
WELSH STATUTORY INSTRUMENTS

2019 No. 887 (W. 159)

SOCIAL CARE, WALES

**The Regulated Services (Penalty
Notices) (Wales) Regulations 2019**

<i>Made</i>	- - - -	<i>25 April 2019</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>26 April 2019</i>
<i>Coming into force</i>	- -	<i>1 July 2019</i>

The Welsh Ministers, in exercise of the powers conferred by sections 52(1) and (6) and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016⁽¹⁾, make the following Regulations⁽²⁾:

Title and commencement

1.—(1) The title of these Regulations is the Regulated Services (Penalty Notices) (Wales) Regulations 2019.

(2) These Regulations come into force on 1 July 2019.

Interpretation

2. In these Regulations—

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

“the 2017 Regulations” (“*Rheoliadau 2017*”) means the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017⁽³⁾;

“the Adoption Services Regulations” (“*y Rheoliadau Gwasanaethau Mabwysiadu*”) means the Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019⁽⁴⁾;

“the Adult Placement Services Regulations” (“*y Rheoliadau Gwasanaethau Lleoli Oedolion*”) means the Adult Placement Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019⁽⁵⁾;

⁽¹⁾ [2016 anaw 2](#).

⁽²⁾ See section 189 of the Act for the definition of “prescribed”.

⁽³⁾ [S.I. 2017/1264 \(W. 295\)](#).

⁽⁴⁾ [S.I. 2019/762 \(W. 145\)](#).

⁽⁵⁾ [S.I. 2019/163 \(W. 40\)](#).

“the Advocacy Services Regulations” (“*y Rheoliadau Gwasanaethau Eirioli*”) means the Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019⁽⁶⁾;

“the Fostering Services Regulations” (“*y Rheoliadau Gwasanaethau Maethu*”) means the Regulated Fostering Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019⁽⁷⁾;

“offence” (“*trosedd*”) means a prescribed offence;

“payment period” (“*cyfnod talu*”) has the meaning given in regulation 10;

“penalty notice” (“*hysbysiad cosb*”) means a penalty notice given pursuant to section 52 of the Act;

“recipient” (“*derbynnnydd*”) means a person to whom a penalty notice is given in accordance with section 52 of the Act;

“service provider” (“*darparwr gwasanaeth*”) means a person whose application for registration as provider of a regulated service has been granted under section 7(1) of the Act.

Offences under the Act

3. An offence committed under section 47 (making false statements) of the Act is prescribed as an offence for the purposes of section 52(1) of that Act. The penalty to be paid is an amount corresponding to two and a half times level 4 on the standard scale⁽⁸⁾.

4. An offence committed under section 48 (failure to submit an annual return) or 49 (failure to provide information) of the Act is prescribed as an offence for the purposes of section 52(1) of that Act. The penalty to be paid is an amount corresponding to level 4 on the standard scale.

Offences under the 2017 Regulations

5.—(1) The offences under the provisions of the 2017 Regulations listed in the first column of the table in Schedule 1 are prescribed as offences for the purposes of section 52(1) of the Act.

(2) The second column of the table in Schedule 1 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 1.

Offences under the Adoption Services Regulations

6.—(1) The offences under the provisions of the Adoption Services Regulations listed in the first column of the table in Schedule 2 are prescribed as offences for the purposes of section 52(1) of the Act.

(2) The second column of the table in Schedule 2 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 2.

⁽⁶⁾ S.I. 2019/165 (W. 41).

⁽⁷⁾ S.I. 2019/169 (W. 42).

⁽⁸⁾ See section 37 of the Criminal Justice Act 1982 (c. 48) (“the 1982 Act”); at the date of the coming into force of these Regulations, level 4 on the standard scale is set at £2,500 (this figure may be increased by virtue of an amendment to the 1982 Act).

Offences under the Adult Placement Services Regulations

7.—(1) The offences under the provisions of the Adult Placement Services Regulations listed in the first column of the table in Schedule 3 are prescribed as offences for the purposes of section 52(1) of the Act.

(2) The second column of the table in Schedule 3 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 3.

Offences under the Advocacy Services Regulations

8.—(1) The offences under the provisions of the Advocacy Services Regulations listed in the first column of the table in Schedule 4 are prescribed as offences for the purposes of regulation 12.

(2) The second column of the table in Schedule 4 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 4.

Offences under the Fostering Services Regulations

9.—(1) The offences under the provisions of the Fostering Services Regulations listed in the first column of the table in Schedule 5 are prescribed as offences for the purposes of section 52(1) of the Act.

