
WELSH STATUTORY INSTRUMENTS

2002 No. 324 (W.37)

**SOCIAL CARE, WALES
CHILDREN AND YOUNG PERSONS, WALES**

The Care Homes (Wales) Regulations 2002

Made - - - - - *12th February 2002*

Coming into force - - - - - *1st April 2002*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 3(3), 22(1), (2)(a) to (d) and (f) to (j), (5), (7)(a) to (j) and (l), 25(1), 33, 34(1), 35 and 118(5) to (7) of the Care Standards Act 2000⁽¹⁾, having consulted such persons as it considers appropriate⁽²⁾, hereby makes the following Regulations:—

**PART I
GENERAL**

Citation, commencement and application

1.—(1) These Regulations may be cited as the Care Homes (Wales) Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations apply in relation to care homes in Wales.

Interpretation

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Care Standards Act 2000;

“appropriate office” (“*swyddfa briodol*”) means in relation to a care home—

- (a) if an office has been specified under regulation 48 for the area in which the care home is situated, that office;
- (b) in any other case, any office of the National Assembly;

(1) 2000 c. 14. The powers are exercisable by the appropriate Minister, who is defined in section 121(1), in relation to Wales, as the National Assembly and, in relation to England, Scotland and Northern Ireland, as the Secretary of State. *See* section 121(1) for the definitions of “prescribed” and “regulations”.

(2) *See* section 22(9) of the Act for the requirement to consult.

“environmental health authority” (“*awdurdod iechyd amgylchedd*”) means the authority responsible for environmental health for the area in which the care home is situated;

“fire authority” (“*awdurdod tân*”), in relation to a care home, means the authority discharging in the area in which the care home is situated, the function of fire authority under the Fire Services Act 1947(3);

“fostering arrangements” (“*trefniadau maethu*”) means arrangements made by, or on behalf of, a local authority under section 23(2)(a) of the Children Act 1989(4) or by a voluntary organisation under section 59(1)(a) of that Act, or arrangements made by a local authority or voluntary organisation under legislation similar to section 23(2)(a) or (as the case may be) section 59(1)(a);

“general practitioner” (“*ymarferydd cyffredinol*”) means a registered medical practitioner who—

- (a) provides general medical services under Part II of the National Health Service Act 1977(5),
- (b) performs personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997(6); or
- (c) provides services which correspond to services provided under Part II of the National Health Service Act 1977, 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(7) applies or who is a clinical psychologist, child psychotherapist or speech therapist;

“National Assembly” (“*Cynulliad Cenedlaethol*”) means the National Assembly for Wales;

“organisation” (“*corff*”) means a body corporate;

“registered manager” (“*rheolwr cofrestredig*”), in relation to a care home, means a person who is registered under Part II of the Act as the manager of the care home;

“registered person” (“*person cofrestredig*”), in relation to a care home, means any person who is the registered provider or registered manager in respect of the care home;

“registered provider” (“*darparydd cofrestredig*”), in relation to a care home, means a person who is registered under Part II of the Act as a person carrying on the care home;

“relative” (“*perthynas*”), in relation to any person, means—

- (a) the person’s spouse;
- (b) any parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the person, or of the person’s spouse;
- (c) the spouse of any relative within sub-paragraph (b) of this definition;
- (d) any individual with whom the person was accommodated for more than 28 days between the ages of sixteen and eighteen under fostering arrangements, or the individual’s spouse;

and for the purpose of determining any such relationship a person’s step-child shall be treated as his child, and references to “spouse” include a former spouse and a person who is living with the person as if they were husband and wife;

(3) 10 & 11 Geo.6 c.41.

(4) 1989 c. 41.

(5) 1977 c. 49.

(6) 1997 c. 46.

(7) 1999 c. 8.

“representative” (“*cynrychiolydd*”) means, in relation to a service user, a person, other than the registered person or a person employed at the care home, who with the service user’s express or implied consent takes an interest in the service user’s health and welfare;

“responsible individual” (“*unigolyn cyfrifol*”) has the meaning given to it in regulation 7;

“service user” (“*defnyddiwr gwasanaeth*”) means any person accommodated in the care home who is in need of nursing or personal care by reason of disability, infirmity, past or present illness, past or present mental disorder or past or present dependence on alcohol or drugs;

“service user’s guide” (“*arweiniad y defnyddiwr gwasanaeth*”) means the written guide produced in accordance with regulation 5(1);

“service user’s plan” (“*cynllun y defnyddiwr gwasanaeth*”) means the written plan prepared in accordance with regulation 15(1);

“staff” (“*staff*”) means persons employed by the registered person to work at the care home but does not include a volunteer or a person employed under a contract for services;

“statement of purpose” (“*datganiad o ddiben*”) means the written statement compiled in accordance with regulation 4(1).

(2) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(3) In these Regulations, unless the contrary intention appears, references to employing a person include—

- (a) employing a person whether or not for payment;
- (b) employing a person under a contract of service or a contract for services; and
- (c) allowing a person to work as a volunteer;

and references to an employee or to a person being employed shall be construed accordingly.

(4) In these Regulations a reference to a person working at a care home shall be taken to include a reference to a person working for the purposes of a care home.

Excepted establishments

3.—(1) For the purposes of the Act, an establishment is excepted from being a care home if—

- (a) it provides accommodation, together with nursing or personal care, only for a relative of the person carrying it on;
- (b) it provides accommodation, together with nursing or personal care, for less than 28 days in any 12 month period;
- (c) it is a health service hospital at which nursing is provided;
- (d) it provides accommodation, together with nursing, and is vested—
 - (i) in the National Assembly for the purposes of its functions under the National Health Service Act 1977(8), or

- (ii) in an NHS trust⁽⁹⁾;
 - (e) it is a university;
 - (f) it is an institution within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992⁽¹⁰⁾; or
 - (g) it is a school.
- (2) For the purposes of paragraph (1), “university” includes—
- (a) any university college;
 - (b) any college, or institution in the nature of a college, of a university.
- (3) The exception in paragraph (1)(d) does not apply if—
- (a) the establishment provides accommodation together with nursing or personal care to any person; and
 - (b) the number of such persons is more than a tenth of the number of students to whom it provides both education and accommodation.

Statement of purpose

4.—(1) The registered person shall compile in relation to the care home a written statement (in these Regulations referred to as “the statement of purpose” (“*y datganiad o ddiben*”)) which shall consist of—

- (a) a statement of the aims and objectives of the care home;
- (b) a statement as to the facilities and services which are to be provided by the registered person for service users; and
- (c) a statement as to the matters listed in Schedule 1.

(2) The registered person shall provide a copy of the statement of purpose to the appropriate office of the National Assembly and shall make it available upon request for inspection at any reasonable time by any service user and any representative of a service user.

(3) Nothing in regulation 16(1) or 24(1) shall require or authorise the registered person to contravene, or not to comply with—

- (a) any other provision of these Regulations; or
- (b) the conditions for the time being in force in relation to the registration of the registered person under Part II of the Act.

Service user’s guide

5.—(1) The registered person shall produce a written guide to the care home (in these Regulations referred to as “the service user’s guide” (“*yr arweiniad defnyddiwr gwasanaeth*”)) which shall include—

- (a) a summary of the statement of purpose;
- (b) the terms and conditions in respect of accommodation to be provided for service users, including as to the amount and method of payment of fees;
- (c) a standard form of contract for the provision of services and facilities by the registered provider to service users;
- (d) either a summary of the most recent inspection report or a copy of that report;

⁽⁹⁾ See section 5 of the NHS and Community Care Act 1990 (c. 19) as amended by paragraph 69 of Schedule 1 to the Health Authorities Act 1995 (c. 17) and section 13(1) of the Health Act 1999(c. 8).

