

*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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**2019 No. (W. )**

**SOCIAL CARE, WALES**

The Regulated Adoption Services  
(Service Providers and Responsible  
Individuals) (Wales) Regulations  
2019

**EXPLANATORY NOTE**

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

These Regulations are made under the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) and set out the regulatory requirements and related provisions for providers of regulated adoption services and for those persons who are designated as the “responsible individuals” for such services.

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

Section 2(1)(d) of the Act provides that an adoption service is a regulated service, which is defined in Schedule 1 to that Act as meaning a service provided in Wales by (a) an adoption society within the meaning of the Adoption and Children Act 2002 (“the 2002 Act”) which is a voluntary organisation within the meaning of that Act, or (b) an adoption support agency within the meaning given by section 8 of that Act. A person who is registered to provide an

adoption service is referred to in these Regulations as a “service provider”.

Section 27 of the Act provides that regulations may impose requirements on a service provider in relation to a regulated service. Section 28 further provides that regulations may impose requirements on a responsible individual designated by a service provider.

Section 30 of the Act enables the Welsh Ministers to make regulations about a service provider who is liquidated, with section 31 allowing regulations to be made about a provider who has died.

The Welsh Ministers may make regulations to provide that it is an offence for a service provider (section 45 of the Act) and for a responsible individual (section 46) to fail to comply with specified provisions.

Part 1 of these Regulations contains definitions of certain terms used in the Regulations. An adoption service is referred to as a “service” and “support” includes the support which an adoption society is required to provide in the course of making arrangements for adoption or after adoptions have been arranged as well as the adoption support services which may be provided by either an adoption society or an adoption support agency.

Part 2 covers exceptions. The regulation in Part 2 is made under 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 a regulated service.

Part 3 sets out the general requirements on the service provider as to the way in which 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 3 also describes various requirements in relation to the designation of a responsible individual. Under section 6 of the Act, a person who wants to provide a regulated service must make an application for registration to the Welsh Ministers in which a person is designated as the responsible individual.

Part 4 covers the requirements as to the steps to be taken before the service provider agrees to provide support to an individual. A service provider must not

agree to provide support unless they have first determined that the service is suitable to meet the individual's needs. Regulation 12 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 care and support plan, adoption support plan, or placement plan in place, the steps to be taken include carrying out an assessment of the individual's need for support.

Part 5 deals with the requirements as to the information to be provided to individuals on the commencement of the provision of support. Regulation 13 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 6 contains requirements as to the standard of support to be provided. These include overarching requirements as well as more detailed requirements relating to the provision of information, meeting individuals' language and communication needs and treating individuals with respect and sensitivity.

Part 7 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, 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 8 contains requirements as to staffing, which include general requirements as to the deployment of sufficient numbers of staff and 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. The fitness requirements include a requirement for specific information and documentation to be available in respect of persons working at the service, as set out in Schedule 1.

Other requirements contained in Part 8 include requirements relating to supporting and developing staff, providing information to staff and the operation of a suitable 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 itself be grounds for disciplinary proceedings.

Part 9 ensures that premises to be used in relation to adoption services are adequate for the supervision of staff and secure storage of records.

Part 10 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.

Parts 11 to 15 contain the requirements imposed on responsible individuals. The regulations in these Parts are made under section 28 of the Act.

Part 11 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 and specific duties to appoint a fit person to manage the service. The responsible individual must also put arrangements in place for the management of the service when the manager is absent.

Part 12 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 also required to make reports to the service provider on the adequacy of resources and on other matters. The responsible individual must make arrangements for engagement with individuals and others so that their views on the quality of support provided can be taken into account by the provider.

Part 13 sets out the duty of the responsible individual for ensuring compliance of the service with other requirements, including requirements as to the notification of incidents and complaints and the keeping of records. The responsible individual must also ensure that the policies and procedures of the service provider are kept up to date.

Part 14 covers the responsible individual's responsibilities in relation to monitoring and reviewing the quality of the service, and making a report to the service provider.

