
WELSH STATUTORY INSTRUMENTS

2002 No. 324

The Care Homes (Wales) Regulations 2002

PART III

CONDUCT OF CARE HOME

Health and welfare of service users

- 12.**—(1) The registered person shall ensure that the care home is conducted so as—
- (a) to promote and make proper provision for the health and welfare of service users;
 - (b) to make proper provision for the care and, where appropriate, treatment, education and supervision of service users.
- (2) The registered person shall so far as practicable enable service users to make decisions with respect to the care they are to receive and their health and welfare.
- (3) The registered person shall, for the purpose of providing care to service users, and making proper provision for their health and welfare, so far as practicable ascertain and take into account their wishes and feelings.
- (4) The registered person shall make suitable arrangements to ensure that the care home is conducted—
- (a) in a manner which respects the privacy and dignity of service users;
 - (b) with due regard to the sex, sexual orientation, religious persuasion, racial origin, and cultural and linguistic background and any disability of service users.
- (5) The registered provider and registered manager (if any) shall, in relation to the conduct of the care home—
- (a) maintain good personal and professional relationships with each other and with service users and staff; and;
 - (b) encourage and assist staff to maintain good personal and professional relationships with service users.

Further requirements as to health and welfare

- 13.**—(1) The registered person shall make arrangements for service users—
- (a) to be registered with a general practitioner of their choice; and
 - (b) to receive where necessary treatment, advice and other services from any health care professional.
- (2) The registered person shall make arrangements for the recording, handling, safe keeping, safe administration and disposal of medicines received into the care home.
- (3) The registered person shall make suitable arrangements to prevent infection, toxic conditions and the spread of infection at the care home.
- (4) The registered person shall ensure that—

- (a) all parts of the home to which service users have access are so far as reasonably practicable free from hazards to their safety;
 - (b) any activities in which service users participate are so far as reasonably practicable free from avoidable risks;
 - (c) unnecessary risks to the health or safety of service users are identified and so far as possible eliminated; and
 - (d) suitable arrangements are made for the training of staff in first aid.
- (5) The registered person shall make suitable arrangements to provide a safe system for moving and handling service users.
- (6) The registered person shall make suitable arrangements, by training staff or by other measures, to prevent service users being harmed or suffering abuse or being placed at risk of harm or abuse.
- (7) The registered person shall ensure that no service user is subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that or any other service user and there are exceptional circumstances.
- (8) On any occasion on which a service user is subject to physical restraint, the registered person shall record the circumstances, including the nature of the restraint.

Assessment of service users

- 14.—(1) The registered person shall not provide accommodation to a service user at the care home unless, so far as it shall have been practicable to do so—
- (a) the needs of the service user have been assessed by a suitably qualified or suitably trained person;
 - (b) the registered person has obtained a copy of the assessment;
 - (c) there has been appropriate consultation regarding the assessment with the service user or a representative of the service user;
 - (d) the registered person has confirmed in writing to the service user that having regard to the assessment the care home is suitable for the purpose of meeting the service user’s needs in respect of his health and welfare.
- (2) The registered person shall ensure that the assessment of the service user’s needs is—
- (a) kept under review; and
 - (b) reviewed at any time when it is necessary to do so having regard to any change of circumstances.

Service user’s plan

- 15.—(1) The registered person shall, after consultation with the service user, or a representative of the service user, if it is practicable to carry out consultation, prepare a written plan (“the service user’s plan” (“*y cynllun defnyddiwr gwasanaeth*”)) as to how the service user’s needs in respect of his or her health and welfare are to be met.
- (2) The registered person shall—
- (a) where a service user is being accommodated under arrangements made with a local authority, ensure that the service user’s plan is consistent with any plan for the care of the service user prepared by that local authority;
 - (b) make the service user’s plan available to the service user;
 - (c) keep the service user’s plan under review;

- (d) where appropriate, and after consultation with the service user or a representative of the service user, if it is practicable to carry out consultation, revise the service user's plan; and
- (e) notify the service user of any such revision.

Facilities and services

16.—(1) Subject to regulation 4(3), the registered person shall provide facilities and services to service users in accordance with the care home's statement of purpose.

