
WELSH STATUTORY INSTRUMENTS

2002 No. 324

The Care Homes (Wales) Regulations 2002

PART I
GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Care Homes (Wales) Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations apply in relation to care homes in Wales.

Interpretation

2.—(1) In these Regulations—

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

“appropriate office” (“*swyddfa briodol*”) means in relation to a care home—

- (a) if an office has been specified under regulation 48 for the area in which the care home is situated, that office;
- (b) in any other case, any office of the National Assembly;

“environmental health authority” (“*awdurdod iechyd amgylchedd*”) means the authority responsible for environmental health for the area in which the care home is situated;

“fire authority” (“*awdurdod tân*”), in relation to a care home, means the authority discharging in the area in which the care home is situated, the function of fire authority under the Fire Services Act 1947(1);

“fostering arrangements” (“*trefniadau maethu*”) means arrangements made by, or on behalf of, a local authority under section 23(2)(a) of the Children Act 1989(2) or by a voluntary organisation under section 59(1)(a) of that Act, or arrangements made by a local authority or voluntary organisation under legislation similar to section 23(2)(a) or (as the case may be) section 59(1)(a);

“general practitioner” (“*ymarferydd cyffredinol*”) means a registered medical practitioner who—

- (a) provides general medical services under Part II of the National Health Service Act 1977(3),
- (b) performs personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997(4); or

(1) 10 & 11 Geo.6 c.41.

(2) 1989 c. 41.

(3) 1977 c. 49.

(4) 1997 c. 46.

(c) provides services which correspond to services provided under Part II of the National Health Service Act 1977, otherwise than in pursuance of that Act;

“health care professional” (*“proffesiynolyn gofal iechyd”*) means a person who is registered as a member of any profession to which section 60(2) of the Health Act 1999(5) applies or who is a clinical psychologist, child psychotherapist or speech therapist;

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

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

“registered manager” (*“rheolwr cofrestredig”*), in relation to a care home, means a person who is registered under Part II of the Act as the manager of the care home;

“registered person” (*“person cofrestredig”*), in relation to a care home, means any person who is the registered provider or registered manager in respect of the care home;

“registered provider” (*“darparydd cofrestredig”*), in relation to a care home, means a person who is registered under Part II of the Act as a person carrying on the care home;

“relative” (*“perthynas”*), in relation to any person, means—

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

and for the purpose of determining any such relationship a person’s step-child shall be treated as his 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;

“representative” (*“cynrychiolydd”*) means, in relation to a service user, a person, other than the registered person or a person employed at the care home, who with the service user’s express or implied consent takes an interest in the service user’s health and welfare;

“responsible individual” (*“unigolyn cyfrifol”*) has the meaning given to it in regulation 7;

“service user” (*“defnyddiwr gwasanaeth”*) means any person accommodated in the care home who is in need of nursing or personal care by reason of disability, infirmity, past or present illness, past or present mental disorder or past or present dependence on alcohol or drugs;

“service user’s guide” (*“arweiniad y defnyddiwr gwasanaeth”*) means the written guide produced in accordance with regulation 5(1);

“service user’s plan” (*“cynllun y defnyddiwr gwasanaeth”*) means the written plan prepared in accordance with regulation 15(1);

“staff” (*“staff”*) means persons employed by the registered person to work at the care home but does not include a volunteer or a person employed under a contract for services;

“statement of purpose” (*“datganiad o ddiben”*) means the written statement compiled in accordance with regulation 4(1).

(2) In these Regulations, unless the context otherwise requires, 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 these Regulations, unless the contrary intention appears, references to employing a person include—

- (a) employing a person whether or not for payment;
- (b) employing a person under a contract of service or a contract for services; and
- (c) allowing a person to work as a volunteer;

and references to an employee or to a person being employed shall be construed accordingly.

(4) In these Regulations a reference to a person working at a care home shall be taken to include a reference to a person working for the purposes of a care home.

Excepted establishments

3.—(1) For the purposes of the Act, an establishment is excepted from being a care home if—

- (a) it provides accommodation, together with nursing or personal care, only for a relative of the person carrying it on;
- (b) it provides accommodation, together with nursing or personal care, for less than 28 days in any 12 month period;
- (c) it is a health service hospital at which nursing is provided;
- (d) it provides accommodation, together with nursing, and is vested—
 - (i) in the National Assembly for the purposes of its functions under the National Health Service Act 1977(6), or
 - (ii) in an NHS trust(7);
- (e) it is a university;
- (f) it is an institution within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992(8); or
- (g) it is a school.

(2) For the purposes of paragraph (1), “university” includes—

- (a) any university college;
- (b) any college, or institution in the nature of a college, of a university.

(3) The exception in paragraph (1)(d) does not apply if—

- (a) the establishment provides accommodation together with nursing or personal care to any person; and
- (b) the number of such persons is more than a tenth of the number of students to whom it provides both education and accommodation.

Statement of purpose

4.—(1) The registered person shall compile in relation to the care home a written statement (in these Regulations referred to as “the statement of purpose” (“*y datganiad o ddiben*”)) which shall consist of—

- (a) a statement of the aims and objectives of the care home;

(6) 1977 c. 49.

(7) See section 5 of the NHS and Community Care Act 1990 (c. 19) as amended by paragraph 69 of Schedule 1 to the Health Authorities Act 1995 (c. 17) and section 13(1) of the Health Act 1999(c. 8).

(8) 1992 c. 13.

- (b) a statement as to the facilities and services which are to be provided by the registered person for service users; and
- (c) a statement as to the matters listed in Schedule 1.

(2) The registered person shall provide a copy of the statement of purpose to the appropriate office of the National Assembly and shall make it available upon request for inspection at any reasonable time by any service user and any representative of a service user.

(3) Nothing in regulation 16(1) or 24(1) shall require or authorise the registered person to contravene, or not to comply with—

- (a) any other provision of these Regulations; or
- (b) the conditions for the time being in force in relation to the registration of the registered person under Part II of the Act.

Service user's guide

5.—(1) The registered person shall produce a written guide to the care home (in these Regulations referred to as “the service user’s guide” (“*yr arweiniad defnyddiwr gwasanaeth*”)) which shall include—

- (a) a summary of the statement of purpose;
- (b) the terms and conditions in respect of accommodation to be provided for service users, including as to the amount and method of payment of fees;
- (c) a standard form of contract for the provision of services and facilities by the registered provider to service users;
- (d) either a summary of the most recent inspection report or a copy of that report;
- (e) a summary of the complaints procedure established under regulation 23;
- (f) the address and telephone number of the appropriate office of the National Assembly.

(2) The registered person shall—

- (a) provide a copy of the first service user’s guide to the appropriate office of the National Assembly;
- (b) provide a copy of the current version of the service user’s guide to each service user when first accommodated in the home; and
- (c) subsequent to the provision described in sub-paragraph (b) provide further copies at the request of the service user.

(3) Where a local authority has made arrangements for the provision of accommodation, nursing or personal care to the service user at the care home, the registered person shall supply to the service user a copy of the agreement specifying the arrangements made.

(4) In this regulation “most recent inspection report” includes a report produced prior to the coming into force of these regulations.

Review of statement of purpose and service user’s guide

6.—(1) The registered person shall—

- (a) keep under review and, subject to compliance with paragraph (2), where appropriate, revise the statement of purpose and the service user’s guide; and
- (b) if the service user’s guide is revised, supply a revised copy to each service user.

(2) The registered person shall, 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.