⁽¹⁰⁾ 1992 c. 13.

- (e) a summary of the complaints procedure established under regulation 23;
 - (f) the address and telephone number of the appropriate office of the National Assembly.
- (2) The registered person shall—
- (a) provide a copy of the first service user’s guide to the appropriate office of the National Assembly;
 - (b) provide a copy of the current version of the service user’s guide to each service user when first accommodated in the home; and
 - (c) subsequent to the provision described in sub-paragraph (b) provide further copies at the request of the service user.
- (3) Where a local authority has made arrangements for the provision of accommodation, nursing or personal care to the service user at the care home, the registered person shall supply to the service user a copy of the agreement specifying the arrangements made.
- (4) In this regulation “most recent inspection report” includes a report produced prior to the coming into force of these regulations.

Review of statement of purpose and service user’s guide

- 6.—(1) The registered person shall—
- (a) keep under review and, subject to compliance with paragraph (2), where appropriate, revise the statement of purpose and the service user’s guide; and
 - (b) if the service user’s guide is revised, supply a revised copy to each service user.
- (2) The registered person shall, whenever practicable, notify the appropriate office of the National Assembly of any revision to be made to the statement of purpose at least 28 days before it is to take effect.

PART II

REGISTERED PERSONS

Fitness of registered provider

- 7.—(1) A person shall not carry on a care home unless he or she is fit to do so.
- (2) A person is not fit to carry on a care home unless the person—
- (a) is an individual who satisfies the requirements set out in paragraph (3); or
 - (b) is an organisation and—
 - (i) it has given notice to the appropriate office of the National Assembly of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual” (“*yr unigolyn cyfrifol*”)) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the care home; and
 - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that—
- (a) he or she is of suitable integrity and good character to carry on, or (as the case may be) be responsible for supervising the management of, the care home;
 - (b) he or she is physically and mentally fit to carry on, or (as the case may be) be responsible for supervising the management of, the care home; and

- (c) full and satisfactory information or documentation is available in relation to him or her—
 - (i) except where paragraph (4) applies, in respect of each matter specified in paragraphs 1 to 6 of Schedule 2;
 - (ii) where paragraph (4) applies, in respect of each matter specified in paragraphs 1 and 3 to 7 of Schedule 2.
- (4) This paragraph applies where any certificate or information on any matters specified in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997(11) has not been brought into force.
- (5) A person is not fit to carry on a care home if—
 - (a) he or she has been adjudged bankrupt or sequestration of his or her estate has been awarded and (in either case) he or she has not been discharged and the bankruptcy order has not been annulled or rescinded; or
 - (b) he or she has made a composition or arrangement with his or her creditors and has not been discharged in respect of it.

Appointment of manager

- 8.—(1) The registered provider shall appoint an individual to manage the care home if—
 - (a) there is no registered manager in respect of the care home; and
 - (b) the registered provider—
 - (i) is an organisation;
 - (ii) is not a fit person to manage a care home; or
 - (iii) is not, or does not intend to be, in full-time day-to-day charge of the care home.
- (2) Where the registered provider appoints a person to manage the care home he shall forthwith give notice to the appropriate office of the National Assembly of—
 - (a) the name of the person so appointed; and
 - (b) the date on which the appointment is to take effect.
- (3) If the registered provider is to manage the care home he or she shall forthwith give notice to the appropriate office of the National Assembly of the date on which such management is to begin.

Fitness of registered manager

- 9.—(1) A person shall not manage a care home unless he or she is fit to do so.
- (2) A person shall not be fit to manage a care home unless—
 - (a) he or she is of suitable integrity and good character to manage the home;
 - (b) having regard to the size of the care home, the statement of purpose, and the number and needs of the service users—
 - (i) he or she is physically and mentally fit to manage the care home; and
 - (ii) he or she has the skills and experience necessary to manage the care home; and
 - (c) full and satisfactory information or documentation is available in relation to him or her—
 - (i) except where paragraph (3) applies, in respect of each matter specified in paragraphs 1 to 6 of Schedule 2;

(11) 1997 c. 50. Sections 113 and 115, as amended, have not yet been brought into force. See further the footnotes to paragraph 2 of Schedule 2 to these regulations.

(ii) where paragraph (3) applies, in respect of each matter specified in paragraphs 1 and 3 to 7 of Schedule 2.

(3) This paragraph applies where any certificate or information on any matters specified in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997⁽¹²⁾ has not been brought into force.

Registered person — general requirements

10.—(1) The registered provider and the registered manager shall, having regard to the size of the care home, the statement of purpose, and the number and needs of the service users, carry on or manage the care home (as the case may be) with sufficient care, competence and skill.

(2) If the registered provider is—

- (a) an individual, he or she shall undertake; or
- (b) an organisation, it shall ensure that the responsible individual undertakes,

from time to time such training as is appropriate to ensure that he or she has the experience and skills necessary for carrying on the care home.

(3) The registered manager shall undertake from time to time such training as is appropriate to ensure that he or she has the experience and skills necessary for managing the care home.

Notification of offences

11. Where the registered person or the responsible individual is convicted of any criminal offence, whether in Wales or elsewhere, he or she shall forthwith give notice in writing to the appropriate office of the National Assembly of—

- (a) the date and place of the conviction;
- (b) the offence of which he or she was convicted; and
- (c) the penalty imposed in respect of the offence.

PART III

CONDUCT OF CARE HOME

Health and welfare of service users

12.—(1) The registered person shall ensure that the care home is conducted so as—

- (a) to promote and make proper provision for the health and welfare of service users;
- (b) to make proper provision for the care and, where appropriate, treatment, education and supervision of service users.

(2) The registered person shall so far as practicable enable service users to make decisions with respect to the care they are to receive and their health and welfare.

(3) The registered person shall, for the purpose of providing care to service users, and making proper provision for their health and welfare, so far as practicable ascertain and take into account their wishes and feelings.

(4) The registered person shall make suitable arrangements to ensure that the care home is conducted—

⁽¹²⁾ 1997 c. 50. Sections 113 and 115, as amended, have not yet been brought into force. See further the footnotes to paragraph 2 of Schedule 2 to these regulations.

- (a) in a manner which respects the privacy and dignity of service users;
 - (b) with due regard to the sex, sexual orientation, religious persuasion, racial origin, and cultural and linguistic background and any disability of service users.
- (5) The registered provider and registered manager (if any) shall, in relation to the conduct of the care home—
- (a) maintain good personal and professional relationships with each other and with service users and staff; and;
 - (b) encourage and assist staff to maintain good personal and professional relationships with service users.

Further requirements as to health and welfare

- 13.**—(1) The registered person shall make arrangements for service users—
- (a) to be registered with a general practitioner of their choice; and
 - (b) to receive where necessary treatment, advice and other services from any health care professional.
- (2) The registered person shall make arrangements for the recording, handling, safe keeping, safe administration and disposal of medicines received into the care home.
- (3) The registered person shall make suitable arrangements to prevent infection, toxic conditions and the spread of infection at the care home.
- (4) The registered person shall ensure that—
- (a) all parts of the home to which service users have access are so far as reasonably practicable free from hazards to their safety;
 - (b) any activities in which service users participate are so far as reasonably practicable free from avoidable risks;
 - (c) unnecessary risks to the health or safety of service users are identified and so far as possible eliminated; and
 - (d) suitable arrangements are made for the training of staff in first aid.
- (5) The registered person shall make suitable arrangements to provide a safe system for moving and handling service users.
- (6) The registered person shall make suitable arrangements, by training staff or by other measures, to prevent service users being harmed or suffering abuse or being placed at risk of harm or abuse.
- (7) The registered person shall ensure that no service user is subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that or any other service user and there are exceptional circumstances.
- (8) On any occasion on which a service user is subject to physical restraint, the registered person shall record the circumstances, including the nature of the restraint.

