
STATUTORY INSTRUMENTS

2001 No. 3965

The Care Homes Regulations 2001

PART I
GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Care Homes Regulations 2001 and shall come into force on 1st April 2002.

(2) These Regulations extend to England only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Care Standards Act 2000;

“environmental health authority” means the authority responsible for environmental health for the area in which the care home is situated;

“fire authority”, 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(1);

“general practitioner” means a registered medical practitioner who—

(a) provides general medical services under Part II of the National Health Service Act 1977(2);

(b) performs personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997(3); 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” means a person who is registered as a member of any profession to which section 60(2) of the Health Act 1999(4) applies or who is clinical psychologist, child psychotherapist or speech therapist;

“inspection report” means a report prepared in relation to the care home under section 32(5) of the Act;

“organisation” means a body corporate or any unincorporated association other than a partnership;

“registered manager”, 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;

(1) 10 & 11 Geo.6 c. 41.

(2) 1977 c. 49.

(3) 1997 c. 46.

(4) 1999 c. 8.

“registered person”, 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”, 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”, 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 his or his spouse;
- (c) the spouse of any relative within sub-paragraph (b) of this definition,

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

“representative” 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” shall be construed in accordance with regulation 7(2)(c)(i);

“service user” 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” means the written guide produced in accordance with regulation 5(1);

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

“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” 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, references to employing a person include employing a person whether or not for payment and whether under a contract of service or a contract for services and allowing a person to work as a volunteer; and references to an employee or to a person being employed shall be construed accordingly.

Excepted establishments

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

- (a) it is a health service hospital at which nursing is provided;
- (b) it provides accommodation, together with nursing, and is vested—
 - (i) in the Secretary of State for the purposes of his functions under the National Health Service Act 1977(5); or

- (ii) in an NHS trust⁽⁶⁾;
 - (c) it is a university;
 - (d) it is an institution within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992⁽⁷⁾; or
 - (e) 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 one 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”) 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 supply a copy of the statement of purpose to the Commission and shall make a copy of it available on request for inspection by every service user and any representative of a service user.

(3) Nothing in regulation 16(1) or 23(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”) 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) the most recent inspection report;
- (e) a summary of the complaints procedure established under regulation 22;

⁽⁶⁾ See section 5 of the National Health Service 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).

⁽⁷⁾ 1992 c. 13.

- (f) the address and telephone number of the Commission.
- (2) The registered person shall supply a copy of the service user’s guide to the Commission and each 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.

Review of statement of purpose and service user’s guide

- 6. The registered person shall—
 - (a) keep under review and, where appropriate, revise the statement of purpose and the service user’s guide; and
 - (b) notify the Commission and service users of any such revision within 28 days.

PART II

REGISTERED PERSONS

Fitness of registered provider

- 7.—(1) A person shall not carry on a care home unless he 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 carries on the care home—
 - (i) otherwise than in partnership with others, and he satisfies the requirements set out in paragraph (3);
 - (ii) in partnership with others, and he and each of his partners satisfies the requirements set out in paragraph (3);
 - (b) is a partnership, and each of the partners satisfies the requirements set out in paragraph (3);
 - (c) is an organisation and—
 - (i) the organisation has given notice to the Commission of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual”) 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 is of integrity and good character; and
 - (b) he is physically and mentally fit to carry on the care home; and
 - (c) full and satisfactory information is available in relation to him in respect of the following matters—
 - (i) the matters specified in paragraphs 1 to 5 of Schedule 2;
 - (ii) except where paragraph (4) applies, the matters specified in paragraph 7 of that Schedule;
 - (iii) where paragraph (4) applies, the matters specified in paragraph 8 of that Schedule.

(4) This paragraph applies where any certificate or information on any matters referred to in paragraph 7 of Schedule 2 is not available to an individual because any provision of the Police Act 1997 has not been brought into force.

(5) A person shall not carry on a care home if—

- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded; or
- (b) he has made a composition or arrangement with his 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 where—

- (a) there is no registered manager in respect of the care home; and
- (b) the registered provider—
 - (i) is an organisation or partnership;
 - (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 Commission of—

- (a) the name of the person so appointed; and
- (b) the date on which the appointment is to take effect.

Fitness of registered manager

9.—(1) A person shall not manage a care home unless he is fit to do so.

