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WELSH STATUTORY INSTRUMENTS

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**2004 No. 1756 (W.188)**

**SOCIAL CARE, WALES**

**The Adult Placement Schemes (Wales) Regulations 2004**

*Made* - - - - - 7 July 2004

*Coming into force* - - - - - 1 August 2004

The National Assembly for Wales, having consulted such persons as it considers appropriate<sup>(1)</sup>, hereby makes the following Regulations in exercise of the powers conferred upon it by the following sections of the Care Standards Act 2000<sup>(2)</sup> —

- [a] sections 3(3), 42(1), 118(5) and (7); and
- [b] by virtue of Regulation 3 of, and Schedule 1 to, these Regulations<sup>(3)</sup>, sections 22(1), 22 (2)(a) to (d) and (f) to (j), 22(5), 22(7)(a) to (j), 25(1), and 34(1)<sup>(4)</sup>.

**PART I —**

**GENERAL**

**Name, commencement and application**

1.—(1) These Regulations are called the Adult Placement Schemes (Wales) Regulations 2004 and shall come into force on 1 August 2004.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2.—(1) In these Regulations —

“the Act” (“*y Ddeddf*”) means the Care Standards Act 2000;

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- (1) See section 22(9) of the Care Standards Act 2000 for the requirement to consult.
  - (2) 2000 c. 14. The powers are conferred upon the “appropriate Minister”. “Appropriate Minister” means the Assembly in relation to Wales, it means the Secretary of State in relation to England, Scotland and Northern Ireland: see section 121(1) of the 2000 Act. “Assembly” means the National Assembly for Wales: see section 5(b) of the 2000 Act. See section 121(1) for the definitions of “prescribed” and “regulations”.
  - (3) Section 42(1) of the Act, under which regulation 3 is made, provides that regulations may apply the provisions of Part II of the Act to persons prescribed by these regulations (being persons to which sub-sections (2) and (3) apply) with such modifications as may be specified in the regulations.
  - (4) See paragraphs 1 and 2 and Part II of Schedule 1 to these Regulations.

“adult placement agreement” (“*cytundeb lleoli oedolion*”) shall be construed in accordance with regulation 13;

“adult placement carer” (“*gofalwr lleoliad oedolion*”) means a person in whose home an adult is or may be accommodated and provided with personal care under an adult placement agreement entered into or proposed to be entered into by the carer;

“adult placement scheme guide” (“*arweiniad i'r cynllun lleoli oedolion*”) shall be construed in accordance with regulation 5;

“adult placement scheme” (“*cynllun lleoli oedolion*”) means a scheme under which arrangements are made or proposed to be made for not more than two adults to be accommodated and provided with personal care in the home of a person who is not their relative;

“adult’s plan” (“*cynllun oedolyn*”) shall be construed in accordance with regulation 18 and includes that plan as amended from time to time;

“appropriate office of the National Assembly” (“*swyddfa briodol y Cynulliad Cenedlaethol*”) means in relation to an adult placement scheme —

- (a) if an office of the National Assembly has been specified under regulation 33 for the area in which the principal office of the scheme is situated, that office; or
- (b) in any other case, any office of the National Assembly;

“care services” (“*gwasanaethau gofal*”) has the same meaning as in Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(5);

“complaints procedure” (“*trefn gwyno*”) shall be construed in accordance with regulation 21;

“home”, (“*cartref*”) where a person has more than one home, means the home where the person ordinarily resides;

“National Assembly” (“*Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“organisation” (“*corff*”) means a body corporate;

“placement” (“*lleoliad*”) means an arrangement whereby an adult is accommodated in the home of an adult placement carer;

“placed” (“*lleoli*”) must be construed in accordance with the definition of “placement”;

“principal office of the scheme” (“*prif swyddfa'r cynllun*”) means the office from which the scheme is mainly administered;

“registered manager” (“*rheolwr cofrestredig*”) means a person who is registered under Part II of the Act as the manager of the adult placement scheme;

“registered person” (“*person cofrestredig*”) means any person who is the registered provider or the registered manager of the adult placement scheme;

“registered provider” (“*darparwr cofrestredig*”) means the person who is registered under Part II of the Act as the provider of the adult placement scheme;

“relative” (“*perthynas*”) in relation to a relevant adult means —

- (a) the adult’s spouse;
- (b) any parent, grandparent, great-grandparent, child, grandchild, great-grandchild, brother, sister, uncle, aunt, nephew or niece of the adult or of the adult’s spouse;
- (c) the spouse of any relative within sub-paragraph (b) of this definition;
- (d) a person with whom the adult was accommodated for more than 28 days between the ages of sixteen and eighteen under fostering arrangements, or the person’s spouse;

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(5) S.I.1975/1023; the definition of “care services” was inserted in the 1975 Order by S.I. 2002/441.

and for the purpose of determining any such relationship a person's step child shall be treated as his or her child, and references to "spouse" include a former spouse and a person who is living with the person as if they were husband and wife;

"relevant adult" ("*oedolyn perthnasol*") in relation to a scheme, means an adult who may be or is placed under the scheme;

"representative" ("*cynrychiolydd*") in relation to a relevant adult, means a person (other than the registered provider or manager, member of staff or adult placement carer) who with the adult's express or implied consent takes an interest in the adult's health and welfare;

"responsible individual" ("*unigolyn cyfrifol*") shall be construed in accordance with regulation 8(2);

"scheme premises" ("*mangre cynllun*") means premises from which the management of the adult placement scheme takes place;

"staff" ("*staff*") in relation to a scheme, means persons, other than adult placement carers, who work for the purposes of the scheme;

"statement of purpose" ("*datganiad o ddiben*") shall be construed in accordance with regulation 4;

"vulnerable adult" ("*oedolyn hawdd ei niweidio*") has the same meaning as in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(6); and

"work" ("*gwaith*") includes work of any kind, whether paid or unpaid, and whether under a contract of apprenticeship, under a contract for services, or otherwise than under a contract.