Assessment of service users

- 14.**—(1) The registered person shall not provide accommodation to a service user at the care home unless, so far as it shall have been practicable to do so—
- (a) the needs of the service user have been assessed by a suitably qualified or suitably trained person;
 - (b) the registered person has obtained a copy of the assessment;

- (c) there has been appropriate consultation regarding the assessment with the service user or a representative of the service user;
 - (d) the registered person has confirmed in writing to the service user that having regard to the assessment the care home is suitable for the purpose of meeting the service user's needs in respect of his health and welfare.
- (2) The registered person shall ensure that the assessment of the service user's needs is—
- (a) kept under review; and
 - (b) reviewed at any time when it is necessary to do so having regard to any change of circumstances.

Service user's plan

15.—(1) The registered person shall, after consultation with the service user, or a representative of the service user, if it is practicable to carry out consultation, prepare a written plan ("the service user's plan" ("y cynllun defnyddiwr gwasanaeth")) as to how the service user's needs in respect of his or her health and welfare are to be met.

- (2) The registered person shall—
- (a) where a service user is being accommodated under arrangements made with a local authority, ensure that the service user's plan is consistent with any plan for the care of the service user prepared by that local authority;
 - (b) make the service user's plan available to the service user;
 - (c) keep the service user's plan under review;
 - (d) where appropriate, and after consultation with the service user or a representative of the service user, if it is practicable to carry out consultation, revise the service user's plan; and
 - (e) notify the service user of any such revision.

Facilities and services

16.—(1) Subject to regulation 4(3), the registered person shall provide facilities and services to service users in accordance with the care home's statement of purpose.

(2) The registered person shall having regard to the size of the care home and the number and needs of service users—

- (a) provide, so far as is necessary for the purpose of managing the care home—
 - (i) appropriate telephone facilities;
 - (ii) appropriate facilities for communication by facsimile transmission.
- (b) provide telephone facilities which are suitable for the needs of service users, and make arrangements to enable service users to use such facilities in private;
- (c) provide in rooms occupied by service users adequate furniture, bedding and other furnishings, including curtains and floor coverings, and equipment suitable to the needs of service users, and screens where necessary;
- (d) encourage service users, so far as it is practicable to do so, to bring their own furniture and furnishings into the rooms they occupy;
- (e) arrange for the regular laundering of linen and clothing;
- (f) so far as it is practicable to do so, provide adequate facilities for service users to wash, dry and iron their own clothes if they so wish and, for that purpose, to make arrangements for their clothes to be sorted and kept separately;

- (g) provide sufficient and suitable kitchen equipment, crockery, cutlery and utensils, and adequate facilities for the preparation and storage of food;
 - (h) provide adequate facilities for service users to prepare their own food and ensure that such facilities are safe for use by service users;
 - (i) provide, in adequate quantities, suitable, wholesome and nutritious food which is varied and properly prepared and available at such time as may reasonably be required by service users;
 - (j) make suitable arrangements for maintaining satisfactory standards of hygiene in the care home and consult with the environmental health authority about those arrangements;
 - (k) keep the care home free from offensive odours and make suitable arrangements for the disposal of general and clinical waste;
 - (l) provide a place where the money and valuables of service users may be deposited for safe keeping, and make arrangements for service users to acknowledge in writing the return to them of any money or valuable so deposited;
 - (m) consult service users about their social interests, and make arrangements to enable them to engage in local, social and community activities and to visit, or maintain contact or communicate with, their families and friends;
 - (n) consult service users about the programme of activities arranged by or on behalf of the care home, and provide facilities for recreation, including having regard to the needs of service users, activities in relation to recreation, fitness and training.
- (3) The registered person shall ensure that so far as practicable service users have the opportunity to attend religious services of their choice.
- (4) In this regulation “food” includes drink.

Records

- 17.—(1) The registered person shall—
- (a) maintain in respect of each service user a record which includes the information, documents and other records specified in Schedule 3 relating to the service user;
 - (b) ensure that the record referred to in sub-paragraph (a) is kept securely in the care home or if the home closes keep the record securely elsewhere and make it available for inspection by the National Assembly at its request.
- (2) The registered person shall maintain in the care home the records specified in Schedule 4 or if the home closes keep the records elsewhere and make them available for inspection by the National Assembly at its request.
- (3) The registered person shall ensure that the records referred to in paragraphs (1) and (2) are kept up to date.
- (4) The records referred to in paragraphs (1) and (2) shall be retained for not less than three years from the date of the last entry, except a record kept under paragraph 13 of Schedule 4 which need only be kept for one year from the date of the last entry.
- (5) This regulation is without prejudice to any enactment (including a provision of subordinate legislation) or other rule of law about records or information.

Staffing

- 18.—(1) The registered person shall, having regard to the size of the care home, the statement of purpose and the number and needs of service users—

- (a) ensure that at all times suitably qualified, competent, skilled and experienced persons are working at the care home in such numbers as are appropriate for the health and welfare of service users;
 - (b) ensure that the employment of any persons on a temporary basis at the care home will not prevent service users from receiving such continuity of care as is reasonable to meet their needs;
 - (c) ensure that the persons employed by the registered person to work at the care home receive—
 - (i) training appropriate to the work they are to perform; and
 - (ii) suitable assistance, including time off, for the purpose of obtaining further qualifications appropriate to such work.
- (2) The registered person shall ensure that persons working at the care home are appropriately supervised.
- (3) Where the care home—
- (a) provides nursing to service users; and
 - (b) provides, whether or not in connection with nursing, medicines or medical treatment to service users;
- the registered person shall ensure that at all times a suitably qualified registered nurse is working at the care home.
- (4) The registered person shall make arrangements for providing persons who work at the care home with appropriate information about any Code of Practice published under section 62 of the Act.

Fitness of workers

- 19.**—(1) The registered person shall not—
- (a) employ under a contract of employment a person to work at the care home unless that person is fit to do so;
 - (b) allow a volunteer to work at the care home unless that person is fit to do so;
 - (c) allow any other person to work at the care home in a position in which he or she may in the course of his or her duties have regular contact with service users or with any other person of a description falling within section 3(2) of the Act⁽¹³⁾ at the care home unless that person is fit to do so.
- (2) For the purposes of paragraph (1), a person is not fit to work at a care home unless—
- (a) he or she is of suitable integrity and good character to work at the care home;
 - (b) he or she has the qualifications, skills, competence and experience necessary for the work he or she is to perform;
 - (c) he or she is physically and mentally fit for the purposes of the work he or she is to perform;
 - (d) full and satisfactory information or documentation is available in relation to him or her in respect of the following matters—
 - (i) except where paragraph (3) applies, the matters specified in paragraphs 1 to 6 of Schedule 2;
 - (ii) where paragraph (3) applies, the matters specified in paragraphs 1 and 3 to 7 of that Schedule.

⁽¹³⁾ Section 3(2) of the Act refers to persons who are or have been ill; who have or have had a mental disorder; who are disabled or infirm; and who are or have been dependent on alcohol or drugs.

(3) This paragraph applies where any certificate or information on any matters specified in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997 has not been brought into force.

(4) The registered person shall ensure that—

- (a) any offer of employment to, or other arrangement about working at the children's home made with or in respect of, a person falling within paragraph (1) is subject to paragraph (2)(d) being complied with in relation to that person; and
- (b) unless paragraph (5) applies, no such person starts work at a care home until such time as paragraph (2)(d) has been complied with in relation to that person.

