



Llywodraeth Cymru  
Welsh Government

# Statutory Guidance

For service providers and responsible individuals on meeting service standard regulations for:

- Care home services
- Domiciliary support services
- Secure accommodation services; and
- Residential family centre services

This statutory guidance relates to Parts 3 to 20 of The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, as amended

Version 2 – April 2019

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

## Contents

<b>About this guidance</b> .....	1
<b>List of key terms</b> .....	4
<b>Useful links</b> .....	6
<b>Chapter 1: Requirements on Service Providers</b>	
1.1 General requirements on service providers .....	7
1.2 Requirements on service providers as to the steps to be taken before agreeing to provide care and support .....	18
1.3 Requirements on service providers as to the steps to be taken on commencement of the provision of care and support .....	22
1.4 Requirements on service providers as to the information to be provided to individuals on commencement of the provision of care and support ...	28
1.5 Requirements on service providers as to the standard of care and support to be provided .....	32
1.6 Requirements on service providers – Safeguarding .....	43
1.7 Requirements on service providers which only apply where accommodation is provided .....	51
1.8 Requirements on service providers as to staffing .....	53
1.9 Requirements on service providers in respect of domiciliary support services .....	64
1.10 Requirements on service providers as to premises, facilities and equipment .....	69
1.11 Additional requirements on service providers in respect of premises – new accommodation .....	79
1.12 Requirements on service providers as to supplies, hygiene, health and safety and medicines .....	83
1.13 Other requirements on service providers .....	87
<b>Chapter 2: Requirements on Responsible Individuals</b>	
2.1 Requirements on responsible individuals for ensuring effective management of the service .....	98
2.2 Requirements on responsible individuals for ensuring effective oversight of the service .....	105
2.3 Requirements on responsible individuals for ensuring the compliance of the service .....	108
2.4 Requirements responsible individuals for monitoring, reviewing and improving the quality of the regulated service .....	109
2.5 Other requirements on responsible individuals .....	111
<b>Annex A: Parts of the Regulations not the subject of this Guidance</b> .....	114
<b>Annex B: Schedules to Regulations 35, 59, 60 and 84</b> .....	122



## About this guidance

This is statutory guidance issued by the Welsh Ministers under section 29 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the Act'). It applies from April 2019.

The Act, the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, as amended ("the Regulations") and this statutory guidance replace requirements previously put in place under the Care Standards Act 2000 and the associated National Minimum Standards.

This guidance sets out:

- how providers of regulated services may comply with the requirements imposed by regulations made under section 27 of the Act, and
- how persons designated as a responsible individual for a regulated service may comply with the requirements imposed by regulations made under section 28 of the Act.

These requirements are contained within Parts 3 to 20 of The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 ('the Regulations'). These Regulations came into force on 2 April 2018 and this guidance will also take effect from that date. These Regulations have been amended by *the Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019* ("the Amendment Regulations), which came into force on 1 April 2019.

Section 29(3) of the Act states that providers of regulated services and designated responsible individuals **must have regard to this guidance** in meeting requirements imposed by regulations under sections 27 and 28 of the Act.

With certain exceptions, listed within Part 2 of the Regulations (see Annex A), this guidance is specifically for providers of the following regulated services, operating in Wales:

- care home services
- secure accommodation services
- residential family centre services
- domiciliary support services

It also applies to those persons designated as responsible individuals under the Act.

This guidance is also relevant to those providers making an application for registration as a service provider under section 6 of the Act. Guidance about registration has been produced by the service regulator, Care Inspectorate Wales, and is available on its website (see Useful Links).

This statutory guidance has been produced to cover those regulated services providing care and support to individuals of different ages and with different aspirations and needs.

It is detailed in part to ensure that individuals, particularly those who are physically frail or vulnerable, receive the right care to promote their well-being and safety.

## How to use this guidance

### Prospective service providers and responsible individuals

Persons who wish to provide a regulated service must make an application for registration to Care Inspectorate Wales ('CIW') who act as the service regulator on behalf of the Welsh Ministers. Prospective service providers and responsible individuals must demonstrate that they will be able to meet the requirements imposed by the Act and the Regulations and once registered, that they will continue to meet them.

In order to grant an application to register, CIW must be satisfied that any prospective provider of regulated services can and will meet the standards of service provision specified in regulations under section 27 of the Act. CIW must also be satisfied that persons designated as a responsible individual can and will comply with the duties set out in regulations under section 28 of the Act.

CIW will use this guidance to inform its decisions to grant or refuse applications for registration as a service provider.

### Registered service providers and designated responsible individuals

Registered providers of regulated services and designated responsible individuals must meet the requirements of the Act and the Regulations. In doing so they **must have regard to this statutory guidance** which is intended to help them understand how they can meet the applicable requirements within the Regulations. CIW will use this guidance to inform decisions about the extent to which registered providers are meeting those requirements. and when considering whether to take enforcement action.

Service providers remain responsible for deciding how the requirements will be met, taking into account the needs of individuals using the service and the statement of purpose for the regulated service.

**If registered service providers and designated responsible individuals do not follow this guidance**, they must provide evidence that their chosen approach enables them to meet the applicable requirements within the Regulations.

## Structure of this guidance

This guidance sets out the following:

- **A summary of the intention of each Part of the Regulations**

Parts 3 to 15 of the Regulations, made under section 27 of the Act, set out the requirements on a service provider in relation to the standard of service that must be provided. They highlight the importance of the well-being of individuals who are receiving

care and support<sup>1</sup>. They also impose other requirements on service providers related to the operation of the regulated service.

Parts 16 to 20 of the Regulations, made under section 28 of the Act, set out the duties placed on the designated responsible individual in relation to a regulated service. These duties include a requirement to supervise the management of the service including the appointment of a suitable and fit manager. The intention is to ensure that a designated person at an appropriately senior level holds accountability for both service quality and compliance and ensures that there is a clear chain of accountability linking the corporate responsibility of the service provider and the responsible individual with the role of the manager of the regulated service.

- **The text of each regulation**

It is important that service providers and responsible individuals refer to the text of each regulation as the first source of information about what the requirements are and how to meet them. This guidance provides further explanation on how to meet the individual components of each regulation where further clarification and definition may be helpful. Where the text of the regulation itself is self-explanatory, no further guidance is given.

- **Guidance on the requirements of individual components of the regulation**

The guidance on individual components of each regulation should not be considered exhaustive as there may be other ways that service providers and responsible individuals can show that they meet each component of the regulation.

Annex A sets out parts of the Regulations that are not the subject of this guidance, as they are not made under section 27 or 28 of the Act. Annex B contains the Schedules to regulations 35, 59, 60 and 84. These annexes have been included for reference only.

## **Enforcement**

Parts 3 to 20 of the Regulations set out clear requirements which registered providers and responsible individuals must adhere to. CIW, as the service regulator, can take enforcement action against any registered service provider and responsible individual that does not adhere to these legal requirements.

Any enforcement action taken by CIW will be proportionate and will look at the impact on or risk to individuals using the regulated service.

Examples of enforcement action may include:

- imposing conditions on a service provider's registration;
- cancelling a service provider's registration;
- issuing an improvement notice;
- issuing a fixed penalty notice.

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<sup>1</sup> These standards are linked to the well-being statement for people who need care and support and carers who need support. <http://gov.wales/docs/dhss/publications/160831well-being-statementen.pdf>

Further information on the offences which service providers and responsible individuals may commit if they do not comply with the requirements of the Act and these Regulations, and the different statutory and non-statutory enforcement actions that CIW may take in response, are set out within CIW's Securing Improvement and Enforcement guidance. This is available on CIW's website.

## List of key terms used within this guidance

Term	Meaning
The Act	The Regulation and Inspection of Social Care (Wales) Act 2016
The 2014 Act	The Social Services and Well-being (Wales) Act 2014
Care and support plan	A plan put in place by the local authority under section 54 (in relation to adults, children or a carer) or section 83 (in relation to looked after and accommodated children) of the 2014 Act
Personal outcomes	<ul style="list-style-type: none"> <li>• In relation to an adult, means the outcomes that the adult wishes to achieve in day to day life;</li> <li>• In relation to a child, means— <ul style="list-style-type: none"> <li>(i) the outcomes that the child wishes to achieve; or</li> <li>(ii) the outcomes that any persons with parental responsibility wish to achieve in relation to the child</li> </ul> </li> </ul>
Personal plan	The plan required to be prepared in accordance with regulation 15
Provider assessment	The assessment which is required to be carried out by the service provider in accordance with regulation 18
Registered nurses	Any nurse registered on Part 1 of the Nursing and Midwifery Council professional register and coming from any of the four recognised fields of practice (competencies): adult, mental health, learning disability and children. In addition to their initial registration, the registered nurse should have developed knowledge and skills that make them competent to care for individuals.
Representative	Any person having legal authority, or the consent of the individual to act on the individual's behalf
Responsible individual <i>(See section 21 of the Act for a full description)</i>	<p><b>Must be either:</b></p> <ul style="list-style-type: none"> <li>• where the service provider is an individual, the service provider;</li> <li>• where the service provider is a partnership, one of the partners;</li> <li>• where the service provider is a body corporate, other than a local authority <ul style="list-style-type: none"> <li>○ a director or similar officer of the body;</li> <li>○ in the case of a public limited company, a director or company secretary;</li> <li>○ in the case of a body corporate whose affairs are managed by its members, a member of the body;</li> </ul> </li> </ul>

- where the service provider is an unincorporated body, a member of the body;
- where the service provider is a local authority, an officer of the local authority designated by the authority's director of social services;

**and** whom CIW are satisfied is a fit and proper person to be a responsible individual;

**and** is designated by a service provider in respect of a place at, from or in relation to which the provider provides a regulated service;

**and** is specified as such in the service provider's registration

**NB** In certain circumstances (see Regulation 89, not covered in this guidance) the responsible individual may be designated by CIW (on behalf of the Welsh Ministers) and not the service provider.

Service commissioner	The local authority or NHS body which is responsible for making arrangements with the provider for care and support to be provided to an individual
Service provider (or provider)	A person or organisation registered with CIW to provide a regulated service
Staff	<ul style="list-style-type: none"> <li>• Persons employed by the service provider to work at the service as an employee or worker (within the meaning of section 230 of the Employment Rights Act 1996);</li> <li>• Persons engaged by the service provider under a contract for services;</li> <li>• This <b>does not</b> include persons who are allowed to work as volunteers.</li> </ul>
The individual	Unless the context indicates otherwise, the child or adult who is receiving care and support
The individual's needs	The person's care and support needs
The Regulations	The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, as amended
The Service	The regulated service which is provided by a service provider at, from or in relation to a place specified in a condition to the service provider's registration
Accommodation-based services	These include care home services, residential family centre services and secure accommodation services.
Community-based services	These include domiciliary support services.
The service	Care Inspectorate Wales acting on behalf of the Welsh Ministers in



regulator	the exercise of their regulatory functions
Statement of purpose	The statement of purpose for the place at, from or in relation to which the service is provided
SCW	Social Care Wales, the workforce regulator

## Useful links

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

<http://www.legislation.gov.uk/anaw/2016/2/contents/enacted>

### The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

<http://www.legislation.gov.uk/wsi/2017/1264/made>

### The Social Services and Well-being (Wales) Act 2014

<http://www.legislation.gov.uk/anaw/2014/4/contents>

### Welsh Government: Well-being Statement for People Who Need Care and Support and Carers Who Need Support

<http://gov.wales/docs/dhss/publications/160831well-being-statementen.pdf>

### Care Inspectorate Wales

<http://careinspectorate.wales/?lang=en>

### Care Inspectorate Wales: Registration

<http://careinspectorate.wales/providingacareservice/?lang=en>

### Care Inspectorate Wales: Re-registration Guidance for Providers

<http://careinspectorate.wales/docs/cssiw/general/171207reregistrationguiden.pdf>

### Care Inspectorate Wales: Compiling a Statement of Purpose

<https://careinspectorate.wales/sites/default/files/2018-03/180115statementofpurposeguideen.pdf>

### Care Inspectorate Wales: Securing Improvement and Enforcement policy

<https://careinspectorate.wales/sites/default/files/2018-06/180601-securing-improvement-enforcement-policy-en.pdf>

### Social Care Wales

<https://www.socialcare.wales/>

### Social Care Wales: Information and Learning Hub

<https://socialcare.wales/hub/home>

## Chapter 1: Requirements on Service Providers (Parts 3 to 15 of the Regulations)

### 1.1 General requirements on service providers (Part 3)

The intent of the general requirements within Part 3 of the Regulations is to ensure that service providers put in place governance arrangements to support the smooth operation of the service and to ensure that there is a sound base for providing high quality care and support for individuals using the service and to enable them to achieve their personal outcomes. This includes the following:

- setting clear organisational intent and direction by outlining in the statement of purpose the services provided and the actions the service provider will undertake to ensure these services are delivered to the required standards.
- putting in place the underpinning policies and procedures to support managers and staff to achieve the aims of the service and support individuals to achieve their personal outcomes.
- establishing sound management structures to oversee and monitor the service in order to ensure that it operates safely and effectively for the individuals receiving care and support.
- establishing clear arrangements for an ongoing cycle of quality assurance and review to provide assurance that the service operates in line with legal requirements and its statement of purpose and is supporting individuals appropriately. Information obtained through monitoring is used for continued development and improvement of the service.
- maintaining oversight of financial arrangements and investment in the business to ensure financial sustainability so that individuals using the service are supported to achieve their personal outcomes and are protected from the risk of unplanned removal or change in the service provided due to financial pressures.
- promoting a culture of openness, honesty and candour at all levels.

Regulation 6	Guidance
<p><b>Requirements in relation to the provision of the service</b></p> <p>6. The service provider must ensure that the service is provided with sufficient care, competence and skill, having regard to the statement of purpose.</p>	<ul style="list-style-type: none"><li>• Service providers have clear arrangements for the oversight and governance of the service in order to establish, develop and embed a culture which ensures that the best possible outcomes are achieved for individuals using the service and to meet the requirements of the Regulations. This includes but is not limited to:<ul style="list-style-type: none"><li>○ policies and procedures to achieve the aims of the</li></ul></li></ul>

	<p>statement of purpose and to place people at the centre of the service;</p> <ul style="list-style-type: none"> <li>○ systems for assessment, care planning, monitoring and review which support evidence-based practice and enable individuals to achieve their personal outcomes;</li> <li>○ processes to ensure care is delivered consistently and reliably;</li> <li>○ safe staffing arrangements, underpinned by professional development, to meet the care and support needs of individuals;</li> <li>○ quality and audit systems to review progress and inform the development of the service;</li> <li>○ a proactive approach to equal opportunities and diversity;</li> <li>○ suitable and accessible premises, facilities and equipment.</li> </ul>
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<b>Regulation 7</b>	<b>Guidance</b>
<p><b>Requirements in relation to the statement of purpose</b></p> <p>7.—(1) The service provider must provide the service in accordance with the statement of purpose.</p> <p>(2) The service provider must—</p> <p>(a) keep the statement of purpose under review, and</p> <p>(b) where appropriate, revise the statement of purpose.</p> <p>(3) Unless paragraph (4) applies, the service provider must notify the persons listed in paragraph (6) of any revision to be made to the statement of purpose at least 28 days before it is to take effect.</p> <p>(4) This paragraph applies in cases where it is necessary to</p>	<ul style="list-style-type: none"> <li>● The statement of purpose is fundamental to the service. It should: <ul style="list-style-type: none"> <li>○ accurately describe the services provided;</li> <li>○ state where and how these services will be provided; and</li> <li>○ state the arrangements to support the delivery of the services.</li> </ul> </li> <li>● It must include the information set out in The Regulated Services (Registration) (Wales) Regulations 2017<sup>2</sup>.</li> <li>● In preparing a statement of purpose, the service provider takes into account any statement of purpose guidance provided by the service regulator.</li> </ul>

revise the statement of purpose with immediate effect.

(5) If paragraph (4) applies, the service provider must, without delay, notify the persons listed in paragraph (6) of any revision made to the statement of purpose.

(6) The persons who must be notified of any revision to the statement of purpose in accordance with paragraph (3) or (5) are—

- (a) the service regulator,
- (b) the individuals,
- (c) the placing authority (where relevant), and
- (d) any representative, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

(7) The service provider must provide the up to date statement of purpose to any person on request, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

- For accommodation-based services, a statement of purpose is provided for each place/location at which a service will be provided.
- For domiciliary support services, a statement of purpose is provided for each place from, or in relation to which, services are provided.
- Service providers review and update the statement of purpose at least annually or when changes are being made to the service provided.
- Where there is an intention to change the service being provided, the statement of purpose is updated to reflect the change. The provider notifies those persons set out in regulation 7(6) at least 28 days prior to the changes being made. Examples of this include:
  - where a service which does not provide nursing care intends to provide nursing care;
  - provision of additional specialist services;
  - where a specific service referred to in the statement of purpose is to be withdrawn; or
  - changes to the normal staffing arrangements or levels as set out in the existing statement of purpose.
- Where there is an intention to change the service being provided with immediate effect, i.e. within the 28 days notification period (required by regulation 7(3)), for example in response to an urgent request, the provider:
  - notifies the service regulator immediately (and where practicable, prior to implementing the change); and
  - updates the statement of purpose to reflect the change without delay and provides a copy to the service regulator.

	<ul style="list-style-type: none"> <li>• Where a change to the statement of purpose is proposed, the service provider satisfies the service regulator of their ability to provide the services proposed by, for example, providing additional information or receiving a visit from the service regulator to the service (where appropriate).</li> <li>• Where the statement of purpose is updated a record is kept of the version and date of amendment.</li> <li>• A copy of the statement of purpose is readily available to individuals who use the service, staff and any representative who may request it.</li> </ul>
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Regulation 8	Guidance
<p><b>Requirements in relation to monitoring and improvement</b></p> <p>8.— (1) The service provider must ensure that there are effective arrangements in place for monitoring, reviewing and improving the quality of care and support provided by the service.</p> <p>(2) Those arrangements must include arrangements for seeking the views of—</p> <ul style="list-style-type: none"> <li>(a) individuals,</li> <li>(b) any representatives, unless this is not appropriate or would be inconsistent with the individual’s well-being,</li> <li>(c) in the case of an individual who is a child provided with accommodation as part of a care home service, the placing authority,</li> <li>(d) service commissioners, and</li> <li>(e) staff,</li> </ul>	<ul style="list-style-type: none"> <li>• Service providers have systems and processes in place to monitor, review and improve the quality of care and support. This will include identifying: <ul style="list-style-type: none"> <li>○ who is responsible for ensuring this is done;</li> <li>○ how this will be done;</li> <li>○ how often this takes place;</li> <li>○ arrangements for the responsible individual to report to the service provider.</li> </ul> </li> <li>• The outcome of any review is analysed and reviewed by people with the appropriate knowledge, skills and competence to understand its significance and take action to secure improvement. Service providers seek professional/expert advice as needed and in a timely manner to help secure improvements.</li> <li>• Service providers can demonstrate how they have: <ul style="list-style-type: none"> <li>○ analysed and responded to the information gathered;</li> </ul> </li> </ul>

on the quality of care and support provided by the service and how this can be improved.

(3) When making any decisions on plans for improvement of the quality of care and support provided by the service, the service provider must—

- (a) take into account the views of those persons consulted in accordance with paragraph (2), and
- (b) have regard to the quality of care report prepared by the responsible individual in accordance with regulation 80(4).

and

- used the information to make improvements.

- Service providers monitor progress against plans to improve the quality and safety of services, and take appropriate action immediately where progress is not achieved as expected.
- The systems and processes are continually reviewed to make sure they enable the service provider to identify where the quality and/or safety of services are being, or may be, compromised and to enable an appropriate timely response.
- As part of the quality review process, service providers:
  - encourage feedback;
  - regularly seek the views of the relevant people listed in regulation 8(2) about the quality of care and support; and
  - are able to demonstrate they have done this and provide an analysis of the feedback they have received.
- The methods used to engage with and gain the views of those listed in regulation 8(2) are appropriate to their age, level of understanding and take into account their specific condition and/or any communication impairment. Participation of children is in line with national guidance.
- Information collated through quality and audit systems is used to develop the review of quality of care review report in line with regulation 80(4).

Regulation 9	Guidance
<p><b>Requirements in relation to the responsible individual</b></p> <p>9.— (1) This regulation does not apply to a service provider who is an individual.</p> <p>(2) A service provider to whom this regulation applies must ensure that the person who is designated as the responsible individual—</p> <p>(a) is supported to carry out their duties effectively, and</p> <p>(b) undertakes appropriate training.</p> <p>(3) In the event that the service provider has reason to believe that the responsible individual has not complied with a requirement imposed by the regulations in Parts 16 to 20, the provider must—</p> <p>(a) take such action as is necessary to ensure that the requirement is complied with, and</p> <p>(b) notify the service regulator.</p> <p>(4) During any time when the responsible individual is unable to fulfil their duties, the service provider must ensure that there are arrangements in place for—</p> <p>(a) the effective management of the service,</p> <p>(b) the effective oversight of the service,</p> <p>(c) the compliance of the service with the requirements of the regulations in Parts 3 to 15, and</p> <p>(d) monitoring, reviewing and improving the quality of the care and support provided by the service.</p> <p>(5) If the responsible individual is unable to fulfil their duties for a period of more than 28 days, the service provider must—</p> <p>(a) notify the service regulator, and</p> <p>(b) inform the service regulator of the interim arrangements.</p>	<ul style="list-style-type: none"> <li>• Service providers have systems and processes in place for regular formal discussion with, and support for, the responsible individual.</li> <li>• Service providers support the responsible individual to undertake training which enables them to carry out their role effectively and to meet the aims of the service as outlined in the statement of purpose and in line with practice guidance recommended by Social Care Wales. Training for responsible individuals includes that which covers: <ul style="list-style-type: none"> <li>○ legislative framework and requirements;</li> <li>○ specific duties of a responsible individual;</li> <li>○ service performance and quality management; and</li> <li>○ shaping service culture, etc.</li> </ul> </li> <li>• Where a responsible individual has failed to fulfil their role the service provider notifies the service regulator of any action taken and, where relevant, advises on the arrangements to designate a replacement.</li> <li>• If there is no responsible individual or the responsible individual is unable to fulfil their duties for any reason, for example they are absent from their role due to illness, the service provider ensures that the responsibility for oversight of the management of the service, as set out in parts 16 to 20 of the Regulations, is still being met under alternative arrangements.</li> </ul>

Regulation 10	Guidance
<p><b>Requirements in relation to the responsible individual where the service provider is an individual</b></p> <p>10.—(1) This regulation applies where the service provider is an individual.</p> <p>(2) If this regulation applies, the individual must undertake appropriate training for the proper discharge of his or her duties as the responsible individual.</p> <p>(3) During any time when the individual is absent, he or she must ensure that there are arrangements in place for—</p> <ul style="list-style-type: none"> <li>(a) the effective management of the service,</li> <li>(b) the effective oversight of the service,</li> <li>(c) the compliance of the service with the requirements of the regulations in Parts 3 to 15, and</li> <li>(d) monitoring, reviewing and improving the quality of the care and support provided by the service.</li> </ul> <p>(4) If the individual is unable to fulfil their duties as a responsible individual for a period of more than 28 days, he or she must—</p> <ul style="list-style-type: none"> <li>(a) notify the service regulator, and</li> <li>(b) inform the service regulator of the interim arrangements.</li> </ul>	<ul style="list-style-type: none"> <li>• The responsible individual undertakes training which enables them to carry out their role effectively and to meet the aims of the service as outlined in the statement of purpose and in line with practice guidance recommended by Social Care Wales. Training includes that which covers: <ul style="list-style-type: none"> <li>○ legislative framework and requirements;</li> <li>○ specific duties of a responsible individual;</li> <li>○ service performance and quality management; and</li> <li>○ shaping service culture, etc.</li> </ul> </li> <li>• If the responsible individual is unable to fulfil their duties for any reason, for example they are absent from their role due to illness, the responsible individual ensures alternative arrangements are put in place to ensure the requirements in regulation 10(3) are met.</li> </ul>

Regulation 11	Guidance
<p><b>Requirements in relation to the financial sustainability of the service</b></p> <p>11.— (1) The service provider must take reasonable steps to</p>	<ul style="list-style-type: none"> <li>• Systems are in place to ensure financial planning, budget monitoring and financial control is carried out effectively.</li> <li>• Systems are in place to ensure financial stability and consumer</li> </ul>



<p>ensure that the service is financially sustainable for the purpose of achieving the aims and objectives set out in the statement of purpose.</p> <p>(2) The service provider must maintain appropriate and up to date accounts for the service.</p> <p>(3) The service provider must provide copies of the accounts to the Welsh Ministers within 28 days of being requested to do so.</p> <p>(4) The Welsh Ministers may require accounts to be certified by an accountant.</p>	<p>protection in line with any national guidance and financial regulations.</p> <ul style="list-style-type: none"> <li>• Service providers have the financial resources needed to provide, and continue to provide, the services described in the statement of purpose and in order to meet the requirements of the regulation.</li> <li>• Service providers have appropriate insurance and suitable indemnity arrangements in place to cover potential liabilities arising from death, injury, or other causes, loss or damage to property, and other financial risks.</li> <li>• Where audited accounts are not available, annual accounts are completed by a qualified accountant for the purpose of regulation and inspection.</li> <li>• The accounts demonstrate that the service is financially viable and likely to have sufficient funding to continue to fulfil service delivery as set out in its statement of purpose.</li> </ul>
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<b>Regulation 12</b>	<b>Guidance</b>
<p><b>Requirements to provide the service in accordance with policies and procedures</b></p> <p>12.— (1) The service provider must ensure that the following policies and procedures are in place for the service—  Admissions and commencement of the service (see Part 4, regulation 14)  Safeguarding (see Part 8, regulation 27)  Supporting individuals to manage their money (see Part 8,</p>	<ul style="list-style-type: none"> <li>• Service providers have the policies and procedures in place as required by the Regulations, where it is appropriate and relevant to the service.</li> <li>• Policies and procedures are proportionate to the service being provided in accordance with the statement of purpose.</li> <li>• Policies and procedures:</li> </ul>

regulation 28)

Use of control or restraint (see Part 8, regulation 29)

Staff support and development (see Part 10, regulation 36)

Staff discipline (see Part 10, regulation 39)

Infection control (see Part 14, regulation 56)

Medication (see Part 14, regulation 58)

Complaints (see Part 15, regulation 64)

Whistleblowing (see Part 15, regulation 65)

(2) Where the service includes the provision of accommodation for children, the service provider must have a policy in place on the prevention of bullying, procedures for dealing with an allegation of bullying and a procedure to be followed when any child for whom accommodation is provided is absent without permission (see regulation 27(5)).