(2) The second column of the table in Schedule 5 contains a description of the prescribed offence.

(3) The amount of the penalty to be paid for each offence is specified in the third column of the table in Schedule 5.

Period for payment of the penalty

10.—(1) The time by which the penalty specified in a penalty notice is to be paid is the end of the period of 28 days beginning with the date of receipt of the notice (“payment period”).

(2) Section 184 of the Act⁽⁹⁾ applies to a penalty notice as it applies to a notice required to be given under the Act.

Payment of the penalty

11.—(1) Payment of the penalty specified in a penalty notice must be made to the Welsh Ministers by the method specified in the notice.

(2) In any proceedings a certificate purporting to be signed by or on behalf of the Welsh Ministers stating that payment of a penalty was or was not received by the date specified in the certificate is evidence of the facts stated.

Period during which proceedings may not be instituted

12. Where a recipient is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted against the recipient before the expiry of the payment period.

(9) Section 184 of the Act (service of documents etc.) specifies that notices may be hand delivered, may be left at a recipient’s address, sent by recorded delivery or, if the recipient has agreed to receive it electronically, by being sent electronically to an address provided for that purpose; subsection (8) provides that where a notice is sent by recorded delivery or electronically it is to be taken to have been received 48 hours after it is sent (unless the contrary is shown).

Withdrawal of penalty notice

13.—(1) The Welsh Ministers may withdraw a penalty notice by giving written notice of the withdrawal to the recipient if—

- (a) the Welsh Ministers determine that—
 - (i) it ought not to have been given, or
 - (ii) it ought not to have been given to the person named as the recipient; or
- (b) it appears to the Welsh Ministers that the notice contains material errors.

(2) A penalty notice may be withdrawn in accordance with paragraph (1) whether or not the payment period has expired, and whether or not the penalty has been paid.

(3) Where a penalty notice has been withdrawn in accordance with paragraph (1), the Welsh Ministers must repay any amount paid by way of penalty in pursuance of that notice to the person who paid it.

(4) Except as provided in paragraph (5), no proceedings may be instituted or continued against a recipient for the offence to which the penalty notice relates where the notice has been withdrawn in accordance with paragraph (1).

(5) Where a penalty notice has been withdrawn under paragraph (1)(b), proceedings may be instituted or continued for the offence in connection with which that penalty notice was given if a further penalty notice in respect of the offence has been given and the penalty has not been paid before the expiry of the payment period.

Content of penalty notice

14.—(1) A penalty notice must give such details of the circumstances alleged to constitute the offence as seem to the Welsh Ministers to be reasonably required to give the recipient information about it.

- (2) A penalty notice must state—
 - (a) the name and address of the recipient;
 - (b) the amount of the penalty;
 - (c) the payment period;
 - (d) that payment within that period will discharge any liability for the offence;
 - (e) the period within which proceedings in respect of the offence to which the notice relates will not be brought;
 - (f) the consequences of the penalty not being paid before the expiry of the period for paying it;
 - (g) the person to whom and the address at which the penalty may be paid and to which any correspondence about the penalty notice may be sent;
 - (h) the means by which payment of the penalty may be made;
 - (i) the grounds on which the penalty notice may be withdrawn.

Records

15. The Welsh Ministers must keep a record of any penalty notices given, which must include—

- (a) a copy of each penalty notice given;
- (b) a record of all payments made and the dates upon which they were received;
- (c) details of any penalty notice which was withdrawn and the grounds for its withdrawal;

- (d) details of whether the recipient was prosecuted for the offence for which the penalty notice was given.

Revocation

- 16.** The Regulated Services (Penalty Notices) (Wales) Regulations 2017(**10**) are revoked.

25 April 2019

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

SCHEDULE 1

Regulation 5

Prescribed offences – services regulated under the 2017 Regulations

Provision creating offence	General nature of the offence	Amount of penalty
Regulation 7(3) and (5) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the statement of purpose	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 11(3) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the financial sustainability of the service	An amount corresponding to level 4 on the standard scale
Regulation 12(1) and (2) of the 2017 Regulations	Contravention of, or failure to comply with, requirements to have in place specified policies and procedures	An amount corresponding to level 4 on the standard scale
Regulation 19(1), (2) and (3) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information about the service	An amount corresponding to two times level 4 on the standard scale
Regulation 20(1) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of a service agreement	An amount corresponding to level 4 on the standard scale
Regulation 35(1) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the fitness of staff	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 38(1) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information for staff	An amount corresponding to two times level 4 on the standard scale
Regulation 59(1), (2) and (3) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to records	An amount corresponding to two times level 4 on the standard scale
Regulation 60(1), (2) and (4) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to notifications	An amount corresponding to two times level 4 on the standard scale
Regulation 67(1) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a responsible individual to appoint a manager	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 74(1) and (2) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a	An amount corresponding to two times level 4 on the standard scale