(5) Where the following conditions apply, the registered person may permit a person to start work at a care home notwithstanding paragraph (4)(b)—

- (a) the registered person has taken all reasonable steps to obtain full information or documentation in respect of each of the matters listed in Schedule 2 in respect of the person, but the enquiries in relation to any of the matters listed in paragraphs 3 to 6 of Schedule 2 are incomplete;
- (b) full and satisfactory information or documentation in relation to that person has been obtained in respect of—
 - (i) the matter specified in paragraph 1 of Schedule 2;
 - (ii) except where paragraph (3) applies, the matter specified in paragraph 2 of that Schedule;
 - (iii) where paragraph (3) applies, the matter specified in paragraph 7 of that Schedule;
- (c) in the reasonable opinion of the registered person the circumstances are exceptional; and
- (d) pending receipt of, and satisfying himself or herself with regard to, any outstanding information or documentation, the registered person ensures that the person is appropriately supervised while carrying out his or her duties.

(6) Paragraph (2)(d), in so far as it relates to paragraph 2 of Schedule 2, shall not apply until 1st April 2003 in respect of a person who immediately before 1st April 2002 is the subject of an arrangement under which they are to work at the care home.

(7) The registered person shall ensure that any person working at the care home who does not fall within paragraph (1) is appropriately supervised at all times.

Restrictions on acting for service user

20.—(1) Subject to paragraph (2) the registered person shall not pay money belonging to any service user into a bank account unless—

- (a) the account is in the name of the service user to which the money belongs; and
- (b) the account is not used by the registered person in connection with the carrying on or management of the care home.

(2) Paragraph (1) does not apply to money which is paid to the registered person in respect of charges payable by a service user for accommodation or other services provided by the registered person at the care home.

(3) The registered person shall ensure so far as practicable that persons working at the care home do not act as the agent of a service user.

Staff views as to conduct of care home

21.—(1) This regulation applies to any matter relating to the conduct of the care home so far as it may affect the health or welfare of service users.

(2) The registered person shall make arrangements to enable staff to inform the registered person and the appropriate office of the National Assembly of their views about any matter to which this regulation applies.

Staff disciplinary procedure

22.—(1) The registered person shall operate a staff disciplinary procedure which, in particular—

- (a) provides for the suspension, and the taking of other action short of suspension, in relation to an employee where appropriate in the interests of the safety or welfare of service users accommodated in the care home; and
- (b) provides that a failure on the part of an employee to report an incident of abuse, or suspected abuse of a service user accommodated in the care home to an appropriate person is a ground on which disciplinary proceedings may be instituted.

(2) For the purposes of paragraph (1), an appropriate person is the registered person, an officer of either the National Assembly responsible for exercising any of its functions under Part II of the Act or the local authority for the area in which the home is situated, or a constable.

Complaints

23.—(1) The registered person shall prepare and follow a written procedure (“the complaints procedure” (“*y weithdrefn gwynion*”)) for considering complaints made to the registered person by a service user or person acting on the service user’s behalf.

(2) The complaints procedure shall be appropriate to the needs of service users.

(3) The registered person shall ensure that any complaint made under the complaints procedure is fully investigated.

(4) The registered person shall, within 28 days after the date on which the complaint is made, or such shorter period as may be reasonable in the circumstances, inform the person who made the complaint of the action (if any) that is to be taken.

(5) The registered person shall supply a copy of the complaints procedure to every service user and to any person acting on behalf of a service user if that person so requests.

(6) Where a copy of the complaints procedure is to be supplied in accordance with paragraph (5) to a person who is blind or whose vision is impaired, the registered person shall, if it is practicable to do so, supply, in addition to the written copy, a copy of the complaints procedure in a form which is suitable for that person.

(7) The copy of the complaints procedure shall include—

- (a) the name and address of the appropriate office of the National Assembly; and
- (b) the procedure (if any) that has been notified by the National Assembly to the registered person for the making of complaints to the National Assembly relating to the care home.

(8) The registered person shall supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and the action that was taken in response to each complaint.

PART IV

PREMISES

Fitness of premises

24.—(1) Subject to regulation 4(3), the registered person shall not use premises for the purposes of a care home unless—

- (a) the premises are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose; and
- (b) the location of the premises is appropriate to the needs of the service users.

(2) The registered person shall having regard to the number and needs of the service users ensure that—

- (a) the physical design and layout of the premises to be used as the care home meet the needs of the service users;
 - (b) the premises to be used as the care home are of sound construction and kept in a good state of repair externally and internally;
 - (c) equipment provided at the care home for use by service users or persons who work at the care home is maintained in good working order;
 - (d) all parts of the care home are kept clean and reasonably decorated;
 - (e) adequate private and communal accommodation is provided for service users;
 - (f) the size and layout of rooms occupied or used by service users are suitable for their needs;
 - (g) there is adequate sitting, recreational and dining space provided separately from the service user's private accommodation;
 - (h) the communal space provided for service users is suitable for the provision of social, cultural and religious activities appropriate to the circumstances of service users;
 - (i) suitable facilities are provided for service users to meet visitors in communal accommodation, and in private accommodation which is separate from the service users' own private rooms;
 - (j) there are provided at appropriate places in the premises sufficient numbers of lavatories, and of wash-basins, baths and showers fitted with a hot and cold water supply;
 - (k) any necessary sluicing facilities are provided;
 - (l) suitable provision is made for storage for the purposes of the care home;
 - (m) suitable storage facilities are provided for the use of service users;
 - (n) suitable adaptations are made, and such support, equipment and facilities, including passenger lifts, as may be required are provided, for service users who are old, infirm or physically disabled;
 - (o) external grounds which are suitable for, and safe for use by, service users are provided and appropriately maintained;
 - (p) ventilation, heating and lighting suitable for service users is provided in all parts of the care home which are used by service users;
 - (q) the premises are secure from unauthorised access.
- (3) The registered person shall provide for staff—
- (a) suitable facilities and accommodation, other than sleeping accommodation, including—
 - (i) facilities for the purpose of changing;

- (ii) storage facilities;
- (b) sleeping accommodation where the provision of such accommodation is needed by staff in connection with their work at the care home .
- (4) The registered person shall—
 - (a) take adequate precautions against the risk of fire, including the provision of suitable fire equipment;
 - (b) provide adequate means of escape;
 - (c) make adequate arrangements—
 - (i) for detecting, containing and extinguishing fires;
 - (ii) for giving warnings of fires;
 - (iii) for the evacuation, in the event of fire, of all persons in the care home and safe placement of service users;
 - (iv) for the maintenance of all fire equipment; and
 - (v) for reviewing fire precautions, and testing fire equipment, at suitable intervals;
 - (d) make arrangements for persons working at the care home to receive suitable training in fire prevention;
 - (e) ensure, by means of fire drills and practices at suitable intervals, that the persons working at the care home and, so far as practicable, service users, are aware of the procedure to be followed in case of fire, including the procedure for saving life;
 - (f) consult with the fire authority about the matters described in sub-paragraphs (a) to (e).
- (5) The registered person shall undertake appropriate consultation with the authority responsible for environmental health for the area in which the care home is situated.

PART V MANAGEMENT

Review of quality of care

- 25.**—(1) The registered person shall establish and maintain a system for—
- (a) reviewing at appropriate intervals; and
 - (b) improving, the quality of care provided at the care home, including the quality of nursing where nursing is provided at the care home.
- (2) The registered person shall supply to the appropriate office of the National Assembly a report in respect of any review conducted by him or her for the purposes of paragraph (1), and make a copy of the report available to service users.
- (3) The system referred to in paragraph (1) shall provide for consultation with service users and their representatives.

Financial position

- 26.**—(1) The registered provider shall carry on the care home in such manner as is likely to ensure that the care home will be financially viable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person shall, if the National Assembly so requests, provide the appropriate office of the National Assembly with such information and documents as it may require for the purpose of considering the financial viability of the care home, including—

- (a) the annual accounts of the care home certified by an accountant;
- (b) a reference from a bank expressing an opinion as to the registered provider's financial standing;
- (c) information as to the financing and financial resources of the care home;
- (d) where the registered provider is a company, information as to any of its associated companies;
- (e) a certificate of insurance for the registered provider in respect of liability which may be incurred by him or her in relation to the care home in respect of death, injury, public liability, damage or other loss.