(2) In these Regulations a reference —

- (a) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(3) In regulations 2(1) and 7 and in Schedule 1, a reference to Part II of the Act is to Part II of the Act as applied by regulation 3 and Schedule 1.

### **Prescribed persons**

3.—(1) Save where paragraph (2) applies, a person who provides or manages an adult placement scheme is hereby prescribed for the purposes of section 42(1) of the Act.

(2) This paragraph applies where the person is an individual and merely makes arrangements for the accommodation and provision of personal care for his or her relative.

(3) Part II of the Act shall apply to persons prescribed in paragraph (1) in accordance with Part 1 of Schedule 1 and with the modifications specified in Part 2 of Schedule 1.

### **Statement of purpose**

4.—(1) The registered person must compile in relation to the adult placement scheme a written statement (in these Regulations referred to as the "statement of purpose") which must consist of —

- (a) a statement of the aims and objectives of the scheme;

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(6) S.I. 1975/1023; the definition of "vulnerable adult" was inserted in the 1975 Order by S.I. 2002/441.

- (b) a statement of the facilities and services which are to be provided under the adult placement scheme for relevant adults; and
  - (c) a statement as to the matters listed in Schedule 2.
- (2) The registered person must —
- (a) provide a copy of the statement of purpose to the appropriate office of the National Assembly; and
  - (b) make the statement available upon request for inspection at any reasonable time by any relevant adult and any representative of such an adult.

### **Adult placement scheme guide**

5.—(1) The registered person must produce a written guide to the adult placement scheme (in these Regulations referred to as the “adult placement scheme guide”) which must include —

- (a) a summary of the statement of purpose;
  - (b) either a summary of the most recent inspection report or a copy of that report;
  - (c) a summary of the complaints procedure prepared under regulation 21; and
  - (d) the address and telephone number of the appropriate office of the National Assembly.
- (2) The registered person must —
- (a) provide a copy of the first adult placement scheme guide to the appropriate office of the National Assembly;
  - (b) provide a copy of the current guide to each adult when first placed under the adult placement scheme;
  - (c) provide on request a copy of the current guide to any adult who may be placed under the scheme or to the adult’s representative.
- (3) The adult placement scheme guide must be produced in a format which is appropriate to the needs of relevant adults.

### **Review of statement of purpose and adult placement scheme guide**

- 6.—(1) The registered person must —
- (a) keep under review and, subject to compliance with paragraph (2), where appropriate, revise the statement of purpose and the adult placement scheme guide; and
  - (b) if the adult placement scheme guide is revised, supply a revised copy to each adult who is at the time of the revision placed under the adult placement scheme.
- (2) The registered person must, whenever practicable, notify the appropriate office of the National Assembly of any revision to be made to the statement of purpose at least 28 days before it is to take effect.

### **Scheme documents**

7. The registered person must ensure that the fact of registration in respect of the adult placement scheme under Part II of the Act is recorded in all correspondence and other documents prepared in connection with the scheme.

## PART II

### REGISTERED PERSONS

#### **Fitness of registered provider**

- 8.**—(1) A person must not provide an adult placement scheme unless fit to do so.
- (2) A person is not fit to provide an adult placement scheme unless the person —
- (a) is an individual who provides an adult placement scheme —
    - (i) otherwise than in partnership with others and he or she satisfies the requirements of paragraph (3); or
    - (ii) in partnership with others and he or she and each of the partners satisfies the requirements set out in paragraph (3); or
  - (b) is an organisation and —
    - (i) it has given notice to the appropriate office of the National Assembly of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual”) who is a director, manager, secretary or other senior officer of the organisation and is responsible for the management of the scheme; and
    - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that —
- (a) the person is of integrity and good character;
  - (b) the person is physically and mentally fit to provide or (as the case may be) be responsible for the management of the scheme; and
  - (c) full and satisfactory information or (as the case may be) documentation in respect of each of the matters listed in Schedule 3 is available in relation to the person.
- (4) A person is not fit to provide an adult placement scheme if —
- (a) he or she has been adjudged bankrupt or sequestration of his or her estate has been awarded and (in either case) he or she has not been discharged and the bankruptcy order has not been annulled or rescinded; or
  - (b) he or she has made a composition or arrangement with, or granted a trust deed for, his or her creditors and has not been discharged in respect of it.

#### **Appointment of manager**

- 9.**—(1) The registered provider must appoint an individual to manage the scheme if —
- (a) there is no registered manager in respect of the scheme; and
  - (b) the registered provider —
    - (i) is an organisation;
    - (ii) carries on the scheme in partnership;
    - (iii) is not a fit person to manage a scheme; or
    - (iv) is not, or does not intend to be, in full time day to day charge of the scheme.
- (2) Where —
- (a) the registered provider, or
  - (b) if an appointment has been made under paragraph (1), the registered manager,

proposes to be, is likely to be, or has been, absent from the offices of the scheme for a continuous period of 28 days or more, the registered provider must appoint an individual to manage the scheme during the provider's or (as the case may be) the registered manager's absence.

(3) Where the registered provider appoints a person to manage the scheme, he or she shall forthwith give notice to the appropriate office of the National Assembly of —

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

(4) The registered person must nominate a person to be in charge at all times when the offices of the scheme are open for business and the registered person is absent from the premises.

(5) A person may not be nominated for the purpose of paragraph (4) unless full and satisfactory information in respect of each of the matters listed in Schedule 3 is available in relation to him or her and has been provided to the National Assembly.

### **Fitness of manager**

**10.**—(1) A person must not manage a scheme unless fit to do so.

(2) A person is not fit to manage a scheme unless —

- (a) the person is of integrity and good character;
- (b) having regard to the nature of the scheme and the number and needs of relevant adults —
  - (i) the person has the qualifications, skills and experience necessary to manage the scheme; and
  - (ii) the person is physically and mentally fit to manage the scheme; and
- (c) full and satisfactory information or (as the case may be) documentation in respect of each of the matters listed in Schedule 3 is available in relation to the person.