(3) The service provider must have such other policies and procedures in place as are reasonably necessary to support the aims and objectives of the regulated service set out in the statement of purpose.

(4) The service provider must ensure that the content of the policies and procedures which are required to be in place by virtue of paragraphs (1) to (3) is—

- (a) appropriate to the needs of individuals for whom care and support is provided,
- (b) consistent with the statement of purpose, and
- (c) kept up to date.

(5) The service provider must ensure that the service is provided in accordance with those policies and procedures.

- are aligned to any current legislation and national guidance;
  - provide guidance for staff to ensure that services are provided in line with the statement of purpose; and
  - set out requirements to inform individuals and their representatives about how the service is provided.
- Policies, procedures and practices are reviewed and updated in light of changes to practice, changing legislation and best practice recommendations.
  - Staff and individuals using the service have the opportunity to be involved in developing policies and procedures.
  - Where changes are made to the statement of purpose the policies and procedures are reviewed and updated to reflect the changes.
  - Service providers ensure staff have access to, and knowledge and understanding of, the policies and procedures which support them in their role in achieving the best possible outcomes for individuals.
  - All policies and procedures are available on request to the individuals who use the service, their representatives and, where appropriate, relevant placing authorities and commissioners.
  - Policies and procedures are in a format accessible to the individual and support is provided to assist individuals' understanding of these.

	<ul style="list-style-type: none"> <li>• Systems for monitoring and improvement include those which ensure the service is being run in accordance with the policies and procedures.</li> <li>• Where the service includes the provision of accommodation for children, the policy and procedures related to regulation 12(2) includes: <ul style="list-style-type: none"> <li>○ individual roles and responsibilities of staff and others working at the service, in identifying, receiving and reporting allegations of bullying.</li> <li>○ individual roles and responsibilities of staff and others working for the service, in reporting when a child is absent without permission.</li> <li>○ instructions for staff on actions to be taken, in such instances, and mechanisms for referral to relevant partners and agencies.</li> </ul> </li> </ul>
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<b>Regulation 13</b>	<b>Guidance</b>
<p><b>Duty of candour</b></p> <p>13. The service provider must act in an open and transparent way with—</p> <ul style="list-style-type: none"> <li>(a) individuals who are receiving care and support,</li> <li>(b) any representatives of those individuals, and</li> <li>(c) in the case of a child who is provided with accommodation, the placing authority.</li> </ul>	<ul style="list-style-type: none"> <li>• Service providers have policies and procedures in place to support a culture of openness and transparency, and ensure that all staff are aware of and follow them. These policies and procedures are in line with, and take account of SCW’s guidance on the professional duty of candour for social care professionals registered with SCW.</li> <li>• Service providers promote a culture of candour that includes: <ul style="list-style-type: none"> <li>○ being open and honest when engaging with individuals and their representatives when things go wrong;</li> <li>○ providing information about incidents which happen and the outcome of any investigations that have taken place;</li> </ul> </li> </ul>

○ offering an apology for what has happened, where it is appropriate to do so.

- Service providers take action to prevent and appropriately address bullying, victimisation and/or harassment in relation to the duty of candour, and investigate any instances where a board member, responsible individual or member of staff may have obstructed another in exercising their duty of candour.
- Service providers have a system in place to identify and deal with possible breaches of the duty of candour by staff who are professionally registered, including the obstruction of another in their professional duty of candour. Action taken to address such breaches includes, where appropriate, a referral to the professional regulator or other relevant body.

## 1.2 Requirements on service providers as to the steps to be taken before agreeing to provide care and support (Part 4)

The intent of the requirements within Part 4 of the Regulations is to provide individuals with assurance that before a service provider offers care and support they have considered a wide range of information to confirm the service is able to meet the individual's needs and support them to achieve their personal outcomes. This includes the individual's wishes and preferences and consultation with relevant persons and professionals.

Regulation 14	Guidance
<p><b>Suitability of the service</b></p> <p>14.— (1) The service provider must not provide care and support for an individual unless the service provider has determined that the service is suitable to meet the individual's care and support needs and to support the individual to achieve their personal outcomes.</p> <p>(2) The service provider must have in place a policy and procedures on admissions and commencement of the service.</p> <p>(3) The determination under paragraph (1) must take into account—</p> <ul style="list-style-type: none"> <li>(a) the individual's care and support plan,</li> <li>(b) if there is no care and support plan, the service provider's assessment under paragraph (4),</li> <li>(c) any health or other relevant assessments,</li> <li>(d) the individual's views, wishes and feelings,</li> <li>(e) any risks to the individual's well-being,</li> <li>(f) any risks to the well-being of other individuals to whom care and support is provided,</li> <li>(g) any reasonable adjustments which the service provider could make to enable the individual's care and support</li> </ul>	<ul style="list-style-type: none"> <li>• Service providers have an admissions and commencement of the service policy and procedure. This includes but is not limited to: <ul style="list-style-type: none"> <li>○ arrangements for confirming that the service can or cannot support the individuals to achieve their personal outcomes;</li> <li>○ who will be consulted as part of the process;</li> <li>○ the information to be considered;</li> <li>○ the assessment processes (including for emergency admissions) and who will undertake the assessment;</li> <li>○ the circumstances where a service will not be provided;</li> <li>○ opportunities to visit the service (in relation to accommodation-based services); and</li> <li>○ the arrangements for commencing the service.</li> </ul> </li> <li>• A summary of the admission procedure is included in the statement of purpose and the service provider's written guide to the service.</li> <li>• Before agreeing to provide a service the service provider makes an informed decision as to whether or not they can meet an individual's care and support needs. In making this decision the service provider: <ul style="list-style-type: none"> <li>○ takes into account the requirements set out within</li> </ul> </li> </ul>

needs to be met, and

(h) the service provider's policy and procedures on admissions and commencement of the service.

(4) In a case where the individual does not have a care and support plan, the service provider must—

- (a) assess the individual's care and support needs, and
- (b) identify their personal outcomes.

(5) The assessment required by paragraph (4) must be carried out by a person who—

- (a) has the skills, knowledge and competence to carry out the assessment, and
- (b) has received training in the carrying out of assessments.

(6) In making the determination in paragraph (1), the service provider must involve the individual, the placing authority (if applicable) and any representative. But the service provider is not required to involve a representative if—

- (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or
- (b) involving the representative would not be consistent with the individual's well-being.

regulation 14(3);

- consults with the individual, the placing authority (if applicable) and/or their representative to determine what matters to them;
- obtains copies of and gives consideration to any existing care and support plan, integrated care and multidisciplinary assessments for adults;
- in the case of a looked after child, obtains a copy of and considers the Part 6 care and support plan, and works with the placing authority in planning the child's placement;
- in the case of a looked after child aged 16 or over, or a care leaver up to the age of 21 (or 25 if undertaking a programme of education or training), obtains a copy of and considers the young person's pathway plan;
- considers any risks to the individual or to others using the service and staff;
- obtains information relating to the individual's specialist needs and requirements in order to confirm these can be met in line with the statement of purpose.

- Service providers ensure there is relevant information and support for individuals to understand the choices available to them (including provision from alternative service providers, where appropriate), in a format accessible to the individual and suitable to their age and level of understanding.
- Information obtained is sufficient to enable smooth transition for the individual to receive the service.
- Where the individual lacks the mental capacity to make specific decisions about their care and support and no lawful representative is appointed, their best interests should be established and acted upon in accordance with the Mental

Capacity Act 2005.

- In accommodation-based services consideration is given to compatibility, the potential impact on the individual and the service provided to others using the service.
- In domiciliary support services consideration is given to the ability of the service to meet demand and ensure additional contracts do not impact on individuals who are already using the service, for example preferred/required call times.
- People making these decisions on behalf of the service provider are competent in carrying out assessments and have sufficient responsibility and authority within the organisation to be able to decide whether the service can meet the individual's care and support needs.
- In the case of adults, confirmation is provided in writing to the individual that the service can meet the individual's care and support needs including health, personal care, emotional, social, cultural, religious and spiritual needs. Confirmation in writing is provided where the service is unable to meet the individual's care and support needs.
- In addition to consultation with the individual and/or their representative wider consultation with other relevant partners takes place. This is essential where there is shared responsibility for care.
- Where an individual does not have existing assessments and care and support plans - for example individuals who are self-funding their care - an assessment must be undertaken prior to agreeing to provide a service. This assessment includes health, personal care and support needs, any specialist support required, communication, emotional, educational, social,

cultural, religious and spiritual needs and should establish their personal outcomes and aspirations.

- Where a placement is made on an emergency basis, every effort should be made to secure relevant assessments prior to placement and to ensure that the service can meet the individual's needs.
- Where short stays are provided, updated care and support plans are reviewed and personal plans amended to reflect any changes prior to each admission to assure that the service provider can still meet the individual's needs.



### 1.3 Requirements on service providers as to the steps to be taken on commencement of the provision of care and support (Part 5)

The intent of Part 5 of the Regulations is to ensure that individuals can feel confident that service providers have an up to date, accurate plan (referred to as personal plan) for how their care is to be provided.

The provider develops an initial personal plan before the service begins using existing information, assessments and any care and support plans in place. The personal plan is then developed further during the first week of using the service through a full assessment undertaken by the provider (provider assessment) with the individual and their representative. The provider assessment considers their personal wishes, aspirations and care and support needs. The information from this is used to further develop the personal plan.

The personal plan:

- provides information for individuals and their representatives of the agreed care and support and the manner in which this will be provided;
- provides a clear and constructive guide for staff about the individual, their care and support needs and the outcomes they would like to achieve;
- provides the basis for ongoing review; and
- enables individuals, their representatives and staff to measure progress and whether their personal outcomes are met.

Regulation 15	Guidance
<p><b>Personal plan</b></p> <p>15.— (1) The service provider must prepare a plan for the individual which sets out—</p> <p>(a) how on a day to day basis the individual’s care and support needs will be met,</p> <p>(b) how the individual will be supported to achieve their personal outcomes,</p> <p>(c) the steps which will be taken to mitigate any identified risks</p>	<ul style="list-style-type: none"> <li>• When a decision is made that the service can meet an individual’s care and support needs an initial personal plan is developed, co-produced with the individual, the placing authority (if applicable) and any representative (if appropriate) <b>before</b> the individual begins to receive care and support.</li> <li>• In the case of an emergency, the initial personal plan will be in place within 24 hours of the service commencing.</li> <li>• The initial personal plan is reviewed and updated during the first</li> </ul>

to the individual's well-being, and

(d) the steps which will be taken to support positive risk-taking and independence, where it has been determined this is appropriate.

(2) The plan which is required to be prepared under paragraph (1) is referred to in these Regulations as a personal plan.

(3) The personal plan must be prepared prior to commencement of the provision of care and support to the individual, unless paragraph (4) applies.

(4) This paragraph applies in a case where the individual is in urgent need of care and support and there has been no time to prepare a personal plan prior to the commencement of the provision of care and support to the individual.

(5) If paragraph (4) applies, the personal plan must be prepared within 24 hours of the commencement of the provision of care and support to the individual.

(6) When preparing a personal plan, the service provider must involve the individual, the placing authority (if applicable) and any representative. But the service provider is not required to involve a representative if—

- (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or
- (b) involving the representative would not be consistent with the individual's well-being.

(7) In preparing the personal plan, the service provider must take into account—

- (a) the individual's care and support plan,
- (b) if there is no care and support plan, the service provider's assessment under regulation 14(4),
- (c) any health or other relevant assessments,

7 days of commencement of service in line with the outcome of the provider's assessment (regulation 18).

- The personal plan will set out:
  - the actions required to meet the individual's well-being, care and support needs on a day to day basis. This includes the details of their care needs (including self medication), their personal preferences and routines for how this will be provided;
  - how the individual will be supported to achieve their personal outcomes;
  - how the individual's wishes, aspirations and religious beliefs will be supported;
  - steps to identify risks to the individual's well-being and how this will be managed;
  - steps to support positive risk taking;
  - steps to maintain, re-able and/or achieve independence.
- When a personal plan is being revised it is co-produced with the individual receiving care and support, the placing authority (if applicable) or any representative.
- A copy of the personal plan is provided to the person receiving the service and in a language and format appropriate to their needs, age and level of understanding. If there is a reason for not doing so this is documented.
- The personal plan is accessible and in a clear format to inform staff about how they should provide care and support on a daily basis to meet an individuals' needs and support them to achieve their personal outcomes.
- The personal plan takes into account any care and support plan prepared by a local authority for the person under section 54 of the 2014 Act.

<p>(d) the individual’s views, wishes and feelings,  (e) any risks to the individual’s well-being, and  (f) any risks to the well-being of other individuals to whom care and support is provided.</p>	<ul style="list-style-type: none"> <li>• The personal plan takes into account any health or other relevant assessments and/or plans such as behavioural support plan.</li> <li>• In drawing up a personal plan for a looked after child, the service provider works with the placing authority to ensure the plan takes into account the child’s Part 6 care and support plan (including the health plan, personal education plan and placement plan for the child).</li> <li>• For a looked after child aged 16 or over and care leavers up to age 21 (or 25 if undertaking a programme of education or training), the provider takes into account the young person’s pathway plan.</li> <li>• For a residential family centre service, a personal plan relates to the individual or the family.</li> </ul>
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<b>Regulation 16</b>	<b>Guidance</b>
<p><b>Review of personal plan</b></p> <p>16.— (1) The personal plan must be reviewed as and when required but at least every three months.</p> <p>(2) In the case of a looked after child, any review of the personal plan must be aligned with the reviews required to be carried out by the local authority under the Care Planning, Placement and Case Review (Wales) Regulations 2015<sup>(3)</sup>.</p> <p>(3) Reviews of a personal plan must include a review of the extent to which the individual has been able to achieve their personal</p>	<ul style="list-style-type: none"> <li>• The personal plan is kept under review and is amended and developed to reflect changes in the individual’s care and support needs and personal outcomes.</li> <li>• The plan is reviewed every three months or sooner, if there is a change in the individual’s needs, and in line with any reviews undertaken by the placing authority.</li> <li>• In the case of a looked after child, the provider should ensure that these three monthly reviews align with the child’s ‘looked after children’ (LAC) review undertaken by the child’s placing</li> </ul>

3 S.I. 2015/1818 (W. 261) [https://www.legislation.gov.uk/wsi/2015/1818/pdfs/wsi\\_20151818\\_mi.pdf](https://www.legislation.gov.uk/wsi/2015/1818/pdfs/wsi_20151818_mi.pdf)

<p>outcomes.</p> <p>(4) When carrying out a review under this regulation, the service provider must involve the individual, the placing authority (if applicable) and any representative. But the service provider is not required to involve a representative if—</p> <p>(a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or</p> <p>(b) involving the representative would not be consistent with the individual’s well-being.</p> <p>(5) Following the completion of any review required by this regulation, the service provider must consider whether the personal plan should be revised and revise the plan as necessary.</p>	<p>authority. A review of the personal plan must be undertaken after every LAC review.</p> <ul style="list-style-type: none"> <li>• Reviews are undertaken involving the individual and, where appropriate, with the agreement of the individual, their representative.</li> <li>• Reviews take into account the information recorded on a daily basis relating to the individual achieving their personal outcomes. Where this differs significantly from any commissioning body’s assessment and care and support plan, the relevant commissioner is notified.</li> </ul>
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<b>Regulation 17</b>	<b>Guidance</b>
<p><b>Records of personal plans</b></p> <p>17. The service provider must—</p> <p>(a) keep a record of—</p> <p>(i) the personal plan and any revised plan, and</p> <p>(ii) the outcome of any review, and</p> <p>(b) give a copy of the personal plan and any revised plan to—</p> <p>(i) the individual,</p> <p>(ii) any representative, unless this is not appropriate or would be inconsistent with the individual’s well-being, and</p> <p>(iii) where a child is provided with accommodation as part of a care home service, the placing authority.</p>	<ul style="list-style-type: none"> <li>• A copy of the personal plan is provided in a format and language appropriate to the person’s needs.</li> <li>• Individuals, the placing authority (if applicable) and any representatives are informed about how they can access the personal plan.</li> </ul>

Regulation 18	Guidance
<p><b>Provider assessment</b></p> <p>18.— (1) Within 7 days of the commencement of the provision of care and support for an individual, the service provider must—</p> <ul style="list-style-type: none"> <li>(a) assess how the individual’s care and support needs can best be met,</li> <li>(b) assess how the individual can best be supported to achieve their personal outcomes,</li> <li>(c) ascertain the individual’s views, wishes and feelings,</li> <li>(d) assess any risks to the individual’s well-being, and</li> <li>(e) assess any risks to the well-being of other individuals to whom care and support is provided.</li> </ul> <p>(2) The assessment under paragraph (1) is referred to in these Regulations as a provider assessment.</p> <p>(3) A provider assessment must be carried out by a person who—</p> <ul style="list-style-type: none"> <li>(a) has the skills, knowledge and competence to carry out the assessment, and</li> <li>(b) has received training in the carrying out of assessments.</li> </ul> <p>(4) A provider assessment must take into account—</p> <ul style="list-style-type: none"> <li>(a) the individual’s care and support plan, if available,</li> <li>(b) the service provider’s assessment under regulation 14(4), if applicable,</li> <li>(c) any health or other relevant assessments,</li> <li>(d) the individual’s views, wishes and feelings,</li> <li>(e) any risks to the individual’s well-being, and</li> <li>(f) the service provider’s policy and procedures on admissions and commencement of the service.</li> </ul>	<ul style="list-style-type: none"> <li>• A provider assessment builds on the information which has informed the decision to provide a service for the individual, including any existing care and support plan. The assessment is proportionate to the nature of the placement and the individual’s particular circumstances.</li> <li>• The provider assessment identifies: <ul style="list-style-type: none"> <li>○ the individual’s personal outcomes;</li> <li>○ the care and support needed to support individuals to achieve their personal outcomes;</li> <li>○ their personal preferences (taking into account any religious beliefs) in how these can be achieved;</li> <li>○ any risks to the individual’s well-being or risks to the well-being of others and how these will be mitigated; and</li> <li>○ areas which require more in depth or specialist assessment.</li> </ul> </li> <li>• The assessment is completed in consultation with the individual intending to or currently using the service and/or their representative.</li> <li>• The outcome of the provider assessment informs the development of the personal plan within the first 7 days of the individual commencing the service.</li> <li>• Persons undertaking the provider assessment on behalf of the service provider: <ul style="list-style-type: none"> <li>○ are competent and experienced in undertaking assessments; and</li> <li>○ have experience and training in the provision of care for the individuals they are assessing.</li> </ul> </li> <li>• Where individuals have complex and specialist needs the</li> </ul>

(5) When carrying out or revising a provider assessment, the service provider must involve the individual, the placing authority (if applicable) and any representative. But the service provider is not required to involve a representative if—

- (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or
- (b) involving the representative would not be consistent with the individual's well-being.

(6) A provider assessment must be kept under review and revised as necessary.

(7) Following the completion of the provider assessment and any revised assessment, the personal plan must be reviewed and revised as necessary.

(8) The service provider must keep a record of a provider assessment and give a copy of the assessment to the individual, any representative and, where the child is provided with accommodation by a care home service, the placing authority.

person undertaking the assessment has training relevant to those needs or seeks the advice and guidance of a relevant specialist.

- Where individuals have nursing needs the assessment is undertaken by a registered nurse with the relevant skills.
- Where individuals are supported by a range of service providers there should be collaboration to ensure that all partners are clear about their responsibilities in relation to that individual for the purposes of the assessment and the review of their needs.
- Tools for assessment reflect up to date good practice guidance and legislation.
- Assessments are reviewed and revised whenever there is a significant change in an individual's needs or where the personal plan is not supporting the individual to achieve their personal outcomes.
- The personal plan is revised and updated as required following any provider assessment.

## 1.4 Requirements on service providers as to the information to be provided to individuals on commencement of the provision of care and support (Part 6)

The intent of Part 6 of the Regulations is to ensure that individuals are provided with information about the service to enable them to have:

- a clear understanding of the culture and ethos of the service;
- an outline of the services they can expect to receive;
- an understanding of the manner in which services will be provided; and the terms and conditions of the service.

This should enable individuals, placing authorities and any representatives to have a good understanding of how the service operates in providing care and support. The written guide also contains the information they need to raise concerns and make complaints to service providers when they are dissatisfied with the service and informs them of how to escalate concerns if they are not satisfied with the response.

Regulation 19	Guidance
<p><b>Information about the service</b></p> <p>19.— (1) The service provider must prepare a written guide to the service.</p> <p>(2) The guide must be—</p> <p>(a) dated, reviewed at least annually and updated as necessary,</p> <p>(b) in an appropriate language, style, presentation and format, having regard to the statement of purpose for the service,</p> <p>(c) given to all individuals who are receiving care and support,</p> <p>(d) in the case of child who is looked after by a local authority, given to the placing authority, and</p> <p>(e) made available to others on request, unless this is not</p>	<ul style="list-style-type: none"> <li>• A written guide is available to individuals, the placing authority and any representatives, which provides information about the service.</li> <li>• The guide is in plain language and in a format that reflects the needs, age and level of understanding for whom the service is intended. The guide is made available in formats and media accessible and appropriate to the audience. For example, preferred and appropriate language, large print, audio, computerised, visual aids. When required it is explained in the individual’s preferred method of communication.</li> <li>• Where required individuals are supported to understand the contents of the guide and what it means for them.</li> <li>• The guide sets out the areas required by regulation 19(3) and in</li> </ul>

appropriate or would be inconsistent with the well-being of an individual.

(3) The guide must contain the following information—

(a) information about how to raise a concern or make a complaint;

(b) information about the availability of advocacy services.

