

SL(6)336 – The Duty of Candour Procedure (Wales) Regulations 2023

Background and Purpose

The Health and Social Care (Quality and Engagement) (Wales) Act 2020 introduces an organisational duty of candour on NHS bodies (including primary care) in Wales where:

- (i) a person to whom health care is being or has been provided has suffered an adverse outcome; and
- (ii) the provision of health care was or may have been a factor in the person suffering that outcome.

These Regulations are made under that Act and set out a procedure (“the candour procedure”) that must be followed by an NHS body when the duty of candour is triggered.

These Regulations also make consequential amendments to the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 to ensure that the candour procedure works in harmony with existing arrangements under those Regulations.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument:

- 1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy to be of interest to the Senedd**



Regulation 4(3)(b) makes reference to section 3(2) and (3) of the Health and Social Care (Quality and Engagement) (Wales) Act 2020. However, section 3 of that Act has not yet been commenced.

Article 2 of the Health and Social Care (Quality and Engagement) (Wales) Act 2020 (Commencement No. 3) Order 2023 brought section 4 of the Act into force from 7 March 2023 (to the extent necessary for the purpose of making regulations), but section 3 was not commenced at that time. Can the Welsh Government give an indication of when a commencement order can be expected in relation to section 3?

Welsh Government response

Merit Scrutiny point 1:

Section 3 of the Health and Social Care (Quality and Engagement) (Wales) Act 2020 will be brought into force on 1st April 2023 to coincide with the date on which the Duty of Candour Procedure (Wales) Regulations 2023 come into force.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 27 March 2023 and reports to the Senedd in line with the reporting point above. The Committee agreed to write to the Minister for Health and Social Services to seek further information.