### **Registered person — general requirements and training**

**11.**—(1) The registered provider and the registered manager must, having regard to the nature of the adult placement scheme and the number and needs of the relevant adults, provide or (as the case may be) manage the scheme with sufficient care, competence and skill.

(2) If the registered provider is —

- (a) an individual, that individual shall undertake, or
- (b) an organisation, it shall ensure that the responsible individual undertakes,

from time to time such training as is appropriate to ensure that he or she has the expertise, experience and skills necessary to ensure that the scheme is provided with sufficient care, competence and skill.

(3) If the scheme is carried on by individuals in partnership, the partners shall ensure that one of them undertakes training as required by paragraph (2).

(4) The registered manager must undertake from time to time such training as is appropriate to ensure that he or she has the expertise, experience and skills necessary for managing the scheme.

### **Notification of offences**

**12.** Where the registered person or the responsible individual is convicted of any criminal offence, whether in Wales or elsewhere, he or she must forthwith give notice in writing to the appropriate office of the National Assembly of —

- (a) the date and place of the conviction;
- (b) the offence; and

- (c) the penalty imposed in respect of the offence.

## **PART III —**

### **ADULT PLACEMENTS AND ADULT PLACEMENT CARERS**

#### **Making of placements and adult placement agreements**

**13.—**(1) The registered person must not make a placement of an adult with an adult placement carer unless the registered provider has entered into a written agreement with the carer (referred to in these Regulations as “an adult placement agreement”) which complies with the requirements specified in paragraph (2).

- (2) The requirements are —

#### *general requirements*

- (a) that whenever practicable the relevant adult is a party to the agreement;
- (b) that the agreement reflects the obligations of the registered person under regulation 19 (general conduct of scheme);
- (c) that the agreement specifies the aims of the placement;

#### *care and other services provided by the placement*

- (d) that whenever practicable the agreement specifies which elements of the adult’s plan are to be met by the adult placement carer on behalf of the person responsible for the adult’s care;
- (e) when it has not been practicable to comply with the requirement in sub-paragraph (d) prior to the commencement of the placement, the agreement provides that the specification referred to in that sub-paragraph will be provided by the end of the third working day after the commencement of the placement;
- (f) that whenever practicable the agreement names an individual other than the registered person, a member of their staff or the adult placement carer, who with the adult’s express or implied consent takes an interest in the adult’s health and welfare;
- (g) that the agreement requires the adult placement carer to maintain a record of the personal care and other services provided to the adult under the agreement and to keep the record up to date, in good order and in a secure manner;
- (h) that the agreement requires the adult placement carer to transfer the records described in sub-paragraph (g) and the copy of the adult’s plan kept in the carer’s home to the registered person if the placement is terminated;
- (i) that the agreement specifies suitable arrangements to assist the adult with mobility in the adult placement carer’s home, where required;
- (j) that the agreement specifies the qualifications and experience of the adult placement carer;
- (k) that the agreement specifies —
  - (i) the room to be occupied by the adult in the adult placement carer’s home;
  - (ii) the fees payable in respect of the placement and by whom they are payable;
  - (iii) the terms and conditions in respect of the accommodation, personal care and other services to be provided;

#### *protection of the adult*

- (l) that the agreement requires the adult placement carer not to allow any person to undertake work which involves the provision of care services for the purposes of the placement unless there is available in respect of the person a certificate specified in paragraph 2 of Schedule 3;
  - (m) that the agreement describes the procedure to be followed if an allegation of abuse, neglect or other harm has been made;
  - (n) that the agreement provides that the adult is not to be subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the adult's welfare or the welfare of another person in the adult placement carer's home;
  - (o) that the agreement provides that any allegation of a type mentioned in paragraph (m) or the use of any physical restraint upon the adult is to be reported to the registered person; and
  - (p) that the agreement specifies —
    - (i) the circumstances in which the adult placement carer may administer or assist in the administration of the adult's medication and the procedures to be adopted in such circumstances; and
    - (ii) the procedure to be followed where an adult placement carer acts as agent for, or receives money from, the adult.
- (3) The registered person must not make a placement of an adult unless the registered person has —
- (a) ascertained and taken into account the adult's wishes and feelings; and
  - (b) whenever practicable, provided the adult with comprehensive information and suitable choice as to the placements which may be available to the adult.
- (4) The registered person must encourage and take suitable steps to enable relevant adults to make decisions with respect to placements.

### **Monitoring and review of placements**

**14.**—(1) The registered person must monitor a placement for the purpose of considering whether the adult placement carer is meeting his or her obligations under the adult placement agreement.

(2) The registered person must review the adult placement agreement —

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

(3) In monitoring a placement and reviewing an adult placement agreement, the registered person must seek the views of the relevant adult.

### **Termination of placements**

**15.**—(1) Without prejudice to regulation 16(2) (fitness of adult placement carers), the registered person must terminate an adult placement agreement in any case in which it appears that the adult placement carer is not meeting or will not meet his or her obligations under the agreement.

(2) The registered person must not terminate an adult placement agreement without first consulting the relevant adult and his or her representative, unless it is not reasonably practicable to consult them.



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

16.—(1) The registered person must not enter into an adult placement agreement with an adult placement carer unless the carer is fit to be an adult placement carer for the purposes of the placement.

(2) The registered person must terminate an adult placement agreement in any case in which the adult placement carer ceases to be fit to be an adult placement carer for the purposes of the placement.

(3) For the purposes of paragraphs (1) and (2), a person is not fit to be an adult placement carer for the purposes of a placement unless —

- (a) he or she is of integrity and good character;
- (b) he or she is physically and mentally fit to meet his or her obligations under the adult placement agreement;
- (c) he or she has the qualifications, skills, competence and experience necessary to meet his or her obligations under the adult placement agreement; and
- (d) full and satisfactory information is available in relation to him or her in respect of the matters specified in Schedule 3.

### **Adult placement carers — training**

17. The registered person must make appropriate arrangements to ensure that adult placement carers with whom the registered person has placed an adult receive adequate training so as to assist them to continue to meet their obligations under the adult placement agreement.