(4) The service provider must ensure that all individuals receive such support as is necessary to enable them to understand the information contained in the guide.

addition includes the following:

- arrangements for welcoming and supporting individuals;
  - the ethos, culture and priorities of the regulated service including a summary of the statement of purpose;
  - how to access the most recent inspection report completed by the service regulator;
  - key staff who will be supporting the individual;
  - how to contact the responsible individual;
  - the opportunities and mechanisms for the involvement of families, carers and the community;
  - the complaints procedure and how to make a complaint;
  - contact details and role of the Public Service Ombudsman for Wales, service regulator, Children's Commissioner and Older Person's Commissioner (as appropriate);
  - access to, and support to access, relevant advocacy services and other agencies or services, such as primary healthcare services (GP; Dentist; Optometrist, Pharmacist, Chiropodist, Hospital visits;);
  - access to, and support to access, relevant digital communication devices and/or assistive technology
  - arrangements for contributing views and participation in the running of the service;
  - fees – range, any additional fees or costs payable by the individual, method of payment, notice of increase; and
  - terms and conditions including circumstances in which the service may cease to be provided and notice periods; and
  - how individuals can access their own records.
- Additional requirements for accommodation-based services:
    - policy on accommodating personal preferences, e.g. pets, furniture etc;
    - availability of, and support to access, telephone,



	<p>Wi fi, internet etc;</p> <ul style="list-style-type: none"> <li>○ activities, including support to access community services and activities;</li> <li>○ facilities available as part of the service; and</li> <li>○ information about health and safety including any fire safety and evacuation procedures.</li> </ul>
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<b>Regulation 20</b>	<b>Guidance</b>
<p><b>Service agreement</b></p> <p>20.— (1) The service provider must ensure that every individual is given a signed copy of any agreement relating to—</p> <ul style="list-style-type: none"> <li>(a) the care and support provided to the individual;</li> <li>(b) any other services provided to the individual.</li> </ul> <p>(2) The service provider must ensure that individuals receive such support as is necessary to enable them to understand the information contained in any such agreement.</p>	<ul style="list-style-type: none"> <li>● Individuals using the service are given a copy of the agreement with, where appropriate: <ul style="list-style-type: none"> <li>○ information about the costs payable by the individual; other costs covered by the placing authority; and terms and conditions of the service including termination of contracts and notice period, so that they can make decisions about their care and support; and</li> <li>○ the information which details the individual service to be provided.</li> </ul> </li> <li>● Service providers give individuals or their representatives a written estimate of the weekly costs of the care and support payable by the individual, in a format accessible to the individual and suitable to their age and level of understanding. This includes details of any likely additional costs.</li> <li>● In the case of looked after children, this information will also be provided to the placing authority.</li> <li>● Where individuals are paying for their own care in full or partially they or their representatives are provided with a written contract. This includes: <ul style="list-style-type: none"> <li>○ terms and conditions;</li> <li>○ fees, including top ups or any late payment fees;</li> </ul> </li> </ul>

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|  | <ul style="list-style-type: none"><li>○ arrangements and timescales for notifying individuals of contractual changes;</li><li>○ arrangements for how payments are to be made; and</li><li>○ the rooms to be used in accommodation-based services.</li></ul> |
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## 1.5 Requirements on service providers as to the standard of care and support to be provided (Part 7)

The intent of Part 7 of the Regulations is to ensure that individuals are provided with the quality of care and support they need to achieve the best possible well-being outcomes. The service is designed in consultation with the individual and considers their personal wishes, aspirations and outcomes and any risks and specialist needs which inform their needs for care and support.

This includes:

- ensuring care and support enables an individual to meet their personal outcomes;
- provision of staff with the knowledge, skills and competency to meet an individual's well-being needs;
- ensuring staff have the appropriate language and communication skills;
- planning and deploying staff to provide continuity of care; and
- consultation with and seeking support from relevant agencies and specialists where required.

Regulation 21	Guidance
<p><b>Standards of care and support - overarching requirements</b></p> <p>21.— (1) The service provider must ensure that care and support is provided in a way which protects, promotes and maintains the safety and well-being of individuals.</p> <p>(2) The service provider must ensure that care and support is provided to each individual in accordance with the individual's personal plan.</p> <p>(3) The service provider must ensure that care and support is provided in way which—</p> <p>(a) maintains good personal and professional relationships with individuals and staff; and</p> <p>(b) encourages and assists staff to maintain good personal and professional relationships with individuals.</p> <p>(4) If, as a result of a change in the individual's assessed needs,</p>	<ul style="list-style-type: none"> <li>• The service provider's approach to standards of care and support, including any positive behaviour support, is clearly set out in the statement of purpose.</li> <li>• Achievement of an individual's personal outcomes are supported by policies and procedures.</li> <li>• Policies and procedures include the management of specific needs that are in line with any current legislation, national guidance and reflect evidence-based practice.</li> <li>• Service providers ensure the service is responsive and proactive in identifying and mitigating risks, and in supporting positive risk-taking and independence where it has been determined this is appropriate.</li> <li>• Service providers ensure medical advice and professional help</li> </ul>

the service provider is no longer able to meet those needs, even after making any reasonable adjustments, the provider must immediately give written notification of this to the individual, any representative, the service commissioner and the placing authority.

for an individual is sought (where appropriate) or a referral to commissioners is made in a timely manner. Where accommodation is not provided arrangements must be in place for referral to specialist services for support and advice, where appropriate

- Service providers ensure care and support is delivered in a dignified and respectful manner in which staff have meaningful interactions and positive and caring attitudes towards individuals.
- Service providers ensure care and support is provided in keeping with any assessment and personal plan, meets the individual's needs and supports them to achieve their personal outcomes in relation to their:
  - physical, mental and emotional well being;
  - cultural, religious, social or spiritual preferences;
  - education, training and recreation needs;
  - family and personal relationships;
  - control over everyday life and where relevant participation in work;
  - intellectual, emotional and behavioural development;
  - rights and entitlements, in particular with regard to the United Nations Convention on the Rights of the Child;
  - protection from abuse and neglect.
- Personal plans include sufficient detail to inform and enable staff to meet the individual's care and support needs and support individuals to achieve the best possible outcomes. This is based on relevant guidance, information or prescribed practice.

**Examples of this include:**

### **Individuals are supported with their personal development**

- Individuals are supported to fulfil their potential and do things that matter to them and make them happy. This can include being supported to participate in or complete education or lifelong learning, developing and maintaining hobbies, joining community activities and volunteering.
- Children and young people are supported to be healthy and active and undertake activities that support them to be healthy.
- Individuals are supported and enabled to be as independent as possible, including support for self-care such as self medication.
- Children and young people receive support to develop independent living skills
- Service providers ensure children and young people are supported when moving out of care, such as pathway planning, in line with national guidance.
- Individuals are supported and prepared for moving on.
- Individuals are supported when leaving the service, both when this is planned or in an emergency.

### **Individuals are supported with their emotional and mental well-being**

- Where individuals are at risk of emotional and well-being difficulties, service providers support individuals to:
  - feel they are respected as individuals and that their identity is recognised and valued;
  - feel they have choice and control and are listened to;

- feel secure and safe;
- feel they belong and matter to others;
- enjoy safe and healthy relationships with family and friends and to develop new relationships; and
- experience continuity.

- Service providers recognise and respond positively to individual's emotional needs especially when they are experiencing difficulty, for example when individuals are lonely, distressed, experiencing transition or loss, or experiencing anxiety, depression or other forms of mental illness.
- Staff receive appropriate training to understand behaviours and adopt strategies to support individuals with their behaviours to achieve positive well-being and outcomes.
- Policy and procedures include the individual roles and responsibilities of staff or others working at the service in relation to positive behaviour support. This is aligned with any current national guidance and evidence-based practice.

#### **Individuals are supported to maintain a healthy diet and fluid intake**

- Where food and/or drink is provided for individuals, there is a choice which meets their needs and preferences as far as is reasonably practical.
- Healthy choices of food are available and are promoted.
- Mealtimes are a positive experience and, where required, individuals are supported sensitively to eat and drink.
- Where assessments are undertaken this includes the

identification, using nationally recognised tools and evidence-based guidance, of where an individual's nutritional or fluid intake could be compromised.

- Where individuals are identified as being at risk of weight loss or dehydration there is effective monitoring of weight, nutritional and fluid intake, and remedial action is taken when concerns arise or persist.
- Where necessary, additional specialist advice is sought to support care. Prescribed treatments and support, including specialist diets and food and drink preparation, is adhered to.

**Individuals are supported to manage skin integrity appropriately**

- Where skin integrity assessments are needed, they should only be undertaken using assessment tools approved by Public Health Wales. Individuals assessed as being at risk are put on the SKIN bundle (Public Health Wales).
- Staff completing the skin integrity assessment have the required skills and knowledge in both skin assessment, management and treatment of pressure ulcers/wounds.
- Pressure relieving equipment is appropriate, in good working order and relevant to the risk assessment rating.
- Where necessary, additional specialist advice is sought to support care.

**Individuals are supported with maintaining and managing continence**

- Where appropriate, individuals are supported to maximise their independence with personal toileting routines.
- Care and support is provided with continence management and is provided in a way which protects the individual's dignity and privacy.
- Service providers ensure that an assessment of individuals' continence is undertaken, where relevant. This is undertaken using recognised tools, and additional expert support and advice is sought where necessary.
- Recommendations for managing continence, including the use of specialist aids and products, are outlined in the personal plan and are followed by staff.

**Individuals are supported to identify and manage sensory impairment appropriately**

- Where appropriate, service providers ensure individuals receive relevant checks and provide support to access ongoing reviews.
- Where individuals have been provided with aids such as hearing aids and glasses, staff understand their importance and are proactive in supporting individuals to use them.
- Service providers ensure that any aids are appropriately maintained so they may be used effectively.
- Service providers consider the potential impact on individuals with sensory impairment when planning the environment, for example, the effects of noise in communal areas on individuals who have a hearing impairment.



### **Individuals are supported with their cognitive impairment**

- Service providers recognise and understand the specialist needs of individuals who have been identified as having a cognitive impairment. The service provider provides individual therapy activities and specific programmes to prevent or manage a particular condition or behaviour and to enhance the quality of life for individuals.
- Care and support is based on recognised evidence-based guidance and frameworks relevant to the individual's impairment and in line with the service provider's statement of purpose.
- Staff receive appropriate training to understand cognitive impairment. This includes pain recognition and pain management, and how to communicate with, and employ strategies to support, individuals with cognitive impairment to help them achieve positive well-being and outcomes.
- Individuals are given ongoing support and encouragement to motivate or enable them to take part in daily life.
- Service providers seek expert assessments and advice, where appropriate, for individuals who have ongoing difficulties and/or cognitive deterioration. The outcome of any assessment prompts a review of the personal plan and of the support provided to the individual.

### **Individuals are supported to have effective oral hygiene and dental health**

- Individuals are encouraged to care for their teeth and mouths and, where necessary, are provided with support to do so.

- Appropriate oral healthcare supplies are readily available and kept in good condition.
- Oral healthcare is monitored as part of daily care and remedial action is taken where issues are identified.
- Where appropriate, individuals are assisted to access regular dental health checks or to visit a dentist if pain or decay is suspected.

**Individuals are supported appropriately during their last days of life**

- Where appropriate, as part of the provider assessment, service providers ascertain the individual's wishes and preferences regarding their end of life care and support.
- Their personal plan reflects advance statements and advance decision making including details of any legal lasting power of attorney for health and welfare.
- The care and support provided reflects any current national guidance.
- Individuals are able to spend their last days of life at the service if that is their wish, or at home, unless there is a medical reason why this should not occur.
- Individuals are supported in their own room and are able to have significant others with them as they wish.
- Service providers work collaboratively with other agencies to provide end of life care and any palliative intervention.

Regulation 22	Guidance
<p><b>Continuity of care</b></p> <p>22. The service provider must put arrangements in place to ensure that individuals receive such continuity of care as is reasonable to meet their needs for care and support.</p>	<ul style="list-style-type: none"> <li>• Service providers have the staff and resources available to provide a service in line with the statement of purpose and to meet an individual’s care and support needs.</li> <li>• Individuals know staff at the service. They are told about staff changes which affect them and new workers are routinely introduced to them.</li> <li>• Staffing arrangements provide consistency of care and support. Where replacement staff are used they are familiar with, and have a good understanding of, the individuals to whom they are providing care and support.</li> </ul>

Regulation 23	Guidance
<p><b>Information</b></p> <p>23.— (1) The service provider must ensure that individuals have the information they need to make or participate in assessments, plans and day to day decisions about the way care and support is provided to them and how they are supported to achieve their personal outcomes.</p> <p>(2) Information provided must be available in the appropriate language, style, presentation and format, having regard to—</p> <ul style="list-style-type: none"> <li>(a) the nature of the service as described in the statement of purpose;</li> <li>(b) the level of the individual’s understanding and ability to communicate;</li> <li>(c) in the case of a child, the child’s age.</li> </ul>	<ul style="list-style-type: none"> <li>• Service providers ensure that individuals are able to make decisions about their lives and are supported where necessary to do this.</li> <li>• Individuals are offered the opportunity and are enabled to contribute their views about the day to day running of the service.</li> <li>• Service providers put in place arrangements to enable individuals to access relevant advocacy services or self advocacy groups (if they wish) and support for their communication needs to enable them to make decisions about their lives.</li> </ul>

(3) The service provider must ensure that the individual receives such support as is necessary to enable them to understand the information provided.

## Regulation 24

### Language and communication

24.— (1) The service provider must take reasonable steps to meet the language needs of individuals.

(2) The service provider must ensure that individuals are provided with access to such aids and equipment as may be necessary to facilitate the individual's communication with others.

## Guidance

- Service providers have arrangements in place to assist individuals with their specific communication and language needs in line with the statement of purpose. Where necessary this will include putting measures in place to ensure that individuals can communicate meaningfully. This includes:
  - the individual's language of need and choice;
  - additional means of communication such as Picture Exchange Communication System (PECS), Treatment and Education of Autistic and related Communication handicapped Children (TEACCH), Makaton, British Sign Language (BSL) where appropriate.
- Service providers identify an individual's communication needs as part of their determination as to whether the service can meet their needs.
- Individuals can understand staff when they communicate with them.
- Service providers ensure that aids and equipment required to support individual's communication needs are in place, accessible, well maintained and that staff know how to use them.
- Service providers deliver or work towards actively offering a

service in the Welsh language to individuals whose first language is Welsh.

## Regulation 25

## Guidance

### Respect and sensitivity

25.— (1) The service provider must ensure that individuals are treated with respect and sensitivity.

(2) This includes, but is not limited to,—

- (a) respecting the individual's privacy and dignity;
- (b) respecting the individual's rights to confidentiality;
- (c) promoting the individual's autonomy and independence;
- (d) having regard to any relevant protected characteristics (as defined in section 4 of the Equality Act 2010) of the individual.

- Service providers ensure that individuals are:
  - listened to, and communicated with, in a courteous and respectful manner with their care and support being the main focus of staff's attention; and
  - treated with respect and feel valued.
- Individuals requiring intimate personal care have this provided in a dignified way with their personal preferences respected. This should be agreed with the individual and recorded in their personal plan.
- Individuals are encouraged to take part in everyday tasks and contribute their views, if they choose to, on the way the in which the service is run.
- Technology and specialist equipment are provided or made accessible to enable individuals to call for assistance and to enable people to manage their own needs.

## 1.6 Requirements on service providers – safeguarding (Part 8)

The intent of Part 8 of the Regulations is to ensure that service providers have in place the mechanisms to safeguard vulnerable individuals to whom they provide care and support.

This includes arrangements that:

- support vulnerable individuals using the service;
- support and underpin staff knowledge, understanding and skill in identifying risks and action to take where abuse, neglect or improper treatment is suspected or identified; and
- ensure the service provider works collaboratively with partners to prevent and take action where abuse, neglect or improper treatment is suspected or identified.

Regulation 26	Guidance
<p><b>Safeguarding - overarching requirement</b></p> <p>26. The service provider must provide the service in a way which ensures that individuals are safe and are protected from abuse, neglect and improper treatment.</p>	<ul style="list-style-type: none"> <li>• When they begin using the service, individuals and their representatives are given information about safeguarding, how to raise a concern and support is available to enable them to do so.</li> <li>• Staff can access up to date safeguarding policies and procedures.</li> </ul> <p>Staff receive training relevant to their role at induction to enable them to understand their responsibility to safeguard and protect vulnerable individuals. This includes both internal and local safeguarding arrangements including how to raise a concern (whistleblowing).</p> <ul style="list-style-type: none"> <li>• Staff training is ongoing at regular intervals in line with local safeguarding recommendations.</li> <li>• Staff are aware of their individual responsibilities for raising</li> </ul>

	<p>concerns to ensure the safety and well-being of individuals.</p> <ul style="list-style-type: none"> <li>• Service providers make provision to support staff raising safeguarding concerns (whistleblowing).</li> <li>• Service providers work in partnership with other relevant professionals and agencies to assess and manage risk to individuals using the service and to participate in the safeguarding process.</li> <li>• Records of safeguarding referrals and outcomes are maintained to enable oversight and scrutiny of safeguarding within the service. Protection of vulnerable adults/children must be overseen by the manager and responsible individual and within the governance structure with arrangements made for oversight at board level.</li> <li>• The service provider ensures outcomes arising from any safeguarding referral are communicated to the individual in a method appropriate to their age and level of understanding taking into account their specific condition and any communication impairment. This is also communicated to any representatives (if appropriate).</li> </ul>
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<b>Regulation 27</b>	<b>Guidance</b>
<p><b>Safeguarding policies and procedures</b></p> <p>27.— (1) The service provider must have policies and procedures in place—</p> <p>(a) for the prevention of abuse, neglect and improper treatment, and</p>	<ul style="list-style-type: none"> <li>• There is an up-to-date safeguarding policy and procedure in place.</li> <li>• Safeguarding policies and procedures are aligned to current legislation, national guidance and local adult and children’s safeguarding procedures.</li> </ul>

<p>(b) for responding to any allegation or evidence of abuse, neglect or improper treatment.</p> <p>(2) In this regulation, such policies and procedures are referred to as safeguarding policies and procedures.</p> <p>(3) The service provider must ensure that their safeguarding policies and procedures are operated effectively.</p> <p>(4) In particular, where there is an allegation or evidence of abuse, neglect or improper treatment, the service provider must—</p> <ul style="list-style-type: none"> <li>(a) act in accordance with their safeguarding policies and procedures,</li> <li>(b) take immediate action to ensure the safety of all individuals for whom care and support is provided,</li> <li>(c) make appropriate referrals to other agencies, and</li> <li>(d) keep a record of any evidence or the substance of any allegation, any action taken and any referrals made.</li> </ul> <p>(5) Where the service includes the provision of accommodation for children, the service provider must have the following policies and procedures in place—</p> <ul style="list-style-type: none"> <li>(a) a policy on the prevention of bullying;</li> <li>(b) procedures for dealing with an allegation of bullying;</li> <li>(c) the procedure to be followed when any child for whom accommodation is provided is absent without permission.</li> </ul>	<ul style="list-style-type: none"> <li>• The safeguarding policy and procedures include the individual roles and responsibilities of staff and others working at the service in identifying, receiving and reporting allegations of abuse, neglect or improper treatment or suspected abuse, neglect or improper treatment. This will include instruction for staff on actions to be taken and mechanisms for referral to the local authority and other relevant partners and agencies.</li> <li>• Service providers ensure that service users are informed of their right to independent professional advocacy services.</li> </ul>
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<b>Regulation 28</b>	<b>Guidance</b>
<p><b>Supporting individuals to manage their money</b></p> <p>28.— (1) The service provider must have a policy and procedures in place about supporting individuals to manage their money and</p>	<ul style="list-style-type: none"> <li>• Policy and procedures set out arrangements for supporting individuals to manage their money. This includes: <ul style="list-style-type: none"> <li>○ how individuals are encouraged and supported to handle their own financial affairs as they wish/where possible;</li> </ul> </li> </ul>



must ensure that the service is provided in accordance with such policy and procedures.

(2) The policy and procedures which are required by this regulation to be in place must set out the steps which are to be taken to enable and support people to manage their own money and to protect individuals from financial abuse.

2A Where a service provides accommodation for children, the policy and procedures required by this regulation must set out the steps which the service provider will take to ensure adequate oversight and monitoring of savings made by or on behalf of children including arrangements for keeping records of savings (and expenditure from savings) and passing on these records when a placement comes to an end.

(3) Where an individual's money is held by the service provider for any purpose (apart from moneys held for the purpose of paying charges payable by the individual in accordance with any agreement with the service provider), the policy and procedures required by this regulation must provide—

- (a) that the money is held in an account in the individual's name or in an account which enables clear demarcation of each individual's money;
- (b) any such account is not used in connection with the management of the service.

(4) The service provider must ensure so far as practicable that persons working at the service do not act as the agent of an individual.

- how individuals will be supported, including opening and managing individual bank accounts, budgeting and making spending decisions;
  - how individuals are supported to understand and manage any associated risks; and
  - how the service provider ensures that those staff not required to support the individual to manage their money or others working in or connected with the service are precluded from involvement with the individuals' financial affairs.
- Where accommodation is provided to children, service providers ensure arrangements are in place to oversee and monitor the savings of a child.
  - Where accommodation is provided to children, policy and procedures set out:
    - how children will be supported to understand and access any financial allowances they may be entitled to, where applicable to the child; and
    - how records and receipts of expenditure related to a child's savings will be dealt with when a placement ends
  - Where individuals are not able to manage their own finances, records and receipts are maintained of any financial transactions undertaken on their behalf.
  - Where staff are supporting individuals to manage their money, this is recorded in the individual's personal plan.
  - Arrangements are in place for oversight and review of management of finances by the service provider.

	<ul style="list-style-type: none"> <li>• Where the service handles individuals' money, the service provider ensures that the personal finances of the individuals are not pooled with the finances of the service.</li> <li>• Money is held in an account in the individual's name (or an account with clear demarcation of the individuals' money) and is spent as they wish. Appropriate records and receipts are kept.</li> <li>• There are arrangements in place for the safe storage of money and valuables. Records are be maintained of any possessions handed over for safekeeping.</li> <li>• Arrangements are in place for individuals to access independent support and advice (advocacy) concerning their financial affairs, including in relation to Wills, bequests or legacies.</li> <li>• Staff or others working at the service or involved with the service do not act as agents (to act on behalf of the individual) unless they have the lawful authority to do so.</li> <li>• Service providers ensure that money donated to or collected specifically for the benefit of the individuals using the service is not used for routine expenditure.</li> </ul>
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<b>Regulation 29</b>	<b>Guidance</b>
<p><b>The appropriate use of control and restraint</b></p> <p>29.— (1) Care and support must not be provided in a way which includes acts intended to control or restrain an individual unless those acts—</p> <p>(a) are necessary to prevent a risk of harm posed to the</p>	<ul style="list-style-type: none"> <li>• Service providers ensure a positive and constructive approach is adopted to support an individual's behaviour. Any strategies or measures taken to support the individual's behaviour are consistent with— <ul style="list-style-type: none"> <li>○ meeting the individual's needs for care and support;</li> <li>○ the well-being of other individuals for whom care and</li> </ul> </li> </ul>

individual or another individual, and

(b) are a proportionate response to such a risk.

(2) Control or restraint must not be used unless it is carried out by staff who are trained in the method of control or restraint used.

(3) The service provider must have a policy on the use of control or restraint and ensure that any control or restraint used is carried out in accordance with this policy.

(4) A record of any incident in which control or restraint is used must be made within 24 hours.

(5) For the purposes of this regulation, a person controls or restrains an individual if that person—

(a) uses, or threatens to use, force to secure the doing of an act which the individual resists, or

(b) restricts the individual's liberty of movement, whether or not the individual resists, including by the use of physical, mechanical or chemical means.

support is provided.

- There is a policy in place for the appropriate use of control, restraint or restrictive practice which reflects current national guidance.
- Staff are aware of and understand and follow the policy and procedures on the appropriate use of control and restraint.
- As part of their induction, staff receive behavioural support training that is relevant to their role to make sure any control or restraint practices are only used proactively and when absolutely necessary, in line with current national guidance.
- Staff are kept up to date on the policy and procedures in line with any changes to guidance and legislation.
- Service providers ensure that if using forms of control or restraint, they are able to check it:
  - is used as part of a pro-active approach to behavioural support;
  - is proportionate to the risk of harm and the seriousness of that harm to the person using the service or another person;
  - takes account of the assessment of the person's needs and their capacity to consent to such treatment; and
  - follows current legislation and guidance.
- Where an individual lacks mental capacity to consent to the arrangements for their care and support, service providers follow the statutory principles and provisions of the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards, where appropriate. Service providers ensure acts of care and

	<p>support are in the person’s best interest and there is lawful authority in place where required.</p> <ul style="list-style-type: none"> <li>• Service providers and staff regularly monitor and review the approach to, and use of control or restraint and report on this within their governance framework. This includes: <ul style="list-style-type: none"> <li>○ the details of the incident and actions taken in response; and</li> <li>○ sufficient detail to enable analysis and review of the individual’s care and support needs as well as to inform wider review of service provision.</li> </ul> </li> <li>• Records of the use of control and restraint are reviewed and reported upon within the quality of care review.</li> <li>• Secure accommodation providers act in accordance with the terms of the Secure Accommodation Order made by the court.</li> </ul>
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**Regulation 30**

**Prohibition on the use of corporal punishment**

30.— (1) A service provider who provides a care home service, a secure accommodation service or a residential family centre service must ensure that persons working at the service use no form of corporal punishment at any time against any child to whom accommodation is provided.

