

*Draft Regulations laid before the National Assembly for Wales under section 187(2)(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 Adult Placement Services  
(Service Providers and Responsible  
Individuals) (Wales) Regulations  
2019**

**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 Act introduces a new concept of “regulated services” and section 2 of the Act defines “regulated service” as including an adult placement service. Paragraph 6 of Schedule 1 to the Act defines “adult placement service” as a service carried on (whether or not for profit) by a local authority or other person for the purposes of placing adults with an individual in Wales under a carer agreement (and includes any arrangements for the recruitment, training and supervision of such individuals).

In accordance with powers in section 27 of the Act, these Regulations impose requirements on service providers in relation to adult placement services, including requirements as to the standard of care and support to be provided to an individual who is placed under a carer agreement. Paragraph 6 of Schedule 1 to the Act defines “carer agreement” as an agreement for the provision by an individual of accommodation at the individual’s home together with care and support for up to three adults.

Part 1 of the Regulations contains definitions of certain terms used in the Regulations.

Part 2 of the Regulations sets out the general requirements on service providers. These requirements relate to the provision of the adult placement service (in these Regulations referred to as “the service”), specific requirements in relation to the statement of purpose, requirements in relation to the monitoring and improvement of the service, requirements in relation to the responsible individual and requirements to provide the service in accordance with policies and procedures.

Part 3 of the Regulations specifies the requirements on service providers as to the steps to be taken before agreeing to provide care and support. This concerns the suitability of the service.

Part 4 of the Regulations specifies the requirements on the service provider as to the steps to be taken on commencement of the provision of care and support and the standard of care and support to be provided. This includes the preparation of a carer agreement, the preparation of an individual placement agreement and the preparation and review of a personal plan.

Part 5 of the Regulations specifies the requirements on service providers as to the information to be provided to individuals on the commencement of the provision of care and support.

Part 6 of the Regulations specifies requirements on service providers as to the standard of care and support to be provided. This includes overarching requirements, the provision of information, putting arrangements in place to ensure that the language needs of individuals are met and ensuring that individuals are treated with respect and sensitivity.

Part 7 of the Regulations specifies safeguarding requirements on service providers. This includes safeguarding policies and procedures, supporting individuals to manage their money, the appropriate use of control and restraint and the deprivation of liberty.

Part 8 of the Regulations specifies requirements on service providers as to staffing. This includes the fitness of staff, the support and development of staff, compliance with the employer’s code of practice, information for staff and disciplinary procedures.

Part 9 of the Regulations specifies requirements on service providers as to the support that must be in place for adult placement carers. This includes the recruitment and training of adult placement carers, effective relationships, support, training and information for adult placement carers and the fitness of adult placement carers.

Part 10 of the Regulations specifies requirements on service providers as to premises, facilities and equipment. This includes the premises used for the operation of the service and the premises, facilities and equipment used by adult placement carers to meet the needs of individuals.

Part 11 of the Regulations specifies other requirements on service providers. This includes records, notifications, conflicts of interest, complaints policy and procedures and whistleblowing.

Part 12 of the Regulations specifies the duties on responsible individuals which relate to the effective management of the service. These duties include the supervision of management of the adult placement service, a duty to appoint a manager and restrictions and reporting requirements relating to that appointment and a duty to make arrangements when the manager is absent. Part 13 of the Regulations specifies the duties on responsible individuals which relate to the effective oversight of the service. This includes the oversight of the adequacy of resources, other reports to the service provider and engagement with individuals and others. Part 14 of the Regulations specifies the duties on responsible individuals which relate to ensuring the compliance of the service. This includes a duty to ensure there are systems in place to record incidents and complaints and that there are systems in place to keep records and ensure policies and procedures are up to date. Part 15 of the Regulations specifies the duties on responsible individuals for monitoring, reviewing and improving the quality of the regulated service. Part 16 places requirements on responsible individuals in relation to support for staff raising concerns, duty of candour and notifications.

Part 17 of the Regulations makes provision for offences that a provider and a responsible individual commit in the event that they fail to comply with specified requirements.