### **Adults' plans**

18.—(1) Whenever practicable the registered person must not make a placement of an adult unless the registered person has —

- (a) undertaken an assessment of the needs of the adult in respect of his or her health and welfare; and
- (b) produced a written plan (“the adult’s plan”) as to how those needs are to be met.

(2) If it has not been practicable to comply with paragraph (1) prior to the commencement of a placement, the registered person must comply with sub-paragraphs (a) and (b) of paragraph (1) by the end of the third working day after the commencement of the placement.

(3) The registered person must keep the adult’s plan under review and amend it as appropriate.

(4) In producing or amending an adult’s plan, the registered person must —

- (a) ensure the plan is consistent with any care plan for the adult produced by a public authority; and
- (b) consult with the adult or the adult’s representative.

(5) The registered person must make the adult’s plan available to the adult or the adult’s representative.

## **PART IV —**

### **CONDUCT OF ADULT PLACEMENT SCHEMES**

#### **General conduct of adult placement scheme**

19.—(1) The registered person must make suitable arrangements to ensure that the scheme is conducted, and that accommodation and personal care is provided —

- (a) so as to ensure the safety of relevant adults;
  - (b) so as to ensure that a placement is not made in an emergency unless that is in the interests of the relevant adult;
  - (c) so as to safeguard relevant adults against abuse or neglect;
  - (d) so as to promote the independence of relevant adults;
  - (e) so as to ensure the safety and security of relevant adults' property;
  - (f) in a manner which respects the privacy, dignity and wishes of relevant adults and the confidentiality of information relating to them; and
  - (g) with due regard to the sex, sexual orientation, religious persuasion, racial origin, cultural and linguistic background and any disability of relevant adults, and to the way in which they wish to conduct their lives.
- (2) The registered person must, in relation to the conduct of the adult placement scheme —
- (a) maintain good personal and professional relationships with staff of the adult placement scheme, adult placement carers and relevant adults;
  - (b) encourage and assist staff to maintain good personal and professional relationships with both adult placement carers and relevant adults; and
  - (c) encourage and assist adult placement carers to maintain good personal and professional relationships with relevant adults.
- (3) The registered person must make appropriate arrangements to ensure that the views of relevant adults are taken into account in the conduct of the scheme.

### **Records**

- 20.**—(1) The registered person must ensure that the records specified in Schedule 4 and personal files are maintained and that they are —
- (a) kept up to date, in good order and in a secure manner;
  - (b) at all times available for inspection at the principal office of the scheme by any person authorised by the National Assembly to enter and inspect the premises of the adult placement scheme; and
  - (c) retained for a period of not less than three years beginning on the date of the last entry.
- (2) The registered person must ensure that a copy of each adult's plan and a detailed record of the personal care and other services provided to the adult during a placement are kept within the home of the adult placement carer and that they are kept up to date, in good order and in a secure manner.

### **Complaints**

- 21.**—(1) The registered person must prepare and follow a written procedure (referred to in these Regulations as “the complaints procedure”) for considering complaints made to it by an adult placement carer, a relevant adult or a person acting on behalf of a relevant adult.
- (2) The complaints procedure must be appropriate to the needs of relevant adults.
- (3) The registered person must ensure that any complaint made under the complaints procedure is fully investigated.
- (4) The registered person must, as soon as is reasonably practicable but in any event within 28 days of the date on which the complaint was received, inform the person who made the complaint of the action (if any) that is to be taken.
- (5) The registered person must supply a copy of the complaints procedure to —

- (a) every adult whom it has placed under the scheme; and
  - (b) on request, to any relevant adult or person acting on behalf of a relevant adult.
- (6) Where a copy of the complaints procedure is to be supplied in accordance with paragraph (5) to a person who is blind or whose vision is impaired, the registered person must, if it is practicable to do so, supply, in addition to the written copy, a version of the procedure in a form which is suitable for that person.
- (7) The copy of the complaints procedure must include —
- (a) the name and address of the appropriate office of the National Assembly; and
  - (b) the procedure (if any) which has been notified by the National Assembly to the registered person for the making of complaints to the National Assembly in relation to the scheme.
- (8) The registered person must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and of the action that was taken in response to each complaint.

### **Review of quality of scheme's operation**

- 22.—(1) The registered person must establish and maintain a system for —
- (a) reviewing at appropriate intervals; and
  - (b) improving
- the quality of the operation of the scheme, including the quality of the accommodation and care provided in placements.
- (2) The registered person must supply to the appropriate office of the National Assembly a report in respect of any review conducted for the purposes of paragraph (1), and make a copy of the report available, on request, to adult placement carers, relevant adults and their representatives.
- (3) The system must provide for consultation with adult placement carers and with relevant adults and their representatives.

### **Visits by registered provider**

- 23.—(1) Where the registered provider is an individual who does not manage the scheme, he or she must visit the principal office of the scheme in accordance with this regulation.
- (2) Where the registered provider is an organisation, the principal office of the scheme must be visited in accordance with this regulation by —
- (a) the responsible individual;
  - (b) a director or other person responsible for the management of the scheme, provided that the director or other person is suitable to visit the office; or
  - (c) an employee or member of the organisation who is not directly concerned with the conduct of the scheme, provided that the person is suitable to visit the office.
- (3) Visits under paragraph (1) or (2) must take place at least once every six months.
- (4) The registered person must assist adult placement carers with whom it has placed an adult and such adults to provide their views about the scheme for the purposes of visits carried out under this regulation.
- (5) The person carrying out the visit must —
- (a) interview such adult placement carers and relevant adults and their representatives who wish to be interviewed for the purposes of the visit, and the interview must take place in private if the carer or adult so requests;

- (b) inspect the premises of the office, its record of events kept under paragraph 4 of Schedule 4 and its record of complaints kept under paragraph 5 of Schedule 4; and
  - (c) prepare a written report on the conduct of the scheme.
- (6) An interview referred to in paragraph (5)(a) must take place in the home of the adult placement carer if the carer or adult so wishes.
- (7) The registered provider must supply a copy of the report required to be made under paragraph (5)(c) to —
- (a) the registered manager of the scheme who must keep the report at the principal office of the scheme; and
  - (b) in the case of a visit under paragraph (2) to each of the directors or other persons responsible for the management of the organisation.