(2) The registered person shall having regard to the size of the care home and the number and needs of service users—

- (a) provide, so far as is necessary for the purpose of managing the care home—
 - (i) appropriate telephone facilities;
 - (ii) appropriate facilities for communication by facsimile transmission.
- (b) provide telephone facilities which are suitable for the needs of service users, and make arrangements to enable service users to use such facilities in private;
- (c) provide in rooms occupied by service users adequate furniture, bedding and other furnishings, including curtains and floor coverings, and equipment suitable to the needs of service users, and screens where necessary;
- (d) encourage service users, so far as it is practicable to do so, to bring their own furniture and furnishings into the rooms they occupy;
- (e) arrange for the regular laundering of linen and clothing;
- (f) so far as it is practicable to do so, provide adequate facilities for service users to wash, dry and iron their own clothes if they so wish and, for that purpose, to make arrangements for their clothes to be sorted and kept separately;
- (g) provide sufficient and suitable kitchen equipment, crockery, cutlery and utensils, and adequate facilities for the preparation and storage of food;
- (h) provide adequate facilities for service users to prepare their own food and ensure that such facilities are safe for use by service users;
- (i) provide, in adequate quantities, suitable, wholesome and nutritious food which is varied and properly prepared and available at such time as may reasonably be required by service users;
- (j) make suitable arrangements for maintaining satisfactory standards of hygiene in the care home and consult with the environmental health authority about those arrangements;
- (k) keep the care home free from offensive odours and make suitable arrangements for the disposal of general and clinical waste;
- (l) provide a place where the money and valuables of service users may be deposited for safe keeping, and make arrangements for service users to acknowledge in writing the return to them of any money or valuable so deposited;
- (m) consult service users about their social interests, and make arrangements to enable them to engage in local, social and community activities and to visit, or maintain contact or communicate with, their families and friends;
- (n) consult service users about the programme of activities arranged by or on behalf of the care home, and provide facilities for recreation, including having regard to the needs of service users, activities in relation to recreation, fitness and training.

(3) The registered person shall ensure that so far as practicable service users have the opportunity to attend religious services of their choice.

(4) In this regulation “food” includes drink.

Records

17.—(1) The registered person shall—

- (a) maintain in respect of each service user a record which includes the information, documents and other records specified in Schedule 3 relating to the service user;
- (b) ensure that the record referred to in sub-paragraph (a) is kept securely in the care home or if the home closes keep the record securely elsewhere and make it available for inspection by the National Assembly at its request.

(2) The registered person shall maintain in the care home the records specified in Schedule 4 or if the home closes keep the records elsewhere and make them available for inspection by the National Assembly at its request.

(3) The registered person shall ensure that the records referred to in paragraphs (1) and (2) are kept up to date.

(4) The records referred to in paragraphs (1) and (2) shall be retained for not less than three years from the date of the last entry, except a record kept under paragraph 13 of Schedule 4 which need only be kept for one year from the date of the last entry.

(5) This regulation is without prejudice to any enactment (including a provision of subordinate legislation) or other rule of law about records or information.

Staffing

18.—(1) The registered person shall, having regard to the size of the care home, the statement of purpose and the number and needs of service users—

- (a) ensure that at all times suitably qualified, competent, skilled and experienced persons are working at the care home in such numbers as are appropriate for the health and welfare of service users;
- (b) ensure that the employment of any persons on a temporary basis at the care home will not prevent service users from receiving such continuity of care as is reasonable to meet their needs;
- (c) ensure that the persons employed by the registered person to work at the care home receive—
 - (i) training appropriate to the work they are to perform; and
 - (ii) suitable assistance, including time off, for the purpose of obtaining further qualifications appropriate to such work.

(2) The registered person shall ensure that persons working at the care home are appropriately supervised.

(3) Where the care home—

- (a) provides nursing to service users; and
- (b) provides, whether or not in connection with nursing, medicines or medical treatment to service users;

the registered person shall ensure that at all times a suitably qualified registered nurse is working at the care home.

(4) The registered person shall make arrangements for providing persons who work at the care home with appropriate information about any Code of Practice published under section 62 of the Act.