(3) The registered person shall—

- (a) ensure that adequate accounts are maintained in respect of the care home and kept up to date;
- (b) ensure that the accounts give details of the running costs of the care home, including rent, payments under a mortgage and expenditure on food, heating and salaries and wages of staff; and
- (c) supply a copy of the accounts to the National Assembly at its request.

(4) In this regulation a company is an associated company of another if one of them has control of the other or both are under the control of the same person.

Visits by registered provider

27.—(1) Where the registered provider is an individual who does not manage the care home, he or she shall visit the care home in accordance with this regulation.

(2) Where the registered provider is an organisation, the care home shall be visited in accordance with this regulation by—

- (a) the responsible individual;
- (b) another of the directors or other persons responsible for the management of the organisation who is suitable to visit the home; or
- (c) an employee of the organisation who is not directly concerned with the conduct of the care home who is suitable to visit the home.

(3) Visits under paragraph (1) or (2) shall take place at least once every three months and may be unannounced.

(4) The person carrying out the visit shall—

- (a) interview, with their consent and in private, such of the service users and their representatives and persons working at the care home as appears necessary in order to form an opinion of the standard of care provided in the care home;
- (b) inspect the premises of the care home, its record of events and records of any complaints; and
- (c) prepare a written report on the conduct of the care home.

(5) The registered provider shall supply a copy of the report required to be made under paragraph (4)(c) to—

- (a) the registered manager who shall keep the copy at the care home; and

- (b) in the case of a visit under paragraph (2), to each of the directors or other persons responsible for the management of the organisation.

PART VI

CHILDREN

Application of this Part

28. The provisions of this Part shall apply where any child is accommodated in the care home.

Interpretation

29. In regulation 2, paragraph (1) shall have effect as if—
- (a) at the end of the definition of “service user” there were added the words “, or any child who is accommodated in the care home”;
- (b) the following definitions were added at the appropriate places—
- ““placement plan” has the meaning given to it in regulation 12 (Child’s placement plan) of the Children’s Homes (Wales) Regulations 2002;
- “placing authority” has the meaning given to it in regulation 2(1) (interpretation) of the Children’s Homes (Wales) Regulations 2002(14).”

Statement of purpose

30. In regulation 4, paragraph (1) shall have effect as if at the end of that paragraph there were added the following—

“and

- (d) the information specified in Schedule 5.”.

Registered person

- 31.—(1) In regulation 7, paragraph (3) shall have effect as if at the end of that paragraph there were added the following—

“and

- (d) his or her experience and skills are suitable for the purpose of working with children.”.

- (2) In regulation 9, paragraph (2) shall have effect as if at the end of that paragraph there were added the following—

“and

- (d) his experience and skills are suitable for the purpose of working with children and either—
- (i) his qualifications are suitable for the purpose of working with children; or
- (ii) another person has been appointed for the purpose of assisting in the management of the care home, and the qualifications of the person so appointed are suitable for the purpose of working with children.”.

(3) In regulation 10, paragraph (1) shall have effect as if for the words “and the number and needs of the service users,” there were substituted the words “the number and needs of the service users and the need to safeguard and promote the welfare of children accommodated in the care home,”.

Separate provision for children

32.—(1) Subject to paragraph (2), the registered person shall ensure that—

- (a) the provision to be made for the care, treatment and supervision of children accommodated in the care home; and
- (b) the provision of facilities and services to them,

shall, so far as it is practicable to do so, be made separately from other service users.

(2) Paragraph (1) shall not prevent the registered person from making provision jointly for children and other service users whose age does not significantly differ from those children.

Welfare and protection of children

33.—(1) Regulation 12 of these Regulations shall have effect as if, at the end of sub-paragraph (a) of paragraph (1) of that regulation there were added the words “, including provision for safeguarding the welfare of children accommodated in the care home”.

(2) The provisions of regulations 12, 15 to 18, 23 and 29 of, and Schedule 5 to, the Children’s Homes (Wales) Regulations 2002 (child’s placement plan; contact and access to communications; arrangements for the protection of children; behaviour management, discipline and restraint; education, employment and leisure activity; hazards and safety; notifiable events) shall apply to the registered person as if—

- (a) any reference to the registered person were to the registered person as defined in these Regulations;
- (b) any reference to the children’s home or the home were to the care home.

(3) Where the registered person notifies the National Assembly in accordance with regulation 29 of the Children’s Homes (Wales) Regulations 2002 of any of the following events, namely—

- (a) a serious illness or a serious accident sustained by a child accommodated at the care home;
- (b) the outbreak of any infectious disease at the care home or involving children accommodated at the care home,

he will not be required to give separate notice of that event to the appropriate office of the National Assembly under regulation 38 (notification of death etc.) of these Regulations.

Fitness of workers

34. In regulation 19, paragraph (2) shall have effect as if at the end of that paragraph there were added the following—

“and

- (e) his or her qualifications, experience, competence and skills are suitable for the purpose of working with children.”.

Staff disciplinary procedure

35. In regulation 22, paragraph (2) shall have effect as if at the end of that paragraph there were added the words “or, in relation to a child accommodated at the home, an officer of the National Society for the Prevention of Cruelty to Children.”.

Review of quality of care

36. Regulation 25 shall have effect as if—

- (a) the system referred to in paragraph (1) of regulation 25 also required the matters set out in Schedule 6 to be monitored, and reviewed at appropriate intervals;
- (b) in paragraph (3) of regulation 25, for the words “and their representatives” there were substituted the words “, their representatives, the parents of the children accommodated at the care home and, in relation to those children, the placing authorities”;
- (c) there were added at the end of regulation 25 the following paragraph—

“(4) The registered person shall not aim to secure consultation with a child’s parent under paragraph (3) if there is a court order that restricts or limits contact between the child and the parent and it is necessary to prevent, or restrict, such consultation for the purpose of promoting or safeguarding the welfare of the child.”

Offences

37. Regulation 44 shall have effect as if for paragraph (1) there were substituted the following paragraph—

“(1) A contravention or failure to comply with any of the following provisions shall be an offence—

- (a) regulations 4 to 27 and 38 to 41 to the extent that those regulations have effect subject to Part VI of these Regulations;
- (b) regulations 32 and 35; and
- (c) the provisions described in paragraph (2) of regulation 33.”.

PART VII

MISCELLANEOUS

Notification of death, illness and other events

38.—(1) The registered person shall give notice to the appropriate office of the National Assembly without delay of the occurrence of—

- (a) the death of any service user and of the circumstances of his or her death;
- (b) the outbreak in the care home of any infectious disease which in the opinion of any registered medical practitioner attending persons in the care home is sufficiently serious to be so notified;
- (c) any serious injury to a service user;
- (d) a serious illness of a service user at a care home at which nursing is not provided;
- (e) any event in the care home which affects the well-being or safety of any service user;
- (f) any theft, burglary or serious accident in the care home;
- (g) any allegation of misconduct by the registered person or any person who works at the care home.

(2) Any notification made in accordance with this regulation which is given orally shall be confirmed in writing.

Notice of absence

39.—(1) Where—

- (a) a registered provider who manages the care home; or
- (b) a registered manager,

is to be absent from the care home for a continuous period of 28 days or more, the registered person shall give notice in writing to the appropriate office of the National Assembly of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than one month before the absence commences or within such shorter period as may be agreed with the National Assembly and the notice shall specify with respect to the absence—

- (a) its length or expected length;
- (b) the reason for it;
- (c) the arrangements which have been made for the running of the care home;
- (d) the name, address and qualifications of the person who will be responsible for the care home during the absence; and
- (e) arrangements that have been or are proposed to be made for appointing another person to manage the children's home during the absence, including the proposed date by which the appointment is to be made.