Part 18 of the Regulations makes provision for service providers who are liquidated etc. or who have died. Part 19 of the Regulations makes provisions for the designation of a responsible individual by the Welsh Ministers under section 21(5) of the Act.

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

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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(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 21(5), 27, 28, 30, 31, 45, 46 and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016<sup>(1)</sup>.

The Welsh Ministers have consulted such persons as they think appropriate, as required by sections 27(4)(a) and 28(4) of that 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)(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 and interpretation**

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

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

(3) In these Regulations—

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

“adult placement carer” (“*gofalwr lleoli oedolion*”) means a person who has entered into a carer agreement<sup>(2)</sup> with a service provider;

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(1) 2016 anaw 2.

(2) “Carer agreement” is defined in paragraph 6(2) of Schedule 1 to the Act as “an agreement for the provision by an individual of accommodation at the individual’s home together with care and support for up to three adults”.

“care and support plan” (“*cynllun gofal a chymorth*”) means a plan under section 54 of the 2014 Act(1);

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

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

“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(3) applies;

“individual placement agreement” (“*cytundeb lleoli unigolyn*”) means an agreement between a service provider, an adult placement carer and an individual for an adult placement carer to provide accommodation and care and support to that individual;

“personal outcomes” (“*canlyniadau personol*”) means the outcomes that the individual receiving the care and support wishes to achieve in day to day life;

“personal plan” (“*cynllun personol*”) means the plan required to be prepared in accordance with regulation 13(1);

“reasonable adjustments” (“*addasiadau rhesymol*”) means such reasonable adjustments as would be required under the Equality Act 2010(4);

“representative” (“*cynrychiolydd*”) means any person having legal authority, or the consent of the individual receiving the care and support 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 service provider for care and support to be provided to an individual;

“service provider” (“*darparwr gwasanaeth*”) means a person carrying on an adult placement service(5);

“specified area” (“*ardal benodedig*”) means an area specified in a condition to the service

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(1) “The 2014 Act” is defined in section 189 of the Act as the Social Services and Well-Being (Wales) Act 2014 (anaw 4).

(2) 1996 c. 18.

(3) 1999 c. 8.

(4) 2010 c. 15.

(5) “Adult placement service” is defined in paragraph 6(1) of Schedule 1 to the Act as “a service carried on (whether or not for profit) by a local authority or other person for the purposes of placing adults with an individual in wales under a carer agreement (and includes any arrangements for the recruitment, training and supervision of such individuals)”.

provider's registration as a place in relation to which the service is to be provided;

“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 or adult placement carers;

“the Disclosure and Barring Service” (“*y Gwasanaeth Datgelu a Gwahardd*”) and “DBS” (“*GDG*”) mean the body formed by section 87(1) of the Protection of Freedoms Act 2012(1);

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

“the service” (“*y gwasanaeth*”) means in relation to an adult placement service, the service which is provided in relation to a specified area;

“the service regulator” (“*y rheoleiddiwr gwasanaethau*”) means the Welsh Ministers in the exercise of their regulatory functions(2);

“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(3);

“the workforce regulator” (“*rheoleiddiwr y gweithlu*”) means SCW(4);

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

## PART 2

### General requirements on service providers

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

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

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(1) 2012 c. 9.

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

(3) Regulation 3 of the Regulated Services (Registration) (Wales) Regulations 2017 (S.I. 2017/1098 (W. 278)) requires a person who wants to provide adult placement services to provide a statement of purpose for each place from which the service is to be provided.

(4) See section 67(3) of the Act for the definition of Social Care Wales as “SCW”.

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

3.—(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 individual,
- (c) the adult placement carer,
- (d) any representative, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual,
- (e) the service commissioner.

(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**

4.—(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) adult placement carers,
- (d) service commissioners, and
- (e) 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 care report prepared by the responsible individual in accordance with regulation 59(4).

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

5.—(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<sup>(1)</sup>—

- (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 12 to 16, the service 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 2 to 11, and
- (d) monitoring, reviewing and improving the quality of 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.