Part 15 covers other requirements on the responsible individual, including requirements to make certain notifications to the service regulator contained in Schedule 4.

Part 16 covers offences. Regulation 54 is made under the powers in section 45 of the Act and provides that a failure of a service provider to comply with the requirements of specified provisions in these Regulations is an offence. In addition, where a service provider fails to comply with certain other requirements, regulation 54(3) provides that this is also an offence if the failure to comply results in a child 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.

Part 16 also provides that a failure of a responsible individual to comply with the requirements of specified provisions in these Regulations is an offence. This regulation is made under section 46 of the Act.

Part 17 specifies the responsibilities on the “appointed person” in the event of the insolvency of the service provider. Part 17 also sets out steps to be taken by the personal representatives of the deceased in the event of the death of a service provider who is an individual. It enables the personal representatives to act in the capacity of the provider and modifies the Act so that in these circumstances, the personal representatives are not required to register as provider, and one of the personal representatives can be designated as the responsible individual.

Part 18 sets out 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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The Regulated Adoption Services  
(Service Providers and Responsible  
Individuals) (Wales) Regulations  
2019

*Made*

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*Coming into force*

*29 April 2019*

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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 and 187(1) of the

Regulation and Inspection of Social Care (Wales) Act 2016(1) (“the Act”).

The Welsh Ministers have consulted such persons as they think appropriate, as required by sections 27(4)(a) and 28(4) of the Act and published a statement about the consultation as required by section 27(4)(b) of that Act. The Welsh Ministers have laid the statement before the National Assembly for Wales as required by section 27(5) 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 the Act and has been approved by a resolution of the National Assembly for Wales.

## PART 1

### General

#### **Title and commencement**

1.—(1) The title of these Regulations is the Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019.

(2) These Regulations come into force on 29 April 2019.

#### **Interpretation**

2.—(1) In these Regulations—

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

“the 2002 Act” (“*Deddf 2002*”) means the Adoption and Children Act 2002(2);

“adoption agency” (“*asiantaeth fabwysiadu*”) means an adoption society or a local authority adoption service;

“adoption society” (“*cymdeithas fabwysiadu*”) has the meaning given in section 2(5) of the 2002 Act, which is a voluntary organisation within the meaning of that Act;

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(1) 2016 anaw 2; see section 189 for the definition of “prescribed”.

(2) 2002 c. 38.

“adoption support agency” (*“asiantaeth cymorth mabwysiadu”*) has the meaning given in section 8 of the 2002 Act;

“adoption support plan” (*“cynllun cymorth mabwysiadu”*) means the plan which sets out the adoption support services the local authority has decided to provide for the child and the adoptive family, how these will be provided and by whom (if applicable);

“adoption support services” (*“gwasanaethau cymorth mabwysiadu”*) has the meaning given in section 2(6) of the 2002 Act and regulation 3 of the Adoption Support Services (Wales) Regulations 2019(1);

“adoptive child” (*“plentyn mabwysiadol”*) has the meaning given in regulation 2 of the Adoption Support Services (Wales) Regulations 2019;

“adoptive parent” (*“rhiant mabwysiadol”*) has the meaning given in regulation 2 of the Adoption Support Services (Wales) Regulations 2019;

“approved by the service” (*“a gymeradwywyd gan y gwasanaeth”*) means approved by the service as suitable to be an adoptive parent in accordance with the Adoption Agencies (Wales) Regulations 2005(2);

“care and support plan” (*“cynllun gofal a chymorth”*) means a plan for the child made under section 54 or section 83 of the 2014 Act(3);

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

“clinical commissioning group” (*“grwp comisiynu clinigol”*) means a body established under section 14D of the National Health Service Act 2006(4);

“DBS certificate” (*“tystysgrif GDG”*) means a certificate of a type referred to in paragraph 2 or 3 of Schedule 1;

“the Disclosure and Barring Service” (*“y Gwasanaeth Datgelu a Gwahardd”*) and “DBS”

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(1) S.I. 2019/286 (W.66).

(2) S.I. 2005/1313 (W. 95).