(3) Where an absence referred to in paragraph (1) is to arise as a result of an emergency, the registered provider shall give notice of the absence within one week of the emergency's occurrence specifying the matters in sub-paragraphs (a) to (e) of paragraph (2).

(4) Where—

- (a) a registered provider who manages the care home; or
- (b) a registered manager;

has been absent from the children's home for a continuous period of 28 days or more, and the appropriate office of the National Assembly has not been given notice of the absence, the registered person shall forthwith give notice in writing to that effect specifying the matters mentioned in paragraphs (a) to (e) of paragraph (2).

(5) The registered person shall notify the appropriate office of the National Assembly of the return to work of a person mentioned in sub-paragraph (a) or (b) of paragraph (4) not later than 7 days after the date of return.

Notice of changes

40. The registered person shall give notice in writing to the appropriate office of the National Assembly as soon as it is practicable to do so if—

- (a) a person other than the registered person carries on or manages, or proposes to carry on or manage, the care home;
- (b) a person ceases, or proposes to cease, to carry on or manage the care home;
- (c) where a registered person is an individual, he or she changes, or proposes to change, his or her name;
- (d) where the registered provider is an organisation—
 - (i) the name or address of the organisation changes, or is proposed to be changed;
 - (ii) there is, or is proposed to be, any change of director, manager, secretary or other similar officer of the organisation;

- (e) there is, or is proposed to be, any change in the identity of the responsible individual;
- (f) where a registered provider is an individual, a trustee in bankruptcy is, or is likely to be, appointed for him or her, or a composition or arrangement is, or is to be, made with his or her creditors;
- (g) where a registered provider is a company, a receiver, manager, liquidator or provisional liquidator is, or is likely to be, appointed;
- (h) where a registered provider is in a partnership whose business includes carrying on a children's home, a receiver or manager is, or is likely to be, appointed for the partnership; or
- (i) the premises of the home are, or are proposed to be, significantly altered or extended, or additional premises are, or are proposed to be, acquired.

Notice of termination of accommodation

41.—(1) Subject to paragraph (2), the registered person shall not terminate the arrangements for the accommodation of a service user unless he has given reasonable notice of his intention to do so to—

- (a) the service user;
- (b) the person who appears to be the service user's next of kin; and
- (c) where a local authority has made arrangements for the provision of accommodation, nursing or personal care to the service user at the care home, that authority.

(2) If it is impracticable for the registered person to comply with the requirement in paragraph (1)

- (a) he shall do so as soon as it is practicable to do so; and
- (b) he shall provide to the National Assembly a statement as to the circumstances which made it impracticable for him to comply with the requirement.

Appointment of liquidators etc

42.—(1) Any person to whom paragraph (2) applies must—

- (a) forthwith notify the appropriate office of the National Assembly for each care home to which the appointment relates of his or her appointment, indicating the reasons for it;
- (b) appoint a manager to take full-time day-to-day charge of the care home in any case where there is no registered manager; and
- (c) within 28 days of his or her appointment notify the appropriate office of the National Assembly of his or her intentions regarding the future operation of each care home to which the appointment relates.

(2) This paragraph applies to any person appointed as—

- (a) the receiver or manager of the property of a company which is a registered provider in respect of a care home;
- (b) a liquidator or provisional liquidator of a company which is a registered provider of a care home; or
- (c) the receiver or manager of the property of a partnership whose business includes carrying on a care home; or
- (d) the trustee in bankruptcy of a registered provider of a care home.

Death of registered person

43.—(1) If more than one person is registered in respect of a care home, and a registered person dies, a surviving registered person shall without delay notify the appropriate office of the National Assembly of the death in writing.

(2) If only one person is registered in respect of a care home, and he or she dies, his or her personal representatives shall notify the appropriate office of the National Assembly in writing—

(a) without delay of the death in writing; and

(b) within 28 days of their intentions regarding the future running of the home.

(3) The personal representatives of a deceased registered provider may carry on the care home without being registered in respect of it—

(a) for a period not exceeding 28 days; and

(b) for any further period as may be determined in accordance with paragraph (4).

(4) The National Assembly may determine a period, not exceeding one year, for the purposes of paragraph (3)(b) and shall notify any such determination to the personal representatives in writing.

(5) The personal representatives shall appoint a person to manage the care home during any period in which, in accordance with paragraph (3), they carry on the children's home without being registered in respect of it.

Offences

44.—(1) A contravention or failure to comply with any of the provisions of regulations 4 to 27 and 38 to 41 shall be an offence.

(2) Without prejudice to the powers of the National Assembly under section 29 of the Act to bring proceedings against persons who once were, but are no longer, registered in respect of a care home, the National Assembly may bring proceedings in respect of a failure to comply with regulation 17 which arose, in whole or in part, after he or she ceased to be a registered person.

Compliance with regulations

45. Where there is more than one registered person in respect of a care home, anything which is required under these regulations to be done by the registered person shall, if done by one of the registered persons, not be required to be done by any of the other registered persons.

Adult placements

46.—(1) For the purposes of this regulation and regulation 47, a registered provider is an adult placement carer in respect of a care home if—

(a) he or she is the registered provider in respect of, and manages, the care home;

(b) no person other than the registered provider manages the care home;

(c) the care home is, or forms part of—

(i) the registered provider's home; or

(ii) if the registered provider has more than one home, the home where he or she ordinarily resides;

(d) (i) no more than two service users are accommodated in the care home; or

(ii) no more than three service users are accommodated in the home if every such service user was accommodated under an agreement described in sub-paragraph (e) at any time before 1st April 2002;

- (e) a placement agreement has been made in respect of each of the service users;
 - (f) each service user is over the age of 18.
- (2) In this regulation, “placement agreement” means an agreement that—
- (a) has been made between—
 - (i) the registered provider;
 - (ii) the service user; and
 - (iii) the local authority or other body which manages a scheme (“adult placement scheme” (“*cynllun lleoliadau oedolion*”)) under which it has arranged or proposes to arrange for the service user to be accommodated in a care home;
 - (b) makes provision for the following matters—
 - (i) the aims of the arrangements under which the service user is accommodated in the care home;
 - (ii) the room to be occupied by the service user;
 - (iii) the services to be provided to the service user;
 - (iv) the fees to be charged;
 - (v) the qualifications and experience of the registered provider;
 - (vi) the terms and conditions in respect of the accommodation and services to be provided;
 - (vii) the services and assistance to be provided under the adult placement scheme under which the accommodation is or has been arranged.

Modification of regulations in respect of adult placement carers

47.—(1) The following provisions of this regulation shall apply where the registered provider is an adult placement carer in respect of a care home.

(2) Regulations 4, 8, 18, 19, 21, 22, 25, 27 to 37 and 42 (statement of purpose; appointment of manager; staffing; fitness of workers; staff views as to conduct of care home; staff disciplinary procedure; review of quality of care home; visits by registered provider; children; appointment of liquidators) and Schedules 1, 5 and 6 (information to be included in the statement of purpose; additional information to be included in the statement of purpose where children are accommodated; matters to be monitored at a care home where children are accommodated) shall not apply.

(3) Regulation 5 (service user’s guide) shall have effect as if sub-paragraph (a) of paragraph (1) of that regulation were omitted.

(4) Regulation 6 (review of statement of purpose and service user’s guide) shall have effect as if—

- (a) in sub-paragraph (a) of paragraph (1) of that regulation the words “subject to compliance with paragraph (2),” and “the statement of purpose and” were omitted;
- (b) paragraph (2) were omitted.