Provision creating offence	General nature of the offence	Amount of penalty
	responsible individual to report on the adequacy of resources	
Regulation 75(1) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the making by a responsible individual of other reports to the service provider	An amount corresponding to two times level 4 on the standard scale
Regulation 80(4) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by a responsible individual of a report in respect of a quality of care review	An amount corresponding to two times level 4 on the standard scale
Regulation 81(1) of the 2017 Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by a responsible individual of a statement of compliance with the requirements as to standards of care and support	An amount corresponding to two times level 4 on the standard scale
Regulation 84(1) and (3) of the 2017 Regulations	Contravention of, or failure to comply with requirements in relation to the responsible individual's duty to make notifications to the service regulator	An amount corresponding to two times level 4 on the standard scale

SCHEDULE 2

Regulation 6

Prescribed offences – regulated adoption services

Provision creating offence	General nature of the offence	Amount of penalty
Regulation 5(3) and (5) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirement to give notice of revision to the statement of purpose	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 9(3) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirement to provide copy accounts	An amount corresponding to level 4 on the standard scale
Regulation 10(1) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements to have in place specified policies and procedures	An amount corresponding to level 4 on the standard scale

Status: This is the original version (as it was originally made).

Provision creating offence	General nature of the offence	Amount of penalty
Regulation 13(1), (2) and (3) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information about the service	An amount corresponding to two times level 4 on the standard scale
Regulation 14(1) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of a service agreement	An amount corresponding to level 4 on the standard scale
Regulation 23(1) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to the fitness of staff	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 26(1) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information for staff	An amount corresponding to two times level 4 on the standard scale
Regulation 30(1) and (2) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to records	An amount corresponding to two times level 4 on the standard scale
Regulation 31(1), (2), (3) and (5) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to notifications	An amount corresponding to two times level 4 on the standard scale
Regulation 36(1) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a responsible individual to appoint a manager	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 43(1) and (2) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a responsible individual to report on the adequacy of resources	An amount corresponding to two times level 4 on the standard scale
Regulation 44(1) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to the making by a responsible individual of other reports to the service provider	An amount corresponding to two times level 4 on the standard scale
Regulation 49(4) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by a responsible individual of a report in respect of a quality of service review	An amount corresponding to two times level 4 on the standard scale
Regulation 50(1) of the Adoption Services Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by	An amount corresponding to two times level 4 on the standard scale

Provision creating offence	General nature of the offence	Amount of penalty
	a responsible individual of a statement of compliance with the requirements as to standards of support	
Regulation 53(1) and (3) of the Adoption Services Regulations	Contravention of, or failure to comply with requirements in relation to the responsible individual's duty to make notifications to the service regulator	An amount corresponding to two times level 4 on the standard scale

SCHEDULE 3

Regulation 7

Prescribed offences – adult placement services

Provision creating offence	General nature of the offence	Amount of penalty
Regulation 3(3) and (5) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirement to give notice of revision to the statement of purpose	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 7(3) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirement to provide copy accounts	An amount corresponding to level 4 on the standard scale
Regulation 8(1) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements to have in place specified policies and procedures	An amount corresponding to level 4 on the standard scale
Regulation 11(1) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of a carer agreement	An amount corresponding to level 4 on the standard scale An amount corresponding to two times level 4 on the standard scale
Regulation 16(1), (2) and (3) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information about the service	
Regulation 28(1) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to the fitness of staff	An amount corresponding to two and a half times level 4 on the standard scale

Status: This is the original version (as it was originally made).

Provision creating offence	General nature of the offence	Amount of penalty
Regulation 31(1) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information for staff	An amount corresponding to two times level 4 on the standard scale
Regulation 40 (1) and (2) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to records	An amount corresponding to two times level 4 on the standard scale
Regulation 41(1) and (3) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to notifications	An amount corresponding to two times level 4 on the standard scale
Regulation 46(1) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a responsible individual to appoint a manager	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 53(1) and (2) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a responsible individual to report on the adequacy of resources	An amount corresponding to two times level 4 on the standard scale
Regulation 54(1) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to the making by a responsible individual of other reports to the service provider	An amount corresponding to two times level 4 on the standard scale
Regulation 59(4) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by a responsible individual of a report in respect of a quality of care review	An amount corresponding to two times level 4 on the standard scale
Regulation 60(1) of the Adult Placement Services Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by a responsible individual of a statement of compliance with the requirements as to standards of care and support	An amount corresponding to two times level 4 on the standard scale
Regulation 63(1) and (3) of the Adult Placement Services Regulations	Contravention of, or failure to comply with requirements in relation to the responsible individual's duty to make notifications to the service regulator	An amount corresponding to two times level 4 on the standard scale

