Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

PART 1

REGULATION OF SOCIAL CARE SERVICES

CHAPTER 3

INFORMATION AND INSPECTIONS

32 Power to require information

(1) The Welsh Ministers may require a relevant person to provide them with any information relating to a regulated service which the Welsh Ministers think necessary or expedient to obtain for the purposes of exercising their functions under Chapter 2 and this Chapter of this Part or under sections 38 to 40.

(2) But the Welsh Ministers may not require a person to provide information if disclosure of that information is prohibited by any enactment or other rule of law.

(3) For the purposes of subsection (1), "relevant person" means—
- (a) a service provider,
- (b) a responsible individual,
- (c) a person employed by or otherwise working for a service provider, and
- (d) any person who has held any of those positions.

(4) The power to require information under subsection (1) includes—
- (a) power to require copies of any documents or records (including medical and other personal records), and
- (b) power to require the provision of information in legible form.

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Commencement Information

I1 S. 32 in force at 2.4.2018 by S.I. 2017/1326, **art. 2(3)(e)**

33 Inspections and inspectors

(1) In this Part a reference to an "inspection" is a reference to an inspection—

(a) of the standard of any care and support provided by a service provider in the course of providing a regulated service, measured in relation to any requirements imposed by regulations under section 27(1) as to the standard of care and support to be provided;

(b) of the organisation and co-ordination of regulated services provided by a service provider.

(2) Only an individual authorised by the Welsh Ministers (referred to in this Part as an "inspector") may carry out an inspection.

(3) The Welsh Ministers may by regulations make provision about the qualifications and other conditions to be met by an individual who may be an inspector.

(4) The Welsh Ministers must prepare and publish a code of practice about the manner in which inspections are to be carried out (including the frequency of inspections).

(5) The Welsh Ministers may revise the code and must publish a revised code.

(6) An inspector must have regard to the code when carrying out an inspection.

Commencement Information

I2 S. 33 in force at 2.4.2018 by S.I. 2017/1326, **art. 2(3)(e)**

34 Powers of inspector to enter and inspect premises

(1) For the purposes of carrying out an inspection, an inspector may enter and inspect any premises which the inspector has reasonable grounds to believe is (or has been) used—

(a) as a place at or from which a regulated service is (or has been) provided, or

(b) in connection with the provision of a regulated service.

(2) But an inspector may not enter and inspect premises used wholly or mainly as a private dwelling unless the occupier consents.

(3) Where an inspector enters premises for the purposes of carrying out an inspection, the inspector must, if requested to do so by any person at the premises, produce a document showing the inspector's authorisation under section 33.

(4) The inspector may—

(a) examine the state and management of the premises and assess the well-being of any persons accommodated or receiving care and support there;

(b) require—

(i) the manager or any other person who appears to the inspector to be responsible for the day to day management of the service at or from the premises, or

(ii) where the service is no longer being provided, a person who appears to the inspector to have responsibility for the day to day management of the premises,

to produce any documents or records (including medical and other personal records) that the inspector thinks may be relevant to the provision of the regulated service;

(c) inspect and take copies of any documents or records (including medical and other personal records) that the inspector thinks may be relevant to the provision of the regulated service;

(d) seize and remove any document or other thing found at the premises which the inspector has reasonable grounds to believe may be evidence of a failure to comply with any condition or other requirement imposed by virtue of this Part;

(e) require—

(i) the manager or any other person who appears to the inspector to be responsible for the day to day management of the service at or from the premises, or

(ii) where the service is no longer being provided, a person who appears to the inspector to have responsibility for the day to day management of the premises,

to afford the inspector such facilities and assistance as are necessary to enable the inspector to carry out the inspection;

(f) take such measurements and photographs and make such recordings as the inspector thinks necessary for the purpose of carrying out the inspection.

(5) The powers in subsection (4)(b) to (d) include the power to—

(a) gain access to and check the operation of any computer and associated apparatus which the inspector has reasonable grounds to believe is (or has been) used in connection with the documents or records, and

(b) require documents or records to be produced in a form which is legible and portable.

(6) "Premises" includes a vehicle.

