART 1

##### Notifications to the service regulator in respect of all services

- 1.** Any revision to the statement of purpose, 28 days prior to the revised statement of purpose coming into effect.
- 2.** Service provider (individual or organisation) changes their name.
- 3.** Where the service provider is a company, any change in the directors of the company.
- 4.** Where the service provider is an individual, the appointment of a trustee in bankruptcy in relation to that individual.
- 5.** Where the service provider is a body corporate or partnership, the appointment of a receiver, manager, liquidator or provisional liquidator in relation to that company or partnership.
- 6.** Where the service provider is a partnership, death of one of the partners.
- 7.** Where the service provider is a partnership, any change in the partners.
- 8.** Expected absence of the responsible individual for 28 days or more, 7 days prior to commencement of the absence.
- 9.** The unexpected absence of the responsible individual, no later than 7 days after the commencement of the absence.
- 10.** Unexpected absence of the responsible individual for 28 days or more, where no prior notification has been given, immediately on the expiry of 28 days following the commencement of the absence.
- 11.** Return from absence of the responsible individual.
- 12.** The responsible individual ceases, or proposes to cease, being the responsible individual for the service.
- 13.** Any abuse or allegation of abuse in relation to an individual that involves the service provider and/or a member of staff.



**14.** Service provider, responsible individual or appointed manager convicted of a criminal offence.

**15.** Any allegation of misconduct by a member of staff.

**16.** Any occurrence of a category 3 or 4 pressure ulcer, an unstageable pressure ulcer or a deep tissue injury.

**17.** Serious accident, injury to or illness of an individual.

**18.** The outbreak of any infectious disease.

**19.** Any incident reported to the police.

**20.** Any events which prevent, or could prevent, the provider from continuing to provide the service safely.

**21.** Where accommodation is provided, the death of an individual and the circumstances.

**22.** Any request to a supervisory body in relation to the application of the deprivation of liberty safeguards (DOLS).

**23.** The premises are, or are proposed to be, significantly altered or extended.

**24.** Additional premises are, or are proposed to be acquired.

**25.** Any proposal to change the address of the principal office, 28 days prior to the change taking place.

## PART 2

Additional notifications to the service regulator where care and support is provided to children

**26.** Any referral to the DBS pursuant to the Safeguarding Vulnerable Groups Act 2006.

**27.** Where the service provider, responsible individual or appointed manager is charged with any offence specified in the Schedule to the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009<sup>(1)</sup>, notice of the offence charged and the place of charge.

**28.** Instigation and subsequent outcome of any child protection enquiry involving a child accommodated by the service.

**29.** Any allegation that a child accommodated by the service has committed a serious offence.

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(1) S.I. 2009/37.

**30.** Incident of child sexual exploitation or suspected child sexual exploitation.

**31.** Any incident where an accommodated child goes missing or has an unexplained absence.

### PART 3

Notifications to the placing authority where a care home service is provided to children

**32.** Any abuse or allegation of abuse in relation to a child accommodated by the service that involves the provider or a member of staff.

**33.** Serious accident, injury to or illness of a child accommodated by the service.

**34.** Any occurrence of a category 3 or 4 pressure ulcer, an unstageable pressure ulcer or a deep tissue injury.

**35.** The outbreak of any infectious disease.

**36.** Any incident reported to the police.

**37.** The death of a child accommodated by the service and the circumstances.

**38.** Any referral to the DBS pursuant to the Safeguarding Vulnerable Groups Act 2006.

**39.** An allegation that a child accommodated by the service has committed a serious offence.

**40.** Any incident where an accommodated child goes missing or has an unexplained absence.

**41.** Instigation and subsequent outcome of any child protection enquiry involving a child accommodated by the service.

**42.** Any incident of child sexual exploitation or suspected child exploitation.

### PART 4

Notifications to the local authority in whose area the home is situated where a care home service is provided to children

**43.** Death of a child and the circumstances.

**44.** Any incident of child sexual exploitation or suspected child exploitation.

**45.** Any incident where an accommodated child goes missing or has an unexplained absence.

## PART 5

Notifications to the appropriate police officer  
where a care home service is provided to  
children

**46.** Any incident of child sexual exploitation or  
suspected child exploitation.

## PART 6

Notifications to the health board in whose area  
the home is situated where a care home service  
is provided to children

**47.** The outbreak of any infectious disease.

**48.** The death of a child and the circumstances.

## Notifications by the responsible individual

1. The appointment of a manager (see regulation 7(1)).
2. The expected absence of the appointed manager for 28 days or more, 7 days prior to the commencement of the absence.
3. The unexpected absence of the appointed manager, no later than 7 days after the commencement of the absence.
4. The unexpected absence of appointed manager for 28 days or more where no prior notification has been given, immediately on the expiry of 28 days following the commencement of the absence.
5. Return from absence of appointed manager.
6. Interim arrangements where the manager is absent for longer than 28 days.
7. Someone other than the appointed manager is proposing to manage or is managing the service.
8. The appointed manager ceases, or proposes to cease, managing the service.