(2) A service provider who provides a domiciliary support service must ensure that persons working at the service use no form of corporal punishment at any time against any child to whom care and support is provided.

<b>Regulation 31</b>	<b>Guidance</b>
<b>Deprivation of liberty</b>	<ul style="list-style-type: none"> <li>• Service providers act at all times in accordance with the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards as well as the Code of Practice to the Mental Capacity Act 2005</li> </ul>

31. An individual must not be deprived of their liberty for the purpose of receiving care and support without lawful authority.

and supplementary Code of Practice for Deprivation of Liberty Safeguards.

- Staff are trained at appropriate intervals and in line with any changes to guidance and legislation to understand their responsibility under the Mental Capacity Act and the Deprivation of Liberty Safeguards.

## Regulation 32

### Interpretation of Part 8

32. In this Part—

“abuse” (“*camdriniaeth*”) means physical, sexual, psychological, emotional or financial abuse and, in relation to a child, any other harm.

For the purposes of this definition—

(a) “financial abuse” (“*camdriniaeth ariannol*”) includes—

- (i) having money or other property stolen;
- (ii) being defrauded;
- (iii) being put under pressure in relation to money or other property;
- (iv) having money or other property misused;

(b) “harm” (“*niwed*”) has the same meaning as in section 197(1) of the 2014 Act;

“improper treatment” (“*triniaeth amhriodol*”) includes discrimination or unlawful restraint, including inappropriate deprivation of liberty under the terms of the Mental Capacity Act 2005<sup>(4)</sup>;

“neglect” (“*esgeulustod*”) has the same meaning as in section 197(1) of the 2014 Act.

4 2005 c. 9. [https://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga\\_20050009\\_en.pdf](https://www.legislation.gov.uk/ukpga/2005/9/pdfs/ukpga_20050009_en.pdf)

## 1.7 Requirements on service providers which only apply where accommodation is provided (Part 9)

The intent of Part 9 of the Regulations is to ensure that where accommodation is provided, individuals are supported to access healthcare and other services to maintain their ongoing health, development and well-being.

Regulation 33	Guidance
<p><b>Access to health and other services</b></p> <p>33.— (1) This regulation applies to a service provider in respect of a care home service, a secure accommodation service or a residential family centre service which the provider is registered to provide.</p> <p>(2) A service provider to whom this regulation applies must put arrangements in place for individuals—</p> <ul style="list-style-type: none"> <li>(a) to be registered with a general practitioner,</li> <li>(b) to be placed under the care of a registered dental practitioner,</li> <li>(c) to be able to access treatment, advice and other services from any health care professional as necessary, and</li> <li>(d) to be supported to access such services.</li> </ul> <p>(3) In the case of a care home service which provides accommodation wholly or mainly for children or in the case of secure accommodation service, the service provider must designate a member of staff to be the “link worker” for each child and must ensure that—</p> <ul style="list-style-type: none"> <li>(a) a child's link worker participates in any review involving consideration of the child's educational progress, whether conducted under regulations made under section 102 of the</li> </ul>	<ul style="list-style-type: none"> <li>• Where individuals are relocating to a new address service providers assist them to register with a general practitioner of the individual’s choice.</li> <li>• Where required, assistance is provided to access additional services from health and allied health professionals; this must be undertaken in a timely manner. This includes seeking assistance on behalf of individuals or supporting them to access the services.</li> <li>• Individuals are assisted and supported to attend and participate in health checks and activities related to health promotion, where appropriate.</li> <li>• Staff are aware of their role in health promotion.</li> <li>• Individuals are assisted and supported to access appointments with health and allied professionals. This includes specifically but not exhaustively: dentistry, ophthalmology, speech and language services, physiotherapy, psychology, podiatry, mental health or therapeutic services and any palliative care services.</li> <li>• Records relating to professional consultations are kept (including, where possible, any resulting actions) and, where available, relevant correspondence maintained to provide a</li> </ul>

2014 Act, the Care Planning, Placement and Case Review (Wales) Regulations 2015 or otherwise;

(b) a child's link worker participates in any review involving consideration of any aspect of a child's health, whether conducted under regulations made under section 102 of the 2014 Act, the Care Planning, Placement and Case Review (Wales) Regulations 2015, or otherwise.

(4) In paragraph (3) of this regulation "link worker" means a staff member of a care home service for children who is of appropriate seniority with particular responsibility for protecting and promoting the health and educational welfare of an individual child and for liaison with education and health care providers on that child's behalf.

clear health record for the individual.

- Where there are multiple professionals involved in an individual's care and support the service provider establishes roles and responsibilities for referral and advice. This is recorded and is clear for the individual and staff involved in their care and support.
- Individuals are supported to access additional facilities, where available, to promote health and well-being or support them to achieve their personal outcomes, for example, access to leisure centres, fitness classes or other therapeutic activities.

## 1.8 Requirements on service providers as to staffing (Part 10)

The intent of Part 10 of the Regulations is to ensure that individuals are supported by appropriate numbers of staff who have the knowledge, competence, skills and qualifications to provide the levels of care and support required to enable the individual to achieve their personal outcomes.

Service providers have in place:

- policies and procedures for recruitment;
- rigorous practices for recruiting and vetting staff;
- a structure of management and staffing that supports the statement of purpose which is relevant to individual's needs; and
- a management structure, systems and processes for induction, ongoing supervision, training and development of staff.

Regulation 34	Guidance
<p><b>Staffing - overarching requirements</b></p> <p>34.—(1) The service provider must ensure that at all times a sufficient number of suitably qualified, trained, skilled, competent and experienced staff are deployed to work at the service, having regard to—</p> <ul style="list-style-type: none"> <li>(a) the statement of purpose for the service;</li> <li>(b) the care and support needs of the individuals;</li> <li>(c) supporting individuals to achieve their personal outcomes;</li> <li>(d) the requirements of the regulations in Parts 3 to 15.</li> </ul> <p>(2) In the case of a care home service where any individual to whom accommodation is provided has been assessed as needing 24 hour nursing care, the service provider must ensure that there is a sufficient number of suitably qualified registered nurses deployed to work at the service at all times.</p> <p>(3) The service provider must be able to demonstrate the way in</p>	<ul style="list-style-type: none"> <li>• Service providers have a demonstrable, measurable and systematic approach to determining the number of staff and range of skills/qualifications required for the reliable provision of care and support to meet individuals' needs and support them to achieve their personal outcomes. This considers, but is not limited to: <ul style="list-style-type: none"> <li>○ the statement of purpose;</li> <li>○ the assessed needs and dependency levels of individuals;</li> <li>○ the environment, facilities and equipment provided; and</li> <li>○ in domiciliary support services this includes consideration of geographical locations of individuals using the service and staff travel time required.</li> <li>○ the different levels of knowledge, skills and competence required to meet the specific needs of individuals on a collective and individual basis. This includes the management arrangements and the number of registered professional and social care workers needed</li> </ul> </li> </ul>



which the determination has been made as to—

- (a) the types of staff deployed, and
- (b) the numbers of staff of each type deployed.

(4) The service provider must ensure that arrangements are made for the support and development of staff.

(5) The service provider must ensure that the employment or engagement of any persons on a temporary basis or on a non-guaranteed hours contract does not prevent individuals receiving such continuity of care as the provider has determined in accordance with regulation 22 is reasonable to meet their needs for care and support.

(6) In paragraph (5) of this regulation, “non-guaranteed hours contract” has the same meaning as in regulation 42.

- In care home services where individuals are identified as having nursing care needs, sufficient numbers of registered nurses with a relevant qualification, experience, competency and relevant skills are deployed to work at the service to supervise and provide for the needs of those individuals.
- In care home services where individuals are assessed as requiring 24 hour nursing care (due to the intensity, complexity and/or acuity of their needs), the provider:
  - ensures sufficient numbers of qualified, competent and experienced registered nurses are responsible, accessible and present for meeting the nursing care needs of individuals at all times
  - demonstrates the way in which the number and competency of registered nurses deployed has been determined.
- Staffing levels and skill mix are reviewed continuously and adapted to respond to the changing needs and circumstances of individuals using the service.
- Arrangements are in place to cover staff sickness or absence to ensure care and support needs are met and individuals are supported to achieve their personal outcomes.
- There are procedures to follow in the case of in an emergency that make sure sufficient and suitable staff are deployed to cover both the emergency and the routine work of the service.

Regulation 35	Guidance
<p><b>Fitness of staff</b></p> <p>35.—a) The service provider must not—</p> <ul style="list-style-type: none"> <li>(a) employ a person under a contract of employment to work at the service unless that person is fit do so;</li> <li>(b) allow a volunteer to work at the service unless that person is fit to do so;</li> <li>(c) allow any other person to work at the service in a position in which he or she may in the course of his or her duties have regular contact with individuals who are receiving care and support or with other persons who are vulnerable unless that person is fit to do so.</li> </ul> <p>(2) For the purposes of paragraph (1), a person is not fit to work at the service unless—</p> <ul style="list-style-type: none"> <li>(a) the person is of suitable integrity and good character;</li> <li>(b) the person has the qualifications, skills, competence and experience necessary for the work he or she is to perform;</li> <li>(c) the person is able by reason of their health, after reasonable adjustments are made, of properly performing the tasks which are intrinsic to the work for which he or she is employed or engaged;</li> <li>(d) the person has provided full and satisfactory information or documentation, as the case may be, in respect of each of the matters specified in Part 1 of Schedule 1 and this information or documentation is available at the service for inspection by the service regulator;</li> <li>(e) Subject to paragraph (10) of this regulation where the person is employed by the service provider to manage the service, the person is registered as a social care manager</li> </ul>	<ul style="list-style-type: none"> <li>• Service providers have rigorous selection and vetting systems in place to enable them to make a decision on the appointment or rejection of all staff and volunteer applicants. This includes the information set out in schedule 1 of the Regulations. This also includes checking the veracity of references and employment.</li> <li>• Where agency staff are deployed service providers ensure that they are subject to the same checks as permanently employed staff and have evidence to demonstrate that the checks have been undertaken. This may include confirmation and checklists supplied by any agency, where sufficiently reliable and robust.</li> <li>• Positive consideration is given to involving individuals using the service in the recruitment of new staff.</li> <li>• Service providers have a process in place to check that staff have appropriate and current registration with a professional regulator where required or, where applicable, an accredited voluntary register.</li> <li>• Having considered all the information available service providers will determine whether the individual has the necessary skills, qualifications and good character to undertake the role for which they are employed/deployed.</li> <li>• Service providers ensure any person who is not required to register with SCW but who will be involved in the care and support of a service user, for example an occupational therapist has been checked in line with the requirements set out within regulation 35(2)(a)-(d).</li> </ul>

with Social Care Wales;

- (f) where the person is employed by the service provider to work in a capacity other than as a manager and in the course of their employment the person provides care and support to any person in connection with—
- (i) a care home service within the meaning of Part 1 of the Act which is provided wholly or mainly to children; or
  - (ii) a secure accommodation service within the meaning of Part 1 of the Act,

the person is registered as a social care worker with Social Care Wales no later than the relevant date (see paragraph (8) for the meaning of “the relevant date”).

(3) The certificate referred to in paragraphs 2 and 3 of Schedule 1 (referred to in this regulation as a DBS certificate) must be applied for by, or on behalf of the service provider, for the purpose of assessing the suitability of a person for the post referred to in paragraph (1). But this requirement does not apply if the person working at the service is registered with the Disclosure and Barring Service update service (referred to in this regulation as the DBS update service).

(4) Where a person being considered for a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person’s DBS certificate status for the purpose of assessing the suitability of that person for that post.

(5) Where a person appointed to a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person’s DBS certificate status at least annually.

(6) Where a person appointed to a post referred to in paragraph (1) is not registered with the DBS update service, the service provider must apply for a new DBS certificate in respect of that person within three years of the issue of the certificate applied for in accordance with paragraph (3) and thereafter further such

- Where staff (including volunteers) no longer meet the required fitness criteria set out in regulation 35(2), service providers take appropriate and timely action to ensure that individuals are not placed at risk. For example, this may include:
  - coaching and mentoring;
  - providing additional training and supervision;
  - the use of disciplinary procedures.
- Service providers ensure staff comply with the requirements of their professional codes of practice and, where appropriate, providers make referrals to the relevant professional bodies for staff whose fitness to practise is brought into question.
- Where there are concerns that a member of staff has abused an individual or placed an individual at risk of abuse, the Disclosure and Barring Service and any relevant professional registration body are notified by the service provider without delay.

applications must be made at least every three years.

(7) If any person working at the service is no longer fit to work at the service as a result of one or more of the requirements in paragraph (2) not being met, the service provider must—

- (a) take necessary and proportionate action to ensure that the relevant requirements are complied with;
- (b) where appropriate, inform—
  - (i) the relevant regulatory or professional body;
  - (ii) the Disclosure and Barring Service.

(8) In paragraph (2)(f) of this regulation, “the relevant date” is either—

- (a) six months from the date on which the person commenced their employment, or
- (b) such later date as the service regulator may in exceptional circumstances agree.

(9) In this regulation, “the Disclosure and Barring Service” (“*y Gwasanaeth Datgelu a Gwahardd*”) and “DBS” (“*GDG*”) mean the body established by section 87(1) of the Protection of Freedoms Act 2012<sup>(5)</sup>(10) Until 1 April 2020, the requirement under paragraph (2)(e) for a manager to be registered with Social Care Wales does not apply to a manager who is appointed to manage an undertaking—

- (a) in respect of which a person is registered, or has applied to register, as the provider of a domiciliary support service; and
- (b) in respect of which a person was registered as carrying on a nurses agency under Part 2 of the Care Standards Act 2000<sup>(6)</sup> immediately before 2 April 2018 but was not also registered as carrying on a domiciliary

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(5) 2012 c.9.

(6) 2000 c.14.

care agency.

<b>Regulation 36</b>	<b>Guidance</b>
<p><b>Supporting and developing staff</b></p> <p>36.—(1) The service provider must have a policy in place for the support and development of staff.</p> <p>(2) The service provider must ensure that any person working at the service (including a person allowed to work as a volunteer)—</p> <ul style="list-style-type: none"><li>(a) receives an induction appropriate to their role;</li><li>(b) is made aware of his or her own responsibilities and those of other staff.</li><li>(c) receives appropriate supervision and appraisal;</li><li>(d) receives core training appropriate to the work to be performed by them;</li><li>(e) receives specialist training as appropriate;</li><li>(f) receives support and assistance to obtain such further training as is appropriate to the work they perform.</li></ul> <p>(3) The service provider must ensure that any person employed to work at the service is supported to maintain their registration with the appropriate regulatory or occupational body.</p>	<ul style="list-style-type: none"><li>• Service providers ensure they have an induction programme that equips all new staff (including volunteers) to be confident in their roles and practice and enables them to make a positive contribution to the well-being of individuals using the service.</li><li>• Social care workers complete the relevant induction programme required by Social Care Wales within the defined timescale alongside any service-specific induction programmes.</li><li>• Staff have access to copies of any relevant codes of professional practice and practice guidance, including any issued by SCW. The standards specified in these codes and practice guidance are actively promoted.</li><li>• Where agency staff are deployed an introduction to the service is provided which includes, but is not limited to:<ul style="list-style-type: none"><li>○ the statement of purpose;</li><li>○ core policies and procedures; and</li><li>○ management and supervision arrangements.</li></ul></li><li>• Staff are aware of, and understand, their responsibilities and accountabilities when delegating an activity or having an activity delegated to them. This includes registered nurses who maintain accountability for any delegation of activity to other workers.</li><li>• Staff undertaking delegated healthcare activities should be aware of, and adhere to, any code of practice and guidance issued in relation to undertaking delegated activities.</li></ul>

- Service providers must respect the professional autonomy of registered professionals in relation to the delegation of activities.
- Staff receive supervision in their role to help them reflect on their practice and to make sure their professional competence is maintained. This includes feedback about their performance from individuals using the service.
- Staff meet for one to one supervision with their line manager or equivalent officer, or a more senior member of staff, no less than quarterly.
- Registered nursing staff have the opportunity to receive clinical supervision.
- All staff have an annual appraisal which provides feedback on their performance and identifies areas for training and development in order to support them in their role.
- Additional training, learning and development needs of individual staff members are identified within the first month of employment and reviewed through the supervision and appraisal process.
- Staff are supported to undertake training, learning and development to enable them to fulfil the requirements of their role and meet the needs of individuals using the service. This includes training to operate any specialist equipment.
- Service providers undertake an annual (or more frequently if required) training needs analysis to ensure that staff have the relevant skills and competence to meet the needs of individuals

	<p>in accordance with the statement of purpose for the service.</p> <ul style="list-style-type: none"> <li>• Service providers maintain a written record of all training and supervision undertaken or to be undertaken by staff.</li> <li>• Service providers support all staff to complete, where appropriate: <ul style="list-style-type: none"> <li>○ core training, for example, manual handling training;</li> <li>○ necessary qualifications that would enable them to continue to perform their role;</li> <li>○ training and activities required for continuing professional development and to meet the requirements for registration of professional regulatory bodies, where this is relevant to their role;</li> <li>○ other training deemed appropriate by the service provider;</li> <li>○ core and specialist training identified for their role by SCW.</li> </ul> </li> </ul>
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<b>Regulation 37</b>	<b>Guidance</b>
<p><b>Compliance with employer's code of practice</b></p> <p>37. The service provider must adhere to the code of practice on the standards of conduct and practice expected of persons employing or seeking to employ social care workers, which is required to be published by Social Care Wales under section 112(1)(b) of the Act.</p>	<ul style="list-style-type: none"> <li>• Service providers have a clear understanding of their role and responsibilities in relation to the Code of Practice for Employers of Social Care Staff (SCW publication) and/or other codes of practice applicable to employers which may be issued by SCW from time to time</li> </ul>

Regulation 38	Guidance
<p><b>Information for staff</b></p> <p>38.— (1) The service provider must ensure that all persons working at the service (including any person allowed to work as a volunteer) are provided with information about the service and the way it is provided.</p> <p>(2) The service provider must ensure that there are arrangements in place to make staff aware of any codes of practice about the standards of conduct expected of social care workers, which is required to be published by Social Care Wales under section 112(1)(a) of the Act.</p>	<ul style="list-style-type: none"> <li>• Service providers compile and make available information for staff in line with the statement of purpose. This includes information about the following matters— <ul style="list-style-type: none"> <li>○ the ethos and culture of the service;</li> <li>○ the conduct expected of staff and others working at the service;</li> <li>○ the roles and responsibilities of staff and others working at the service;</li> <li>○ the policies and procedures of the service;</li> <li>○ record keeping requirements;</li> <li>○ confidentiality and data protection requirements;</li> <li>○ disciplinary procedures;</li> <li>○ arrangements for reporting concerns; and</li> <li>○ arrangements for lone working.</li> </ul> </li> <li>• Service providers ensure staff have access to and understand up-to-date copies of all relevant policies, procedures and codes of practice. Service providers ensure staff have read these during the induction period and test staff members' ongoing understanding through supervision and performance reviews.</li> <li>• Service providers ensure staff undertake their duties in line with the requirements of the policies and procedures.</li> <li>• All staff are provided with a written job description which states clearly their responsibilities, the duties currently expected of them and their line of accountability.</li> <li>• Regular staff meetings take place (a minimum of six meetings per year), the issues discussed are recorded and appropriate actions are taken as a result.</li> </ul>



Regulation 39	Guidance
<p><b>Disciplinary procedures</b></p> <p>39.— (1) The service provider must put in place and operate a disciplinary procedure.</p> <p>(2) The disciplinary procedure must include—</p> <p>(a) provision for the suspension, and the taking of action short of suspension, of an employee, in the interests of the safety or well-being of people using the service;</p> <p>(b) provision that a failure on the part of an employee to report an incident of abuse, or suspected abuse, to an appropriate person, is grounds on which disciplinary proceedings may be instituted.</p> <p>(3) For the purpose of paragraph (2)(b), an appropriate person is—</p> <p>(a) the service provider,</p> <p>(b) the responsible individual,</p> <p>(c) an officer of the service regulator,</p> <p>(d) an officer of the local authority for the area in which the service is provided,</p> <p>(e) in the case of an incident of abuse or suspected abuse of a child, an officer of the National Society for the Prevention of Cruelty to Children, or</p> <p>(f) a police officer.</p>	<ul style="list-style-type: none"> <li>• Service providers have a disciplinary policy and procedure, in line with employment law, to deal with employee performance and conduct. This includes: <ul style="list-style-type: none"> <li>○ information about what is acceptable and unacceptable behaviour and what action will be taken if there are concerns about staff behaviour.</li> <li>○ the arrangements for a member of staff to be suspended (or transferred to other duties) pending the investigation of any allegations of serious misconduct, including allegations of abuse or serious concerns relating to the safety or well-being of individuals.</li> </ul> </li> <li>• Where the service provider is undertaking disciplinary action against any employee and the employee leaves prior to the completion of the disciplinary process, consideration is given to whether a referral to the police, Disclosure and Barring Service, SCW or any other professional body is appropriate.</li> <li>• Where a volunteer’s fitness to practise is in question due to any alleged misconduct/lack of capability of a concerning nature, the service provider takes appropriate and timely action. For example, this may include: <ul style="list-style-type: none"> <li>○ providing additional training and supervision;</li> <li>○ termination of the volunteer arrangements;</li> <li>○ referral to the Disclosure and Barring Service or police, where appropriate.</li> </ul> </li> <li>• Service providers ensure staff are aware of and understand the disciplinary procedures and any grievance procedures.</li> <li>• A written report of any disciplinary investigations and action</li> </ul>

	taken is kept on the employee's file in line with employment and data protection legislation.
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## 1.9 Requirements on service providers in respect of domiciliary support services (Part 11)

The intent of Part 11 of the Regulations set out the requirements for a domiciliary support service which the provider is registered to provide.

This includes:

- a “schedule of visits” which delineates the time allowed for each visit and the time allowed for travel between each visit;
- the offer to domiciliary care workers on non-guaranteed hours contracts the choice of alternative contractual arrangements.

### Regulation 40

#### Application of regulations in this Part

40. The regulations in this Part only apply to a service provider in respect of the provision of a domiciliary support service which the provider is registered to provide.

Regulation 41	Guidance
<p><b>Delineation of travel time and care time</b></p> <p>41.—(1) A service provider to whom this regulation applies must—</p> <p>(a) prepare a schedule of visits in respect of each domiciliary care worker working at the service; and</p> <p>(b) provide a copy of the relevant schedule of visits to the domiciliary care worker to whom that schedule relates.</p> <p>(2) The schedule of visits must delineate the time allocated for travel time, the time allocated for each visit and (if applicable) the time allocated for rest breaks.</p>	<ul style="list-style-type: none"> <li>• Service providers ensure systems are in place for the provision of a schedule of visits for each domiciliary care worker in line with the requirements of regulation 41.</li> <li>• Service providers ensure that allocated times are:</li> </ul> <p><b>For Travel time</b></p> <ul style="list-style-type: none"> <li>• Provide a realistic consideration of the distance between one location and the next; and</li> <li>• Take account of other factors that might reasonably affect travel time (e.g. traffic congestion at specific times of the</li> </ul>

(3) The time allocated for travel time must be sufficient having regard to—

- (a) the distance between the location of one scheduled visit and the next scheduled visit; and
- (b) any other factors which might reasonably be expected to affect travel time, such as traffic congestion and the availability of parking at the location of the scheduled visits.

(4) The time allocated for each visit—

- (a) must be sufficient to enable care and support to be provided to the individual in accordance with their personal plan; and
- (b) must not be less than 30 minutes unless either condition A, B or C, as described in section 8 of the Act, is met.