(3) “The 2014 Act” is defined in section 189 of the Act as the Social Services and Well-being (Wales) Act 2014 (dccc 4).

(4) 2006 c. 41.

“GDG”) mean the body formed by section 87(1) of the Protection of Freedoms Act 2012<sup>(1)</sup>;

“employee” (“*cyflogai*”) has the same meaning as in section 230(1) of the Employment Rights Act 1996<sup>(2)</sup>;

“guardian” (“*gwarcheidwad*”) has the meaning given to it in section 5 of the Children Act 1989<sup>(3)</sup>;

“individual” (“*unigolyn*”) means, unless the context indicates otherwise—

(a) in the case of an adoption society in the course of arranging an adoption or after an adoption has been arranged—

(i) a child who may be adopted, their parent or guardian;

(ii) a person wishing to adopt a child, or

(iii) an adopted person, their parent, birth parent or former guardian,

who is receiving support of the type which an adoption society is required to provide in accordance with the Adoption Agencies (Wales) Regulations 2005 or the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005<sup>(4)</sup>;

(b) in the case of an adoption support agency, or an adoption society in the course of providing adoption support services, any person who is receiving adoption support services;

“local authority adoption service” (“*gwasanaeth mabwysiadu awdurdod lleol*”) has the meaning given in regulation 2(1) of the Local Authority Adoption Services (Wales) Regulations 2019<sup>(5)</sup>;

“local authority in England” (“*awdurdod lleol yn Lloegr*”) means—

(a) a county council in England,

(b) a district council for an area in England for which there is no county council,

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(1) 2012 c. 9.

(2) 1996 c. 18.

(3) 1989 c. 41.

(4) S.I. 2005/2689 (W. 189).

(5) S.I. 2019/291 (W.69).

- (c) a London borough council, or
- (d) the Common Council of the City of London;

“the National Health Service Commissioning Board” (*“Bwrdd Comisiynu’r Gwasanaeth Iechyd Gwladol”*) means the body established under section 1H of the National Health Service Act 2006;

“placement plan” (*“cynllun lleoliad”*) has the meaning given in regulation 36(2) of the Adoption Agencies (Wales) Regulations 2005;

“reasonable adjustments” (*“addasiadau rhesymol”*) means such reasonable adjustments as would be required under the Equality Act 2010(1);

“regulated adoption service” (*“gwasanaeth mabwysiadu rheoleiddiedig”*) means an adoption service which is regulated under the Act;

“related person” (*“person perthynol”*) has the meaning given in regulation 2 of the Adoption Support Services (Wales) Regulations 2019;

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

“the service” (*“y gwasanaeth”*), unless otherwise indicated, means an adoption service(2) which is provided in relation to a specified area;

“service provider” (*“darparwr gwasanaeth”*) means an adoption service provider who is registered under section 7 of the Act;

“the service regulator” (*“y rheoleiddiwr gwasanaethau”*) means the Welsh Ministers in the exercise of their regulatory functions(3);

“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;

“staff” (*“staff”*) includes—

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(1) 2010 c. 15, section 20.

(2) “adoption service” has the meaning given in paragraph 4 of Schedule 1 to the Act.

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

- (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;

“the statement of purpose” (*“y datganiad o ddiben”*) means the document containing the information which must be provided in accordance with regulation 3(c) of and Schedule 2 to the Regulated Services (Registration) (Wales) Regulations 2017<sup>(1)</sup> for the place in relation to which the service is to be provided<sup>(2)</sup>;

“worker” (*“gweithiwr”*) has the same meaning as in section 230(3) of the Employment Rights Act 1996.

(2) In these Regulations, where used in relation to the support provided to an “individual” as defined in this regulation, “support” includes—

- (a) the support which an adoption society is required to provide to individuals in the course of arranging an adoption, or after an adoption has been arranged, in accordance with the Adoption Agencies (Wales) Regulations 2005 or the Access to Information (Post-Commencement Adoptions) (Wales) Regulations 2005, or
- (b) the adoption support services which may be provided by an adoption society or adoption support agency.