Fitness of workers

- 19.**—(1) The registered person shall not—
- (a) employ under a contract of employment a person to work at the care home unless that person is fit to do so;
 - (b) allow a volunteer to work at the care home unless that person is fit to do so;
 - (c) allow any other person to work at the care home in a position in which he or she may in the course of his or her duties have regular contact with service users or with any other person of a description falling within section 3(2) of the Act⁽¹⁾ at the care home unless that person is fit to do so.
- (2) For the purposes of paragraph (1), a person is not fit to work at a care home unless—
- (a) he or she is of suitable integrity and good character to work at the care home;
 - (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;
 - (d) full and satisfactory information or documentation is available in relation to him or her in respect of the following matters—
 - (i) except where paragraph (3) applies, the matters specified in paragraphs 1 to 6 of Schedule 2;
 - (ii) where paragraph (3) applies, the matters specified in paragraphs 1 and 3 to 7 of that Schedule.
- (3) This paragraph applies where any certificate or information on any matters specified in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997 has not been brought into force.
- (4) The registered person shall ensure that—
- (a) any offer of employment to, or other arrangement about working at the children’s home made with or in respect of, a person falling within paragraph (1) is subject to paragraph (2)(d) being complied with in relation to that person; and
 - (b) unless paragraph (5) applies, no such person starts work at a care home until such time as paragraph (2)(d) has been complied with in relation to that person.
- (5) Where the following conditions apply, the registered person may permit a person to start work at a care home notwithstanding paragraph (4)(b)—
- (a) the registered person has taken all reasonable steps to obtain full information or documentation in respect of each of the matters listed in Schedule 2 in respect of the person, but the enquiries in relation to any of the matters listed in paragraphs 3 to 6 of Schedule 2 are incomplete;
 - (b) full and satisfactory information or documentation in relation to that person has been obtained in respect of—
 - (i) the matter specified in paragraph 1 of Schedule 2;
 - (ii) except where paragraph (3) applies, the matter specified in paragraph 2 of that Schedule;
 - (iii) where paragraph (3) applies, the matter specified in paragraph 7 of that Schedule;
 - (c) in the reasonable opinion of the registered person the circumstances are exceptional; and

(1) Section 3(2) of the Act refers to persons who are or have been ill; who have or have had a mental disorder; who are disabled or infirm; and who are or have been dependent on alcohol or drugs.

(d) pending receipt of, and satisfying himself or herself with regard to, any outstanding information or documentation, the registered person ensures that the person is appropriately supervised while carrying out his or her duties.

(6) Paragraph (2)(d), in so far as it relates to paragraph 2 of Schedule 2, shall not apply until 1st April 2003 in respect of a person who immediately before 1st April 2002 is the subject of an arrangement under which they are to work at the care home.

(7) The registered person shall ensure that any person working at the care home who does not fall within paragraph (1) is appropriately supervised at all times.

Restrictions on acting for service user

20.—(1) Subject to paragraph (2) the registered person shall not pay money belonging to any service user into a bank account unless—

- (a) the account is in the name of the service user to which the money belongs; and
- (b) the account is not used by the registered person in connection with the carrying on or management of the care home.

(2) Paragraph (1) does not apply to money which is paid to the registered person in respect of charges payable by a service user for accommodation or other services provided by the registered person at the care home.

(3) The registered person shall ensure so far as practicable that persons working at the care home do not act as the agent of a service user.

Staff views as to conduct of care home

21.—(1) This regulation applies to any matter relating to the conduct of the care home so far as it may affect the health or welfare of service users.

(2) The registered person shall make arrangements to enable staff to inform the registered person and the appropriate office of the National Assembly of their views about any matter to which this regulation applies.

Staff disciplinary procedure

22.—(1) The registered person shall operate a staff disciplinary procedure which, in particular—

- (a) provides for the suspension, and the taking of other action short of suspension, in relation to an employee where appropriate in the interests of the safety or welfare of service users accommodated in the care home; and
- (b) provides that a failure on the part of an employee to report an incident of abuse, or suspected abuse of a service user accommodated in the care home to an appropriate person is a ground on which disciplinary proceedings may be instituted.

(2) For the purposes of paragraph (1), an appropriate person is the registered person, an officer of either the National Assembly responsible for exercising any of its functions under Part II of the Act or the local authority for the area in which the home is situated, or a constable.

Complaints

23.—(1) The registered person shall prepare and follow a written procedure (“the complaints procedure” (“*y weithdrefn gwynion*”)) for considering complaints made to the registered person by a service user or person acting on the service user’s behalf.

(2) The complaints procedure shall be appropriate to the needs of service users.

(3) The registered person shall ensure that any complaint made under the complaints procedure is fully investigated.

(4) The registered person shall, within 28 days after the date on which the complaint is made, or such shorter period as may be reasonable in the circumstances, inform the person who made the complaint of the action (if any) that is to be taken.

(5) The registered person shall supply a copy of the complaints procedure to every service user and to any person acting on behalf of a service user if that person so requests.

(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 shall, if it is practicable to do so, supply, in addition to the written copy, a copy of the complaints procedure in a form which is suitable for that person.

(7) The copy of the complaints procedure shall include—

- (a) the name and address of the appropriate office of the National Assembly; and
- (b) the procedure (if any) that has been notified by the National Assembly to the registered person for the making of complaints to the National Assembly relating to the care home.

(8) The registered person shall 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 the action that was taken in response to each complaint.