(5) A service provider to whom this regulation applies must ensure that a record is kept of the time spent by each domiciliary care worker on travel time, visits and rest breaks.

(6) For the purposes of this regulation—

“domiciliary care worker” (“*gweithiwr gofal cartref*”) means a person who provides care and support to individuals as part of a domiciliary support service and includes—

- (a) a person employed by the service provider as an employee or a worker; and
- (b) a person engaged by the service provider under a contract for services.

For the purposes of this definition, the terms “employed” (“*a gyflogir*”), “employee” (“*cyflogai*”) and “worker” (“*gweithiwr*”) have the same meanings as in section 230 of the Employment Rights Act 1996;

“schedule of visits” (“*amserlen ymweliadau*”) means a schedule of the visits which a domiciliary care worker is required to make during the course of a day or a week;

day or parking restrictions) and factor in a reasonable allowance to provide adequate time to permit domiciliary care workers to work around them.

#### **For Care time**

- Sufficient to enable care and support to be provided to an individual in accordance with their personal plan.
- The delivery of care must not be less than 30 minutes unless it meets either condition A, B or C as set out in section 8 of the Act.

#### **For example:**

- For the purposes of this guidance, condition A relates to the period of care to deliver the activity stated within the individual’s personal plan or the carer’s support plan. The first visit or the first visit by every new support worker within that same period of care is at least 30 minutes. Subsequent visits should also be at least 30 minutes, unless conditions B or C apply. Rotas only need to show sufficient time to meet those tasks.
- Condition B relates to where the visit is consistent with the terms of any arrangement to provide the service; or is for the sole purpose of checking whether a person is safe and well; or that the tasks performed are completed to a standard that meets the requirements set out within these regulations. Where condition B applies, the rotas do not need to be revised but a clear record is kept.
- Condition C takes account of a visit being cut short at the request of the individual. Where condition C applies, the rotas do not need to be revised but a clear record is

<p>“travel time” (“<i>amser teithio</i>”) includes the time spent travelling between the location of one scheduled visit and the location of the next scheduled visit but does not include any time spent travelling from the home of the domiciliary care worker to the location of the first scheduled visit or any time spent travelling from the location of the last scheduled visit to the home of the domiciliary care worker;</p> <p>“visit” (“<i>ymweliad</i>”) means a visit to an individual for the purpose of providing a domiciliary support service.</p>	<p>kept</p>
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Regulation 42	Guidance
<p><b>Offering domiciliary care workers on non-guaranteed hours contracts the choice of alternative contractual arrangements</b></p> <p>42.—(1) If the conditions in paragraph (2) are met, a service provider to whom this regulation applies must offer a domiciliary care worker the choice of continuing to be employed under either of the following types of contractual arrangement—</p> <p>(a) a contract of employment where the number of hours required to be worked per week is at least the average number of hours worked per week during the preceding three months;</p> <p>(b) a contract of employment where the number of hours required to be worked per week is less than the average number of hours worked per week during the preceding three months.</p> <p>But this requirement does not prevent the service provider employing a domiciliary care worker on any other type of contractual arrangement which has been agreed between the provider and the worker, including a further non-guaranteed hours contract.</p>	<ul style="list-style-type: none"> <li>• Service providers ensure domiciliary care workers employed by them are offered a choice of continued employment in line with the requirements of regulation 42.</li> <li>• For the purposes of 42(2)(b) regular hours are the hours that a worker consistently works over a three-month period, be they a weekly or monthly quota (i.e. 37 hours a week or 148 hours a month).</li> <li>• Service providers ensure contractual arrangements are reviewed, after a further three-month period, for any domiciliary care worker who opts to remain upon a non-guaranteed hours contract.</li> <li>• Services providers ensure a record is kept of the contract discussion.</li> <li>• Service providers conduct contract reviews as part of staff appraisal practices or other management reviews, where applicable or appropriate.</li> </ul>

(2) The conditions referred to in paragraph (1) are—

- (a) the domiciliary care worker has been employed by the service provider under a non-guaranteed hours contract for the qualifying period,
- (b) the domiciliary care worker has worked regular hours during the three months preceding the end of the qualifying period,
- (c) the provider has decided that there is a continuing need for the hours to be worked on an ongoing basis, and
- (d) the domiciliary care worker has performed satisfactorily during the qualifying period.

(3) For the purposes of this regulation—

“domiciliary care worker” (“*gweithiwr gofal cartref*”) means a person who provides care and support to individuals as part of a domiciliary support service and includes a person employed by the service provider as an employee or a worker but does not include a person engaged by the service provider under a contract for services;

“non-guaranteed hours contract” (“*contract oriau heb eu gwarantu*”) means a contract of employment or other worker’s contract under which—

- (a) the undertaking to do work or perform services is an undertaking to do so conditionally on the employer making work or services available to the worker, and
- (b) there is no certainty that any such work or services will be made available to the worker.

For the purpose of this definition, an employer makes work or services available to a worker if the employer requests or requires the worker to do the work or perform the services;

“the qualifying period” (“*y cyfnod cymhwysol*”) is—

- (a) in any case where the worker has commenced employment after the relevant date, the period of three months from the date the employment commenced;
- (b) in any case where the worker commenced employment before the relevant date, the period of three months ending

with the commencement date;

- (c) in any case where the worker has previously been offered the choice of an alternative contractual arrangement in accordance with the requirements of this regulation and has chosen to remain on a non-guaranteed hours contract, the period of three months from the date any such choice was made.

For the purposes of this definition—

“the commencement date” (“*y dyddiad cychwyn*”) is the date on which this regulation comes into force;

“the relevant date” (“*y dyddiad perthnasol*”) is the date which falls three months before the commencement date.

- (4) For the purposes of this regulation—

- (a) the terms “contract of employment” (“*contract cyflogaeth*”), “employer” (“*cyflogwr*”), “employee” (“*cyflogai*”), “employment” (“*cyflogaeth*”) and “employed” (“*cael ei gyflogi*”, “*wedi ei gyflogi*”, “*a gyflogi*”) have the same meanings as in section 230 of the Employment Rights Act 1996;

“worker” (“*gweithiwr*”) has the same meaning as in section 230 of the Employment Rights Act 1996, except that a person engaged under a contract for services is not a worker for the purpose of this regulation. Any reference to a worker's contract is to be construed accordingly.

## 1.10 Requirements on service providers as to premises, facilities and equipment (Part 12)

The intent of Part 12 of the Regulations set out the requirements for service providers to ensure that individual’s care and support is provided in a location and environment with facilities and, where relevant, equipment that promotes achievement of their personal outcomes. The requirements of Part 12 apply to all providers of care home services, secure accommodation services or residential family centre services.

This includes:

- ensuring that systems and processes are in place which promote a safe and high quality environment in which the services are provided;
- ensuring the physical environment provides individual and communal space to meet their care and support needs; and
- facilities and equipment which are well maintained and appropriate to the individuals using the service.

Regulations 43 and 44	Guidance
<p><b>Overarching requirement</b></p> <p>43. The service provider must ensure that the premises, facilities and equipment are suitable for the service, having regard to the statement of purpose for the service.</p> <p><b>Premises – accommodation-based services only</b></p> <p>44.—(1) The requirements in this regulation only apply to service providers who are registered to provide a care home service, secure accommodation service or residential family centre service.</p> <p>(2) The service provider must ensure that the physical design, layout and location of the premises used for the provision of the service is suitable to—</p> <p>(a) achieve the aims and objectives set out in the statement of purpose;</p>	<ul style="list-style-type: none"> <li>• The location, design and size of the premises are suitable for the service as described in the statement of purpose.</li> <li>• The premises are located, designed and equipped to meet the needs of the individuals for which the service is intended. This includes ensuring that: <ul style="list-style-type: none"> <li>○ individuals’ needs and, where possible, their views are taken into account when premises are designed, built, maintained, renovated or adapted;</li> <li>○ In determining the location from which the service will be delivered, the service provider takes into account the need for individuals to have easy access to the local community and relevant facilities, such as those relating to education, health, employment and leisure, as well as good access to public transport. Where access to public transport is limited this is facilitated by the service provider;</li> </ul> </li> </ul>



- (b) meet the care and support needs of the individuals;
- (c) support individuals to achieve their personal outcomes.

(3) In particular, the service provider must ensure that the premises used for the provision of the service meet the requirements of paragraphs (4) to (6) of this regulation.

(4) Premises must be—

- (a) accessible, adequately lit, heated and ventilated;
- (b) secure from unauthorised access;
- (c) suitably furnished and equipped;
- (d) of sound construction and kept in good structural repair externally and internally;
- (e) fitted and adapted as necessary, in order to meet the needs of individuals;
- (f) organised so that equipment used for the provision of the service is appropriately located;
- (g) free from hazards to the health and safety of individuals and any other persons who may be at risk, so far as is reasonably practicable;
- (h) properly maintained;
- (i) kept clean to a standard which is appropriate for the purpose for which they are being used.

(5) Premises must have bedrooms which—

- (a) include appropriate facilities to meet the care and support needs of the individual (if the room is single occupancy) or individuals (if the room is shared) occupying the bedroom;
- (b) are of an adequate size, having regard to —
  - (i) whether the room is shared or single occupancy;
  - (ii) the layout and furniture;
  - (iii) the equipment required to meet the needs of the

- the privacy, dignity and confidentiality of individuals is not compromised unless it is in keeping with their personal plan, for example the use of any surveillance;
- individuals' safety is maintained, including their ability to enter and exit the premises and find their way around easily;
- there is safe access to all fixed / wall mounted equipment, such as the hoisting system; and
- there is independent access to all appropriate areas of the service and, where required, the premises are adapted to achieve this.

- Service providers have security arrangements in place which ensure individuals are safe and secure without compromising their rights, privacy and dignity. The level of security used must be appropriate to the individual and to the service being provided. This includes:
  - protecting personal property and/or money;
  - providing appropriate access to and from the premises which does not unnecessarily restrict an individual's freedom of movement;
  - discussion with relevant partners, for example crime prevention officers about the level of security that may be appropriate.
- Service providers have a written policy in relation to the use of CCTV both by the service and by individuals, families and staff.
- The use of surveillance in regulated services is overt, purposeful, lawful and clearly indicated within the building and user guide.
- The use of surveillance complies with the requirements under the Regulations in relation to privacy, dignity and respect. It also

<p>individual (if the room is single occupancy) or individuals (if the room is shared);</p> <p>(iv) the number of staff required to meet the needs of the individual (if the room is single occupancy) or individuals (if the room is shared);</p> <p>(c) are comfortable for the individual (if the room is single occupancy) or individuals (if the room is shared);</p> <p>(d) allow the individual (if the room is single occupancy) or individuals (if the room is shared) both freedom of movement and privacy.</p> <p>(6) Premises must have sitting, recreational and dining space which is provided separately from the individual's own private rooms and any such space must be—</p> <p>(a) suitable and sufficient, having regard to the statement of purpose;</p> <p>(b) located so as to enable all persons using the space to access any such space easily and safely.</p> <p>(7) Any communal space used for the provision of the service must be suitable for the provision of social, cultural and religious activities appropriate to the circumstances of the individuals.</p> <p>(8) Suitable facilities must be provided for individuals to meet visitors in private in a space which is separate from the individual's own private rooms.</p> <p>(9) Premises must have toilets, bathrooms and showers which are—</p> <p>(a) of sufficient number and of a suitable type to meet the needs of the individuals;</p> <p>(b) appropriately equipped;</p> <p>(c) located so as to enable all persons to access them easily and safely.</p>	<p>complies with all other legal requirements e.g. under the Data Protection Act 1998.</p> <ul style="list-style-type: none"> <li>• Where children are accommodated premises are not marked to distinguish this.</li> <li>• Service providers ensure that the building has natural ventilation and is heated to reflect the needs of the individuals living at the place.</li> <li>• Furnishings and equipment are provided to achieve the aims and objectives set out in the statement of purpose and to meet the needs and, where possible, the preferences of individuals receiving care and support. This includes: <ul style="list-style-type: none"> <li>○ specialist beds and mattresses, call systems, moving and handling equipment, signage, handrails and/or equipment to support individual's physical, cognitive and sensory needs;</li> <li>○ the provision of suitable equipment and furnishings to support learning, for example computers and desks;</li> <li>○ providing sports and leisure equipment;</li> <li>○ access to a telephone (and the opportunity to use a telephone in private), e mail and internet facilities which are suitable for the individual's needs.</li> </ul> </li> <li>• Arrangements are made to obtain additional specialist advice, aids and equipment to meet individual's needs in liaison with relevant statutory agencies.</li> <li>• Policies and procedures are in place to ensure that buildings' mechanical and electrical systems are sound and operationally safe.</li> </ul>
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(10) Premises must have external grounds which are accessible, suitable for, and safe for use by, individuals and appropriately maintained.

(11) Premises must have suitable facilities for staff which must include—

- (a) suitable storage facilities, and
- (b) where appropriate, suitable sleeping accommodation and changing facilities.

- There is a system of monitoring and auditing in place which supports a planned maintenance schedule and renewal programme for the fabric and decoration of the premises.
- There are arrangements to ensure that any immediate repairs and works arising are identified, reported and action undertaken in response to the level of urgency. This will support the safety and well-being of individuals using the service, visitors and staff.
- Service providers allocate available budget to ensure the ongoing maintenance of premises, facilities, furnishings and equipment.
- Service providers ensure bedrooms are equipped to meet the needs of the individual in line with the statement of purpose.
- Service providers consider individuals' wishes and preferences in the way their rooms are furnished and decorated.
- Individuals' own rooms suit their needs and lifestyles and promote their independence.
- Lighting in individuals' accommodation is in line with their needs and any relevant health and safety requirements.
- Individuals are able to adjust the heating in their own bedrooms and, where relevant, additional ventilation systems and lighting are installed to meet their needs, in line with national standards for inclusive access.
- Bedrooms, whether for a single occupant or shared, have sufficient space and furnishings to:
  - enable the safe use of equipment without impinging upon staff, individuals or furnishings and personal

items;

- enable staff to meet the individual's care and support needs in a safe and dignified manner;
- provide privacy;
- provide space for independent activity, for example, undertaking homework, pursuing hobbies and spending time alone.

- Doors to bedrooms are fitted with locks suitable to their capabilities and individuals are provided with keys unless their risk assessment indicates otherwise.
- Staff are able to open the doors to bedrooms from the outside in case of emergency.
- Individuals have safe and secure storage facilities for their personal belongings including money, valuables and where appropriate medication.
- Communal spaces are available to meet the needs of individuals accommodated, in keeping with the statement of purpose, and are easily and independently accessible in accordance with the Equality Act 2010 and other current legislation and guidance. This includes provision for individuals to meet privately with visitors, take part in activities, play and recreation, in a way that does not impact on the routines or privacy of other individuals using the service.
- In considering the layout, access, design/decor, signage and adaptations for communal areas, service providers take into account the needs and dependencies of individuals living at the place such as those relating to dementia, physical disability and sensory impairment. The service provider ensures communal spaces are based on recognised evidence-based guidance.

- Independence is promoted and maintained by ensuring individuals have appropriate access to facilities and equipment, for example accessible kitchen/cooking and laundry facilities.
- Baths or showers are available for individuals to use, in accordance with their needs and in line with the statement of purpose.
- Bathrooms, showers and toilets are located and designed to take account of the privacy, dignity, safety and needs and abilities of individuals, in line with requirements of the Equality Act 2010.
- Bathrooms, showers and toilets have aids and equipment provided to meet the needs of individuals accommodated, for example grab rails, sinks located at an accessible height and emergency call systems.
- Facilities are readily accessible from sleeping and recreational areas of the home.
- Staff are able to open the doors to bathrooms, showers and toilets from the outside in case of an emergency.
- Grounds are kept tidy, safe, attractive and accessible to individuals.
- Service providers regularly review the safety and condition of the grounds as part of the maintenance programme.
- Outdoor space is designed to meet the needs of all individuals including those with physical, sensory and cognitive impairments.

- Where accommodation is provided for staff this is located within the service and enables them to respond easily to individuals' needs.
- Suitable sleeping accommodation and changing facilities are provided for staff where appropriate.
- Staff are provided with a safe place to store personal belongings.

Regulation 45	Guidance
<p><b>Single occupancy and shared rooms - adults</b></p> <p>45.— (1) Where the service provider is providing a care home service which includes the provision of accommodation for individuals who are adults, the service provider must ensure that all adults are accommodated in single rooms. But this requirement does not apply if either—</p> <ul style="list-style-type: none"> <li>(a) the conditions in paragraph (2) are met, or</li> <li>(b) paragraph (3) applies.</li> </ul> <p>(2) The conditions are —</p> <ul style="list-style-type: none"> <li>(a) an adult agrees to sharing a room with another adult;</li> <li>(b) sharing a room is consistent with the well-being of both adults;</li> <li>(c) the personal plans of both adults have been reviewed and revised as necessary;</li> <li>(d) the number of adults who are accommodated in shared rooms does not exceed 15% of the total number of adults accommodated by the service.</li> </ul>	<ul style="list-style-type: none"> <li>• Single bedrooms are provided in all accommodation-based services.</li> <li>• Bedrooms are only shared when regulation 45(2) and 45(3) applies.</li> <li>• Service providers ensure shared rooms are managed in line with the requirements of the Regulations.</li> <li>• In circumstances where sharing a room is under consideration, the discussion with the individuals concerned or their representatives, and the decision made, is documented by the service provider.</li> </ul>

<p>(3) This paragraph applies if the following conditions are met—</p> <ul style="list-style-type: none"> <li>(a) the care home service was registered as a care home under the Care Standards Act 2000;</li> <li>(b) the number of adults accommodated in shared rooms at the relevant time exceeded 15% of the total number of adults accommodated by the service at the relevant time;</li> <li>(c) all the adults who are accommodated in shared rooms were sharing a room with another adult at the relevant time.</li> </ul> <p>(4) In paragraph (3) of this regulation, “the relevant time” means the time the service provider was registered under the Act as the provider of the care home service.</p>	
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<b>Regulation 46</b>	<b>Guidance</b>
<p><b>Single occupancy and shared rooms – children</b></p> <p>46.— (1) This regulation applies where the service provider is providing—</p> <ul style="list-style-type: none"> <li>(a) a care home service which includes the provision of accommodation for individuals who are children, or</li> <li>(b) a secure accommodation service.</li> </ul> <p>(2) If this regulation applies, the service provider must ensure that each child is accommodated in a single room. But this requirement does not apply if the conditions in paragraph (3) are met.</p> <p>(3) The conditions are—</p> <ul style="list-style-type: none"> <li>(a) the accommodation is provided in a care home service which was registered as a children’s home under the Care Standards Act 2000,</li> <li>(b) the accommodation provided was occupied at the time the</li> </ul>	<ul style="list-style-type: none"> <li>• Single bedrooms are provided in all accommodation-based services.</li> <li>• Bedrooms are only shared when regulation 46(3) applies.</li> <li>• In the circumstances where sharing a room is under consideration, the discussion with the individuals concerned or their representatives, and the decision made, is documented by the service provider.</li> </ul>

<p>service provider was registered under the Act,</p> <p>(c) the child is sharing a room with no more than one other child,</p> <p>(d) (except in the case of siblings) the other child is not of the opposite sex or of a significantly different age to him or her, and</p> <p>(e) sharing a room will promote the child’s well-being, is provided for in the child’s care and support plan and wherever practicable is agreed with the child.</p>	
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<b>Regulation 47</b>	<b>Guidance</b>
<p><b>Premises – all services</b></p> <p>47. The service provider must ensure that the premises used for the operation of the service have adequate facilities for—</p> <p>(a) the supervision of staff;</p> <p>(b) the secure storage of records.</p>	<ul style="list-style-type: none"> <li>• Service providers have a suitable space within the premises, such as a shared meeting room, to provide privacy for the supervision of staff.</li> <li>• Records are stored securely in line with legislative requirements.</li> </ul>

<b>Regulation 48</b>	<b>Guidance</b>
<p><b>Facilities and equipment</b></p> <p>48. The service provider must ensure that the facilities and equipment used for the provision of the service are—</p> <p>(a) suitable and safe for the purpose for which they are intended to be used;</p> <p>(b) used in a safe way;</p>	<p>For all services:</p> <ul style="list-style-type: none"> <li>• Service providers ensure there are suitable facilities for the storage of equipment, which are easily accessible to staff and do not present a risk to individuals using or working at the service.</li> <li>• Facilities, fittings, adaptations and equipment are available to</li> </ul>



- (c) properly maintained;
- (d) kept clean to a standard which is appropriate for the purpose for which they are being used;
- (e) stored appropriately.

achieve the aims and objectives of the statement of purpose, help to meet the care and support needs of individuals using the services, and support them to achieve their personal outcomes.

- Arrangements are in place to purchase, service, maintain, renew and replace equipment where appropriate. These arrangements meet the requirements of any current legislation and guidance, manufacturers' instructions and the service provider's policies or procedures.
- All equipment is used, stored and maintained in line with the manufacturers' instructions.
- Equipment is used for its intended purpose and solely for the individual for whom it is provided.
- Staff and others who operate the equipment are trained to use it appropriately prior to use.
- Individuals using the service are consulted about the facilities, services and equipment provided by the service on their behalf and, where possible, individual choices and preferences are respected and acted upon.

## 1.11 Additional requirements on service providers in respect of premises – new accommodation (Part 13)

The intent of Part 13 of the Regulations is to develop accommodation-based services to provide consistently high quality environments for individuals receiving care and support. This is to provide choice and support for individuals to maintain their privacy and dignity and independence. The requirements of Part 13 apply to service providers registered to provide care home services, secure accommodation services or residential family centre services.

Regulation 49	Guidance
<p><b>Application of Part 13</b></p> <p>49.—(1) This Part applies to service providers who are registered to provide an accommodation-based service and the premises used for the provision of the service fall within one of the categories in paragraph (2). But this Part does not apply if the service involves the provision of accommodation to four or fewer individuals.</p> <p>(2) The categories are—</p> <p><b>Category A:</b> The premises used for the provision of the service consist of a new building or an existing building which has been converted for the purpose of providing the service, and, in either case, the building has not previously been used for the purpose of providing an accommodation-based service.</p> <p><b>Category B:</b> The premises consist of a building or buildings to which an extension is added and the extension is used for the purpose of providing the service at a place specified as a condition to the service provider’s registration.</p> <p><b>Category C:</b> The premises consist of a building which was unoccupied immediately prior to the service provider’s registration but was previously used for the purpose of providing an accommodation-based service at a place specified as a condition to the registration of another service provider.</p> <p>(3) If this Part applies, the service provider must ensure that the</p>	<ul style="list-style-type: none"> <li>• Accommodation-based services where additional requirements apply are defined in regulations 45 and 46.</li> <li>• Category A relates a new or converted building for the purpose of providing a regulated service.</li> <li>• Category B relates to a new extension to an existing building included within the service provider’s registration. The requirements set out under Part 13 apply to the extension only, under Category B.</li> <li>• Category C relates to an unoccupied building, that was previously registered under one service provider but which now forms part of an application being made by a new service provider.</li> </ul>

<p>requirements of regulations 50 to 54 are complied with but in the case of Category B premises, the requirements only apply to the part of the premises comprising the extension (or in the case of regulation 53, to any parts of the external grounds developed in conjunction with the extension).</p> <p>(4) In this regulation, “accommodation-based service” means a care home service, a secure accommodation service or a residential family centre service.</p>	
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<b>Regulation 50</b>	<b>Guidance</b>
<p><b>Additional requirements – en-suite bathrooms</b></p> <p>50. All bedrooms used for the provision of the service must have an en suite bathroom which includes an accessible wash hand basin, lavatory and shower.</p>	<ul style="list-style-type: none"> <li>• En suite facilities are accessible to meet individuals’ needs. For example, wet rooms, showers or baths.</li> </ul>

<b>Regulation 51</b>
<p><b>Additional requirements – room sizes</b></p> <p>51.— (1) All bedrooms used for the provision of the service must have a minimum of 12 square metres of useable floor space unless paragraph (2) or (3) applies.</p> <p>(2) This paragraph applies where the person living in the room has to use a wheelchair on a permanent and constant basis because of the nature of their disability.</p> <p>(3) This paragraph applies where a bedroom is shared.</p> <p>(4) If paragraph (2) applies, the bedroom must have a minimum of 13.5 square metres of useable floor space.</p> <p>(5) If paragraph (3) applies, the bedroom must have a minimum of 16 square metres of useable floor space.</p>

Regulation 52	Guidance
<p><b>Additional requirements – communal space</b></p> <p>52.(1) Subject to paragraph (2), the amount of sitting, recreational and dining space which is used for the provision of the service in accordance with regulation 44(6) must be at least—</p> <ul style="list-style-type: none"> <li>(a) 4.1 square metres for each individual;</li> <li>(b) 5.1 square metres for wheelchair users.</li> </ul> <p>(2) For Category B premises, this regulation applies so that the space requirement must be met in relation to any additional rooms for individuals</p>	<ul style="list-style-type: none"> <li>• Service providers ensure communal space adheres to the requirements set out under regulation 52.</li> </ul>

Regulation 53	Guidance
<p><b>Additional requirements – outdoor space</b></p> <p>53. The external grounds (or, in the case of Category B premises, any part of the external grounds developed in conjunction with the building of the extension) which are used for the provision of the service in accordance with regulation 44(10) must—</p> <ul style="list-style-type: none"> <li>(a) be accessible to individuals in wheelchairs or with other mobility problems,</li> <li>(b) have sufficient and suitable seating, and</li> <li>(c) be designed to meet the needs of all individuals including those with physical, sensory and cognitive impairments.</li> </ul>	<ul style="list-style-type: none"> <li>• Service providers ensure that the layout, design and access to outdoor areas is in line with the statement of purpose and individuals’ needs.</li> <li>• Outdoor areas can be accessed independently and/or with support if required. Consideration is given to the need for: <ul style="list-style-type: none"> <li>○ adaptations to provide access;</li> <li>○ pathways and paving suitable for wheelchair users and mobility scooters/equipment;</li> <li>○ the safety and security of individuals while outside;</li> <li>○ sufficient seating to enable individuals to rest /enjoy being outdoors;</li> <li>○ play and recreational equipment; and</li> <li>○ therapeutic and sensory areas.</li> </ul> </li> </ul>

Regulation 54	Guidance
<p><b>Additional requirements – passenger lift</b></p> <p>54. Where the accommodation used for the provision of the service is on more than one floor and this is consistent with the statement of purpose for the service, there must be a passenger lift</p>	<p>Service providers ensure that passenger lifts are accessible and include audio alerts and signage appropriate to the age, level of understanding, the condition and any communication impairment of, the individuals accessing the lift.</p>

## 1.12 Requirements on service providers as to supplies, hygiene, health and safety and medicines (Part 14)

The intent of Part 14 of the Regulations is to ensure that individuals are supported by a service that:

- has sufficient quantities of supplies for their care and support needs;
- has safe systems for medicines management;
- identifies and mitigates risks to health and safety; and
- promotes hygienic practices and manages the risk of infection.