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(1) S.I. 2017/1098 (W. 278).

(2) Regulation 3(c) of the Regulated Services (Registration) (Wales) Regulations 2017 requires a person who wants to provide an adoption service to provide a statement of purpose for each place from which the service is to be provided.



## PART 2

### Exceptions

#### Exceptions

3.—(1) The following services are not to be treated as an adoption service, despite paragraph 4 of Schedule 1 to the Act (regulated services: definitions, adoption service)—

- (a) the provision of a service in relation to adoption by a person, in the course of a legal activity (within the meaning of the Legal Services Act 2007<sup>(1)</sup>), who is—
  - (i) an authorised person for the purposes of that Act, or
  - (ii) a European lawyer (within the meaning of the European Communities (Services of Lawyers) Order 1978<sup>(2)</sup>);
- (b) the provision of services to enable groups of adoptive children, adoptive parents and birth parents or former guardians of an adoptive child to discuss matters relating to adoption;
- (c) the provision of respite care to an adoptive child or an adoptive parent by a care home service or domiciliary support service in respect of which a person is registered under chapter 2 of the Act;
- (d) the provision of respite care in relation to an adoptive child consisting of child minding or day care within the meaning in Part 2 of the Children and Families (Wales) Measure 2010<sup>(3)</sup> and in respect of which a person is registered for child minding or day care under that Part of that Measure;
- (e) the provision of adoption support services by a person who provides those services—
  - (i) otherwise than in partnership with others, and
  - (ii) under a contract for services with—

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(1) 2007 c. 29.

(2) S.I. 1978/1910.

(3) 2010 nawm 1.

- (aa) a regulated adoption service, or
- (bb) a local authority adoption service.

(2) In paragraph (1)(e), a person does not include the plural and is not a corporate body.

## PART 3

### General requirements on service providers

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

4. 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**

5.—(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, and
- (c) any representatives, 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**

6.—(1) The service provider must ensure that there are effective arrangements in place for monitoring, reviewing and improving the quality of 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) any local authority or local authority in England which has arranged for the provision of adoption support services by the service;
- (d) staff,

on the quality of the service and how this can be improved.

(3) When making any decisions on plans for improvement of the quality of 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 service report prepared by the responsible individual in accordance with regulation 49(4).

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

7.—(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 11 to 15, 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 imposed by the regulations in Parts 3 to 10, and
- (d) monitoring, reviewing and improving the quality of support provided.

(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**

**8.—(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 the individual's duties as the responsible individual.

(3) During any time when the individual is absent, the individual 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 10, and
- (d) monitoring, reviewing and improving the quality of support provided.

(4) If the individual is unable to fulfil their duties as a responsible individual for a period of more than 28 days, the individual 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**

9.—(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**

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

- (a) commencement of the service (see regulation 12);
- (b) safeguarding (see regulation 20);
- (c) supporting and developing staff (see regulation 24);
- (d) staff discipline (see regulation 27);
- (e) complaints (see regulation 33);
- (f) whistleblowing (see regulation 34).

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

(3) 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) and (2) is—

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

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

#### **Duty of candour**

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

- (a) individuals;
- (b) any representatives of those individuals.

## **PART 4**

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

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

**12.—(1)** The service provider must not provide support for an individual unless the provider has determined that the service is suitable to meet the individual's need for support.

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

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

- (a) any up to date plan;
- (b) any health or other relevant assessments;
- (c) the individual's views, wishes and feelings;
- (d) any risks to the individual's well-being;
- (e) any risks to the well-being of other individuals to whom support is provided;
- (f) the individual's religious persuasion, racial origin, cultural and linguistic background, sexual orientation and gender identity;
- (g) any reasonable adjustments which the service provider could make to enable the individual's need for support to be met;

- (h) the service provider’s policy and procedures on commencement of the service.

(4) In a case where the individual does not have a plan, the service provider must assess the individual’s need for support.