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(1) As defined in section 21(1) of the Act.

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

6.—(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 service provider 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 2 to 11, 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, 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**

7.—(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**

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

- (a) suitability of the service (see regulation 10);
- (b) safeguarding (see regulation 22);
- (c) supporting individuals to manage their money (see regulation 23);

- (d) appropriate use of control or restraint (see regulation 24);
- (e) supporting and developing staff (see regulation 29);
- (f) disciplinary procedure (see regulation 32);
- (g) recruitment and training of adult placement carers (see regulation 33);
- (h) complaints (see regulation 43);
- (i) whistleblowing (see regulation 44).

(2) The service provider must 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 care and support is provided and their adult placement carers,
- (b) consistent with the statement of purpose, and
- (c) kept up to date.

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

#### **Duty of candour**

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

- (a) the individual,
- (b) any representative of the individual,
- (c) the adult placement carer, and
- (d) the service commissioner.

## **PART 3**

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

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

10.—(1) The service provider must not agree to place an individual unless it has determined that there is a suitable adult placement which can meet the individual's care and support needs and support the individual to achieve their personal outcomes.

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

(3) The service provider must when making a determination under paragraph (1) 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 risks to the well-being of the adult placement carer and members of their household,
- (h) any reasonable adjustments which the service provider could make to enable the individual's care and support needs to be met, and
- (i) the service provider's policy and procedures on matching for compatibility 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 and any representative. But the service provider is not required to involve a representative if—

- (a) 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 4

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

#### **Carer agreement**

**11.**—(1) The service provider must not make a placement of an individual with an adult placement carer unless the service provider has entered into a carer agreement with the adult placement carer.

(2) The carer agreement must be in writing.

(3) A service provider may only enter into one carer agreement with each adult placement carer.

(4) The carer agreement must—

(a) provide that the parties to the carer agreement undertake their roles in accordance with the policies and procedures of the service;

(b) include arrangements to ensure that the premises, facilities and equipment used by adult placement carers are—

(i) suitable and safe for the purpose for which they are intended to be used;

(ii) used in a safe way;

(iii) properly maintained;

(iv) kept clean to a standard which is appropriate for the purpose for which they are being used;

(v) in the case of equipment, stored appropriately;

(c) include a requirement that the adult placement carer should support the individual to access treatment, advice and other services from any health care professional as necessary;

(d) include arrangements to ensure that medicines are stored and administered safely including specifying in what circumstances an adult placement carer may administer or assist in the administration of an individual's medication and the procedures to be adopted in such circumstances;

(e) include suitable arrangements to support individuals to manage their money.

(5) The service provider must terminate a carer agreement in any case in which the adult placement carer ceases to be fit to be an adult placement carer in accordance with regulation 36.

(6) Without prejudice to paragraph (5), the service provider must terminate a carer agreement in any case in which it appears to the service provider that the

adult placement carer is not meeting or will not meet their obligations under the carer agreement.

(7) The service provider must not terminate a carer agreement without first consulting the adult placement carer, unless it is not reasonably practicable to consult them.

### **Individual placement agreement**

**12.—**(1) The service provider must not make a placement of an individual with an adult placement carer unless the service provider has entered into an individual placement agreement with the adult placement carer.

(2) There must be an individual placement agreement for each individual to be placed with the adult placement carer.

(3) Whenever practicable the individual must be a party to the agreement, and be given a signed copy of the agreement relating to the care and support to be provided to the individual to achieve their personal outcomes.

(4) The service provider must include in an individual placement agreement information that enables each party involved in the agreement to understand their roles and responsibilities.

(5) The individual placement agreement must also include the following information—

- (a) whenever practicable, the name of an individual other than a member of staff of the service provider, the responsible individual or the adult placement carer, who with the individual's express or implied consent takes an interest in the individual's health and welfare;
- (b) the room to be occupied by the individual in the adult placement carer's home;
- (c) the fees payable in respect of the placement and by whom they are payable.

