

*These notes refer to the Care Standards Act 2000  
(c.14) which received Royal Assent on 20 July 2000*

# CARE STANDARDS ACT 2000

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## EXPLANATORY NOTES

### SUMMARY

3. In November 1998 and March 1999, the Government published two White Papers on its proposals for social services in England and Wales. Detailed proposals for the regulation of private and voluntary healthcare in England and for the regulation and inspection of social care and healthcare services in Wales were set out in consultation documents issued in 1999. The Government's proposals for the regulation of early years education and day care were set out in a consultation document issued in 1998. The recommendations and proposals for the Children's Commissioner for Wales were set out in Sir Ronald Waterhouse's Report *Lost in Care*, and in the report of the Health and Social Services Committee of the National Assembly for Wales on a Children's Commissioner. This Act implements the main proposals in these documents that require primary legislation
4. The relevant documents are listed below –
  - *Modernising Social Services (Cm 4169)*, published in November 1998
  - *Building for the Future (Cm 4051)*, published in March 1999
  - *Regulating Private and Voluntary Healthcare: A Consultation Document*, published in England in June 1999
  - *Regulation and Inspection of Social and Health Care Services in Wales – A Commission for Care Standards in Wales*, published in July 1999
  - *Regulating Private and Voluntary Healthcare in Wales*, published in August 1999
  - *The Regulation of Early Years Education and Day Care*, published in March 1998
  - *Review of the Regulation of Early Years Education and Day Care in Wales*, published in August 1998.
  - *Lost in care – The Report of the Tribunal of Inquiry into the abuse of children in care in the former county council areas of Gwynedd and Clwyd since 1974*, published in February 2000. (HC 201; ISBN 0-10-556660-8)
5. In summary this Act -
  - establishes a new, independent regulatory body for social care and private and voluntary healthcare services ("care services") in England to be known as the National Care Standards Commission;
  - provides for an arm of the National Assembly for Wales to be the regulatory body for such services in Wales;
  - establishes new, independent Councils to register social care workers, set standards in social care work and regulate the education and training of social workers in England and Wales;

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- establishes an office of the Children's Commissioner for Wales;
  - reforms the regulation of childminders and day care provision for young children;
  - provides for the Secretary of State to maintain a list of individuals who are considered unsuitable to work with vulnerable adults.
6. The main purpose of the Act is to reform the regulatory system for care services in England and Wales. Care services range from residential care homes and nursing homes, children's homes, domiciliary care agencies, fostering agencies and voluntary adoption agencies through to private and voluntary healthcare services (including private hospitals and clinics and private primary care premises). For the first time, local authorities will be required to meet the same standards as independent sector providers.
  7. In England the Act provides for an independent National Care Standards Commission to undertake this regulatory function. In Wales this function will be carried out by a new arm of the National Assembly for Wales, which will be established as either a department or an agency of the National Assembly for Wales.
  8. These new arrangements will replace those set out in the Registered Homes Act 1984 (which will be repealed in its entirety) and those provisions in the Children Act 1989 which deal with the regulation of voluntary children's homes and registered children's homes. Community homes will now be regulated. The regulation of voluntary adoption societies will come under the umbrella of the new arrangements. Local authority fostering and adoption services will be subject to inspection, as will the welfare arrangements in all boarding schools and further education colleges which accommodate children.
  9. The Act provides for the regulation of the social care workforce, by establishing a General Social Care Council (GSCC) for England, and a Care Council for Wales (CCW), to be known in Welsh as Cyngor Gofal Cymru. These Councils will regulate the training of social workers and raise standards in social care through codes of conduct and practice and through other means. For the first time a register of social care staff will be set up and maintained by each of the Councils. The Act makes provision for the abolition of the Central Council for Education and Training in Social Work (CCETSW), which currently regulates training in social work throughout the UK.
  10. The Act establishes an office of the Children's Commissioner for Wales and sets out its functions and powers, which will extend to all the services for children regulated in Wales under the Act: children's homes, residential family centres, local authority fostering and adoption services, fostering agencies, voluntary adoption agencies, domiciliary care, the welfare aspects of daycare and childminding services for all children under the age of eight; and the welfare of children living away from home in boarding schools. The Commissioner's powers and functions include the review and monitoring of arrangements for dealing with complaints, 'whistleblowing' and advocacy; the examination of particular cases; and providing assistance, including financial, to a child in making a complaint or in other proceedings. These powers will also extend to children receiving services in other settings regulated under this Act, such as private hospitals.
  11. Arrangements for the regulation of child minding and day care provision for young children will also be reformed. Responsibility for the regulatory function in England will transfer from local authorities to Her Majesty's Chief Inspector of Schools for England (HMCIS) under a new arm of Ofsted. This new arm will bring together the regulation of childcare and early years education. In Wales, these functions will transfer to the new regulatory body for care services to be established as part of the National Assembly for Wales. Early years education in Wales will continue to be inspected by Her Majesty's Chief Inspector of Education and Training in Wales, through Estyn (the Welsh equivalent of Ofsted). Under the revised arrangements in both England and Wales, regulation will be carried out to new national standards. In addition, those