(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 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 this regulation “plan” may include—

- (a) an adoption support plan,
- (b) a care and support plan, or
- (c) a placement plan.

## PART 5

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

### **Information about the service**

**13.—**(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 any individual who is receiving support;

(d) 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 information about—

- (a) how to raise a concern or make a complaint;
- (b) the availability of advocacy services;
- (c) the role and contact details for the Children’s Commissioner for Wales.

(4) The service provider must ensure that an individual receives such assistance as is necessary to enable the individual to understand the information contained in the guide.

### **Service agreement**

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

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

(2) The service provider must ensure that the individual receives such assistance as is necessary to enable the individual to understand the information contained in any such agreement.

## **PART 6**

### **Requirements on service providers as to the standards of support to be provided**

#### **Standards of support – overarching requirements**

**15.—**(1) The service provider must ensure that 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 support is provided in a 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.



## **Information**

**16.—(1)** The service provider must put arrangements in place to ensure that an individual has the information they need to make or participate in assessments, plans and day to day decisions about the way support is provided to them.

(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 assistance as is necessary to enable them to understand the information provided.

## **Language and communication**

**17.** The service provider must take reasonable steps to meet the language and communication needs of an individual.

## **Respect and sensitivity**

**18.—(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 7

### Requirements on service providers – safeguarding

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

**19.** 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**

**20.—(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 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.

#### **Interpretation of Part 7**

**21.** 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 8

### Requirements on service providers as to staffing

#### Staffing - overarching requirements

22.—(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 individuals’ need for support,

(c) assisting individuals to meet their need for support,

(d) the need to safeguard and promote the health and welfare of children, and

(e) the requirements of these Regulations.

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

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(1) 2005 c. 9.

## **Fitness of staff**

**23.—(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 that person may, in the course of duties, have regular contact with individuals who are receiving 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 that person is to perform;
- (c) the person is able by reason of their health, after reasonable adjustments are made, to properly perform the tasks which are intrinsic to the work for which that person 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, from 1 April 2022, the person is registered as a social care manager<sup>(1)</sup> with SCW<sup>(2)</sup>.

**(3)** An appropriate 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

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<sup>(1)</sup> See section 79(1)(b) of the Act for the definition of a “social care manager”.

<sup>(2)</sup> See section 67(3) of the Act for the definition of Social Care Wales as “SCW”.

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.

### **Supporting and developing staff**

**24.—(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 their 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 as a manager is supported to maintain their registration with SCW.

### **Compliance with code of practice**

**25.** 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 SCW under section 112(1)(b) of the Act.

### **Information for staff**

**26.—(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 are required to be published by SCW under section 112(1)(a) of the Act.

### **Disciplinary procedures**

**27.—(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 individuals;
- (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 where 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,

as the case may be.

## PART 9

### Requirements on service providers as to premises

#### **Overarching requirement**

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

#### **Adequacy of premises**

**29.** 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.

## PART 10

### Other requirements on service providers

#### **Records**

**30.—(1)** The service provider must keep and maintain the records specified in Schedule 2.

(2) The service provider must—

- (a) ensure that records specified in Schedule 2 are accurate and up to date;
- (b) keep the records securely;
- (c) make suitable arrangements for the records to continue to be kept securely in the event the service closes;

- (d) make the records available to the service regulator on request;
- (e) where an adoption order has been made in relation to a child, retain records relating to the child and the child's adopter for at least 100 years from the date of the adoption order;
- (f) where adoption support services are provided to an individual, retain records relating to the individual for at least 100 years from the date of the last entry;
- (g) in a case which does not fall within subparagraph (e) or (f) retain—
  - (i) records relating to adults for 3 years from the date of the last entry;
  - (ii) records relating to children for 15 years from the date of the last entry;
- (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**

**31.—(1)** The service provider must notify the service regulator of the events specified in Part 1 of Schedule 3.

(2) In the case of a service provided by an adoption society, the service provider must notify—

- (a) the Local Health Board, or clinical commissioning group and the National Health Service Commissioning Board, of the events specified in Part 2 of Schedule 3;
- (b) the placing agency of the event specified in Part 4 of Schedule 3;
- (c) the area authority of the events specified in Part 5 of Schedule 3;
- (d) the placing authority of the events specified in Part 6 of Schedule 3;
- (e) the police of the event specified in Part 9 of Schedule 3.