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

(7) The service provider must review the individual placement agreement—

- (a) at least once within the first year of the placement;
- (b) whenever a significant alteration is made to the personal plan;
- (c) at the reasonable request of the individual, any representative or the adult placement carer;
- (d) in any event, within a year of the last review.

(8) The service provider must terminate an individual placement agreement in any case in which the adult placement carer ceases to be fit to be an adult placement carer in accordance with regulation 36.

(9) Without prejudice to paragraph (8), the service provider must terminate a carer agreement in any case in which it appears to the service provider that the adult placement carer is not meeting or will not meet their obligations under the individual placement agreement.

(10) The service provider must not terminate a individual placement agreement without first consulting the individual, unless it is not reasonably practicable to consult them.

### **Personal plan**

**13.—**(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 his or her 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 and any representative. But the service provider is not required to involve a representative if—

- (a) 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 provider's assessment under regulation 10(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 in the same accommodation.

### **Review of personal plan**

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

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

(3) When carrying out a review under this regulation, 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 does not wish the representative to be involved, or
- (b) involving the representative would not be consistent with the individual's well-being.

(4) 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 plan**

**15.** The service provider must—

- (a) keep a record of—
  - (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.

## PART 5

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**

**16.**—(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) given to all adult placement carers,
- (e) made available to others on request, unless this is not appropriate or would be inconsistent with the well-being of any 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 put arrangements in place to ensure that all individuals receive such support as is necessary to enable them to understand the information contained in the guide.

## PART 6

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

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

**17.**—(1) The service provider must put arrangements in place to 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 put arrangements in place to ensure that care and support is provided to each individual in accordance with the individual's personal plan.

(3) The service provider must put arrangements in place to ensure that care and support is provided in a way which—

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

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

### **Information**

**18.**—(1) The service provider must put arrangements in place to 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.

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

### **Language and communication**

**19.**—(1) The service provider must put arrangements in place to ensure that the language needs of individuals are met.

(2) The service provider must put arrangements in place to ensure that individuals and their adult placement carers are provided with access to such aids and equipment as may be necessary to facilitate the individual's communication with others.

### **Respect and sensitivity**

**20.**—(1) The service provider must put arrangements in place to 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**

**21.** The service provider must put arrangements in place to ensure that individuals are safe and are protected from abuse, neglect and improper treatment.

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

**22.—(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 put arrangements in place to 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.

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

**23.—(1)** The service provider must have a policy and procedures in place about supporting individuals to manage their money and must put arrangements in

place to 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 support individuals to manage their own money and to protect individuals from financial abuse.

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

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

**24.—**(1) The service provider must have a policy and procedures in place on the use of control or restraint.

(2) The policy and procedures must prohibit care and support being provided by the adult placement carer 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 or likely serious damage to property, and

(b) are a proportionate response to such a risk.

(3) The policy and procedures must require an adult placement carer to be trained in the method of control or restraint used.

(4) The service provider must ensure that any control or restraint used by the adult placement carers is carried out in accordance with these policies and procedures.

(5) The service provider must make a record of any incident in which control or restraint is used immediately after being notified by the adult placement carer.

(6) The policy and procedures must require an adult placement carer to notify the service provider of any incident in which control or restraint is used within 24 hours of the incident.

(7) 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.



## Deprivation of liberty

25. An individual must not be deprived of his or her liberty for the purpose of receiving care and support without lawful authority.

## Interpretation of Part 7

26. In this Part—

“abuse” (“*camdriniaeth*”) means physical, sexual, psychological, emotional or financial abuse.

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

- (a) having money or other property stolen;
- (b) being defrauded;
- (c) being put under pressure in relation to money or other property;
- (d) having money or other property misused;

“harm” (“*niwed*”) means abuse or the impairment of—

- (a) physical or mental health, or
- (b) physical, intellectual, emotional, social or behavioural development;

“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

27.—(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 requirement to support individuals to achieve their personal outcomes;
- (c) the requirements of the regulations in Parts 2 to 11;
- (d) the requirement to support and supervise adult placement carers in providing care and support.

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(1) 2005 c. 9.