(5) Regulation 16 (facilities and services) shall have effect as if in sub-paragraph (j) of paragraph (2) of that regulation the words “and consult with the environmental health authority about those arrangements” were omitted.

(6) Regulation 24 (fitness of premises) shall have effect as if for sub-paragraph (a) of paragraph (1) there were substituted the words “the premises are suitable for their purpose” and as if sub-paragraphs (a), (f), (g), (h), (j), (k) and (n) of paragraph (2) and paragraphs (3) to (5) of that regulation were omitted.

(7) Regulation 26 (financial position) shall have effect as if—

- (a) paragraph (1) of that regulation were omitted;
- (b) in paragraph (2) of that regulation, sub-paragraphs (a) to (d) were omitted.
- (c) paragraphs (3) and (4) of that regulation were omitted.

(8) Schedule 3 (records to be kept in a care home in respect of each service user) shall have effect as if sub-paragraph (i) of paragraph 3 of that Schedule were omitted.

(9) Schedule 4 shall have effect as if paragraphs 1, 3, 5, 6, 7 and 12 to 16 of that Schedule were omitted.

Specification of appropriate offices

48. The Assembly may specify an office controlled by it as the appropriate office in relation to care homes situated in a particular area of Wales.

Revocation

49. The following regulations are revoked in so far as they apply to Wales—

- (a) the Residential Care Homes Regulations 1984⁽¹⁵⁾;
- (b) the Nursing Homes and Mental Nursing Homes Regulations 1984⁽¹⁶⁾.

Signed on behalf of the National Assembly under section 66(1) of the Government of Wales Act 1998⁽¹⁷⁾.

12th February 2002

D. Elis-Thomas
The Presiding Officer of the National Assembly

⁽¹⁵⁾ S.I. 1984/1345.

⁽¹⁶⁾ S.I. 1984/1578.

⁽¹⁷⁾ 1998 c. 38.

SCHEDULE 1

Regulation 4(1)(c)

INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. The name and business address of every registered person.
2. The relevant qualifications and experience of every registered person.
3. The number, relevant qualifications and experience of the staff working at the care home.
4. The organisational structure of the care home.
5. The age-range and sex of the service users for whom it is intended that accommodation should be provided.
6. The range of needs that the care home is intended to meet.
7. Whether nursing is to be provided.
8. Any criteria used for admission to the care home, including the care home's policy and procedures (if any) for emergency admissions.
9. The arrangements for service users to engage in social activities, hobbies and leisure interests.
10. The arrangements made for consultation with services users about the operation of the care home.
11. The fire precautions and associated emergency procedures in the care home.
12. The arrangements made for service users to attend religious services of their choice.
13. The arrangements made for contact between services users and their relatives, friends and representatives.
14. The arrangements for dealing with complaints.
15. The arrangements for dealing with reviews of the service user's plan referred to in regulation 15(1).
16. The number and size of rooms in the care home.
17. Details of any specific therapeutic techniques used in the care home and arrangements made for their supervision.
18. The arrangements for respecting the privacy and dignity of service users.
19. The arrangements made to discharge the obligation of the registered person under regulation 12 (4)(b).
20. Details of—
 - (a) the care home's policy on behaviour management and the use of restraint;
 - (b) the methods of control that may be used in the home (if any) and the circumstances in which, and by whom, they may be used.

SCHEDULE 2

Regulations 7, 9, 19

INFORMATION AND DOCUMENTS TO BE AVAILABLE IN RESPECT OF PERSONS CARRYING ON, MANAGING, OR WORKING AT, CARE HOMES

1. Proof of identity including a recent photograph.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

2. Either—

- (a) where the certificate is required for a purpose relating to section 115(5)(ea) of the Police Act 1997 (registration under Part II of the Care Standards Act 2000) **(18)**, or the position falls within section 115(3) or (4) of the Police Act 1997**(19)**, an enhanced criminal record certificate issued under section 115 of that Act in respect of which less than three years have elapsed since it was issued; or
- (b) in any other case, a criminal record certificate issued under section 113 of that Act in respect of which less than three years have elapsed since it was issued,

including, where applicable, the matters specified in section 113(3A) or (3C) or 115(6A) or (6B) of that Act**(20)**.

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

4. 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.

5. Documentary evidence of any relevant qualification.

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

7. Details of any criminal offences—

- (a) of which the person has been convicted, including details of any convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974**(21)** and which may be disclosed by virtue of the Rehabilitation of Offenders Act 1975 (Exceptions) Order 1975 (as that Order stands amended from time to time)**(22)**; or
- (b) in respect of which he or she has been cautioned by a constable and which, at the time the caution was given, he or she admitted.

SCHEDULE 3

Regulation 17(1)(a)

RECORDS TO BE KEPT IN A CARE HOME IN RESPECT OF EACH SERVICE USER

1. The following documents in respect of each service user—

- (a) the assessment referred to in regulation 14(1);
- (b) the service user's plan referred to in regulation 15(1).

2. A recent photograph of the service user.

3. A record of the following matters in respect of each service user—

- (a) the name, address, date of birth and marital status of each service user;

(18) Section 115(ea) is inserted by the Care Standards Act 2000, section 104, on a date to be appointed. Sections 113 and 115, as amended, have not yet been brought into force.

(19) A position is within section 115(3) if it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18. A position is within section 115(4) if it is of a kind specified in regulations and involves regularly caring for, training, supervising or being in sole charge of persons aged 18 or over.

(20) Sections 113(3A) and 115(6A) are added to the Police Act 1997 by section 8 of the Protection of Children Act 1997 (c. 14) from a date to be appointed, and amended by section 104 and 116 of, and paragraph 25 of Schedule 4 to, the Care Standards Act 2000. Sections 113(3C) and 115(6B) are added to the Police Act 1997 by section 90 of the Care Standards Act 2000 on a date to be appointed.

(21) 1974 c. 53.

(22) S.I. 1975/1023. At the coming into force of these regulations the following instruments have made relevant amendments to the Order: S.I. 1986/1249; 1986/2268; and S.I. 2001/1192.

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- (b) the name, address and telephone number of the service user's next of kin or of any person authorised to act on his or her behalf;
 - (c) the name, address and telephone number of the service user's general practitioner and of any officer of a local social services authority whose duty it is to supervise the welfare of the service user;
 - (d) the date on which the service user entered the care home;
 - (e) the date on which the service user left the care home and the place he or she went to;
 - (f) if the service user died at the care home, the date, time and cause of death;
 - (g) the name and address of any authority, organisation or other body which arranged the service user's admission to the care home;
 - (h) a record of all medicines kept in the care home for the service user, and the date on which they were administered to the service user;
 - (i) a record of any accident affecting the service user in the care home and of any other incident in the care home which is detrimental to the health or welfare of the service user, which record shall include the nature, date and time of the accident or incident, whether medical treatment was required and the name of the persons who were respectively in charge of the care home and supervising the service user;
 - (j) a record of any nursing provided to the service user, including a record of his or her condition and any treatment or surgical intervention;
 - (k) details of any specialist communications needs of the service user and methods of communication that may be appropriate to the service user;
 - (l) details of any plan relating to the service user in respect of medication, nursing, specialist health care or nutrition;
 - (m) a record of incidence of pressure sores and of consequent treatment provided to the service user;
 - (n) a record of falls and of consequent treatment provided to the service user;
 - (o) a record of any physical restraint used on the service user;
 - (p) a record of any limitations agreed with the service user as to the service user's freedom of choice, liberty of movement and power to make decisions.
4. Copies of the care home's correspondence relating to each service user.