(3) In the case of a service provided by an adoption support agency or an adoption society which provides adoption support services the service provider must notify—



- (a) the Local Health Board, or clinical commissioning group and the National Health Service Commissioning Board, of the event specified in Part 3 of Schedule 3;
- (b) the placing authority of the events specified in Part 7 of Schedule 3;
- (c) the relevant authority of the event specified in Part 8 of Schedule 3;
- (d) the police of the event specified in Part 9 of Schedule 3.

(4) The notifications required by this regulation must include details of the event.

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

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

(7) In this regulation—

- (a) “Local Health Board”, “clinical commissioning group” and the “National Health Service Commissioning Board” means the Local Health Board, or the clinical commissioning group and the National Health Service Commissioning Board in whose area the child—
  - (i) is placed for adoption by the service, or
  - (ii) who has died or sustained serious accident or injury in the course of receiving adoption support services was living at the time of the incident;
- (b) “area authority” means the local authority or local authority in England for the area in which a child is placed, or is to be placed, where this is different from the placing authority;
- (c) “placing agency” means the adoption agency that placed the child for adoption with the prospective adopter;
- (d) “placing authority” means, in relation to a child who is or was looked after by a local authority or local authority in England, that local authority;
- (e) “relevant authority” means the local authority in whose area the service is located and any other local authority on behalf of

whom the service is providing adoption support services to that child by virtue of section 3(4)(a) of the 2002 Act.

### **Conflicts of interest**

**32.** The service provider must have effective arrangements in place to identify, record and manage potential conflicts of interest.

### **Complaints policy and procedure**

**33.—(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, and
- (d) keeping records relating to the matters in sub-paragraphs (a) to (c).

(3) The service provider must provide a summary of complaints, responses and any subsequent action taken 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**

**34.—(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 persons 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 service 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, and
- (c) a record is kept relating to the matters in sub-paragraphs (a) and (b).

## PART 11

Requirements on responsible individuals for ensuring effective management of the service

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

**35.** The responsible individual must supervise the management of the service.

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

**36.—(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) subject to paragraph (6), the service provider is registered as a manager with SCW, 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 proposes that the individual designated as the responsible individual for the service is to be appointed to manage the service,
- (c) that individual is fit to manage the service,
- (d) subject to paragraph (6), that individual is registered as a manager with SCW, and
- (e) 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 23(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.

(6) The condition in paragraphs (2)(d) and (3)(d) only applies after 1 April 2022.

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

**37.—**(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 23(2) (fitness of staff) are met in respect of that person.

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

**38.—**(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 provision of the service, and

- (ii) will provide reliable and effective oversight of each service.

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

**39.** On the appointment of a manager in accordance with regulation 36(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 the appointment of manager to SCW and the service regulator**

**40.—(1)** On the appointment of a manager in accordance with regulation 36(1), the responsible individual must give notice to SCW and the service regulator of—

- (a) the name, date of birth and SCW 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 SCW of—

- (a) the name, date of birth and SCW 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**

**41.—(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**

**42.—**(1) The responsible individual must—

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

(2) 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 3 months.

## **PART 12**

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

### **Oversight of adequate resources**

**43.—**(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 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**

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

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

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

- (a) individuals,
- (b) any representatives of those individuals,
- (c) any local authority or local authority in England which has arranged for the provision of support by the service, and
- (d) staff employed at the service,

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

(2) The responsible individual must report the views obtained 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 support provided by the service.

## **PART 13**

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

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

**46.** 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 31 and 53.

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

**47.** 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 30.

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

**48.** 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 14

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

#### Quality of service review

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

(2) The system established under paragraph (1) must make provision for the quality of the service to be reviewed as often as required but at least every 6 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 45 (engagement with individuals and others);
- (b) analysing the aggregate 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 service 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 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 support

50.—(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 support which is contained in a report prepared in accordance with regulation 49(4).