### **Fitness of workers**

**24.**—(1) The registered person must ensure that no person works for the purposes of the scheme unless the person is fit to do so.

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

- (a) he or she is of integrity and good character;
- (b) he or she has the qualifications, skills, competence and experience necessary for the work he or she is to perform;
- (c) he or she is physically and mentally fit for the purposes of the work he or she is to perform; and
- (d) full and satisfactory information or documentation is available in relation to him or her in respect of the matters specified in Schedule 3.

### **Staff and their training**

**25.**—(1) The registered person must, having regard to the nature of the scheme, the statement of purpose and the number and needs of relevant adults, ensure that —

- (a) at all times there are an appropriate number of suitably qualified, skilled, and experienced staff;
  - (b) appropriate information and advice is provided to staff, and further information and advice is made available to them at their reasonable request, in respect of such of the needs of relevant adults as may be met by the scheme; and
  - (c) suitable assistance is provided to staff.
- (2) The registered person must ensure that each member of staff —
- (a) receives training and appraisal which is appropriate to his or her work; and
  - (b) is enabled from time to time to obtain further qualifications appropriate to his or her work.

### **Staff handbook and code of conduct**

**26.**—(1) The registered person must prepare a staff handbook and provide a copy of it to every member of staff.

- (2) The handbook prepared in accordance with paragraph (1) must include a statement as to —
- (a) the conduct expected of members of staff, and disciplinary action which may be taken against them;

- (b) the role and responsibilities of members of staff and adult placement carers;
- (c) record keeping requirements;
- (d) recruitment procedures; and
- (e) training and career development opportunities and requirements.

### **Financial position**

**27.**—(1) The registered provider must manage the scheme in such manner as is likely to ensure that it will be financially viable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) If the registered provider is not a local authority, the provider must provide to the National Assembly such information as it may require in order to consider the financial viability of the scheme, including —

- (a) the annual accounts of the scheme, certified by an accountant;
  - (b) a reference from a bank expressing an opinion as to the registered provider’s financial standing;
  - (c) information as to the financing and financial resources of the scheme;
  - (d) where the registered provider is a company, information as to any of its associated companies; and
  - (e) a certificate of insurance for the registered provider in respect of any liability which may be incurred by the provider in relation to the scheme in respect of death, injury, public liability, damage or other loss.
- (3) If the registered provider is not a local authority, the provider must —
- (a) ensure that adequate accounts are maintained in respect of the scheme and kept up to date;
  - (b) ensure that the accounts give details of the running costs of the scheme, including rent, payments under a mortgage and expenditure on salaries and wages of staff; and
  - (c) supply a copy of the accounts to the National Assembly at its request.

### **Notification of incidents**

**28.**—(1) The registered person must notify the appropriate office of the National Assembly if an incident described in paragraph (2) takes place, and the notification must be given within 24 hours of the registered person being informed, or otherwise becoming aware, that such an incident has taken place.

- (2) The incidents are —
- (a) any serious injury sustained by a relevant adult in the scheme premises or when in the care of an adult placement carer;
  - (b) any incident which —
    - (i) occurs in the scheme premises or in connection with a placement, and
    - (ii) is reported to, or investigated by, the police; and
  - (c) any allegation of misconduct by the registered person, a member of staff or an adult placement carer.

(3) Any notification under this regulation which is given orally shall be confirmed in writing.

(4) The registered person must ensure that members of staff are required to inform the registered person forthwith of the occurrence of any of the incidents described in paragraph (2).

### Notice of absence

29.—(1) Where —

- (a) a registered provider who manages the scheme; or
- (b) a registered manager,

is to be absent from the scheme for a continuous period of 28 days or more, the registered person must give notice of the absence in writing to the appropriate office of the National Assembly.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) must be given no later than one month before the absence commences, or within such shorter period as may be agreed with the National Assembly, and the notice must specify —

- (a) the length or expected length of the proposed absence;
- (b) the reason for the absence;
- (c) the arrangements which have been made for the running of the scheme during the absence; and
- (d) the name, address and qualifications of the person who will be responsible for the scheme during the absence.

(3) Where an absence referred to in paragraph (1) arises as the result of an emergency, the registered person shall give notice of the absence within one week of the emergency's occurrence specifying the matters in paragraph (2)(a) to (d).

(4) Where —

- (a) a registered provider who manages the scheme; or
- (b) a registered manager,

has been absent from the scheme for a continuous period of 28 days or more, and the appropriate office of the National Assembly has not been given notice of the absence, the registered person must forthwith give notice in writing to that office specifying the matters in paragraph (2)(a) to (d).

(5) The registered person must notify the appropriate office of the National Assembly of the return to duty of the registered provider or (as the case may be) the registered manager no later than seven days after the date of return.

### Notice of changes

30. The registered person must give notice in writing to the appropriate office of the National Assembly as soon as it is practicable to do so if—

- (a) a person other than the registered person provides or manages, or proposes to provide or manage, the scheme;
- (b) a person ceases to provide or manage the scheme;
- (c) the name or address of the principal office of the scheme is, or is proposed to be, changed;
- (d) where the registered provider is an organisation which is not a local authority —
  - (i) there is, or is proposed to be, any change of director, manager, secretary or other similar officer of the organisation;
  - (ii) there is, or is proposed to be, any change in the identity of the responsible individual;
  - (iii) there is, or is proposed to be, any change in the ownership of the organisation;
- (e) where the registered provider is an individual, a trustee in bankruptcy for the individual is, or is likely to be, appointed or a composition or arrangement with the individual's creditors is, or is proposed to be, made;

- (f) where the registered provider is a company, a receiver, manager, liquidator, or provisional liquidator is, or is likely to be, appointed;
- (g) where the registered provider is in a partnership whose business includes providing a scheme, a receiver or manager is, or is likely to be, appointed for the partnership.