(2) A person is not fit to manage a care home unless—

- (a) he is of integrity and good character;
- (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 has the qualifications, skills and experience necessary for managing the care home; and
 - (ii) he is physically and mentally fit to manage the care home; and
- (c) full and satisfactory information is available in relation to him in respect of the following matters—
 - (i) the matters specified in paragraphs 1 to 5 of Schedule 2;
 - (ii) except where paragraph (3) applies, the matters specified in paragraph 7 of that Schedule;
 - (iii) where paragraph (3) applies, the matters specified in paragraph 8 of that Schedule.

(3) This paragraph applies where any certificate or information on any matters referred to in paragraph 7 of Schedule 2 is not available to an individual because any provision of the Police Act 1997 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 shall undertake;
- (b) an organisation, it shall ensure that the responsible individual undertakes;
- (c) a partnership, it shall ensure that one of the partners undertakes,

from time to time such training as is appropriate to ensure that he 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 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 England and Wales or elsewhere, he shall forthwith give notice in writing to the Commission of—

- (a) the date and place of the conviction;
- (b) the offence of which he was convicted; and
- (c) the penalty imposed on him 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—

- (a) in a manner which respects the privacy and dignity of service users;
- (b) with due regard to the sex, 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, safekeeping, 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; and
- (c) unnecessary risks to the health or safety of service users are identified and so far as possible eliminated,

and shall make suitable arrangements 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 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) 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) revised at any time when it is necessary to do so having regard to any change of circumstances.

Service user's plan

15.—(1) Unless it is impracticable to carry out such consultation, the registered person shall, after consultation with the service user, or a representative of his, prepare a written plan (“the service user’s plan”) as to how the service user’s needs in respect of his health and welfare are to be met.

- (2) The registered person shall—
 - (a) make the service user’s plan available to the service user;
 - (b) keep the service user’s plan under review;
 - (c) where appropriate and, unless it is impracticable to carry out such consultation, after consultation with the service user or a representative of his, revise the service user’s plan; and
 - (d) 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 statement required by regulation 4(1)(b) in respect of the care home.

(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) permit 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) after consultation with the environmental health authority, make suitable arrangements for maintaining satisfactory standards of hygiene in the care home;

- (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 valuables 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.
- (2) The registered person shall maintain in the care home the records specified in Schedule 4.
- (3) The registered person shall ensure that the records referred to in paragraphs (1) and (2)—
- (a) are kept up to date; and
 - (b) are at all times available for inspection in the care home by any person authorised by the Commission to enter and inspect the care home.
- (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.

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 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 employ a person to work at the care home unless—

- (a) the person is fit to work at the care home;
- (b) subject to paragraph (6), he has obtained in respect of that person the information and documents specified in—
 - (i) paragraphs 1 to 6 of Schedule 2;
 - (ii) except when paragraph (7) applies, paragraph 7 of that Schedule;
 - (iii) where paragraph (7) applies, paragraph 8 of that Schedule; and
- (c) he is satisfied on reasonable grounds as to the authenticity of the references referred to in paragraph 5 of Schedule 2 in respect of that person.

(2) This paragraph applies to a person who is employed by a person (“the employer”) other than the registered person.

(3) This paragraph applies to a position in which a person may in the course of his duties have regular contact with service users at the care home or with any other person of a description specified in section 3(2) of the Act.

(4) The registered person shall not allow a person to whom paragraph (2) applies to work at the care home in a position to which paragraph (3) applies, unless—

- (a) the person is fit to work at the care home;
- (b) the employer has obtained in respect of that person the information and documents specified in—
 - (i) paragraphs 1 to 6 of Schedule 2;
 - (ii) except where paragraph (7) applies, paragraph 7 of that Schedule;
 - (iii) where paragraph (7) applies, paragraph 8 of that Schedule,
 and has confirmed in writing to the registered person that he has done so; and
- (c) the employer is satisfied on reasonable grounds as to the authenticity of the references referred to in paragraph 5 of Schedule 2 in respect of that person, and has confirmed in writing to the registered person that he is so satisfied.

(5) For the purposes of paragraphs (1) and (4), a person is not fit to work at a care home unless—

- (a) he is of integrity and good character;
- (b) he has qualifications suitable to the work that he is to perform, and the skills and experience necessary for such work;
- (c) he is physically and mentally fit for the purposes of the work which he is to perform at the care home; and
- (d) full and satisfactory information is available in relation to him in respect of the following matters—
 - (i) each of the matters specified in paragraphs 1 to 6 of Schedule 2;

- (ii) except where paragraph (7) applies, each of the matters specified in paragraph 7 of that Schedule;
- (iii) where paragraph (7) applies, each of the matters specified in paragraph 8 of that Schedule.