## PART 15

### Other requirements on responsible individuals

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

**51.** 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**

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

- (a) individuals, and
- (b) any representatives of those individuals.

#### **Notifications**

**53.—(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 16

### Offences

#### Offences – service providers

**54.—(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—

- (a) 5(3) (requirements in relation to statement of purpose);
- (b) 5(5) (requirements in relation to statement of purpose);
- (c) 9(3) (requirements in relation to financial sustainability of the service);
- (d) 10(1) (requirements to provide the service in accordance with policies and procedures);
- (e) 13(1) (information about the service);
- (f) 13(2) (information about the service);
- (g) 13(3) (information about the service);
- (h) 14(1) (service agreement);
- (i) 23(1) (fitness of staff);
- (j) 26(1) (information for staff);
- (k) 30(1) (records);
- (l) 30(2) (records);
- (m) 31(1) (notifications);
- (n) 31(2) (notifications);
- (o) 31(3) (notifications);
- (p) 31(5) (notifications).

(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—

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

- (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—

- (a) 4 (requirements in relation to the provision of the service);
- (b) 5(1) (requirements in relation to the statement of purpose);
- (c) 10(4) (requirements to provide the service in accordance with policies and procedures);
- (d) 12(1) (requirement to ensure suitability of the service);
- (e) 12(3) (requirement to ensure suitability of the service);
- (f) 15(1) (standards of support – overarching requirements);
- (g) 19 (safeguarding – overarching requirement);
- (h) 22 (staffing – overarching requirements).

#### **Offences – responsible individuals**

**55.—(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)(1).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations—

- (a) 36(1) (duty to appoint a manager);
- (b) 37(1) (fitness requirements for appointment of manager);
- (c) 40(1) (duty to report the appointment of manager to SCW and the service regulator);
- (d) 40(2) (duty to report the appointment of manager to SCW and the service regulator);

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

- (e) 42(1) (visits);
- (f) 42(2) (visits);
- (g) 43(1) (oversight of adequacy of resources);
- (h) 43(2) (oversight of adequacy of resources, frequency of reports);
- (i) 44(1) (other reports to the service provider);
- (j) 49(4) (quality of service review);
- (k) 50(1) (statement of compliance with the requirements as to standards of support);
- (l) 53(1) (notifications);
- (m) 53(3) (notifications).

## PART 17

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

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

**56.** An appointed person<sup>(1)</sup> 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.

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

**57.—(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

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(1) See section 30 of the Act for the definition of “appointed person”.

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) section 21(2) (responsible individuals) is to be read as if after paragraph (a), there is inserted—

“(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 service or services which the service provider who has died was registered to provide at the time of their death.

## PART 18

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

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

**58.** 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.

*Julie Morgan*

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

Date

# SCHEDULE 1

Regulations 2(1) and 23

## PART 1

### Information and documentation 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 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<sup>(2)</sup> (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 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.

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(1) 1997 c. 50.

(2) 2006 c. 47. Sections 30 to 32 of the Safeguarding Vulnerable Groups Act 2006 as originally enacted are to be replaced by new sections 30A and 30B as a result of substitutions made by section 72(1) of the Protection of Freedoms Act 2012. Section 72(1) is to be commenced on a day to be appointed.

**7.** Where relevant, documentary evidence of registration with SCW.

**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 support to those individuals for whom the worker is to provide support.

**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 23(3) or (6) (fitness of staff), 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

Regulations 2(1) and 30

### Records to be kept

**1.** In respect of each individual—

- (a) full name;
- (b) date of birth;
- (c) whether the person is—
  - (i) a child who may be adopted, their parent or guardian;
  - (ii) a person wishing to adopt a child;
  - (iii) an adopted person, their parent, birth parent, former guardian or related person;
- (d) description of support requested;
- (e) description of need for support along with any assessment of that need;
- (f) description of support provided;
- (g) whether the support is provided on behalf of a local authority under regulations made under section 3(4)(b) of the 2002 Act;
- (h) plans including—
  - (i) adoption support plans;
  - (ii) care and support plans;
  - (iii) placement plans;
- (i) reviews of plans referred to in sub-paragraph (h).