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working with or coming into contact with older children will be required to demonstrate that they are suitable to do so.

12. The Act imposes a duty on the Secretary of State to maintain a list of individuals who are considered unsuitable to work with vulnerable adults. A single list will be established for both England and Wales. It will operate in a similar way to the list established under the Protection of Children Act 1999. Specified care providers (care homes and domiciliary care agencies which must register with either the National Care Standards Commission or the National Assembly for Wales, and prescribed services within the NHS and independent health sector), and employment agencies and businesses which provide or supply individuals to work in care positions, will be under a duty to refer people to the list in certain circumstances. Care providers will also have to carry out checks of the list before offering employment to potential recruits in a care position working with vulnerable adults, and to refuse employment in such a position to any person included in the list. Provision is also made for registration authorities to make referrals to the list, and for referrals to be made as a result of certain inquiries.
13. The Act provides for a right of appeal against the decisions of the new regulatory authorities and Councils established under the Act, decisions of HMCIS in England in connection with the regulation of child minding and day care and decisions of the Secretary of State regarding the vulnerable adults protection list. Appeals will lie to the Tribunal established under the Protection of Children Act 1999 (which will cover both England and Wales).
14. Other provisions in the Act include –
  - changes to the regulation of nurses agencies in England and Wales, removing the nurses agencies' exemption from the Employment Agencies Act 1973, and repealing the Nurses Agencies Act 1957. Nurses agencies will also be required to register with the National Care Standards Commission or the National Assembly for Wales;
  - Before Part II of the Act comes fully into force, the Children Act 1989 will be amended to remove the exemption on the requirement to register in the case of small private children's homes (which provide care and accommodation for fewer than 4 children). Such homes will be registered by local authorities until responsibility passes to the National Care Standards Commission and National Assembly for Wales;
  - the Registered Homes Act 1984 is to be amended to require the registration under Part II of that Act of all dentists' premises where wholly private dental treatment of patients under general anaesthesia is carried out. This will take effect for the period that the Registered Homes Act remains in operation, until it is replaced by the commencement of the relevant provisions of this Act. Responsibility for the registration of such premises will then pass from the Health Authority to the National Care Standards Commission and the National Assembly for Wales;
  - amendments are made to the Protection of Children Act 1999 to modify its application to employment businesses and to extend the scope of the Act to cover persons disqualified from working in independent schools on the grounds of their unsuitability to work with children. Further provision is made for persons to be referred to the list kept under that Act by the National Care Standards Commission or the National Assembly for Wales, or following the result of an inquiry.
  - The Local Authority Social Services Act 1970 ("LASS Act") is amended, adding to Schedule 1 of that Act a reference to Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 ("HASSASSA Act"). The effect of this is to allow the provisions of the LASS Act (for example powers of statutory guidance and direction under Section 7) to apply to local authorities' functions

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under Section 17 of the HASSASSA Act. Those functions relate to charges levied by local authorities for non-residential social services.