<b>Regulation 55</b>	<b>Guidance</b>
<p><b>Supplies</b></p> <p>55. The service provider must ensure that supplies are available of a sufficient quantity and of a suitable type to deliver the service effectively and to meet the care and support needs of the individuals.</p>	<ul style="list-style-type: none"> <li>• Service providers ensure supplies are of a sufficient level to meet the high quality of care required to support individuals to achieve their personal outcomes.</li> <li>• Individuals are supported to access personal supplies where relevant.</li> <li>• Arrangements are in place for the oversight and review of supplies required by the service. This includes contingency plans in case of an emergency</li> </ul>

<b>Regulation 56</b>	<b>Guidance</b>
<p><b>Hygiene and infection control</b></p> <p>56.—(1) The service provider must have arrangements in place to ensure—</p> <p>(a) satisfactory standards of hygiene in the delivery of the service;</p> <p>(b) the appropriate disposal of general and clinical waste.</p>	<ul style="list-style-type: none"> <li>• Policies and procedures are in place that promote hygiene and take into account current legislation and guidance, for example those which relate to: <ul style="list-style-type: none"> <li>○ food handling;</li> <li>○ hand washing; and</li> <li>○ cleaning and laundering arrangements (where relevant).</li> </ul> </li> <li>• Staff are aware of the policies and procedures relevant to their</li> </ul>

(2) The service provider must have policies and procedures in place for the control of infection and to minimise the spread of infection and must ensure that the service is provided in accordance with these policies and procedures.

role and have training to understand safe working practices concerning hygiene and the prevention of infection.

- In accommodation-based services:
  - cleaning programmes are in place, with appropriate staff and equipment for the care and support provided, to ensure that standards of hygiene are maintained;
  - systems are established to monitor levels of cleanliness and to take action where shortfalls are identified.
  - systems are in place for the oversight and monitoring of standards of hygiene.
- Equipment relevant to the statement of purpose is provided to maintain high standards of hygiene, for example:
  - in care homes, laundering facilities and hand washing facilities which are easily accessible and appropriately sited;
  - in all services, access to protective clothing, gloves and aprons.
- the service provider has policies and procedures in place that meet the requirements of the relevant regulatory authorities to ensure the health and safety of individuals using the service, staff and visitors.
- Procedures for the management of hazardous waste meet the requirements of relevant Health and Safety legislation and guidance.
- There are policies and procedures to prevent infection and the spread of infection which are aligned to any current legislation and national guidance. This includes, but is not limited to:
  - the safe handling and disposal of clinical waste;
  - dealing with spillages;
  - the provision of protective clothing;

	<ul style="list-style-type: none"> <li>○ hand washing.</li> <li>● Equipment provided for cleaning and decontamination is suitable to meet the requirements of current legislation and guidance and relevant to the statement of purpose. It is: <ul style="list-style-type: none"> <li>○ easily accessible; and</li> <li>○ cleaned and decontaminated after each use in line with current legislation, guidance and manufacturers' instructions.</li> </ul> </li> </ul>
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<b>Regulation 57</b>	<b>Guidance</b>
<p><b>Health and safety</b></p> <p>57. The service provider must ensure that any risks to the health and safety of individuals are identified and reduced so far as reasonably practicable.</p>	<ul style="list-style-type: none"> <li>● Service providers ensure the premises comply with current legislation and national guidance in relation to health and safety, fire safety, environmental health and any standards set by the Food Standards Agency. Examples include: <ul style="list-style-type: none"> <li>○ required safe water temperatures;</li> <li>○ fitting and maintenance of window restrictors;</li> <li>○ fire evacuation and drills;</li> <li>○ safe disposal of clinical waste;</li> <li>○ safe storage, preparation of food; and</li> <li>○ regular health and safety risk assessments of the premises which include the grounds and equipment.</li> </ul> </li> <li>● Improvements identified are acted upon according to the level of risk.</li> <li>● Where relevant, service providers act on the views of external bodies such as the fire service, Health and Safety Executive, Environmental Health and other bodies that provide best practice guidance.</li> </ul>



Regulation 58	Guidance
<p><b>Medicines</b></p> <p>58.—(1) The service provider must have arrangements in place to ensure that medicines are stored and administered safely.</p> <p>(2) These arrangements must include the arrangements for—</p> <ul style="list-style-type: none"> <li>(a) maintaining a sufficient supply of medicines;</li> <li>(b) the effective ordering, re-ordering, recording, handling and disposal of medicines;</li> <li>(c) regular auditing of the storage and administration of medicines.</li> </ul> <p>(3) The service provider must have a policy and procedures in place in relation to the safe storage and administration of medicines and must ensure that the service is provided in accordance with this policy and these procedures.</p>	<ul style="list-style-type: none"> <li>• There is a medication policy and procedure in place which is aligned to any current legislation and national guidance. This includes the systems in place for the management and oversight of ordering, reordering, storage (of both controlled and non-controlled medication), administration (including covert administration), reconciliation, recording, and disposal of medicines.</li> <li>• Medication storage and administration adheres to statutory and non-statutory national guidance.</li> <li>• Arrangements are in place to support and promote the individual's independent management of their medication including liaison with relevant professionals to enable this.</li> <li>• Where covert medication is provided, it is administered in line with current best practice guidance.</li> <li>• Staff receive training and are competent before managing, administering or supporting individuals to manage their own medication.</li> <li>• Systems are in place to ensure the oversight and audit of medicines management.</li> <li>• Where staff are taking on delegated activities from other professionals relating to medicine management this is in keeping with any current national guidance and/or professional codes of practice.</li> </ul>

### 1.13 Other requirements on service providers (Part 15)

The intent of Part 15 of the Regulations is to ensure that individuals are protected by a service that works proactively to secure their care and support and safeguard their rights and well-being by:

- maintaining accurate records which are available to them and their representatives;
- communicating with the relevant regulatory bodies and statutory agencies where there are concerns and significant events affecting individuals;
- promoting an open and transparent service by publishing an accessible complaints policy and procedure;
- supporting staff to raise concerns about the service through whistleblowing procedures;
- demonstrating learning from concerns and complaints to improve the service.

Regulation 59	Guidance
<p><b>Records</b></p> <p>59.—(1) The service provider must keep and maintain the records specified in Part 1 of Schedule 2 in respect of each place at, from or in relation to which the service is provided.</p> <p>(2) Where the service provider is registered to provide a care home service, a secure accommodation service or a residential family centre service, the service provider must in addition keep and maintain the records specified in Part 2 of Schedule 2 in respect of each place at which such a service is provided.</p> <p>(3) The service provider must—</p> <ul style="list-style-type: none"> <li>(a) ensure that records relating to individuals are accurate and up to date;</li> <li>(b) keep all records securely;</li> <li>(c) make arrangements for the records to continue to be kept securely in the event the service closes;</li> </ul>	<ul style="list-style-type: none"> <li>• There is a policy and procedures for the management of records. This includes, for example, records relating to an individual’s specialist assessment, mental capacity test, Deprivation of Liberty Safeguards, etc.</li> <li>• Staff are aware of the policy and have a clear understanding of the procedures for managing records. This includes training in information security and action to be taken where personal information is compromised.</li> <li>• Service providers maintain all the records required for the protection of individuals and the efficient running of the service as specified by schedule 2 of the Regulations.</li> <li>• In care homes services which accommodate children: <ul style="list-style-type: none"> <li>○ a permanent, private and secure record of the child’s history, educational plans, progress and achievements,</li> </ul> </li> </ul>

<p>(d) in the case of records about a child accommodated in a care home service provided wholly or mainly for children, ensure that the records are delivered to the placing authority when the service ceases to be provided in respect of the child to whom the records relate;</p> <p>(e) make the records available to the service regulator on request;</p> <p>(f) retain records relating to adults for three years from the date of the last entry;</p> <p>(g) retain records relating to children for fifteen years from the date of the last entry, unless the records are returned to the placing authority in accordance with sub-paragraph (d);</p> <p>(h) ensure that individuals who use the service—</p> <ul style="list-style-type: none"> <li>(i) can have access to their records; and</li> <li>(ii) are made aware they can access their records.</li> </ul>	<p>any statement of special educational needs is maintained; and</p> <ul style="list-style-type: none"> <li>○ can be seen by the child and by the child’s parents as appropriate and in keeping with any current legal requirements or court orders in place.</li> </ul> <ul style="list-style-type: none"> <li>● All records are secure, up to date and in good order. They are prepared, maintained and used in accordance with the data protection legislation and other statutory requirements and are kept for the required length of time as set out in regulation 59(3)(f) &amp;(g).</li> <li>● Records are stored securely including electronic records which are password protected.</li> <li>● Individuals, their carers or their representatives, and staff are given access to any records and information about them held by service providers in accordance with current legal requirements.</li> </ul>
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<b>Regulation 60</b>	<b>Guidance</b>
<p><b>Notifications</b></p> <p>60.—(1) The service provider must notify the service regulator of the events specified in Parts 1 and 2 of Schedule 3.</p> <p>(2) Where the service provider is providing a care home service for children, the provider must—</p> <ul style="list-style-type: none"> <li>(a) notify the placing authority of the events specified in Part 3 of Schedule 3;</li> <li>(b) notify the local authority for the area in which the home is situated of the events specified in Part 4 of Schedule 3;</li> </ul>	<ul style="list-style-type: none"> <li>● Service providers have appropriate arrangements in place for the notification of the events listed Schedule 3 of the Regulations to be made to the relevant authority.</li> <li>● Notifications are made without delay, usually within 24 hours of the event occurring.</li> <li>● The following applies in relation to Schedule 3 (17) &amp; (33). Service providers notify the regulator of any accident, injury or illness to an individual which, in the reasonable opinion of a health care professional, requires treatment by that, or another,</li> </ul>

<p>(c) notify the appropriate police officer of the events specified in Part 5 of Schedule 3;</p> <p>(d) notify the health board in whose area the home is situated of the events specified in Part 6 of Schedule 3.</p> <p>(3) The notifications required by paragraphs (1) and (2) must include details of the event.</p> <p>(4) Unless otherwise stated, notifications must be made without delay and in writing.</p> <p>(5) Notifications must be made in such manner and in such form as may be required by the service regulator.</p>	<p>health care professional and has or may have resulted in—</p> <ul style="list-style-type: none"> <li>○ damage or impairment (either permanent or likely to last for more than 28 days) of the sensory, motor or intellectual functions of the individual,</li> <li>○ changes to the structure of the individual’s body,</li> <li>○ the individual experiencing prolonged pain or prolonged psychological harm, or</li> <li>○ the death or shortening of the life expectancy of the individual.</li> </ul> <ul style="list-style-type: none"> <li>● The following applies in relation to Schedule 3 (20). Service providers notify the regulator of any events which prevent, or could prevent, them from continuing to provide the service safely. This includes but is not limited to: <ul style="list-style-type: none"> <li>○ an insufficient number of suitably qualified, trained, skilled, competent and experienced staff deployed to work at the service,</li> <li>○ an interruption in the supply, to premises owned or used by the service provider for the purposes of providing the regulated service, of electricity, gas, water or sewerage where that interruption has lasted for longer than a continuous period of 24 hours,</li> <li>○ physical damage to premises owned or used by the service provider for the purposes of providing the regulated service which has, or is likely to have, a detrimental effect on the care and support provided to individuals,</li> <li>○ the failure or malfunction of the heating system in premises owned or used by the service provider for the purposes of providing the regulated service where that failure or malfunctioning has lasted for longer than a continuous period of 24 hours; and</li> <li>○ the failure or malfunctioning of fire alarms or other safety devices in premises owned or used by the service</li> </ul> </li> </ul>
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provider for the purposes of providing the regulated service where that failure or malfunctioning has lasted for longer than a continuous period of 24 hours.

- The following applies in relation to Schedule 3 (30)(42)(44)(46). Service providers notify the relevant authorities of any incident of child sexual or criminal exploitation (CSE) or suspected child sexual or criminal exploitation. This includes but is not limited to:
  - where a child identified as at risk of CSE goes missing;
  - where a child reports an incident that indicates they may be a victim of CSE; or
  - where there is reason to believe a child may be subject to CSE.
- Where a child identified as at risk of CSE goes missing, only one notification is made under Schedule 3 (30)(42)(44)(46).
- The following applies in relation to Schedule 3 (31)(40)(45). Service providers notify the relevant authorities of any incident where an accommodated child goes missing or has an unexplained absence. This includes but is not limited to:
  - Where a child's location or reason for their absence is unknown and there is cause for concern for them because of their vulnerability or risk to self or others. The point at which the home is concerned and will take action, including reporting the child missing to the police, will vary according to the child's individual risk assessment.

## Regulation 61

### Notification with respect to children admitted into, or discharged from, a place at which accommodation is provided to children

61.—(1) This regulation applies where the service provider is registered to provide—

- (a) a care home service which provides accommodation to children (referred to in this regulation as “a children’s care home service”), or
- (b) a secure accommodation service.

(2) In this regulation, references to “the accommodation” are references to the place at which a children’s care home service or a secure accommodation service is provided.

(3) The service provider must notify, without delay, the local authority for the area in which the accommodation is located of every admission of a child into the accommodation and every discharge of a child from the accommodation.

(4) The service provider is not required to notify the local authority in paragraph (3) if that local authority is also the placing authority for the child in question.

(5) A notification under this regulation must be in writing and must state—

- (a) the child's name and date of birth;
- (b) whether the child is provided with accommodation under section 76 or 77 of the 2014 Act or, in the case a child placed by a local authority in England, whether the child is provided with accommodation under section 20 or 21 of the Children Act 1989;
- (c) whether the child is subject to a care or supervision order under section 31 of the Children Act 1989;
- (d) the contact details for—
  - (i) the child's placing authority; and
  - (ii) the independent reviewing officer appointed for the child's case; and
- (e) whether the child has a statement of special educational needs or an EHC plan and, if so, details of the local authority with responsibility for maintaining the statement of special educational needs or for the EHC plan.

(6) In this regulation, “EHC plan” has the meaning given in section 37(2) (education, health and care plans) of the Children and Families Act 2014<sup>(7)</sup>.

Regulation 62	Guidance
<p><b>Notification with respect to the death of a child accommodated in a secure children's home</b></p> <p>62.—(1) This regulation applies where a child to whom a secure accommodation service<sup>(8)</sup> is provided dies.</p> <p>(2) Any requirements imposed by this regulation apply to the service provider of the secure accommodation service which was providing accommodation to the child at the time of the death.</p> <p>(3) If this regulation applies, the service provider must without delay notify—</p> <ul style="list-style-type: none"> <li>(a) the appropriate office of the service regulator;</li> <li>(b) the placing authority;</li> <li>(c) the local authority in whose area the secure accommodation service is located;</li> <li>(d) the Local Health Board in whose area the secure accommodation service is located;</li> <li>(e) the Prisons and Probation Ombudsman for England and Wales (“the PPO”); and</li> <li>(f) the child's parent or person who has parental responsibility for the child.</li> </ul> <p>(4) The service provider must allow the PPO to investigate the death by—</p> <ul style="list-style-type: none"> <li>(a) granting the PPO access to— <ul style="list-style-type: none"> <li>(i) the premises of the service, and</li> <li>(ii) the service's documents and records;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Service providers notify the relevant authorities of the death of a child accommodated in a secure children’s home in accordance with regulation 62.</li> <li>• This notification regulation applies to service providers of secure accommodation services and care homes where children are accommodated.</li> <li>• When a child moves in or leaves the service, service providers notify the local authority for the area in which the secure accommodation or care home is located.</li> <li>• This notification must include the information set out in regulation 62(5).</li> </ul>

<sup>8</sup> A secure accommodation service is a regulated service under the Act (see section 2(1)(b) of the Act). Paragraph 2 of Schedule 1 to the Act defines “a secure accommodation service” as the provision of accommodation for the purpose of restricting the liberty of children at residential premises in Wales where care and support is provided to those children.

<p>(b) allowing the PPO to take away from the premises copies of any documents or records accessed under sub-paragraph (a)(ii) provided that the PPO has secure arrangements for doing so; and</p> <p>(c) if they consent, allowing the PPO to interview in private any children, parents (or persons with parental responsibility) or relatives, or persons working at the service.</p> <p>(5) A notification under this regulation—</p> <p>(a) must include details of—</p> <p>(i) the circumstances of the death;</p> <p>(ii) the other persons, bodies or organisations (if any) who or which the service provider has notified or proposes to notify; and</p> <p>(iii) any actions the service provider has taken or proposes to take as a result of the death;</p> <p>(b) must be made or confirmed in writing.</p> <p>(6) In this regulation, references to PPO include a person appointed by, or working on behalf of, the PPO for the purposes of an investigation under paragraph (2).</p>	
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<b>Regulation 63</b>	<b>Guidance</b>
<p><b>Conflicts of interest (including prohibitions)</b></p> <p>63.—(1) The service provider must have effective arrangements in place to identify, record and manage potential conflicts of interest.</p> <p>(2) The service provider must ensure that a person having a financial interest in the ownership of a care home service does not</p>	<ul style="list-style-type: none"> <li>• Service providers maintain appropriate systems and take all reasonable steps to make sure actual or perceived conflicts of interests are identified, prevented and recorded in an open way.</li> <li>• Where a medical practitioner has a financial interest in a care home service, that practitioner does not act as the medical practitioner for an individual receiving care from the service. A financial interest includes:</li> </ul>



<p>act as a medical practitioner for any individual for whom that service is provided.</p>	<ul style="list-style-type: none"> <li>○ being the owner, partner or director in the provider organisation;</li> <li>○ being a share holder or holding stocks in the provider organisation.</li> </ul>
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<p><b>Regulation 64</b></p>	<p><b>Guidance</b></p>
<p><b>Complaints policy and procedure</b></p> <p>64.—(1) The service provider must have a complaints policy in place and ensure that the service is operated in accordance with that policy.</p> <p>(2) The service provider must have effective arrangements in place for dealing with complaints including arrangements for—</p> <ul style="list-style-type: none"> <li>(a) identifying and investigating complaints;</li> <li>(b) giving an appropriate response to a person who makes a complaint, if it is reasonably practicable to contact that person;</li> <li>(c) ensuring that appropriate action is taken following an investigation;</li> <li>(d) keeping records relating to the matters in sub-paragraphs (a) to (c).</li> </ul> <p>(3) The service provider must provide a summary of complaints, responses and subsequent action to the service regulator within 28 days of being requested to do so.</p> <p>(4) The service provider must—</p> <ul style="list-style-type: none"> <li>(a) analyse information relating to complains and concerns; and</li> <li>(b) having regard to that analysis, identify any areas for improvement.</li> </ul>	<ul style="list-style-type: none"> <li>● Service providers have an accessible complaints policy which includes, where appropriate, the use of an informal resolution stage and explains – <ul style="list-style-type: none"> <li>○ who to approach to discuss a concern/complaint;</li> <li>○ how individuals can be supported to make a complaint;</li> <li>○ information about accessing independent advocacy, where available;</li> <li>○ how complaints will be dealt with; and</li> <li>○ the stages and timescales for the process</li> </ul> </li> <li>● The policy and procedures are in an easy to read format, well publicised, readily available and accessible to individuals using the service, their families, significant others, visitors, staff and others working at the service.</li> <li>● Information about other avenues for complaint is included to support complainants if they are not satisfied with the service provider’s action. For example, information about the complaints procedure of the commissioning authority, the Public Services Ombudsman for Wales and, in the case of children, the Children’s Commissioner for Wales.</li> <li>● Individuals are able to make their complaint in writing or verbally to staff and these should be acknowledged unless complaints are made anonymously.</li> </ul>

- Staff are aware of the complaints policy and understand how to respond appropriately to complaints.
- Service providers ensure any representation or complaint is confirmed, addressed promptly and the complainant is kept informed of progress.
- A written report is provided to the complainant setting out the outcome of the complaint and any action to be taken.
- Wherever practicable consent should be gained to the disclosure of the details of a complaint, where necessary, to enable an effective investigation to take place.
- Confidentiality is maintained during the complaints process unless there are professional statutory obligations which would not make this possible, such as those in relation to safeguarding.
- Individuals do not suffer victimisation or any other disadvantage, or the withdrawal or reduction of a service as a result of making representations or complaints.
- Systems are in place to make sure that all complaints are investigated in accordance with the timescales set out in the service provider's complaints policy. This includes the following:
  - undertaking a review to establish the level of investigation and immediate action required, including whether there is a requirement for a referral to appropriate authorities for investigation. This may include the service regulator or local authority safeguarding teams.
  - where areas for improvement or service failures are identified, acting upon these immediately.

- Staff and others involved in the investigation of complaints have the right level of knowledge and skill to do this. They understand the service provider's complaints process and are knowledgeable about any current related guidance.
- Records of complaints are maintained and monitored to identify trends and areas of risk which may require pre-emptive action.
- Actions taken in response to complaints are reported on as part of the governance arrangements for the service.

Regulation 65	Guidance
<p><b>Whistleblowing</b></p> <p>65.—(1) The service provider must have arrangements in place to ensure that all persons working at the service (including any person allowed to work as a volunteer) are able to raise concerns about matters that may adversely affect the health, safety or well-being of individuals for whom the service is provided.</p> <p>(2) These arrangements must include—</p> <p>(a) having a whistleblowing policy in place and acting in accordance with that policy, and</p> <p>(b) establishing arrangements to enable and support people working at the service to raise such concerns.</p> <p>(3) The provider must ensure that the arrangements required under this regulation are operated effectively.</p> <p>(4) When a concern is raised, the service provider must ensure that—</p>	<ul style="list-style-type: none"> <li>• There is an accessible whistleblowing policy and procedure in place. This includes: <ul style="list-style-type: none"> <li>○ the procedure for raising a concern;</li> <li>○ the safeguards in place for staff who raise a concern; and</li> <li>○ how concerns will be investigated.</li> </ul> </li> <li>• Staff are aware of, and have had training in, how to raise concerns and there are mechanisms and support available to enable them to do this.</li> <li>• Wherever practicable consent should be gained to the disclosure of the details of a complaint, where necessary, to enable an effective investigation to take place.</li> <li>• Confidentiality is maintained during the complaints process unless there are professional statutory obligations which would not make this possible, such as those in relation to safeguarding.</li> </ul>

- (a) the concern is investigated;
- (b) appropriate steps are taken following an investigation;
- (c) a record is kept of both the above.