(6) Paragraphs (1)(b) and (5)(d), in so far as they relate to paragraph 7 of Schedule 2, shall not apply until 1st April 2003 in respect of a person who immediately before 1st April 2002 is employed to work at the care home.

(7) This paragraph applies where any certificate or information on any matters referred to in paragraph 7 of Schedule 2 is not available to an individual because any provision of the Police Act 1997 has not been brought into force.

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, or any of the service users, 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 Commission of their views about any matter to which this regulation applies.

Complaints

22.—(1) The registered person shall establish a procedure (“the complaints procedure”) 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 written 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 written 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 so far as 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 to be supplied in accordance with paragraphs (5) and (6) shall include—

- (a) the name, address and telephone number of the Commission; and
- (b) the procedure (if any) that has been notified by the Commission to the registered person for the making of complaints to the Commission relating to the care home.

(8) The registered person shall supply to the Commission 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.

PART IV PREMISES

Fitness of premises

23.—(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 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 are 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.
- (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 after consultation with the fire authority—
- (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; and
 - (e) to 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.
- (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

- 24.—(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 Commission a report in respect of any review conducted by him 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

25.—(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 Commission so requests, provide the Commission 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 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 Commission 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

26.—(1) Where the registered provider is an individual, but not in day to day charge of the care home, he shall visit the care home in accordance with this regulation.

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

- (a) the responsible individual or one of the partners, as the case may be;
- (b) another of the directors or other persons responsible for the management of the organisation or partnership; or
- (c) an employee of the organisation or the partnership who is not directly concerned with the conduct of the care home.

(3) Visits under paragraph (1) or (2) shall take place at least once a month and shall 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 Commission;
 - (b) the registered manager; and
 - (c) in the case of a visit under paragraph (2)—
 - (i) where the registered provider is an organisation, to each of the directors or other persons responsible for the management of the organisation; and
 - (ii) where the registered provider is a partnership, to each of the partners.

PART VI

CHILDREN

Application of this Part

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

Interpretation

28. 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 Regulations 2001⁽⁸⁾;
 - “placing authority” has the meaning given to it in regulation 2(1) (interpretation) of the Children’s Homes Regulations 2001;”.

Statement of purpose

29. 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

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

(8) S.I.2001/3967.

“and

(d) his skills and experience are suitable for the purpose of his 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 skills and experience are suitable for the purpose of his working with children and either—

(i) his qualifications are suitable for the purpose of his working with children; or

(ii) another person has been appointed for the purpose of assisting him in the management of the care home, and the qualifications of the person so appointed are suitable for the purpose of his 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

31.—(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

32.—(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 30 of, and Schedule 5 to, the Children’s Homes Regulations 2001 (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 Commission in accordance with regulation 30 of the Children’s Homes Regulations 2001 of any of the following events, namely—

(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 Commission under regulation 37 (notification of death, illness and other events) of these Regulations.

Fitness of workers

33. Regulation 19 shall have effect as if—

- (a) in sub-paragraph (b) of paragraph (1) and sub-paragraph (b) of paragraph (4), for head (i) in each of those sub-paragraphs there were substituted the following head—

“(i) paragraphs 1 to 6 of Schedule 2 and in Schedule 6;”;

- (b) in sub-paragraph (d) of paragraph (5), for head (i) there were substituted the following head—

“(i) each of the matters specified in paragraphs 1 to 6 of Schedule 2 and in Schedule 6;”;

- (c) at the end of paragraph (5) there were added the following—

“and

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

Staff disciplinary procedure

34. The registered person shall operate a staff disciplinary procedure which, in particular—

- (a) provides for the suspension of an employee of his where necessary in the interests of the safety or welfare of children accommodated in the care home; and
- (b) provides that the failure on the part of an employee of his to report an incident of abuse, or suspected abuse of a child accommodated in the care home to an appropriate person is a ground on which disciplinary proceedings may be instituted.

Review of quality of care

35. Regulation 24 shall have effect as if—

- (a) the system referred to in paragraph (1) of regulation 24 included monitoring at appropriate intervals the matters set out in Schedule 7;
- (b) in paragraph (2) of regulation 24, after the words “any review conducted by him” there were added the words “, or any matters monitored”;
- (c) in paragraph (3) of regulation 24, 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”.

