
WELSH STATUTORY INSTRUMENTS

2019 No. 165

**The Regulated Advocacy Services (Service Providers
and Responsible Individuals) (Wales) Regulations 2019**

PART 1

General

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019.

(2) These Regulations come into force on 29 April 2019.

(3) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“advocacy” (“*eiriolaeth*”) means assistance given to help a person represent their views;

“advocacy plan” (“*cynllun eirioli*”) means the plan prepared by the service provider in relation to an individual in accordance with regulation 12;

“child” (“*plentyn*”) means a person who is aged under 18;

“DBS” (“*GDG*”) or “the Disclosure and Barring Service” (“*y Gwasanaeth Datgelu a Gwahardd*”) mean the body established by section 87(1) of the Protection of Freedoms Act 2012⁽¹⁾;

“DBS certificate” (“*tystysgrif GDG*”) means a certificate of a type referred to in paragraph 2 or 3 of Schedule 1;

“individual” (“*unigolyn*”), except where the context otherwise requires, means a person for whom the service provider is providing, or has provided advocacy, or for whom the service provider may provide advocacy;

“representative” (“*cynrychiolydd*”) means any person having legal authority, or having the consent of the individual to act on the individual’s behalf;

“service” (“*gwasanaeth*”) means an advocacy service as defined in regulation 2 which is provided in relation to a specified area;

“service commissioner” (“*comisiynydd y gwasanaeth*”) means a local authority which is responsible for making arrangements with a service provider for the provision of assistance to a child or person under section 178(1) of the 2014 Act⁽²⁾;

“service provider” (“*darparwr gwasanaeth*”) means an advocacy service provider who is registered under section 7 of the Act;

(1) 2012 c. 9.

(2) “The 2014 Act” is defined in section 189 of the Act as the Social Services and Well-Being (Wales) Act 2014 (anaw 4).

“service regulator” (“*rheoleiddiwr gwasanaethau*”) means the Welsh Ministers in exercise of their regulatory functions⁽³⁾;

“specified area” (“*ardal benodedig*”) means an area which is specified in a condition to the service provider’s registration as a place in relation to which the service is to be provided;

“statement of purpose” (“*datganiad o ddiben*”) means the statement of purpose for the service which a service provider must keep under review and revise in accordance with regulation 4⁽⁴⁾.

Definition and exceptions

- 2.—(1) For the purpose of paragraph 7(1) of Schedule 1 to the Act, an advocacy service is—
- (a) a service carried on to provide advocacy for children who make or intend to make representations which fall within section 174 of the 2014 Act⁽⁵⁾; or
 - (b) a service carried on to provide advocacy for persons who make or intend to make representations which fall within section 176 of the 2014 Act⁽⁶⁾,

where the purpose of the advocacy is to represent the views of the children or persons or to assist them to represent their views in relation to their needs for care and support⁽⁷⁾.

- (2) But a service referred to in paragraph (1) is not an advocacy service—
- (a) if it is provided by a person in the course of a legal activity within the meaning of the Legal Services Act 2007⁽⁸⁾ by a person who is—
 - (i) an authorised person for the purposes of that Act, or
 - (ii) a European lawyer (within the meaning of the European Communities (Services of Lawyers) Order 1978⁽⁹⁾);
 - (b) if the assistance is provided by a Welsh family proceedings officer in the course of discharging functions in relation to family proceedings;
 - (c) if the assistance is provided by the Children’s Commissioner for Wales or by a member of staff of the Children’s Commissioner for Wales;
 - (d) if it is provided by a person who has not provided and does not intend to provide advocacy to more than 4 persons within any 12 month period;
 - (e) to the extent that it is provided by a relative or friend of the person on whose behalf representations are made or are intended to be made.
- (3) In this regulation—
- (a) the following words and phrases have the meanings ascribed to them—
 - (i) “relative” means a parent or other person with parental responsibility, brother, sister, uncle or aunt (whether by marriage or civil partnership), grandparent, step-parent, foster parent or prospective adopter with whom the child is placed;

⁽³⁾ “Regulatory functions” are defined in section 3(1)(b) of the Act.

⁽⁴⁾ The contents of the statement of purpose are prescribed in regulation 4 of, and Schedule 2 to, the Regulated Services (Registration) (Wales) Regulations 2017 (S.I. 2017/1098 (W. 278)).

⁽⁵⁾ Section 174 of the 2014 Act requires a local authority to establish a procedure for considering representations (including complaints) made to the authority in relation to a range of its social services functions in so far as they are exercisable in relation to a child.

⁽⁶⁾ Section 176 of the 2014 Act requires a local authority to establish a procedure for considering representations (including complaints) about the discharge of its functions under Parts 3 to 7 of the 2014 Act in relation to children or young persons who have previously been looked after and related other young persons.

⁽⁷⁾ Paragraph 7(3) of Schedule 1 to the 2016 Act requires that a service can only be specified as an advocacy service for the purposes of the 2016 Act if it is a service which is carried on (whether or not for profit) for the purpose of representing the views of individuals or assisting individuals to represent those views, in respect of matters relating to those individuals needs for care and support (including matters relating to assessing whether those needs exist).

⁽⁸⁾ 2007 c. 29.

⁽⁹⁾ S.I. 1978/1910.

- (ii) “family proceedings” has the meaning given by section 12 of the Criminal Justice and Court Services Act 2000⁽¹⁰⁾;
 - (iii) “Welsh family proceedings officer” has the same meaning as in section 35(4) of the Children Act 2004⁽¹¹⁾;
 - (iv) “sibling group” includes both brothers and sisters and half-brothers and half-sisters; and
- (b) in determining whether a person has provided or intends to provide an advocacy service to more than 4 persons for the purpose of paragraph (2)(d), provision of advocacy to a sibling group is counted as provision of advocacy to a single person.

⁽¹⁰⁾ 2000 c. 43.

⁽¹¹⁾ 2004 c. 31.