



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

**2016 anaw 2**

## **PART 1**

### **REGULATION OF SOCIAL CARE SERVICES**

## **CHAPTER 2**

### **REGISTRATION ETC. OF SERVICE PROVIDERS**

#### *Notice requirements*

#### **16 Improvement notices**

- (1) This section applies where the Welsh Ministers propose to—
  - (a) cancel the registration of a service provider under section 15, or
  - (b) vary a provider's registration under section 13(3) or (4).
- (2) Before cancelling or varying the registration the Welsh Ministers must give an improvement notice to the service provider.
- (3) An improvement notice given under subsection (2) must specify—
  - (a) the ground on which the Welsh Ministers propose to cancel or vary the registration and, in the case of a variation, the manner of the variation,
  - (b) action the Welsh Ministers think the provider must take, or information the provider must provide, in order to satisfy them that cancellation or variation on the basis of that ground is not appropriate, and
  - (c) a time limit within which—
    - (i) the action must be taken or the information must be provided, and
    - (ii) the service provider may make representations.

- (4) The service provider may make representations to the Welsh Ministers before the expiry of the time limit specified in the improvement notice and the Welsh Ministers must have regard to those representations when deciding what to do under section 17.

## **17 Notice of decision following improvement notice**

- (1) If the Welsh Ministers are satisfied that—
  - (a) action specified in an improvement notice has been taken, or
  - (b) information so specified has been provided,within the time limit specified in the notice they must notify the service provider that they have decided not to cancel or vary the provider's registration on the ground specified in the improvement notice.
- (2) If the Welsh Ministers are not satisfied that information specified in an improvement notice has been provided within the time limit specified in the notice they must give the service provider a decision notice stating that the provider's registration is to be cancelled or varied on the ground specified in the improvement notice.
- (3) If the Welsh Ministers are not satisfied that action specified in an improvement notice has been taken within the time limit specified in the notice they must either—
  - (a) give the service provider a decision notice stating that the provider's registration is to be cancelled or varied on the ground specified in the improvement notice, or
  - (b) notify the provider—
    - (i) that the action has not been taken,
    - (ii) of a new date by which the action must be taken,
    - (iii) that, following that date, an inspection under section 33 of the regulated service or place to which the improvement notice relates will be carried out, and
    - (iv) that, following that inspection, if the action has not been taken they will proceed to cancel or vary the provider's registration on the ground specified in the improvement notice.
- (4) If, after the inspection, the Welsh Ministers are satisfied that the action specified in the improvement notice has been taken they must notify the service provider that they have decided not to cancel or vary the provider's registration on the ground specified in the improvement notice.
- (5) If, after the inspection, the Welsh Ministers are still not satisfied that the action specified in the improvement notice has been taken they must give the service provider a decision notice stating that the provider's registration is to be cancelled or varied on the ground specified in the improvement notice.
- (6) A decision notice given under subsection (2), (3)(a) or (5) must—
  - (a) state the reasons for the decision (including the grounds for cancellation or variation), and
  - (b) explain the right of appeal conferred by section 26.
- (7) A decision stated in a notice given under subsection (2), (3)(a) or (5) takes effect—
  - (a) if no appeal is made against the decision, on the day after the last day of the 28 day period referred to in section 26(2), or

- (b) if an appeal is made, on the day specified by the tribunal in determining the appeal or on the day the appeal is withdrawn.

## **18 Notice of proposal**

- (1) This section applies where the Welsh Ministers propose to—
  - (a) grant an application for registration as a service provider subject to a condition that has not been agreed in writing with the applicant,
  - (b) refuse an application for registration or for variation of registration as a service provider, or
  - (c) vary the registration of a service provider other than—
    - (i) in accordance with an application for variation made under section 11, or
    - (ii) under section 13(3) or (4), 23(1)(b) or 25(2)(a).
- (2) The Welsh Ministers must give a notice of the proposal to the service provider—
  - (a) specifying the action the Welsh Ministers propose to take,
  - (b) giving reasons for the proposal, and
  - (c) specifying a time limit of no less than 28 days from the date on which the notice is given within which the service provider may make representations to the Welsh Ministers.
- (3) A notice of proposal may specify action which, if taken by a provider within the time limit specified in the notice, would result in the Welsh Ministers not taking the action they propose in the notice.
- (4) In the case of a refusal of an application for registration as a service provider references in this section and section 19 to a “service provider” are to be treated as references to the person who applied to be registered as a service provider.

## **19 Notice of decision following notice of proposal**

- (1) This section applies where the Welsh Ministers have given a notice of proposal.
- (2) In making a decision on the proposal, the Welsh Ministers must have regard to any representations made to them (whether made by the service provider or any other person who the Welsh Ministers think has an interest).
- (3) If the Welsh Ministers are satisfied that a service provider has taken such action as may be specified under section 18(3) within the time limit specified in the notice of proposal, they must not take the action proposed in the notice.
- (4) The Welsh Ministers must give a notice of decision to the service provider no later than 28 days after the expiry of the later of—
  - (a) the time limit specified under subsection (2)(c) of section 18, or
  - (b) any time limit as may be specified under subsection (3) of that section.
- (5) Despite subsection (4), a notice of decision given after the 28 day period mentioned in that subsection is valid if the notice—
  - (a) gives reasons for the delay in making the decision, and
  - (b) is given no later than 56 days after the expiry of the later of the time limits mentioned in paragraphs (a) and (b) of subsection (4).

- (6) A notice of decision given under subsection (4) must—
  - (a) state whether the Welsh Ministers have decided to take the action specified in the notice of proposal,
  - (b) give reasons for the decision, and
  - (c) if the Welsh Ministers have decided to take the action specified in the notice of proposal, explain the right of appeal conferred by section 26.
- (7) A decision stated in a notice given under subsection (4) to take action specified in a notice of proposal takes effect—
  - (a) if no appeal is made against the decision, on the day after the last day of the 28 day period referred to in section 26(2), or
  - (b) if an appeal is made, on the day specified by the tribunal in determining the appeal or on the day the appeal is withdrawn.
- (8) The Welsh Ministers may by regulations amend—
  - (a) the 28 day period mentioned in subsection (4);
  - (b) the 56 day period mentioned in subsection (5)(b).

## **20 Notice of decision without notice of proposal**

- (1) This section applies where the Welsh Ministers have decided to—
  - (a) grant an application for registration as a service provider subject only to conditions that have been agreed in writing with the applicant, or
  - (b) vary the registration of a service provider in accordance with an application for variation made under section 11.
- (2) The Welsh Ministers must give a notice of decision to the service provider.
- (3) A decision stated in a notice given under subsection (2) takes effect on the date on which the notice is given.