- Individuals do not suffer victimisation or any other disadvantage as a result of making their concerns known.
- All allegations and incidents of abuse are followed up promptly in line with the service provider's safeguarding policy and procedures and local safeguarding arrangements.
- Systems are in place to make sure that all concerns are considered without delay in line with the service provider's safeguarding policy and procedures. This includes:
  - undertaking a review to establish the level of investigation and immediate action required, including referral to appropriate authorities for investigation. (this may include seeking advice from the service regulator or local authority safeguarding staff).
  - where areas for improvement or service failures are identified, acting upon these without delay.
  - ensuring staff and others involved in the investigation of understand the processes relating to safeguarding and responding to concerns.
- Records of concerns are maintained and monitored to identify trends and areas of risk which may require pre-emptive action. Actions taken as a response to whistleblowing are subject to reporting within governance arrangements.

## Chapter 2: Requirements on Responsible Individuals (Parts 16 to 20 of the Regulations)

The intent of Parts 16 to 20 of the Regulations is to ensure that a designated person at an appropriately senior level holds accountability, for both service quality and compliance. The Regulations place specific requirements upon the responsible individual (RI) and will enable the service regulator to take action not only against the service provider but also against the RI in the event that regulatory requirements are breached. The regulations in these Parts are made under section 28 of the Act.

The responsible individual is responsible for **overseeing** the management of the service and for providing assurance that the service is safe, well run and complies with the Regulations. The responsible individual is responsible for ensuring the service has a manager, sufficient resources and support. The responsible individual is not responsible for the day to day management of the service (unless they are also the manager); this rests with the manager.

### 2.1 Requirements on responsible individuals for ensuring effective management of the service (Part 16)

Regulation 66	Guidance
<p><b>Supervision of management of the service</b></p> <p>66. The responsible individual must supervise the management of the service, which includes taking the steps described in regulations 64, 72 and 73.</p>	<ul style="list-style-type: none"> <li>• The responsible individual follows the service provider’s prescribed systems and processes to enable proper oversight of the management, quality, safety and effectiveness of the service. This includes, but is not limited to, ensuring the service:               <ul style="list-style-type: none"> <li>○ focuses on individuals’ well-being and personal outcomes;</li> <li>○ listens to individuals;</li> <li>○ responds positively to any concerns or complaints;</li> <li>○ does not place individuals at unnecessary risk;</li> <li>○ achieves best possible outcomes for individuals;</li> <li>○ fulfils the statement of purpose;</li> <li>○ has sufficient numbers of staff who are trained, competent and skilled to undertake their role;</li> <li>○ has sufficient resources, facilities and equipment.</li> </ul> </li> <li>• The responsible individual has systems in place to review and assess the way in which the manager implements actions from</li> </ul>

	<p>the findings of internal quality assurance and external inspection reports, within required timescales.</p> <ul style="list-style-type: none"> <li>• There are clear lines of accountability, delegation and responsibility set out in writing between the responsible individual and the manager (unless the manager is also the responsible individual).</li> <li>• Arrangements are in place for the manager to have direct access to the responsible individual in addition to the opportunity to meet formally as part of the responsible individual's quality reviews (unless the manager is also the responsible individual).</li> <li>• Arrangements are in place to ensure that the manager is supported by supervision and training, and has opportunities to gain skills for professional development that will support them in their role.</li> </ul>
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<b>Regulation 67</b>	<b>Guidance</b>
<p><b>Duty to appoint a manager</b></p> <p>67.—(1) The responsible individual must appoint a person to manage the service. But this requirement does not apply if the conditions in paragraph (2) or (3) apply.</p> <p>(2) The conditions are—</p> <ul style="list-style-type: none"> <li>(a) the service provider is an individual;</li> <li>(b) the service provider proposes to manage the service;</li> <li>(c) the service provider is fit to manage the service;</li> <li>(d) the service provider is registered as a social care manager</li> </ul>	<ul style="list-style-type: none"> <li>• The responsible individual ensures a manager who is registered with Social Care Wales is appointed and in place to manage the delivery of the service on a day to day basis for each place at, from, or in relation to which services are provided.</li> <li>• The responsible individual takes responsibility and accountability for the appointment of the manager regardless of whether they are directly involved in the recruitment process.</li> <li>• The responsible individual is assured that the person appointed as the manager for the service has the appropriate knowledge,</li> </ul>

with Social Care Wales; and

- (e) the service regulator agrees to the service provider managing the service.

(3) The conditions are—

- (a) the service provider is a partnership, body corporate or unincorporated body;
- (b) the service provider is registered to provide a care home service or residential family centre service at no more than two locations or is registered to provide a domiciliary support service in relation to no more than two areas;
- (c) the service provider proposes that the individual designated as the responsible individual for the service is to be appointed to manage the service;
- (d) that individual is fit to manage the service;
- (e) that individual is registered as a social care manager with Social Care Wales; and
- (f) the service regulator agrees to that individual managing the service.

(4) For the purposes of paragraph (2)(c), the service provider is not fit to manage the service unless the requirements of regulation 35(2) (fitness of staff) are met in respect of the service provider.

(5) The duty in paragraph (1) is not discharged if the person appointed to manage the service is absent for a period of more than three months.

skills and competence to manage the service safely in accordance with the requirements of the Regulations.

- The responsible individual demonstrates that the appointment of the manager has been undertaken with due diligence and in line with the requirements of regulation 35 (fitness of staff).
- Where a manager is absent for a period more than three months, the service provider ensures there is an appropriately qualified, experienced and competent manager, registered with Social Care Wales in place to manage the service.

Regulation 68	Guidance
<p><b>Fitness requirements for appointment of manager</b></p> <p>68.— (1) The responsible individual must not appoint a person to manage the service unless that person is fit to do so.</p> <p>(2) For the purposes of paragraph (1), a person is not fit to manage the service unless the requirements of regulation 35(2) (fitness of staff) are met in respect of that person.</p>	<ul style="list-style-type: none"> <li>• The responsible individual has suitable arrangements in place to ensure the manager is fit and is capable of running the service in line with its statement of purpose. This includes ensuring: <ul style="list-style-type: none"> <li>○ the manager is appropriately qualified;</li> <li>○ the manager is registered with Social Care Wales;</li> <li>○ the manager is experienced in managing care services and in the provision of the type of care being provided;</li> <li>○ the vetting of prospective managers includes the relevant checks required by regulations to assure the responsible individual that the person is fit and able to work with vulnerable individuals.</li> </ul> </li> </ul>

Regulation 69	Guidance
<p><b>Restrictions on appointing manager for more than one service</b></p> <p>69.—(1) The responsible individual must not appoint a person to manage more than one service, unless paragraph (2) applies.</p> <p>(2) This paragraph applies if—</p> <p>(a) the service provider has applied to the service regulator for permission to appoint a manager for more than one service, and</p> <p>(b) the service regulator is satisfied that the proposed management arrangements—</p> <p>(i) will not have an adverse impact on the health or well-being of individuals, and</p> <p>(ii) will provide reliable and effective oversight of each service.</p>	<ul style="list-style-type: none"> <li>• Where a manager is appointed to manage more than one service, this is agreed in advance with the service regulator.</li> </ul>



Regulation 70	Guidance
<p><b>Duty to report the appointment of manager to service provider</b></p> <p>70. On the appointment of a manager in accordance with regulation 67(1), the responsible individual must give notice to the service provider of—</p> <ul style="list-style-type: none"> <li>(a) the name of the person appointed, and</li> <li>(b) the date on which the appointment is to take effect.</li> </ul>	<ul style="list-style-type: none"> <li>• The responsible individual has suitable arrangements in place to: <ul style="list-style-type: none"> <li>○ inform the service provider of the details of the appointment of the manager;</li> <li>○ provide the information specified by the Regulations concerning the individual; and</li> <li>○ notify the service regulator and Social Care Wales when a new manager is appointed.</li> </ul> </li> </ul>

Regulation 71
<p><b>Duty to report appointment of manager to the workforce and service regulators</b></p> <p>71.— (1) On the appointment of a manager in accordance with regulation 67(1), the responsible individual must give notice to the workforce and service regulators of—</p> <ul style="list-style-type: none"> <li>(a) the name, date of birth and Social Care Wales registration number of the person appointed, and</li> <li>(b) the date on which the appointment is to take effect.</li> </ul> <p>(2) In a case where the service provider is an individual and the service regulator has agreed to the service provider managing the service, the service provider must give notice to the workforce regulator of—</p> <ul style="list-style-type: none"> <li>(a) the name, date of birth and Social Care Wales registration number of the service provider, and</li> <li>(b) the date from which the service provider is to manage the service.</li> </ul>

Regulation 72	Guidance
<p><b>Arrangements when manager is absent</b></p> <p>72.—(1) The responsible individual must put suitable arrangements in place to ensure that the service is managed effectively at any time when there is no manager or when the manager is not present at the service.</p> <p>(2) If there is no manager or the manager is not present at the service for a period of more than 28 days, the responsible individual must—</p> <p>(a) notify the service provider and the service regulator, and</p> <p>(b) inform them of the arrangements which have been put in place for the effective management of the service.</p>	<ul style="list-style-type: none"> <li>• The responsible individual has structures in place which ensure that where the manager is not available or is absent for any reason there is an effective and competent deputising system to provide leadership on a day-to-day basis which: <ul style="list-style-type: none"> <li>○ continues to support individuals to achieve their personal outcomes;</li> <li>○ maintains the safety, quality and effectiveness of the service;</li> <li>○ ensures minimal disruption to individuals receiving the service;</li> <li>○ ensures compliance with Regulations; and</li> <li>○ maintains staff professional development.</li> </ul> </li> <li>• Where the manager, registered with Social Care Wales, is unavailable or absent for any reason for more than 28 days the responsible individual will inform the service regulator in writing and without delay of the reason for the absence and the arrangements for cover.</li> </ul>

Regulation 73	Guidance
<p><b>Visits</b></p> <p>73.—(1) In the case of care home services, secure accommodation services and residential family centre services<sup>(9)</sup>, the responsible individual must—</p> <p>(a) visit each place in respect of which the responsible individual is designated, and</p>	<ul style="list-style-type: none"> <li>• The responsible individual visits the service in person to monitor the performance of the service in relation to its statement of purpose and to inform the quality of care review. The visit includes the following: <ul style="list-style-type: none"> <li>○ talking to, with consent and in private, individuals using the service and their representatives (if applicable) and staff. For domiciliary support services, this may include visiting a representative sample of individuals in their</li> </ul> </li> </ul>

<sup>9</sup> See Schedule 1 to the Act for further provision about the meaning of care home services, secure accommodation services and residential family centre services.

<p>(b) meet with staff and individuals at each such place.</p> <p>(2) In the case of a domiciliary support service (<sup>10</sup>), the responsible individual must—</p> <p>(a) meet with members of staff who are employed to provide a regulated service at, from or in relation to each place in respect of which the responsible individual is designated, and</p> <p>(b) meet with individuals for whom a regulated service is being provided at, from or in relation to each such place.</p> <p>(3) The frequency of such visits and meetings is to be determined by the responsible individual having regard to the statement of purpose but must be at least every three months.</p>	<p>own home.</p> <ul style="list-style-type: none"> <li>○ inspecting the premises, a selection of records of events and any complaints records.</li> </ul> <ul style="list-style-type: none"> <li>● The responsible individual ensures systems are in place to provide evidence that visits are logged and documented.</li> </ul>
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<sup>10</sup> See section 2(1) of the Act for the services included within the definition of “regulated service”.

## 2.2 Requirements on responsible individuals for ensuring effective oversight of the service (Part 17)

Regulation 74	Guidance
<p><b>Oversight of adequacy of resources</b></p> <p>74.—(1) The responsible individual must report to the service provider on the adequacy of the resources available to provide the service in accordance with the requirements on service providers in Parts 3 to 15 of these Regulations.</p> <p>(2) Such reports must be made on a quarterly basis.</p> <p>(3) But this requirement does not apply where the service provider is an individual.</p>	<ul style="list-style-type: none"> <li>• The responsible individual ensures that systems and processes are in place which enable them to collate information about the service and any areas that may need closer observation/consideration and/or improvement. This includes, but is not limited to: <ul style="list-style-type: none"> <li>○ staff turnover;</li> <li>○ staff sickness levels;</li> <li>○ complaints;</li> <li>○ safeguarding issues;</li> <li>○ inspection reports by the service regulator,</li> <li>○ inspection outcomes and or reports from other relevant agencies i.e. Health and Safety Executive (HSE), Food Standards Agency (FSA) and fire service.</li> </ul> </li> <li>• The responsible individual has suitable arrangements in place to alert the service provider immediately where the service is: <ul style="list-style-type: none"> <li>○ not complying with policies and procedures;</li> <li>○ failing or unable to meet or address issues raised in inspection reports; and</li> <li>○ being provided in a way which is contrary to the statement of purpose.</li> </ul> </li> </ul>
<p><b>Regulation 75</b></p>	<p><b>Guidance</b></p>
<p><b>Other reports to the service provider</b></p> <p>75.—(1) The responsible individual must, without delay, report to the service provider—</p>	<ul style="list-style-type: none"> <li>• The responsible individual ensures suitable arrangements are in place to report to the service provider in line with the requirements of regulations 75 and 80(4).</li> </ul>

<p>(a) any concerns about the management or provision of the service;</p> <p>(b) any significant changes to the way the service is managed or provided;</p> <p>(c) any concerns that the service is not being provided in accordance with the statement of purpose for the service.</p> <p>(2) But this requirement does not apply where the service provider is an individual.</p>	<ul style="list-style-type: none"> <li>• The responsible individual has a system in place to submit reports to the service provider that accurately reflect overall service quality and performance. This includes arrangements for the responsible individual to feed back and communicate any urgent matters requiring immediate action. This includes, but is not limited to: <ul style="list-style-type: none"> <li>○ sudden or unexplained death of individuals using the service;</li> <li>○ natural disaster;</li> <li>○ financial irregularities;</li> <li>○ significant outbreak of infection;</li> <li>○ significant concerns raised by the service regulator or commissioners; and</li> <li>○ any event, which affects staff availability.</li> </ul> </li> </ul>
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<b>Regulation 76</b>	<b>Guidance</b>
<p><b>Engagement with individuals and others</b></p> <p>76.—(1) The responsible individual must put suitable arrangements in place for obtaining the views of—</p> <p>(a) the individuals who are receiving care and support,</p> <p>(b) any representatives of those individuals,</p> <p>(c) in the case of a child who is provided with accommodation, the placing authority,</p> <p>(d) service commissioners, and</p> <p>(e) staff employed at the service,</p> <p>on the quality of care and support provided and how this can be improved.</p> <p>(2) The responsible individual must report the views obtained to</p>	<ul style="list-style-type: none"> <li>• The responsible individual has suitable arrangements in place to enable feedback on all aspects of service provision and ensure that these arrangements are accessible to, and take into account the views of, all those listed under regulation 76(1).</li> <li>• The responsible individual ensures the methods used to engage with and gain the views of individuals using the service are appropriate to their age, level of understanding and take into account any specific condition or communication need.</li> <li>• The responsible individual has positive relationships with, and is accessible to, people outside the service. This includes but is not limited to: <ul style="list-style-type: none"> <li>○ families or nominated representation;</li> <li>○ commissioners;</li> <li>○ regulators;</li> </ul> </li> </ul>

the service provider so that these views can be taken into account by the service provider when making any decisions on plans for improvement of the quality of care and support provided by the service.

- professional bodies.

## 2.3 Requirements on responsible individuals for ensuring the compliance of the service (Part 18)

Regulation 77	Guidance
<p><b>Duty to ensure there are systems in place to record incidents and complaints</b></p> <p>77. The responsible individual must ensure that there are effective systems in place to record incidents, complaints and matters on which notifications must be made in accordance with regulations 60 to 62 and 84.</p>	<ul style="list-style-type: none"> <li>• The responsible individual ensures there are suitable arrangements in place for the recording of the matters set out in regulations 77.</li> <li>• The responsible individual has systems and processes in place to ensure that any records made are legible, accurate and kept securely.</li> </ul>
Regulation 78	Guidance
<p><b>Duty to ensure there are systems in place for keeping of records</b></p> <p>78. The responsible individual must ensure that there are effective systems in place in relation to the keeping of records, which include systems for ensuring the accuracy and completeness of records which are required to be kept by regulation 59.</p>	<ul style="list-style-type: none"> <li>• Where records are stored electronically, they are secure and staff have individual access codes which provide a clear audit trail which shows who has made any entries and amendments.</li> </ul>
Regulation 79	Guidance
<p><b>Duty to ensure policies and procedures are up to date</b></p> <p>79. The responsible individual must put suitable arrangements in place to ensure that the service provider's policies and procedures are kept up to date, having regard to the statement of purpose.</p>	<ul style="list-style-type: none"> <li>• The responsible individual ensures suitable arrangements are in place to review policies and procedures in line with regulation 12 and 79.</li> <li>• The responsible individual ensures suitable arrangements are in place to ensure staff have access to, and knowledge and understanding of, the policies and procedures which support</li> </ul>

them in their role in achieving the best possible outcomes for individuals.

## 2.4 Requirements responsible individuals for monitoring, reviewing and improving the quality of the regulated service (Part 19)

Regulation 80	Guidance
<p><b>Quality of care review</b></p> <p>80.—(1) The responsible individual must put suitable arrangements in place to establish and maintain a system for monitoring, reviewing and improving the quality of care and support provided by the service.</p> <p>(2) The system established under paragraph (1) must make provision for the quality of care and support to be reviewed as often as required but at least every six months.</p> <p>(3) As part of any review undertaken, the responsible individual must make arrangements for—</p> <ol style="list-style-type: none"> <li>(a) considering the outcome of the engagement with individuals and others, as required by regulation 76;</li> <li>(b) analysing the aggregated data on incidents, notifiable incidents, safeguarding matters, whistleblowing, concerns and complaints;</li> <li>(c) reviewing any action taken in relation to complaints;</li> <li>(d) considering the outcome of any audit of the accuracy and completeness of records.</li> </ol> <p>(4) On completion of a review of the quality of care and support in accordance with this regulation, the responsible individual must prepare a report to the service provider which must include—</p>	<ul style="list-style-type: none"> <li>• The responsible individual has suitable arrangements in place to assess, monitor and improve the quality and safety of the service. This includes, but is not limited to: <ul style="list-style-type: none"> <li>○ the collation and analysis of feedback from those listed under regulation 76(1);</li> <li>○ issues and lessons learned in the analysis of complaints and safeguarding matters;</li> <li>○ patterns and trends identified through the analysis of incidents or near misses, for example, falls or medication errors;</li> <li>○ the outcome of any inspection reports from the service regulator;</li> <li>○ the outcome of visits to monitor the service by the responsible individual; and</li> <li>○ audits of records.</li> </ul> </li> <li>• The responsible individual ensures that the audit systems and processes for monitoring the service give assurance that the service provides high quality care, achieves the best possible outcomes for individuals and improves their well-being.</li> <li>• The responsible individual has suitable arrangements in place to ensure systems and processes are continually reviewed to enable the responsible individual to identify where the quality</li> </ul>



<p>(a) an assessment of the standard of care and support provided, and</p> <p>(b) recommendations for the improvement of the service.</p> <p>(5) But the requirement in paragraph (4) does not apply where the service provider is an individual.</p>	<p>and/or safety of services is being, or may be, compromised, and to respond appropriately without delay.</p> <ul style="list-style-type: none"> <li>• The responsible individual has suitable arrangements in place to ensure all feedback is acknowledged, recorded and responded to as appropriate.</li> <li>• The responsible individual has suitable arrangements in place to ensure areas of learning from complaints, safeguarding and whistleblowing are shared with staff to improve the service and encourage safe, compassionate care practices.</li> <li>• The responsible individual ensures areas of learning are analysed and that recommendations are made to the service provider as to how and where the quality and safety of the service can be improved. The report, which includes the information that has informed it (relating to those areas set out above) will inform or form part of the statement of compliance to be included in the service provider’s annual return.</li> </ul>
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<b>Regulation 81</b>	<b>Guidance</b>
<p><b>Statement of compliance with the requirements as to standards of care and support</b></p> <p>81.—(1) The responsible individual must prepare the statement required to be included in the annual return under section 10(2)(b) of the Act, in so far as it relates to the place or places in respect of which the responsible individual has been designated.</p> <p>(1) When preparing the statement, the responsible individual must have regard to the assessment of the standard of care and support which is contained in a report prepared in accordance with</p>	<ul style="list-style-type: none"> <li>• The responsible individual has prepared and is accountable for the quality and accuracy of the information provided in the statement of compliance and service provider’s annual return.</li> </ul>

regulation 80(4).

## 2.5 Other requirements on responsible individuals (Part 20)

Regulation 82	Guidance
<p><b>Support for staff raising concerns</b></p> <p>82. The responsible individual must ensure that the provider's whistleblowing policy is being complied with and that the arrangements to enable and support people working at the service to raise such concerns are being operated effectively.</p>	<ul style="list-style-type: none"><li>• The responsible individual ensures suitable arrangements are in place for:<ul style="list-style-type: none"><li>○ staff to be aware of and understand the whistleblowing policy;</li><li>○ staff to understand there is zero tolerance for poor care or for a failure to safeguard the well-being of individuals;</li><li>○ ensuring staff are encouraged and supported to report issues; and</li><li>○ ensuring staff understand that concerns are welcomed and sought out, not ignored.</li></ul></li></ul>
Regulation 83	Guidance
<p><b>Duty of candour</b></p> <p>83. The responsible individual must act in an open and transparent way with—</p> <ul style="list-style-type: none"><li>(a) individuals who are receiving care and support;</li><li>(b) any representatives of those individuals;</li><li>(c) in the case of a child who is provided with accommodation, the placing authority.</li></ul>	<ul style="list-style-type: none"><li>• The responsible individual acts in an open and transparent way ensuring suitable arrangements are in place to ensure compliance with the requirements of regulation 83.</li></ul>

Regulation 84	Guidance
<p><b>Notifications</b></p> <p>84.—(1) The responsible individual must notify the service regulator of the events specified in Schedule 4</p> <p>(2) The notifications required by paragraph (1) must include details of the event.</p> <p>(3) Unless otherwise stated, notifications must be made without delay and in writing.</p> <p>(4) Notifications must be made in such manner and in such form as may be required by the service regulator.</p>	<ul style="list-style-type: none"> <li>• The responsible individual has suitable arrangements in place to notify the service regulator of events specified in Schedule 4 of the Regulations</li> </ul>

## Annex A: Parts of the Regulations not the subject of this Guidance

### PART 1

#### General

#### Title, commencement, application and interpretation

85.—b) The title of these Regulations is the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017.

(1) These Regulations come into force on 2 April 2018 and apply in relation to Wales.

(2) In these Regulations—

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

“the 2014 Act” (“*Deddf 2014*”) means the Social Services and Well-being (Wales) Act 2014<sup>(11)</sup>;

“care and support plan” (“*cynllun gofal a chymorth*”) means a plan under section 54 or section 83 of the 2014 Act;

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

“child who is looked after by a local authority” (“*plentyn sy’n derbyn gofal gan awdurdod lleol*”) has the same meaning as in section 74 of the 2014 Act;

“general practitioner” (“*ymarferydd cyffredinol*”) means a registered medical practitioner<sup>(12)</sup> who—

(a) provides primary medical services under Part 4 of the National Health Service (Wales) Act 2006<sup>(13)</sup>, or

(b) provides services which correspond to services provided under Part 4 of the National Health Service (Wales) Act 2006, 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<sup>(14)</sup> applies;

“personal outcomes” (“*canlyniadau personol*”)—

(c) in relation to an adult, means the outcomes that the adult wishes to achieve in day to day life;

(d) in relation to a child, means—

(i) the outcomes that the child wishes to achieve, or

(ii) the outcomes that any persons with parental responsibility wish to achieve in relation to the child;

“personal plan” (“*cynllun personol*”) means the plan required to be prepared in accordance with regulation 15(1);

“placing authority” (“*awdurdod lleoli*”) in relation to a child provided with accommodation as part of a care home service or a secure accommodation service, means—

(e) in the case of a child who is looked after by a local authority or local authority in England, that local authority;

(11) 2014 anaw 4.