SCHEDULE 4

Regulation 8

Prescribed offences – regulated advocacy services

Provision creating offence	General nature of the offence	Amount of penalty
Regulation 4(3) and (5) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirement to give notice of revision to the statement of purpose	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 8(3) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirement to provide copy accounts	An amount corresponding to level 4 on the standard scale
Regulation 9(1) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements to have in place specified policies and procedures	An amount corresponding to level 4 on the standard scale
Regulation 15(1), (2) and (3) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information about the service	An amount corresponding to two times level 4 on the standard scale
Regulation 24(1) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to the fitness of staff	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 27(1) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information for staff	An amount corresponding to two times level 4 on the standard scale
Regulation 31(1) and (2) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to records	An amount corresponding to two times level 4 on the standard scale
Regulation 32(1) and (3) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to notifications	An amount corresponding to two times level 4 on the standard scale
Regulation 37(1) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a responsible individual to appoint a manager	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 44(1) and (2) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a responsible individual to report on the adequacy of resources	An amount corresponding to two times level 4 on the standard scale
Regulation 45(1) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to the making by a	An amount corresponding to two times level 4 on the standard scale

Status: This is the original version (as it was originally made).

Provision creating offence	General nature of the offence	Amount of penalty
	responsible individual of other reports to the service provider	
Regulation 50(4) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by a responsible individual of a report in respect of a quality of service review	An amount corresponding to two times level 4 on the standard scale
Regulation 51(1) of the Advocacy Services Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by a responsible individual of a statement of compliance with the requirements as to standards of advocacy	An amount corresponding to two times level 4 on the standard scale
Regulation 54(1) and (3) of the Advocacy Services Regulations	Contravention of, or failure to comply with requirements in relation to the responsible individual's duty to make notifications to the service regulator	An amount corresponding to two times level 4 on the standard scale

SCHEDULE 5

Regulation 9

Prescribed offences – regulated fostering services

Provision creating offence	General nature of the offence	Amount of penalty
Regulation 4(3) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirement to give notice of revision to the statement of purpose	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 8(3) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirement to provide copy accounts	An amount corresponding to level 4 on the standard scale
Regulation 9(1) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements to have in place specified policies and procedures	An amount corresponding to level 4 on the standard scale
Regulation 12(1), (2) and (3) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information about the service	An amount corresponding to two times level 4 on the standard scale

Provision creating offence	General nature of the offence	Amount of penalty
Regulation 30(1) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to the fitness of staff	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 33(1) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to the provision of information for staff	An amount corresponding to two times level 4 on the standard scale
Regulation 39(1) and (2) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to records	An amount corresponding to two times level 4 on the standard scale
Regulation 40(1), (2), (3), (4), (5) and (8) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to notifications	An amount corresponding to two times level 4 on the standard scale
Regulation 50(1) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a responsible individual to appoint a manager	An amount corresponding to two and a half times level 4 on the standard scale
Regulation 57(1) and (2) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to the duty of a responsible individual to report on the adequacy of resources	An amount corresponding to two times level 4 on the standard scale
Regulation 58(1) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to the making by a responsible individual of other reports to the service provider	An amount corresponding to two times level 4 on the standard scale
Regulation 63(4) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by a responsible individual of a report in respect of a quality of care review	An amount corresponding to two times level 4 on the standard scale
Regulation 64(1) of the Fostering Services Regulations	Contravention of, or failure to comply with, requirements in relation to the preparation by a responsible individual of a statement of compliance with the requirements as to standards of care and support	An amount corresponding to two times level 4 on the standard scale
Regulation 67(1) and (4) of the Fostering Services Regulations	Contravention of, or failure to comply with requirements in relation to the responsible individual's duty to make	An amount corresponding to two times level 4 on the standard scale

Provision creating offence	General nature of the offence	Amount of penalty
	notifications to the Welsh Ministers	

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”) establishes a new system of regulation and inspection of social care services in Wales, which replaces the system that was established under the Care Standards Act 2000.