SCHEDULE 4

Regulation 17(2)

OTHER RECORDS TO BE KEPT IN A CARE HOME

1. A copy of the statement of purpose.
2. A copy of the service user's guide.
3. A record of all accounts kept in the care home.
4. A copy of all inspection reports.
5. A copy of any report made under regulation 27(4)(c).
6. A record of all persons working at the care home, which shall include in respect of an individual falling within regulation 19(1) the following matters—
 - (a) his or her full name, address, date of birth, qualifications and experience;

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- (b) a copy of his or her birth certificate and passport (if any);
 - (c) a copy of each reference obtained in respect of him or her;
 - (d) the dates on which he or she commences and ceases to be so employed;
 - (e) the position he or she holds at the care home, the work that he or she performs and the number of hours for which he or she is employed each week;
 - (f) correspondence, reports, records of disciplinary action and any other records in relation to his or her employment.
7. A copy of the duty roster of persons working at the care home, and a record of whether the roster was actually worked.
8. A record of the care home's charges to service users, including any extra amounts payable for additional services not covered by those charges, and the amounts paid by or in respect of each service user.
9. A record of all money or other valuables deposited by a service user for safekeeping or received on the service user's behalf, which—
- (a) shall state the date on which the money or valuables were deposited or received, the date on which any money or valuables were returned to a service user or used, at the request of the service user, on his behalf and, where applicable, the purpose for which the money or valuables were used; and
 - (b) shall include the written acknowledgement of the return of the money or valuables.
10. A record of furniture brought by a service user into the room occupied by him or her.
11. A record of all complaints made by service users or representatives or relatives of service users or by persons working at the care home about the operation of the care home, and the action taken by the registered person in respect of any such complaint.
12. A record of any of the following events that occur in the care home—
- (a) any accident;
 - (b) any incident which is detrimental to the health or welfare of a service user, including the outbreak of infectious disease in the care home;
 - (c) any injury or illness;
 - (d) any fire;
 - (e) except where a record has been made under paragraph 14, any occasion on which the fire alarm equipment is operated;
 - (f) any theft or burglary.
13. Records of the food provided for service users in sufficient detail to enable any person inspecting the record to determine whether the diet is satisfactory, in relation to nutrition and otherwise, and of any special diets prepared for individual service users.
14. A record of every fire practice, drill or test of fire equipment (including fire alarm equipment) conducted in the care home and of any action taken to remedy defects in the fire equipment.
15. A statement of the procedure to be followed in the event of a fire, or where a fire alarm is given.
16. A statement of the procedure to be followed in the event of accidents or in the event of a service user becoming missing.
17. A record of all visitors to the care home, including the names of visitors.

SCHEDULE 5

Regulations 4 and 30

ADDITIONAL INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE WHERE CHILDREN ARE ACCOMMODATED

1. A statement of the facilities and services to be provided, within and outside the home, for the children accommodated in the home.
2. The following details—
 - (a) the age-range, sex and numbers of children for whom it is intended that accommodation should be provided;
 - (b) whether it is intended to accommodate children who are disabled, have special needs, or any other special characteristics;
 - (c) the range of needs (other than those mentioned in sub-paragraph (b)) that the home is intended to meet.
3. The criteria used for admission to the care home, including the care home's policy and procedures for emergency admissions (if the care home provides for emergency admissions).
4. If the care home provides or is intended to provide accommodation for more than six children, a description of the positive outcomes intended for children in a care home of such a size, and a description of the care home's strategy for counteracting any adverse effects arising from its size, for the children accommodated there.
5. A description of the care home's ethos and philosophy, and the theoretical or therapeutic basis for the care provided.
6. The arrangements made to protect and promote the health of the children accommodated in the care home.
7. The arrangements for the promotion of the education of the children accommodated in the care home, including the facilities for private study.
8. The arrangements to promote the participation of children in hobbies and recreational, sporting and cultural activities.
9. The arrangements made for consultation with the children accommodated in the care home about its operation.
10. The arrangements for child protection and to counter bullying.
11. The procedure for dealing with any unauthorised absence of a child from the care home.
12. The fire precautions and associated emergency procedures made for children in the care home.
13. The arrangements made for the children's religious instruction and observance.
14. The arrangements made for contact between any child accommodated in the care home and his or her parents, relatives and friends.
15. The arrangements for dealing with complaints.
16. The arrangements for dealing with reviews of placement plans.
17. The type of accommodation and sleeping arrangements provided (including details of any zones for particular types of children) and the circumstances in which children may share bedrooms.
18. Details of any specific therapeutic techniques used in the care home and arrangements for their supervision.

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19. Details of the care home's policy on anti-discriminatory practice in relation to children and children's rights.

SCHEDULE 6

Regulations 25 and 36(a)

MATTERS TO BE MONITORED AT A CARE HOME WHERE CHILDREN ARE ACCOMMODATED

1. Compliance with any plan for the care of the child prepared by the placing authority and the placement plan of each child accommodated in the care home.
2. The deposit and issue of money and other valuables handed in for safekeeping.
3. Daily menus.
4. All accidents and injuries sustained in the care home or by children accommodated there.
5. Any illnesses of children accommodated in the care home.
6. Complaints in relation to children accommodated in the care home and their outcomes.
7. Any allegations or suspicions of abuse in respect of children accommodated in the care home and the outcome of any investigation.
8. Staff recruitment records and conduct of required checks for new workers in the care home.
9. Visitors to the care home and to children in the care home.
10. Notifications of the events listed in Schedule 5 to the Children's Homes (Wales) Regulations 2002.
11. Any unauthorised absence from the care home of a child accommodated there.
12. The use of any disciplinary measures in respect of children accommodated in the care home.
13. The use of physical restraint in respect of children accommodated in the care home.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Care Standards Act 2000 ('the Act') and apply in relation to care homes in Wales. Parts I and II of the Act provide for the National Assembly to, in relation to Wales, register and inspect establishments and agencies. It also provides powers for regulations to be made by the National Assembly in relation to Wales governing the conduct of establishments and agencies. The majority of Parts I and II of the Act (in so far as not already in force) will be brought into force on 1st April 2002.

These new arrangements replace the regulatory system provided for in relation to residential care and nursing homes under the Registered Homes Act 1984.

Regulation 3 excludes from the definition of care home under section 3 of the Act: family care settings (which includes the continuing care of certain foster children after the age of eighteen);

establishments that provide accommodation for less than 28 days in a year; certain NHS facilities providing nursing; and certain education institutions.

Under regulations 4 and 5, each home must have a statement of purpose consisting of the matters set out in Schedule 1, and supply a guide to the home to each service user.

Regulations 7 to 10 make provision about the fitness of the persons carrying on and managing the home, and require satisfactory information to be available in relation to certain specified matters. Where an organisation carries on the home, it must nominate a responsible individual in respect of whom this information must be available (regulation 7). Regulation 8 prescribes the circumstances where a manager must be appointed for the home, and regulation 10 imposes general requirements in relation to the proper conduct of the home, and the need for appropriate training.

Part III makes provision about the conduct of care homes, in particular as to the health and welfare of service users, and as to the facilities and services that are to be provided. Provision is also made about record keeping, the staffing of homes, the fitness of workers and about complaints.

Part IV makes provision about the suitability of premises and about fire precautions. Part V deals with the management of care homes. Regulation 25 requires the registered person to establish a system for reviewing and improving the quality of care provided by the home. Regulation 26 imposes requirements relating to the home's financial position. Regulation 27 requires the registered provider to visit the home as prescribed. Part VI makes special provision which applies where children are accommodated in the home.

Part VII deals with miscellaneous matters including the giving of notices to the National Assembly. Regulation 44 provides for offences. Regulations 45 and 46 effect a modification of the regulations in respect of adult placement carers. Regulation 48 allows the National Assembly to specify offices in parts of Wales for the giving of notices to it under the Regulations.