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

- 31.**—(1) Any person to whom paragraph (2) applies must —
- (a) forthwith notify the appropriate office of the National Assembly of that appointment indicating the reasons for it;
  - (b) appoint a manager to take full time day to day charge of the scheme in any case where there is no manager; and
  - (c) within 28 days of appointment, notify the appropriate office of the National Assembly of the intended future operation of the scheme.
- (2) This paragraph applies to any person appointed as —
- (a) the receiver or manager of the property of a company which is a registered provider of a scheme;
  - (b) the liquidator or provisional liquidator of a company which is the registered provider of a scheme;
  - (c) the receiver or manager of the property of a partnership whose business includes the provision of a scheme;
  - (d) the trustee in bankruptcy of a registered provider of a scheme.

## **PART V — MISCELLANEOUS**

### **Offences**

- 32.**—(1) A contravention or failure to comply with regulations 4 to 31 is an offence.
- (2) The National Assembly may bring proceedings against a person who once was, but is no longer, a registered person in respect of a scheme in respect of a failure to comply with regulation 20 (records) after he or she ceased to be the registered person, and for this purpose references in that regulation to the registered person shall be taken to include such a person.

### **Specification of appropriate offices**

**33.** The National Assembly may specify an office controlled by it as the appropriate office in relation to the principal office of a scheme which is situated in a particular area of Wales.

### **Amendment of the Registration of Social Care and Independent Health Care (Wales) Regulations 2002**

- 34.**—(1) The Registration of Social Care and Independent Health Care (Wales) Regulations 2002(7) are amended in accordance with the following provisions of this regulation.
- (2) In regulation 2(1) —

- (a) in the definition of “the Act”, add at the end —  
“or that Act as applied by the Adult Placement Schemes (Wales) Regulations 2004<sup>(8)</sup>”
  - (b) at the appropriate place, insert —  
““adult placement scheme” has the same meaning as in the Adult Placement Schemes (Wales) Regulations 2004”;
  - (c) in the definition of “appropriate office of the National Assembly”, after paragraph (h) insert —
    - “(i) in relation to an adult placement scheme —
      - (i) if an office has been specified under regulation 33 of the Adult Placement Schemes (Wales) Regulations 2004 for the area in which the principal office of the scheme is situated, that office;
      - (ii) in any other case, any office of the National Assembly.”;
  - (d) in the definition of “statement of purpose” insert —
    - “(j) in relation to an adult placement scheme, the written statement to be compiled in accordance with regulation 4 of the Adult Placement Schemes (Wales) Regulations 2004.”.
- (3) In regulation 2(3), add —
- “(d) to an agency includes a reference to an adult placement scheme and accordingly in relation to a scheme—
    - (i) reference to a registered provider carrying on an agency includes reference to a registered provider providing an adult placement scheme;
    - (ii) reference to a registered manager managing an agency includes reference to a registered manager managing an adult placement scheme;
    - (iii) reference to a registered person in respect of an agency includes a registered person in respect of an adult placement scheme;
    - (iv) reference to a responsible individual includes an individual who is a director, manager, secretary or other officer of an organisation and is responsible for the management of an adult placement scheme; and
    - (v) reference to a service user includes reference to an adult who is placed under an adult placement scheme.”.

### **Amendment of the Registration of Social Care and Independent Healthcare (Fees) (Wales) Regulations 2002**

**35.**—(1) The Registration of Social Care and Independent Healthcare (Fees) (Wales) Regulations 2002<sup>(9)</sup> are amended in accordance with the following provisions of this regulation.

- (2) In the paragraph headed “Arrangement of Regulations”, add the following at the end—

“**16.** Annual Fee — adult placement schemes”.

- (3) In regulation 2(1) —

- (a) in the definition of “the Act”, add at the end —  
“or that Act as applied by the Adult Placement Schemes (Wales) Regulations 2004”<sup>(10)</sup>”;
- (b) at the appropriate place, insert —

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<sup>(8)</sup> 2004/1756 (W.188).

<sup>(9)</sup> S.I. 2002/921 (W.109) as amended by S.I. 2003/237 (W.35), 2003/710 (W.86), 2003/781 (W.92), 2003/2527 (W.242) and 2004/219 (W.23).

<sup>(10)</sup> S.I. 2004/1756 (W.188)



““adult placement scheme” has the same meaning as in the Adult Placement Schemes (Wales) Regulations 2004”;

(4) In regulation 2(3), add —

“(d) to an agency includes a reference to an adult placement scheme and accordingly in relation to a scheme —

(i) reference to a registered provider carrying on an agency includes reference to a registered provider providing an adult placement scheme; and

(ii) reference to a registered manager managing an agency includes reference to a registered manager managing an adult placement scheme; and

(iii) reference to a service user includes reference to an adult who is placed under an adult placement scheme.”.

(5) In regulation 3, after paragraph (3D) insert —

“(3E) In the case of an application by a person seeking to be registered as a person who provides an adult placement scheme, the registration fee is £1,100.

(3F) In the case of an application by a person seeking to be registered as a person who manages an adult placement scheme, the registration fee is £300.”.

(6) After regulation 15 (Annual fee — domiciliary care agencies), insert the following regulation —

**“Annual fee — adult placement schemes**

**16.—**(1) The annual fee in respect of an adult placement scheme is £750.

(2) The annual fee in respect of an adult placement scheme is to be payable by the registered provider on the first and subsequent anniversaries of the date on which his or her certificate of registration is issued.”.

**Transitional provisions**

**36.—**(1) This regulation applies to persons who by virtue of the provisions of the Act and these Regulations are required to be registered under the Act but who immediately before 1 August 2004 were not required to be so registered.

(2) Notwithstanding any such provision, a person who immediately before 1 August 2004 was providing or managing an adult placement scheme may continue to provide or manage the scheme without being registered under the Act —

(a) during the period of 3 months beginning with that date; and

(b) if within that period application is made for registration, until that application is finally disposed of or withdrawn.

(3) In this regulation “finally disposed of” means the date 28 days following the grant or refusal of registration and, if an appeal is made, the date when the appeal is finally determined or abandoned.