Section 2 of and Schedule 1 to the Act specify the services which are “regulated services” for the purposes of the Act. These are a care home service, a secure accommodation service, a residential family centre service, an adoption service, a fostering service, and adult placement service, an advocacy service and a domiciliary support service.

Under section 3(1)(c) of the Act, a person who is registered to provide a regulated service is referred to as a “service provider”. Regulations made under section 27 of the Act impose requirements on service providers in respect of the regulated services they provide.

Section 6 of the Act requires a service provider to designate an individual as the “responsible individual” in respect of each place at, from, or in relation to which a regulated service is to be provided. Regulations made under section 28 of the Act impose requirements on the responsible individual in relation to the regulated services for which they are responsible.

Section 45 of the Act enables the Welsh Ministers to make regulations providing that it is an offence for a service provider to fail to comply with a specified provision of regulations made under section 27. Under section 46 of the Act, the Welsh Ministers may also make regulations providing that it is an offence for a responsible individual to fail to comply with a specified provision of regulations made under section 28 of the Act.

The Regulated Services (Service Providers and Responsible Individuals (Wales) Regulations 2017 (“the 2017 Regulations”) provide that it is an offence for service providers and designated responsible individuals of regulated care home services, secure accommodation services, residential family centre services and domiciliary support services to fail to comply with any of the provisions specified in regulations 85 and 86 respectively of those Regulations.

The Regulated Adoption Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the Adoption Services Regulations”) provide that it is an offence for service providers and designated responsible individuals of regulated adoption services to fail to comply with any of the provisions specified in regulations 54 and 55 respectively of those Regulations.

The Adult Placement Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the Adult Placement Services Regulations”) provide that it is an offence for service providers and designated responsible individuals of regulated adult placement services to fail to comply with any of the provisions specified in regulations 64 and 65 respectively of those Regulations.

The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the Advocacy Services Regulations”) provide that it is an offence for service

providers and designated responsible individuals of regulated advocacy services to fail to comply with any of the provisions specified in regulations 55 and 56 respectively of those Regulations.

The Regulated Fostering Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 (“the Fostering Services Regulations”) provide that it is an offence for service providers and designated responsible individuals of regulated fostering services to fail to comply with any of the provisions specified in regulations 68 and 69 respectively of those Regulations.

Section 52(1) of the Act gives the Welsh Ministers the power to give a penalty notice to a person instead of bringing proceedings for an offence, but only in relation to those offences that are prescribed in regulations. Under section 52(2), only offences under sections 47 (false statements), 48 (failure to submit annual return) or 49 (failure to provide information) or under regulations made under sections 45 or 46 of the Act may be so prescribed.

These Regulations prescribe the offences for which a penalty notice may be given to a person instead of proceedings being brought in relation to the offence.

Regulations 3 and 4 prescribe the offences in the Act in respect of which the Welsh Ministers may give a penalty notice to a person. These Regulations also specify the amount of the penalty payable in respect of each of the prescribed offences.

The amount of the penalty payable in respect of each of the offences prescribed in these Regulations is expressed as multiples of the amount corresponding to level 4 on the standard scale (and range between multiples of one to two and a half times).

Regulation 5 and the first column in the table in Schedule 1 prescribe the offences in the 2017 Regulations in respect of which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulation 6 and the first column in the table in Schedule 2 prescribe the offences in the Adoption Services Regulations for which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulation 7 and the first column in the table in Schedule 3 prescribe the offences in the Adult Placement Services Regulations for which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulation 8 and the first column in the table in Schedule 4 prescribe the offences in the Advocacy Services Regulations for which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulation 9 and the first column in the table in Schedule 5 prescribe the offences in the Fostering Services Regulations for which the Welsh Ministers may give a penalty notice to the service provider or designated responsible individual. The second and third columns contain a description of the prescribed offence and the amount of the penalty payable in respect of each offence.

Regulations 10 and 11 make provision about the time by which a penalty notice must be paid and specify the way in which a payment may be made.

Regulation 12 makes provision about the period during which proceedings may not be instituted for the offence to which the penalty notice relates.

Regulation 13 makes provision about the circumstances in which a penalty notice, once given, may be withdrawn, the consequences of such withdrawal, and specifies when proceedings may be instituted or continued in respect of the offence to which the penalty notice relates.

Regulation 14 sets out the requirements for the content of a penalty notice.

Status: This is the original version (as it was originally made).

Regulation 15 sets out the record-keeping requirements of the Welsh Ministers in respect of any penalty notice that is given.

Regulation 16 revokes the Regulated Services (Penalty Notices) (Wales) Regulations 2017.

The Welsh Ministers' Code of Practice on the carrying on 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.