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

**3.** 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.

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

- (a) full name and home address;
- (b) date of birth;

- (c) qualifications relevant to, and experience of, working with individuals;
- (d) the dates on which the person commences and ceases to be so employed;
- (e) whether the person is employed by the service provider under a contract of service, a contract for services, or otherwise than under contract, or is employed by someone other than the service provider;
- (f) the position the person holds at the service, the work the person performs and the number of hours for which the person is employed each week;
- (g) a copy of the person's birth certificate and passport (if any);
- (h) a copy of each reference obtained in respect of the person;
- (i) training undertaken by the person, their supervision and appraisal;
- (j) records of disciplinary action and any other records in relation to the person's employment;
- (k) a record of the date of the person's latest DBS certificate and whether there was any action taken as a result of the content of the certificate.

## Notifications by the service provider

### PART 1

#### Notifications to the service regulator

- 1.** Any revision to the statement of purpose, 28 days prior to the revised statement of purpose coming into effect.
- 2.** Where the 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 or volunteer.

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

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

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

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

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

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

**20.** 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(1), notice of the offence charged and the place of charge.

**21.** Any incident of child sexual or criminal exploitation or suspected child sexual or criminal exploitation.

**22.** The death of a child placed for adoption by the service.

**23.** The instigation and outcome of any child protection enquiry involving a child placed for adoption by the service.

## PART 2

Notification to the Local Health Board/clinical commissioning group and National Health Service Commissioning Board by the provider of an adoption society

**24.** Death of a child placed for adoption by the service.

**25.** Any serious accident or injury sustained by a child placed for adoption by the service.

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(1) S.I. 2009/37.

### PART 3

Notification to the Local Health Board/clinical commissioning group and National Health Service Commissioning Board by the provider of an adoption support agency or of an adoption society which provides adoption support services

**26.** The death, serious accident or injury of a child in the course of receiving adoption support services from the service.

### PART 4

Notification to the placing agency

**27.** Any serious complaint about a prospective adopter approved by the agency where a child is placed for adoption with that prospective adopter by another adoption agency.

### PART 5

Notifications to the area authority

**28.** The death of a child placed for adoption by the service.

**29.** Any serious accident or injury sustained by a child placed for adoption by the service.

**30.** Any serious complaint about a prospective adopter approved by the service where a child is placed for adoption with that prospective adopter by the service.

**31.** Any serious complaint about a prospective adopter approved by the service where a child is placed for adoption with that prospective adopter by another adoption agency (if not notified as the placing agency).

**32.** The instigation and outcome of any child protection enquiry involving a child placed for adoption by the service.

## PART 6

### Notifications to the placing authority by the provider of an adoption society

**33.** The death of a child placed for adoption by the service.

**34.** Any serious accident or injury sustained by a child placed for adoption by the service.

**35.** Any serious complaint about a prospective adopter approved by the service where a child is placed for adoption with that prospective adopter by another adoption agency.

**36.** The instigation and outcome of any child protection enquiry involving a child placed for adoption by the service.

## PART 7

### Notifications to the placing authority by the provider of an adoption support agency or adoption society which provides adoption support services

**37.** The death of a child in the course of receiving adoption support services from the service.

**38.** Any serious accident or injury sustained by a child in the course of receiving adoption support services from the service.

**39.** The instigation and outcome of any child protection enquiry involving a child receiving adoption support services from the service.

## PART 8

### Notification to the relevant authority

**40.** Death or any serious accident or injury sustained by a child in the course of receiving adoption support services.

## PART 9

### Notification to the police

**41.** Any incident of child sexual or criminal exploitation or suspected child sexual or criminal exploitation.

Notifications by the responsible individual

1. The appointment of a manager (see regulation 37(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.