**Amendment of the Care Homes (Wales) Regulations 2002**

**37.—**(1) The Care Homes (Wales) Regulations 2002(**11**) are amended in accordance with the following provisions of this regulation.

(2) In regulation 3(1), add —

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“(h) all the persons who are accommodated in the home are the subject of adult placement agreements which comply with the provisions of the Adult Placement Schemes (Wales) Regulations 2004(12) or, where regulations made in England apply to an adult placement agreement, with the provisions of those regulations.”.

**Amendment of the Domiciliary Care Agencies (Wales) Regulations 2004**

**38.**—(1) In regulation 3(1) of the Domiciliary Care Agencies (Wales) Regulations 2004(13), add —

“(d) in so far as it arranges for the personal care of persons who are accommodated under adult placement agreements which comply with the Adult Placement Schemes (Wales) Regulations 2004(14), or, where regulations made in relation to England apply to an adult placement agreement, with the provisions of those regulations.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(15).

7 July 2004

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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(12) 2004/1756 (W.188).  
(13) 2004/ 219 (W.23).  
(14) 2004/1756 (W.188).  
(15) 1998 c. 38.

## SCHEDULE 1

Regulation 3

### APPLICATION OF PART II OF THE CARE STANDARDS ACT 2000 TO PERSONS PROVIDING AND MANAGING AN ADULT PLACEMENT SCHEME

#### PART 1

1. For the purposes of this Schedule references in Part II of the Act —
  - (a) to an establishment or agency shall be taken as references to an adult placement scheme;
  - (b) to carrying on or managing an establishment or agency shall be taken as references to providing or managing an adult placement scheme;
  - (c) to persons working at an establishment or for the purposes of an agency shall be taken as references to persons working for the purposes of an adult placement scheme;
  - (d) to facilities or services provided in an establishment or by an agency shall be taken as references to facilities or services provided under an adult placement scheme; and
  - (e) to premises being used as an establishment or for the purposes of an agency must be taken as references to premises used for the purposes of managing an adult placement scheme.
2. In respect of the provisions of Part II of the Act which are not modified by Part 2 of this Schedule —
  - (a) Part II of the Act applies to a person who provides or manages, intends to provide or manage, or is registered in respect of, an adult placement scheme and also in relation to such a scheme in light of the provisions which are modified by Part 2 of this Schedule;
  - (b) any power of the National Assembly to make subordinate legislation is to be exercisable in relation to a person who provides or manages, intends to provide or manage, or is registered in respect of, an adult placement scheme and also in relation to such a scheme in light of the provisions which are modified by Part 2 of this Schedule; and
  - (c) any power or duty of any person under Part II of the Act is to be exercisable in relation to a person who provides or manages, intends to provide or manage, or is registered in respect of, an adult placement scheme and also in relation to such a scheme in light of the provisions which are modified by Part 2 of this Schedule.
3. In this Schedule a reference to a section is a reference to a section of the Act.

#### PART 2

##### **Modification of section 22 of the Act (regulation of establishments and agencies)**

- (a) (a) Section 22(5)(b) has effect as if it read —
  - “(b) as to the control and restraint of adults provided with services under an adult placement scheme.”;
- (b) Section 22(7)(e) has effect as if it read —
  - “(e) make provision as to the giving of notice by the person providing an adult placement scheme of periods during which he or (if he does not manage it himself) the manager proposes to be unavailable to manage the adult placement scheme, and specify the information to be supplied in such a notice.”.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Modification of section 28 of the Act (failure to display certificate of registration)**

5. Section 28(1) has effect as if it read:

“A certificate of registration issued under this Part in respect of any adult placement scheme must be kept affixed in a conspicuous place at the principal office of the scheme.”.

**Modification of section 31 of the Act (inspections by persons authorised by registration authority)**

6. Section 31(5) and (6) does not apply to adult placement schemes.

**Modification of section 37 of the Act (service of documents)**

(a) (a) Section 37(1) of the Act has effect as if it read —

“Any notice or other document required under this Part to be served on a person providing or managing, or intending to provide or manage, an adult placement scheme may be served on him—

(a) by being delivered personally to him; or

(b) by being sent by post to him in a registered letter or by the recorded delivery service at his proper address.”.

(b) Section 37(2) of the Act has effect as if it read —

“For the purposes of section 7 of the Interpretation Act 1978(16) (which defines “service by post”) a letter addressed to a person providing or managing, or intending to provide or manage, an adult placement scheme enclosing a notice or other document under this Act shall be deemed to be properly addressed if it is addressed to him at the principal office of the adult placement scheme.”.

SCHEDULE 2

Regulation 4(1)

MATTERS TO BE DEALT WITH IN THE STATEMENT OF PURPOSE

1. The name and business address of the registered person.
2. The address of the principal office of the adult placement scheme.
3. The relevant qualifications of —
  - (a) the registered provider if the provider is not an organisation; and
  - (b) the registered manager if one has been appointed.
4. The number, relevant qualifications and experience of the staff working for the purposes of the adult placement scheme.
5. The organisational structure of the adult placement scheme.
6. The age-range and sex of the adults in respect of whom the adult placement scheme may make placements.
7. The range of needs that the adult placement scheme intends to meet through the making of placements.
8. The terms and conditions (including fees) upon which placements are made under the scheme.

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(16) 1978 c. 30.

9. Any criteria used under the adult placement scheme for the purposes of deciding whether to seek to make a placement in respect of an adult.
10. The arrangements made so as to ensure that relevant adults can engage in social activities, hobbies, leisure interests and religious services.
11. The arrangements made for consultation with relevant adults about the operation of the scheme.
12. The arrangements made so as to ensure that relevant adults can enjoy appropriate contact with their relatives, friends and representatives.
13. The arrangements for dealing with complaints about the operation of the scheme.
14. The arrangements for dealing with reviews of the adults' plans referred to in regulation 18.