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

### **Fitness of staff**

**28.**—(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 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 Schedule 1 and this information or documentation is available from the service provider 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 with SCW<sup>(1)</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 a 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

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(1) See section 67(3) of the Act for the definition of Social Care Wales as “SCW”.

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**

**29.**—(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) receive appropriate supervision and appraisal;
- (d) receive core training appropriate to the work to be performed by them;
- (e) receive specialist training as appropriate;
- (f) receive 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.

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

**30.** 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<sup>(1)</sup>, which is published by SCW under section 112(1)(b) of the Act.

### **Information for staff**

**31.—(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 suitable arrangements in place to make staff aware of any codes of practice about the standards of conduct expected of social care workers, which is to be published by SCW under section 112(1)(a) of the Act.

### **Disciplinary procedure**

**32.—(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.

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(1) As defined in section 79 of the Act.

## PART 9

### Requirements on service providers as to adult placement carers

#### **Recruitment and training of adult placement carers**

**33.**—(1) The service provider must have policies and procedures in place for the recruitment and training of adult placement carers.

(2) The service provider must put arrangements in place to ensure that adult placement carers receive adequate training so as to assist them to provide high quality care and support for individuals in accordance with the personal plan and to support each individual to achieve their personal outcomes.

#### **Effective relationships**

**34.** The service provider must—

- (a) maintain good professional relationships with an adult placement carer; and
- (b) encourage and assist an adult placement carer to maintain good personal relationships with individuals.

#### **Support and information for adult placement carers**

**35.** The service provider must put arrangements in place to ensure that an adult placement carer has the information they need to provide care and support to individuals to achieve their personal outcomes.

#### **Fitness of adult placement carers**

**36.**—(1) The service provider must not enter into a carer agreement with an adult placement carer unless the carer is fit to be a carer.

(2) For the purposes of paragraph (1), a person is not fit to be an adult placement carer 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 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 Schedule 1 and this information

or documentation is available from the service provider for inspection by the service regulator.

(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 to be an adult placement carer. But this requirement does not apply if the adult placement carer 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 to be an adult placement carer 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 to be an adult placement carer.

(5) Where a person approved to be an adult placement carer 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 approved to be an adult placement carer 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 an adult placement carer is no longer fit to be an adult placement carer 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 the Disclosure and Barring Service.

## PART 10

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

#### **Overarching requirement**

**37.** 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.

### **Adequacy of premises**

**38.** 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.

### **Premises, facilities and equipment - adult placement carers**

**39.** The service provider must have arrangements in place, to ensure that the premises, facilities and equipment used by adult placement carers to meet the needs of individuals 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) in the case of equipment, stored appropriately.

## **PART 11**

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

#### **Records**

**40.—(1)** The service provider must keep and maintain the records specified in Schedule 2 in respect of each place from which the service is provided.

**(2)** The service provider must—

- (a) ensure that records relating to individuals are accurate and up to date;
- (b) keep all 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) retain records relating to individuals for three years from the date of the last entry;
- (f) 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**

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

(2) The notification 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.

## **Conflicts of interest**

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

## **Complaints policy and procedures**

**43.**—(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 complaints policy must include procedures for considering complaints made to the service provider by adult placement carers about—

(a) the provider, and

(b) any other matter considered by the provider to be relevant.

(3) 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).

(4) 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.

(5) 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**

**44.**—(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 a requirement to act 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;
- (c) a record is kept of each of these steps.

## PART 12

Requirements on responsible individuals for ensuring effective management of the service

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

**45.** The responsible individual must supervise the management of the service, which includes taking the steps described in regulations 51 and 52.

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

**46.—**(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 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) that individual is registered as a social care 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 28(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**

**47.**—(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 28(2) (fitness of staff) are met in respect of that person.

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

**48.**—(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 the service provider**

**49.** On the appointment of a manager in accordance with regulation 46(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**

**50.**—(1) On the appointment of a manager in accordance with regulation 46(1), the responsible individual must give notice to the workforce and service regulators 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 the workforce regulator 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**

**51.**—(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**

**52.**—(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 the service in relation to each place in respect of which the responsible individual is designated, and
- (c) meet with individuals for whom the service is being provided and their adult placement carer.

