



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

Application for, variation of and cancellation of registration

9 Fit and proper person: relevant considerations

- (1) This section applies to any decision of the Welsh Ministers as to whether—
 - (a) a service provider,
 - (b) a person applying to be a service provider,
 - (c) a responsible individual, or
 - (d) a person to be designated as a responsible individual,is a fit and proper person to be a service provider or, as the case may be, a responsible individual.
- (2) In making such a decision the Welsh Ministers must have regard to all matters they think appropriate.
- (3) In particular, the Welsh Ministers must have regard to any evidence falling within subsections (4) to (8).
- (4) Evidence falls within this subsection if it shows that the person has—
 - (a) committed—

Status: This is the original version (as it was originally enacted).

- (i) any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the [Sexual Offences Act 2003 \(c.42\)](#) (offences attracting notification requirements),
 - (ii) an offence under this Act or regulations made under it,
 - (iii) an offence under Part 2 of the [Care Standards Act 2000 \(c.14\)](#) or regulations made under it, or
 - (iv) any other offence which the Welsh Ministers think is relevant, or
 - (b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the [Equality Act 2010 \(c.15\)](#), or victimised another person contrary to that Act, in or in connection with the carrying on of any business.
- (5) Evidence is within this subsection if—
- (a) it shows that any other person associated or formerly associated with the person (whether on a personal, work or other basis) has done any of the things set out in subsection (4), and
 - (b) it appears to the Welsh Ministers that the evidence is relevant to the question as to whether the person is a fit and proper person to be a service provider or, as the case may be, a responsible individual.
- (6) Evidence is within this subsection if it shows that the person has been responsible for, contributed to or facilitated misconduct or mismanagement in the provision—
- (a) of a regulated service or a service provided outside Wales which, if provided in Wales, would be a regulated service;
 - (b) of a service which would have fallen within paragraph (a) had the regulatory system established by this Part been operating at the time the service was being provided.
- (7) When having regard to evidence within subsection (6), the Welsh Ministers must, among other things, take account of—
- (a) the seriousness and duration of the misconduct or mismanagement;
 - (b) harm caused to any person, or any evidence of an intent to cause harm;
 - (c) any financial gain made by the person;
 - (d) any action taken by the person to remedy the misconduct or mismanagement.
- (8) Evidence is within this subsection if it shows that the person has previously failed to comply with—
- (a) an undertaking given under section 7(1)(a)(ii) or 11(3)(a)(ii),
 - (b) a condition imposed under this Part, or
 - (c) a requirement imposed by regulations under section 27(1) or 28(1).
- (9) The Welsh Ministers may by regulations amend this section to vary the evidence to which they must have regard.