(12) The definition of a “registered medical practitioner” in Schedule 1 to the Interpretation Act 1978 (c. 30) was substituted by S.I. 2002/3135, Schedule 1, paragraph 10 with effect from 16 November 2009.

(13) 2006 c. 42.

(14) 1999 c. 8.

- (f) in the case of a child who is not looked after by a local authority or local authority in England—
- (i) if the child is being provided with accommodation by a voluntary organisation, that voluntary organisation;
  - (ii) if the child is accommodated in a qualifying school under arrangements made by a local authority (whether in the exercise of education functions within the meaning of section 579(1) of the Education Act 1996<sup>(15)</sup> or otherwise), that local authority;
  - (iii) in any other case, the child’s parent;

and for the purposes of this definition “qualifying school” (“*ysgol gymhwysol*”) means a school which is a care home service by virtue of the application of paragraph 1(3) of Schedule 1 to the Act;

“provider assessment” (“*asesiad darparwr*”) means the assessment which is required to be carried out by the service provider under regulation 18;

“reasonable adjustments” (“*addasiadau rhesymol*”) means such reasonable adjustments as would be required under the Equality Act 2010<sup>(16)</sup>;

“registered dental practitioner” (“*ymarferydd deintyddol cofrestredig*”) means a person registered in the dentists register kept under the Dentists Act 1984<sup>(17)</sup> who—

- (g) provides primary dental services under Part 5 of the National Health Service (Wales) Act 2006, or
- (h) provides services which correspond to services provided under Part 5 of the National Health Service (Wales) Act 2006, otherwise than in pursuance of that Act;

“representative” (“*cynrychiolydd*”) means any person having legal authority, or the consent of the individual to act on the individual’s behalf;

“service commissioner” (“*comisiynydd y gwasanaeth*”) means the local authority or NHS body which is responsible for making arrangements with the provider for care and support to be provided to an individual;

“service provider” (“*darparwr gwasanaeth*”) has the same meaning as in section 3(1)(c) of the Act;

“staff” (“*staff*”) includes—

- (i) persons employed by the service provider to work at the service as an employee or a worker, and
  - (j) persons engaged by the service provider under a contract for services,
- but does not include persons who are allowed to work as volunteers.

For the purpose of this definition, “employee” (“*cyflogai*”) and “worker” (“*gweithiwr*”) have the same meanings as in section 230 of the Employment Rights Act 1996<sup>(18)</sup>;

“the individual” (“*yr unigolyn*”) means, unless the context indicates otherwise, the child or adult who is receiving care and support;

“the responsible individual” (“*yr unigolyn cyfrifol*”) has the same meaning as in section 21(1) of the Act;

“the service” (“*y gwasanaeth*”) means—

- (k) in relation to a care home service, a secure accommodation service or a residential family centre service, the service which is provided at a specified location;

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<sup>(15)</sup> 1996 c. 56.

<sup>(16)</sup> 2010 c. 15.

<sup>(17)</sup> 1984 c. 24.

<sup>(18)</sup> 1996 c. 18.

- (l) in relation to a domiciliary support service, the service which is provided in relation to a specified area.

For the purpose of this definition—

- (i) “specified location” (“*lleoliad penodedig*”) means a location specified in a condition to the service provider’s registration as a place at which the service is to be provided(**19**);
- (ii) “specified area” (“*ardal benodedig*”) means an area specified in a condition to the service provider’s registration as a place in relation to which the service is to be provided.

But this definition does not apply to references to “the service” (“*y gwasanaeth*”) in Part 22;

“the service regulator” (“*y rheoleiddiwr gwasanaethau*”) means the Welsh Ministers in the exercise of their regulatory functions(**20**);

“the statement of purpose” (“*y datganiad o ddiben*”) means the statement of purpose for the place at, from or in relation to which the service is provided(**21**);

“the workforce regulator” (“*rheoleiddiwr y gweithlu*”) means Social Care Wales.

## PART 2

### Exceptions

#### Care home services

86.—(1) The following things are not to be treated as a care home service, despite paragraph 1 of Schedule 1 to the Act (regulated services: definitions, care home services)—

- (a) the provision of accommodation, together with nursing or care, to an adult—
- (i) in the course of a family or personal relationship, and
- (ii) for no commercial consideration;
- (b) the provision of accommodation, together with nursing or care, to adults for a period of less than 28 days in any 12 month period or for a number of periods which in total are less than 28 days in any 12 month period;
- (c) the provision of accommodation, together with nursing, where the accommodation is vested—
- (i) in the Welsh Ministers for the purposes of their functions under the National Health Service (Wales) Act 2006;
- (ii) in an NHS trust;
- (iii) in a Local Health Board.
- (d) the provision of accommodation, together with care, where the accommodation is provided—
- (i) by an institution within the further education sector; or
- (ii) by a university.

But this exception does not apply if the number of persons to whom such accommodation is provided is more than one tenth of the number of students to whom it provides both education and accommodation.

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(19) Section 7(3)(a)(i) of the Act provides that the grant of an application under section 6 of the Act must be subject to a condition specifying the places at, from or in relation to which the service provider is to provide a regulated service.

(20) “Regulatory functions” is defined in section 3(1)(b) of the Act.

(21) Regulation 3 of the Regulated Services (Registration) (Wales) Regulations 2017 requires a person who wants to provide a care home service, secure accommodation service or residential family centre service to provide a statement of purpose for each place at which the service is to be provided; a person who wants to provide an adoption service, a fostering service, an adult placement services or an advocacy service must provide a statement of purpose for each place from which the service is to be provided; a person who wants to provide a domiciliary support service must provide a statement of purpose for each place in relation to which the service is to be provided.

For the purposes of this paragraph, “further education sector” (“*sector addysg bellach*”) has the same meaning as in section 91(3) of the Further and Higher Education Act 1992<sup>(22)</sup>;

- (e) the provision of accommodation, together with care, where the care provided constitutes child minding within the meaning of section 19(2), or day care within the meaning of section 19(3) of the Children and Families (Wales) Measure 2010<sup>(23)</sup> but this exception does not apply if—
  - (i) in any 12 month period there are 28 or more periods of 24 hours during which more than 15 hours of child minding or day care are provided in relation to any one child; or
  - (ii) the accommodation is provided wholly or mainly for disabled children.
- (f) the provision of accommodation, together with care, where the accommodation is provided for children aged 16 and over only for the purposes of enabling the children to undergo training or an apprenticeship.

But this exception does not apply if the accommodation is provided wholly or mainly for disabled children;

- (g) the provision of accommodation, together with care, where the accommodation is provided to children at an approved bail hostel or approved probation hostel;
- (h) the provision of accommodation, together with care, where the accommodation is an institution for young offenders provided under or by virtue of section 43(1) of the Prison Act 1952<sup>(24)</sup>;
- (i) the provision of accommodation, together with care, where the accommodation is provided to children for the purposes of—
  - (i) a holiday;
  - (ii) a leisure, recreational, sporting, cultural or educational activity;

But this exception does not apply—

- (iii) care is provided wholly or mainly for disabled children unless the service provider has first notified the Welsh Ministers of the arrangements in writing;
- (iv) if the accommodation is provided to any one child for more than 28 days in any 12 month period, unless the accommodation is only provided to children over the age of 16;
- (j) the provision of accommodation, together with care, to a single child or to a sibling group by a person in that person’s own home and where care and accommodation are not provided by that person for a total of more than 28 days in any 12 month period.

(2) For the purposes of paragraph (1)(e), (f) and (i) of this regulation, a child is “disabled” if the child has a disability for the purposes of the Equality Act 2010.

(3) See regulation 5 for the meaning of family or personal relationship.

(4) In subparagraph (1)(j) of this regulation “sibling group” includes both brothers and sisters, and half-brothers and half-sisters

### **Domiciliary support services**

87. (1) The following things are not to be treated as a domiciliary support service, despite paragraph 8 of Schedule 1 to the Act (regulated services: definitions, domiciliary support services)—

- (a) the provision of support only;
- (b) the provision of care and support to four or fewer individuals at any one time;
- (c) the provision of care and support for an adult—
  - (i) in the course of a family or personal relationship, and

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<sup>(22)</sup> 1992 c. 13.

<sup>(23)</sup> 2010 nawm 1.

<sup>(24)</sup> 1952 c. 52.

- (ii) for no commercial consideration;
- (d) the provision of care and support for a child by a parent, relative or foster parent;
- (e) the provision of care and support by a carer where such care and support is provided without the involvement of an undertaking acting as an employment agency or employment business (within the meaning given to those expressions by section 13 of the Employment Agencies Act 1973<sup>(25)</sup>), and where the carer works wholly under the direction and control of a related third party;
- (f) arrangements for the supply of carers to a service provider by an undertaking acting as an employment agency or employment business for the purpose of the provision of a regulated service by the service provider;
- (g) the provision of care and support where the care and support is provided by a person managing a prison or other similar custodial establishment;
- (h) the provision of nursing care by a registered nurse;
- (i) the provision of care and support by a Local Health Board to meet needs which are related to the needs of individuals for nursing care

(2) In paragraph (1)(e) and (f), “carer” means an individual who provides care to a person referred to in paragraph 8(1) of Schedule 1 to the Act.

(3) In paragraph (1)(e), “related third party” means—

- (a) an individual with parental responsibility (within the meaning of section 3 of the Children Act 1989<sup>(26)</sup>) for a child to whom care and support is to be provided;
- (b) an individual with power of attorney or other lawful authority to make arrangements on behalf of the individual to whom care and support is to be provided;
- (c) a group of individuals mentioned in either of sub-paragraphs (a) or (b) making arrangements on behalf of no more than four named individuals to whom care and support is to be provided;
- (d) a trust established for the purpose of providing services to meet the care and support needs of a named individual.

(4) See regulation 5 for the meaning of family or personal relationship.

### **Residential family centre services**

88. The following things are not to be treated as a residential family centre service, despite paragraph 3 of Schedule 1 to the Act (regulated services: definitions, residential family centre services)—

- (a) the provision of accommodation for children and their parents where the accommodation is provided in a hospital<sup>(27)</sup>;
- (b) the provision of accommodation for children and their parents where the accommodation is provided in a hostel or a domestic violence refuge;
- (c) in any other case, the provision of accommodation for children and their parents the main purpose of which is the provision of accommodation together with other services and facilities to adult individuals and the fact that those individuals may be parents, or may be accompanied by their children, is incidental to the main purpose of the provision of the accommodation.

### **Meaning of family or personal relationship**

89. For the purposes of this Part—

- (a) a family relationship includes a relationship between two persons who—

<sup>(25)</sup> 1973 c. 35.

<sup>(26)</sup> 1989 c. 41.

<sup>(27)</sup> “Hospital” is defined in paragraph 9 of Schedule 1 to the Act and includes an independent clinic.



- (i) live in the same household, and
- (ii) treat each other as though they were members of the same family;
- (b) a personal relationship is a relationship between or among friends;
- (c) a friend of a person (A) includes a person who is a friend of a member of A's family.

## PART 21

### Offences

#### **Offences – service providers**

85.—c) It is an offence for a service provider to fail to comply with a requirement of any of the provisions specified in paragraph (2)(28).

(1) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 7(3), 7(5), 11(3), 12(1), 12(2), 19(1), 19(2), 19(3), 20(1), 35(1), 38(1), 59(1), 59(2), 59(3), 60(1), 60(2), 60(4), 61(3) and 62(3).

(2) A service provider commits an offence if the provider fails to comply with a requirement of any of the provisions specified in paragraph (4) and such failure results in—

- (a) avoidable harm (whether of a physical or psychological nature) to an individual,
- (b) an individual being exposed to a significant risk of such harm occurring, or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by an individual of the money or property concerned.

(3) The provisions specified for the purposes of paragraph (3) are the provisions of regulations 6, 7(1), 12(5), 14(1), 14(3), 15(1), 15(3), 15(5), 16(1), 16(5), 18(1), 18(6), 18(7), 21(1), 21(2), 22, 26, 33(1), 34(1), 34(2) and 34(3).

#### **Offences – responsible individuals**

86.—d) It is an offence for the responsible individual to fail to comply with a requirement of any of the provisions specified in paragraph (2)(29).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 67(1), 68(1), 71(1), 71(2), 73(1), 73(2), 73(3), 74(1), 74(2), 75(1), 80(4), 81(1), 84(1) and 84(3).

## PART 22

### Service providers who are liquidated etc. or who have died

#### **Appointment of liquidators etc.**

87.—e) An appointed person must—

- (a) without delay, give written notification to the service regulator of their appointment and the reasons for their appointment;
- (b) within 28 days of their appointment, notify the service regulator of their intentions regarding the future operation of the service.

(2) In this regulation—

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(28) For penalties upon conviction for an offence under this regulation, see section 51(1) of the Act.

(29) For penalties upon conviction for an offence under this regulation, see section 51(1) of the Act.

“appointed person” (“*person a benodir*”) has the same meaning as in section 30 of the Act;  
“the service” (“*y gwasanaeth*”) means the regulated service or services which the service provider to which the appointment relates is registered to provide.

### **Death of service provider**

88.—f) Where a service provider who is an individual has died, the personal representatives of the individual must—

- (a) without delay, give written notification of the death to the service regulator;
- (b) within 28 days of the death, notify the service regulator of their intentions regarding the future operation of the service.

(2) The personal representatives of the individual may act in the capacity of the service provider for a period not exceeding 28 days or for such longer period (not exceeding one year) as the service regulator may agree.

(3) Where the personal representatives are acting in the capacity of the service provider in accordance with paragraph (2), Part 1 of the Act applies with the following modifications—

- (a) section 5 (requirement to register) does not apply;
- (b) in section 21(2) (responsible individuals) after paragraph (a) insert—

“(aa) where the personal representatives of a service provider who has died are acting in the capacity of the service provider, be one of the personal representatives;”.

(4) In this regulation, “the service” means the regulated service or services which the service provider who has died was registered to provide at the time of their death.

## **PART 23**

### **Regulations under section 21(5) of the Act**

#### **Designation of responsible individual by Welsh Ministers**

89. The Welsh Ministers (instead of a service provider) may designate an individual to be a responsible individual, despite the requirements of section 21(2) of the Act not being met in respect of the individual, in the following circumstances—

- (a) the service provider is an individual who has died and the personal representatives of the service provider have notified the service regulator that they do not intend to make an application under section 11(1)(c) of the Act;
- (b) the service provider is an individual and they have notified the service regulator—
  - (i) that they are no longer able to comply with their duties as a responsible individual, and
  - (ii) the reasons for this being the case;
- (c) the service provider is a corporate body or partnership and they have notified the service regulator—
  - (i) that the individual designated by the service provider as the responsible individual is no longer able to comply with their duties as a responsible individual,
  - (ii) the reasons for this being the case, and
  - (iii) that there is no other individual who is eligible to be a responsible individual and who is able to comply with the duties of a responsible individual.

*Huw Irranca-Davies*

Minister for Children and Social Care under authority of the Cabinet Secretary for Health and Social Services, one of the Welsh Ministers

Date 12 December 2017

**Annex B: Schedules to Regulations 35, 59, 60 and 84**

## SCHEDULE 1 Regulation 35

### PART 1

Information and documents to be available in respect of persons working in regulated services

1. Proof of identity including a recent photograph.

2. Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997<sup>(30)</sup>, a copy of a valid<sup>(31)</sup> criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request).

3. Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of a valid<sup>(32)</sup> enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children (within the meaning of section 113BA(2) of that Act) or suitability information relating to vulnerable adults (within the meaning of section 113BB(2) of that Act).

4. Two written references, including a reference from the last employer, if any.

5. Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable verification of the reason why the employment or position ended.

6. Documentary evidence of any relevant qualification.

7. Where relevant, documentary evidence of registration with Social Care Wales.

8. A full employment history, together with a satisfactory written explanation of any gaps in employment.

9. Evidence of satisfactory linguistic ability for the purposes of providing care and support to those individuals for whom the worker is to provide care and support.

10. Details of registration with or membership of any professional body.

### PART 2

#### Interpretation of Part 1

11. For the purposes of paragraphs 2 and 3 of Part 1 of this Schedule—

(a) if the person to whom the certificate relates is not registered with the DBS update service, a certificate is only valid if—

(i) it has been issued in response to an application by the service provider in accordance with regulation 34(3) or (6), and

(ii) no more than three years have elapsed since the certificate was issued;

(b) if the person to whom the certificate relates is registered with the DBS update service, the certificate is valid regardless of when it was issued.

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<sup>(30)</sup> 1997 c. 50.

<sup>(31)</sup> For the meaning of “valid”, see Part 2 of this Schedule.

<sup>(32)</sup> For the meaning of “valid”, see Part 2 of this Schedule.

## SCHEDULE 2 Regulation 59

### Records to be kept in respect of regulated services

#### PART 1

##### Records to be kept in respect of all regulated services

1. In respect of each individual, records of—
  - (a) all relevant assessments;
  - (b) personal plans;
  - (c) reviews of personal plans;
  - (d) care and support plans;
  - (e) reviews of care and support plans;
  - (f) care provided, including daily records or records of specific care interventions;
  - (g) correspondence, reports and records in relation to additional support provided by education, health and other allied services.
2. A record of any charges by the service provider to individuals for the provision of care and support and any additional services.
3. A record of all medicines kept in the service for each individual and the date and time on which they were administered to the individual.
4. A record of all money or other valuables deposited by the individual for safekeeping or received on the individual's behalf, which must include a record of—
  - (a) the date on which the money or valuables were deposited or received;
  - (b) the date on which any money or valuables were—
    - (i) returned to the individual, or
    - (ii) used, at the request of the individual, on their behalf;
  - (c) where applicable, the purpose for which the money or valuables were used;
  - (d) the written acknowledgment of the return of the money or valuables.
5. A record of the following events that occur in the service—
  - (a) any serious accident, or injury which is significantly detrimental to the well-being of an individual;
  - (b) the outbreak of infectious disease in the service;
  - (c) any theft or burglary;
  - (d) any safeguarding referral made in respect of an individual;
  - (e) falls and consequent treatment provided to an individual;
  - (f) incidence of pressure damage and of consequent treatment provided to an individual;
  - (g) date and circumstances of any measures of control, restraint or discipline used on an individual.
6. A record of every fire practice, drill or test of fire equipment (including fire alarm equipment) conducted in the service and of any action taken to remedy defects in the fire equipment.
7. A record of all complaints made by individuals or their representatives or by persons working at the service about the operation of the service, and the action taken by the service provider in respect of any such complaint.

8. A record of all persons working at the service, which must include the following matters—
- (a) the person's full name, address, date of birth, qualifications and experience;
  - (b) a copy of the person's birth certificate and passport (if any);
  - (c) a copy of each reference obtained in respect of the person;
  - (d) the dates on which the person commences and ceases to be so employed;
  - (e) the position the person holds at the service, the work he or she performs and the number of hours for which he or she is employed each week;
  - (f) records of disciplinary action and any other records in relation to the person's employment;
  - (g) a record of the date of a DBS certificate and whether there was any action taken as a result of the content of the certificate.

9. A copy of the duty roster of persons working at the service, and a record of whether the roster was actually worked as intended.

## PART 2

Additional records to be kept in respect of care home services, secure accommodation services and residential family centre services

10. A record of any furniture brought by an individual into the room occupied by him or her.

11. A record of any of the following events that occur in the service—

- (a) any fire;
- (b) unexplained or unauthorised absence;
- (c) death of an individual.

12. A record of all visitors to the service, including the names of visitors and the persons they are visiting.

SCHEDULE 3 Regulation 60  
Notifications by the service provider

PART 1

Notifications to the service regulator in respect of all services

1. Any revision to the statement of purpose, 28 days prior to the revised statement of purpose coming into effect.
2. Service provider (individual or organisation) changes their name.
3. Where the service provider is a company, any change in the directors of the company.
4. Where the service provider is an individual, the appointment of a trustee in bankruptcy in relation to that individual.
5. Where the service provider is a body corporate or partnership, the appointment of a receiver, manager, liquidator or provisional liquidator in relation to that company or partnership.
6. Where the service provider is a partnership, death of one of the partners.
7. Where the service provider is a partnership, any change in the partners.
8. Expected absence of the responsible individual for 28 days or more, 7 days prior to commencement of the absence.
9. The unexpected absence of the responsible individual, no later than 7 days after the commencement of the absence.
10. Unexpected absence of the responsible individual for 28 days or more, where no prior notification has been given, immediately on the expiry of 28 days following the commencement of the absence.
11. Return from absence of the responsible individual.
12. The responsible individual ceases, or proposes to cease, being the responsible individual for the service.
13. Any abuse or allegation of abuse in relation to an individual that involves the service provider and/or a member of staff and/or volunteer;
14. Service provider, responsible individual or appointed manager convicted of a criminal offence.
15. Any allegation of misconduct by a member of staff.
16. Any occurrence of a category 3 or 4 pressure damage or unstageable pressure damage;
17. Serious accident or injury to an individual.
18. The outbreak of any infectious disease.
19. Any incident reported to the police.
20. Any events which prevent, or could prevent, the provider from continuing to provide the service safely.
21. Where accommodation is provided, the death of an individual and the circumstances.
22. Any request to a supervisory body in relation to the application of the deprivation of liberty safeguards (DOLS).

23. The premises are, or are proposed to be, significantly altered or extended.
24. Additional premises are, or are proposed to be acquired.
25. Any proposal to change the address of the principal office, 28 days prior to the change taking place.

## PART 2

Additional notifications to the service regulator where care and support is provided to children

26. Any referral to the DBS pursuant to the Safeguarding Vulnerable Groups Act 2006.
27. Where the service provider, responsible individual or appointed manager is charged with any offence specified in the Schedule to the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009(33), notice of the offence charged and the place of charge.
28. Instigation and subsequent outcome of any child protection enquiry involving a child accommodated by the service.
29. Any allegation that a child accommodated by the service has committed a serious offence.
30. Any incident of child sexual or criminal exploitation or suspected child sexual or criminal exploitation.
31. Any incident where an accommodated child goes missing or has an unexplained absence.

## PART 3

Notifications to the placing authority where a care home service is provided to children

32. Any abuse or allegation of abuse in relation to a child accommodated by the service that involves the provider or a member of staff.
33. Serious accident or injury to a child accommodated by the service.
34. Any occurrence of a category 3 or 4 pressure damage or unstageable pressure damage.
35. The outbreak of any infectious disease.
36. Any incident reported to the police.
37. The death of a child accommodated by the service and the circumstances.
38. Any referral to the DBS pursuant to the Safeguarding Vulnerable Groups Act 2006.
39. An allegation that a child accommodated by the service has committed a serious offence.
40. Any incident where an accommodated child goes missing or has an unexplained absence.
41. Instigation and subsequent outcome of any child protection enquiry involving a child accommodated by the service.
42. Any incident of child sexual or criminal exploitation or suspected child sexual or criminal exploitation.

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(33) S.I. 2009/37.



#### PART 4

Notifications to the local authority in whose area the home is situated where a care home service is provided to children

43. Death of a child and the circumstances.

44. Any incident of child sexual or criminal exploitation or suspected child sexual or criminal exploitation.

45. Any incident where an accommodated child goes missing or has an unexplained absence.

#### PART 5

Notifications to the appropriate police officer where a care home service is provided to children

46. Any incident of child sexual or criminal exploitation or suspected child sexual or criminal exploitation.

#### PART 6

Notifications to the health board in whose area the home is situated where a care home service is provided to children

47. The outbreak of any infectious disease.

48. The death of a child and the circumstances.

## SCHEDULE 4 Regulation 84

### Notifications by the responsible individual

1. The appointment of a manager (see regulation 7(1)).
2. The expected absence of the appointed manager for 28 days or more, 7 days prior to the commencement of the absence.
3. The unexpected absence of the appointed manager, no later than 7 days after the commencement of the absence.
4. The unexpected absence of appointed manager for 28 days or more where no prior notification has been given, immediately on the expiry of 28 days following the commencement of the absence.
5. Return from absence of appointed manager.
6. Interim arrangements where the manager is absent for longer than 28 days.
7. Someone other than the appointed manager is proposing to manage or is managing the service.
8. The appointed manager ceases, or proposes to cease, managing the service.