

WELSH STATUTORY INSTRUMENTS

2017 No. 1264

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

PART 10

Requirements on service providers as to staffing

Staffing - overarching requirements

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—

- (a) the statement of purpose for the service;
- (b) the care and support needs of the individuals;
- (c) supporting individuals to achieve their personal outcomes;
- (d) the requirements of the regulations in Parts 3 to 15.

(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.

(3) The service provider must be able to demonstrate the way in 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^{F1}... 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.

Textual Amendments

- F1** Word in reg. 34(5) revoked (1.4.2019) by [The Regulated Services \(Service Providers and Responsible Individuals\) \(Wales\) \(Amendment\) Regulations 2019 \(S.I. 2019/757\)](#), regs. 1(2), 8

Fitness of staff

35.—(1) The service provider must not—

- (a) employ a person under a contract of employment to work at the service unless that person is fit to do so;
- (b) allow a volunteer to work at the service unless that person is fit to do so;
- (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.

(2) For the purposes of paragraph (1), a person is not fit to work at the service unless—

- (a) the person is of suitable integrity and good character;
- (b) the person has the qualifications, skills, competence and experience necessary for the work he or she is to perform;
- (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;
- (d) ^{F2}... 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;
- (e) [^{F3}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 with Social Care Wales;

[^{F4}(f) subject to paragraph (11) of this regulation, where the person is employed by the service provider (whether as an employee or worker) other than as a manager in order to provide care and support to any person in connection with—

- (i) a care home service,
- (ii) a secure accommodation service,
- (iii) a domiciliary support service in order to provide care and support to a person referred to in paragraph 8(1) of Schedule 1 to the Act, or
- (iv) a residential family centre service,

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”);]

[^{F5}(g) subject to paragraph (11) of this regulation, where the person is engaged under a contract for services, other than as a manager, to provide care and support to any person in connection with—

- (i) a care home service,
- (ii) a secure accommodation service,
- (iii) a domiciliary support service in order to provide care and support to a person referred to in paragraph 8(1) of Schedule 1 to the Act, or
- (iv) a residential family centre service,

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

[^{F6}(8A) In paragraph (2)(g) of this regulation, “the relevant date” is either—

- (a) 6 months from the date a person is first engaged under a contract for services to provide care and support in connection with—
 - (i) a care home service ^{F7}...,
 - (ii) a secure accommodation service,
 - (iii) a domiciliary support service in order to provide care and support to a person referred to in paragraph 8(1) of Schedule 1 to the Act, ^{F8}...
[a residential family centre service, or]

^{F9}(iv)

(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 [^{F10}section 87(1) of the Protection of Freedoms Act 2012].

^{F11}(9A)

[^{F12}(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 immediately before 2 April 2018 but was not also registered as carrying on a domiciliary care agency.]

[^{F13}(11) The requirement that a person is registered as a social care worker with Social Care Wales in accordance with paragraph (2)(f) and (g), does not apply where the person is employed (whether as an employee or worker) or engaged under a contract for services to work as a—

- (a) nurse, or
- (b) registered professional.]

Textual Amendments

- F2** Words in reg. 35(2)(d) omitted (1.11.2022) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) and (Coronavirus) (Revocation) Regulations 2022 (S.I. 2022/1074), regs. 1(2), **6(a)**
- F3** Words in reg. 35(2)(e) inserted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **9(a)**
- F4** Reg. 35(2)(f) substituted (1.10.2022) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(a)**
- F5** Reg. 35(2)(g) substituted (1.10.2022) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(b)**
- F6** Reg. 35(8A) inserted (1.4.2020) by The Regulation and Inspection of Social Care (Wales) Act 2016 and Regulated Services (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/389), regs. 1(2), **12(c)**
- F7** Words in reg. 35(8A)(a)(i) omitted (1.10.2022) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(c)(i)**
- F8** Word in reg. 35(8A)(a) omitted (1.10.2022) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(c)(ii)**
- F9** Reg. 35(8A)(a)(iv) inserted (1.10.2022) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(c)(iii)**
- F10** Words in reg. 35(9) substituted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **9(b)**
- F11** Reg. 35(9A) omitted (1.11.2022) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) and (Coronavirus) (Revocation) Regulations 2022 (S.I. 2022/1074), regs. 1(2), **6(b)**
- F12** Reg. 35(10) inserted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **9(c)**
- F13** Reg. 35(11) inserted (1.4.2020) by The Regulation and Inspection of Social Care (Wales) Act 2016 and Regulated Services (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/389), regs. 1(2), **12(d)**

Supporting and developing staff

36.—(1) The service provider must have a policy in place for the support and development of staff.

(2) The service provider must ensure that any person working at the service (including a person allowed to work as a volunteer)—

- (a) receives an induction appropriate to their role;
- (b) is made aware of his or her own responsibilities and those of other staff.
- (c) receives appropriate supervision and appraisal;
- (d) receives core training appropriate to the work to be performed by them;
- (e) receives specialist training as appropriate;

(f) receives support and assistance to obtain such further training as is appropriate to the work they perform.

(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.

Compliance with employer's code of practice

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.

Information for staff

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.

(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.

Disciplinary procedures

39.—(1) The service provider must put in place and operate a disciplinary procedure.

(2) The disciplinary procedure must include—

- (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;
- (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.

(3) For the purpose of paragraph (2)(b), an appropriate person is—

- (a) the service provider,
- (b) the responsible individual,
- (c) an officer of the service regulator,
- (d) an officer of the local authority for the area in which the service is provided,
- (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
- (f) a police officer.

Changes to legislation:

There are currently no known outstanding effects for the The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, PART 10.