Commencement Information

I3 S. 34 in force at 2.4.2018 by S.I. 2017/1326, **art. 2(3)(e)**

35 Powers of inspector to interview and examine persons

(1) If an inspector thinks it necessary or expedient for the purposes of carrying out an inspection, the inspector may require any person to be interviewed by the inspector in private.

(2) But an inspector may not interview in private a person falling within subsection (3) without the person's consent.

(3) The following persons fall within this subsection—

(a) a person to whom the service provider provides (or has provided) care and support;

(b) an individual with parental responsibility for the person;

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(c) a relative of the person;
(d) the person's carer;
(e) a donee of a lasting power of attorney over the person.

(4) An inspector may examine in private a person to whom the service provider provides (or has provided) care and support if—
(a) the inspector is a registered medical practitioner or registered nurse,
(b) the inspector thinks the examination is necessary or expedient for the purposes of assessing the effect of any such care and support on the well-being of the person, and
(c) the person consents to the examination.

(5) For the purposes of subsections (1) and (4), an interview or examination is to be treated as conducted in private despite the presence of a third party if—
(a) the person being interviewed or examined wants the third party to be present and the inspector does not object, or
(b) the inspector wants the third party to be present and the person being interviewed or examined consents.

(6) Where an inspector conducts an interview or examination under this section, the inspector must, if requested to do so by—
(a) the person being interviewed or examined, or
(b) an individual accompanying that person,

produce a document showing the inspector's authorisation under section 33 and, in the case of an examination, a document showing that the inspector is a registered medical practitioner or registered nurse.

(7) In this section—

"carer" ("*gofalwr*") has the meaning given by section 3 of the 2014 Act;

"child" ("*plentyn*") means a person who is aged under 18;

"donee of a lasting power of attorney" ("*rhoddai atwrneiaeth arhosol*") has the same meaning as in Part 1 of the Mental Capacity Act 2005 (c.9);

"parental responsibility" ("*cyfrifoldeb rhiant*") has the meaning given by section 3 of the Children Act 1989 (c.41);

"relative" ("*perthynas*"), in relation to a person, means that person's parent, grandparent, child, grandchild, brother, half-brother, sister, half-sister, uncle, aunt, nephew or niece (including any person who is or has been in that relationship by virtue of a marriage or civil partnership or an enduring family relationship).

Commencement Information
I4 S. 35 in force at 2.4.2018 by S.I. 2017/1326, **art. 2(3)(e)**

36 Inspection reports

(1) As soon as is reasonably practicable after an inspection has been carried out, the Welsh Ministers must prepare a report of the inspection and send a copy of it to the service provider.

(2) A report must include—

(a) an assessment of the standard of any care and support provided (or which had been provided) by the service provider, measured in relation to any requirements imposed by regulations under section 27(1) as to the standard of care and support to be provided,

(b) an assessment of the effect of any such care and support on the well-being of persons to whom the care and support is (or had been) provided,

(c) an assessment of the organisation and co-ordination of regulated services provided (or which had been provided) by the service provider, and

(d) if regulations are made under section 37, a rating of the service provider.

(3) The Welsh Ministers must—

(a) publish each report prepared under subsection (1);

(b) ensure that copies are made available for inspection at such places and by such means as the Welsh Ministers think appropriate;

(c) send a copy of a report prepared under subsection (1) to any person who requests one.

Commencement Information

I5 S. 36 in force at 2.4.2018 by S.I. 2017/1326, **art. 2(3)(e)**

37 Inspection ratings

(1) The Welsh Ministers may by regulations make provision about ratings that may be given in relation to the quality of care and support provided by a service provider who has been inspected.

(2) Regulations under subsection (1)—

(a) may make provision requiring a service provider to display a rating included in a report prepared under section 36(1) in such manner, and at such place, as the regulations may specify,

(b) may specify criteria to be applied when arriving at a rating, and

(c) must include provision for a service provider to appeal against a rating included in a report prepared under section 36(1).

(3) Before making regulations under subsection (1) the Welsh Ministers must consult any persons they think appropriate.

(4) But the requirement to consult does not apply to regulations which—

(a) amend other regulations made under that subsection, and

(b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

Commencement Information

I6 S. 37 in force at 2.4.2018 by S.I. 2017/1326, **art. 2(3)(e)**

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