SCHEDULE 3

Regulations 8(3), 9(5), 10, 13(2)(h), 16(3)  
and 24(2)

INFORMATION AND DOCUMENTS TO BE AVAILABLE IN RESPECT  
OF ADULT PLACEMENT CARERS, PERSONS PROVIDING CARE  
SERVICES FOR THE PURPOSES OF AN ADULT PLACEMENT, PERSONS  
PROVIDING AND MANAGING ADULT PLACEMENT SCHEMES

1. Proof of identity including a recent photograph.
2. Either —
  - (a) where the certificate is required for a purpose relating to section 115(5)(ea) of the Police Act 1997<sup>(17)</sup> (registration under Part II of the Care Standards Act 2000), or the position falls within section 115(3) or (4) of that Act, an enhanced criminal record certificate issued under section 115 of that Act; or
  - (b) in any other case, a criminal record certificate issued under section 113 of that Act,including, where applicable, the matters specified in section 113(3A) or 115(6A) of that Act and, once they are in force, section 113(3C)(a) and (b) or section 115(6B)(a) and (b) of that Act.
3. Two written references, including a reference from the last employer if any.
4. Where a person has previously worked in a position which involved work with children or vulnerable adults, verification of the reason why the employment on position ended except where the National Assembly has determined that all reasonable steps have been taken to obtain such verification but it is not available.
5. Documentary evidence of any relevant qualification.
6. A full employment history, together with a satisfactory written explanation of any gaps in employment.

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(17) 1997 c. 50.

## SCHEDULE 4

Regulation 20

### RECORDS

1. The following information and documents in respect of each adult who has been placed under the scheme —

- (a) full name;
- (b) date of birth;
- (c) the assessment referred to in regulation 18(1);
- (d) the adult's plan;
- (e) the adult placement agreement.

2. A record of all persons working for the purposes of the scheme, must include in respect of a person for whom a certificate as mentioned in paragraph 2 of Schedule 3 is required, the following matters —

- (a) full name;
- (b) sex;
- (c) date of birth;
- (d) home address;
- (e) qualifications relevant to, and experience of, work involving vulnerable adults;
- (f) written confirmation that the information referred to in Schedule 3 is available in relation to the person.

3. A record of all adult placement carers with whom an adult has been placed including —

- (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 adult placement agreement;
- (g) a record of the monitoring undertaken in respect of the placement under regulation 14;
- (h) written confirmation that the information referred to in Schedule 3 is available in relation to the carer.

4. A record of —

- (a) all accidents involving an adult placed under the scheme;
- (b) any use of physical restraint upon an adult placed under the scheme; and
- (c) any allegation of abuse, neglect or other harm made by or in relation to an adult placed under the scheme.

5. A record of —

- (a) any complaints made in accordance with regulation 21(1); and
- (b) the action (if any) taken in response to a complaint.

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## EXPLANATORY NOTE

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

These Regulations are made under the Care Standards Act 2000 (“the Act”). They modify the Act so as to apply Part II of the Act to adult placement schemes in Wales (“schemes”) and make provision in relation to such schemes.

Part I of the Act and Part II as modified and applied by these Regulations provide for the National Assembly for Wales, in relation to Wales, to register persons providing or managing schemes and to inspect scheme premises. Part II also provides that a person who provides or manages a scheme without being registered in respect of it commits an offence. The Act also provides for the Assembly to make regulations governing the conduct of schemes in relation to Wales. Under section 13 of the Act the National Assembly must be satisfied that the regulations are being and will continue to be complied with if it is to grant an application for registration.

Regulation 2 defines an adult placement scheme as a scheme under which arrangements are made or proposed to be made for not more than two adults to be accommodated and provided with personal care in the home of a person who is not their relative.

Regulation 3 and Schedule 1 apply with modifications Part II of the Act to adult placement schemes.

Regulations 4 to 6 are about the scheme’s statement of purpose and adult placement scheme guide. Each scheme must have a statement of purpose and a guide to the scheme (regulations 4 and 5). The statement and the guide are to be kept under review and revised if necessary (regulation 6).

Regulation 7 requires the fact of a scheme’s registration to be noted on correspondence and documents.

Part II of the Regulations makes provision about the fitness of persons providing or managing the scheme, and requires satisfactory information as to the matters set out in Schedule 3 to be available in relation to these persons. Regulation 8 provides that where the registered provider is an organisation, a responsible individual must be appointed, and regulation 11 imposes general requirements in relation to the conduct of a scheme and for registered persons to undertake appropriate training.

Part III of the Regulations makes provision about the making of placements and adult placement agreements (regulation 13), the monitoring and review of placements (regulation 14), the termination of placements (regulation 15) and the fitness and training of adult placement carers (regulations 16 and 17). Regulation 18 requires the registered person to assess the adult’s needs and to produce and review a plan which describes how those needs are to be met.

Part IV makes provision for the general conduct of the scheme (regulation 19), record keeping (regulation 20), complaints procedures of the scheme (regulation 21), review of the quality of the scheme’s operations (regulation 22) and the visiting of a scheme by or on behalf of its registered provider (regulation 23). It also makes provision about the fitness of scheme workers and their training (regulations 24 and 25) and the provision of a staff handbook and code of conduct (regulation 26). Regulation 27 makes provision concerning the financial position of schemes. Part IV also requires notice to be given to the National Assembly of specified events relating to a scheme (regulations 28 to 31).

Part V of the Regulations deals with miscellaneous matters such as offences under the Regulations (regulation 32), the specification of appropriate offices of the National Assembly for the purpose of obligations under the Regulations to give notice (regulation 33), amendments to the Statutory Instruments about the making of applications for registration and the payment of registration fees (regulations 34 and 35), transitional provisions (regulation 36) and amendments to the Care

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Homes (Wales) Regulations 2002 and to the Domiciliary Care Agencies (Wales) Regulations 2004 (regulations 37 and 38).

A Regulatory Appraisal has been prepared in connection with these Regulations. A copy may be obtained from the Older People and Long-term Care Policy Directorate, the National Assembly for Wales, Cathays Park, Cardiff, CF10 3NQ (Tel: 02920825441).