(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 take place at least every three months.

## PART 13

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

#### **Oversight of adequacy of resources**

**53.**—(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 the service provider in Parts 2 to 11.

(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**

**54.**—(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**

**55.**—(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) adult placement carers,
- (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 14

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

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

56. 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 41 and 63.

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

57. 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 40.

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

58. 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 15

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

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

59.—(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 six months.

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

- (a) considering the outcome of the engagement with individuals and others, as required by regulation 55;
- (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**

**60.**—(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 59(4).

## **PART 16**

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

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

**61.** The responsible individual must ensure that the service 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**

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

(a) the individual;

(b) any representative of the individual;

(c) the adult placement carer;

(d) the service commissioner.

#### **Notifications**

**63.**—(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 17

### Offences

#### Offences – service providers

**64.—**(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 3(3), 3(5), 7(3), 8(1), 8(4), 11(1), 16(1), 16(2), 16(3), 28(1), 31(1), 36(1), 40(1), 40(2), 41(1) and 41(3).

(3) A service provider commits an offence if the service 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 2, 3(1), 10(1), 10(3), 13(1), 13(3), 13(5), 14(1), 14(4), 17(1), 17(2), 21 and 27(1).

#### Offences – responsible individuals

**65.—**(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 46(1), 47(1), 50(1), 50(2), 52(1), 52(2), 53(1), 53(2), 54(1), 59(4), 60(1), 63(1) and 63(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 18

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

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

**66.** 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 the service provider**

**67.—**(1) Where the 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) section 21(2) (responsible individuals) is to be read as though after paragraph (a) there were 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;”.

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(1) “Appointed person” has the same meaning as in section 30 of the Act.



## PART 19

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

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

**68.** 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.

*Name*

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

Date

# SCHEDULE 1

Regulations 28 and 36

## PART 1

### Information and documentation to be available in respect of adult placement carers and persons working at the service

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 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 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 care and support to those individuals for whom the worker or adult placement carer is to provide care and support.

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(1) 1997 c. 50.

(2) 2006 c. 47.

**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 28(3) or (6), or 36(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 40

### Records to be kept in respect of services

#### Records to be kept

**1.** In respect of each adult placement carer, records of—

- (a) full name;
- (b) sex;
- (c) date of birth;
- (d) address;
- (e) qualifications relevant to, and experience of work involving vulnerable adults;
- (f) a copy of the carer agreement;
- (g) a copy of any relevant individual placement agreements;
- (h) a record of the monitoring undertaken in respect of the placement.

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

- (a) all relevant assessments;
- (b) care and support plans;
- (c) personal plans;
- (d) reviews of personal plans.

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

**4.** Where applicable, a record of all medicines kept by the adult placement carer for each individual and the date and time on which they were administered to the individual.

**5.** A record of all money or other valuables deposited by the individual with the adult placement carer 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.

**6.** A record of the following events that occur in the home of the adult placement carer—

- (a) any serious accident or injury which is significantly detrimental to the well-being of an individual;
- (b) any theft or burglary;
- (c) any safeguarding referral made in respect of an individual;
- (d) date and circumstances of any measures of control, restraint or discipline used on an individual.

**7.** A record of all complaints made by individuals or their representatives or by persons working at the service or by adult placement carers 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.

## SCHEDULE 3 Regulation 41

### Notifications by the service provider

**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, a member of staff, volunteer and/or a adult placement carer.

**14.** Where the service provider, responsible individual or appointed manager convicted of a criminal offence.

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

**16.** Serious accident or injury of an individual placed with an adult placement carer.

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

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

**19.** The death of an individual placed with an adult placement carer and the circumstances.

**20.** Any request to a supervisory body in relation to the application of the deprivation of liberty safeguards (DOLS)(1).

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

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(1) See Part 1 of the Mental Capacity Act 2005 (c. 9).

## Notifications by the responsible individual

1. The appointment of a manager (see regulation 46(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.