

# Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

## PART 1

### REGULATION OF SOCIAL CARE SERVICES

#### CHAPTER 2

#### REGISTRATION ETC. OF SERVICE PROVIDERS

##### *Responsible individuals*

## **21 Responsible individuals**

- (1) In this Part, “responsible individual” means an individual—
- (a) who is eligible to be a responsible individual under subsection (2),
  - (b) who the Welsh Ministers are satisfied is a fit and proper person to be a responsible individual (see section 9), and
  - (c) designated by a service provider in respect of a place at, from or in relation to which the provider provides a regulated service and specified as such in the service provider's registration.
- (2) To be eligible to be a responsible individual the individual must—
- (a) where the service provider is an individual, be the service provider;
  - (b) where the service provider is a partnership, be one of the partners;
  - (c) where the service provider is a body corporate other than a local authority—
    - (i) be a director or similar officer of the body,
    - (ii) in the case of a public limited company, be a director or company secretary, or

---

**Changes to legislation:** *Regulation and Inspection of Social Care (Wales) Act 2016, Cross Heading: Responsible individuals is up to date with all changes known to be in force on or before 14 August 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (iii) in the case of a body corporate whose affairs are managed by its members, be a member of the body;
  - (d) where the service provider is an unincorporated body, be a member of the body;
  - (e) where the service provider is a local authority, be an officer of the local authority designated by the authority's director of social services.
- (3) For the purposes of subsection (2)(e), a local authority's director of social services may designate an officer only if the director thinks that the officer has the necessary experience and expertise to be a responsible individual.
- (4) The same responsible individual may be designated in relation to more than one place at, from or in relation to which a regulated service is provided.
- (5) The Welsh Ministers may, by regulations—
- (a) specify circumstances in which the Welsh Ministers (instead of a service provider) may designate an individual to be a responsible individual despite the requirements of subsection (2) not being met in respect of the individual, and
  - (b) make provision for this Part to apply with prescribed modifications to such a responsible individual.

**Modifications etc. (not altering text)**

- C1** S. 21(2) restricted (29.4.2019) by [The Adult Placement Services \(Service Providers and Responsible Individuals\) \(Wales\) Regulations 2019 \(S.I. 2019/163\)](#), regs. 1(2), **68**
- C2** S. 21(2) restricted (29.4.2019) by [The Regulated Advocacy Services \(Service Providers and Responsible Individuals\) \(Wales\) Regulations 2019 \(S.I. 2019/165\)](#), regs. 1(2), **59**
- C3** S. 21(2) restricted (29.4.2019) by [The Regulated Fostering Services \(Service Providers and Responsible Individuals\) \(Wales\) Regulations 2019 \(S.I. 2019/169\)](#), regs. 1(2), **72**

**Commencement Information**

- II** S. 21 in force at 2.4.2018 by [S.I. 2017/1326](#), art. 2(3)(d)

## 22 Cancellation of designation of a responsible individual

- (1) The Welsh Ministers may cancel a responsible individual's designation only on one or more of the following grounds—
- (a) they have reason to believe the individual no longer satisfies the requirements of section 21(2);
  - (b) they have reason to believe the individual has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider;
  - (c) they are no longer satisfied that the individual is a fit and proper person to be a responsible individual (see section 9);
  - (d) they have reason to believe that the individual has not complied with a requirement imposed on the individual by regulations under section 28(1).
- (2) In subsection (1)(b), “relevant offence” has the same meaning as in section 15.
- (3) If the Welsh Ministers propose to cancel a responsible individual's designation they must give the individual an improvement notice.

---

**Changes to legislation:** Regulation and Inspection of Social Care (Wales) Act 2016, Cross Heading: Responsible individuals is up to date with all changes known to be in force on or before 14 August 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (4) An improvement notice given under subsection (3) must specify—
- (a) the reason why the Welsh Ministers propose to cancel the responsible individual's designation,
  - (b) either—
    - (i) action that they think the individual must take, or
    - (ii) information they think the individual must provide,in order to satisfy them that the individual's designation should not be cancelled, and
  - (c) a time limit within which the action must be taken or the information must be provided.
- (5) If the Welsh Ministers are not satisfied that—
- (a) action specified in an improvement notice has been taken, or
  - (b) information so specified has been provided,
- within the time limit specified in the notice they may give a notice of cancellation.
- (6) The Welsh Ministers may give a notice of cancellation of a responsible individual's designation without taking the steps mentioned in subsections (3) to (5) if they have reasonable cause to believe that unless the designation is cancelled a person will or may be exposed to a risk of harm.
- (7) A notice of cancellation must be given to—
- (a) the responsible individual, and
  - (b) the service provider who designated the individual.
- (8) An individual ceases to be designated as a responsible individual when the notice of cancellation is given to the service provider.
- (9) A notice of cancellation must—
- (a) give reasons for the decision,
  - (b) explain the right of appeal conferred by section 26,
  - (c) explain the requirement on the service provider to apply for variation of registration (see section 11(1)(c)), and
  - (d) state the time limit prescribed under section 11(2) (prescribed time limit for applying to designate a new responsible individual).
- (10) In subsection (6), “harm” means abuse or impairment of—
- (a) physical or mental health, or
  - (b) physical, intellectual, emotional, social or behavioural development,
- and in a case where the harm relates to the impairment of a child's health or development, the child's health or development is to be compared with that which could reasonably be expected of a similar child.

---

**Commencement Information**

**I2** S. 22 in force at 2.4.2018 by [S.I. 2017/1326](#), [art. 2\(3\)\(d\)](#)

**Changes to legislation:**

Regulation and Inspection of Social Care (Wales) Act 2016, Cross Heading: Responsible individuals is up to date with all changes known to be in force on or before 14 August 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 80(1)(d) omitted by [S.I. 2019/761 reg. 5](#)
- s. 80(2)(d) omitted by [S.I. 2019/761 reg. 5](#)
- s. 80(3)(d) omitted by [S.I. 2019/761 reg. 5](#)
- s. 84(aa)(ii) omitted by [S.I. 2019/761 reg. 6](#)
- s. 85A omitted by [S.I. 2019/761 reg. 8](#)
- s. 90A omitted by [S.I. 2019/761 reg. 10](#)
- Sch. 1 para. 7(4A) inserted by [S.I. 2019/761 reg. 14\(1\)\(b\)](#)
- Sch. 1 para. 7(4)(b)(c) substituted for Sch. 1 para. 7(4)(b) by [S.I. 2019/761 reg. 14\(1\)\(a\)\(ii\)](#)
- Sch. 1 para. 7(4A) words omitted by [S.I. 2019/761 reg. 14\(2\)](#)