Offences

36. Regulation 43 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, 5, 11, 12(1) to (4), 13(1) to (4) and (6) to (8), 14, 15, 16(1), (2)(a) to (j) and (l) to (n) and (3), 17 to 26 and 37 to 40, to the extent that those regulations have effect subject to Part VI of these Regulations;
- (b) regulations 31 and 34; and
- (c) the provisions referred to in paragraph (2) of regulation 32, to the extent that they apply to the registered person by virtue of that paragraph.”.

PART VII

MISCELLANEOUS

Notification of death, illness and other events

37.—(1) The registered person shall give notice to the Commission without delay of the occurrence of—

- (a) the death of any service user, including the circumstances of his 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) serious illness of a service user at a care home at which nursing is not provided;
- (e) any event in the care home which adversely affects the well-being or safety of any service user;
- (f) any theft, burglary or 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

38.—(1) Where—

- (a) the registered provider, if he is an individual; or
- (b) the registered manager,

proposes 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 Commission of the proposed absence.

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

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

(3) Where the absence arises as a result of an emergency, the registered person shall give notice of the absence within one week of its occurrence specifying the matters mentioned in sub-paragraphs (a) to (e) of paragraph (2).

(4) Where—

- (a) the registered provider, if he is an individual; or

(b) the registered manager,

has been absent from the care home for a continuous period of 28 days or more, and the Commission has not been given notice of the absence, the registered person shall without delay give notice in writing to the Commission of the absence, specifying the matters mentioned in sub-paragraphs (a) to (e) of paragraph (2).

(5) The registered person shall notify the Commission of the return to duty of the registered provider or (as the case may be) the registered manager not later than 7 days after the date of his return.

Notice of changes

39. The registered person shall give notice in writing to the Commission as soon as it is practicable to do so if any of the following events takes place or is proposed to take place—

- (a) a person other than the registered person carries on or manages the care home;
- (b) a person ceases to carry on or manage the care home;
- (c) where the registered person is an individual, he changes his name;
- (d) where the registered provider is a partnership, there is any change in the membership of the partnership;
- (e) where the registered provider is an organisation—
 - (i) the name or address of the organisation is changed;
 - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
 - (iii) there is to be any change of responsible individual;
- (f) where the registered provider is an individual, a trustee in bankruptcy is appointed;
- (g) where the registered provider is a company or partnership, a receiver, manager, liquidator or provisional liquidator is appointed; or
- (h) the premises of the care home are significantly altered or extended, or additional premises are acquired.

Notice of termination of accommodation

40.—(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 Commission a statement as to the circumstances which made it impracticable for him to comply with the requirement.

Appointment of liquidators etc.

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

- (a) forthwith notify the Commission of his 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 appointment notify the Commission of his intentions regarding the future operation of the care home.
- (2) This paragraph applies to any person appointed as—
- (a) the receiver or manager of the property of a company or partnership 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 trustee in bankruptcy of a registered provider of a care home.

Death of registered person

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

(2) If only one person is registered in respect of a care home, and he dies, his personal representatives shall notify the Commission in writing—

- (a) without delay of the death; and
- (b) within 28 days of their intentions regarding the future running of the home.

(3) The personal representatives of the 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 Commission may extend the period specified in paragraph (3)(a) by such further period, not exceeding one year, as the Commission shall determine, and shall notify any such determination to the personal representatives in writing.

(5) The personal representatives shall appoint a person to take full-time day to day charge of the home during any period in which, in accordance with paragraph (3), they carry on the care home without being registered in respect of it.

Offences

43.—(1) A contravention or failure to comply with any of the provisions of regulations 4, 5, 11, 12(1) to (4), 13(1) to (4) and (6) to (8), 14, 15, 16(1), (2)(a) to (j) and (1) to (n) and (3), 17 to 26 and 37 to 40, shall be an offence.

(2) The Commission shall not bring proceedings against a person in respect of any contravention or failure to comply with those regulations unless—

- (a) subject to paragraph (4), he is a registered person;
- (b) notice has been given to him in accordance with paragraph (3);
- (c) the period specified in the notice has expired; and
- (d) the person contravenes or fails to comply with any of the provisions of the regulations mentioned in the notice.

(3) Where the Commission considers that the registered person has contravened or failed to comply with any of the provisions of the regulations mentioned in paragraph (1), it may serve a notice on the registered person specifying—

- (a) in what respect in its opinion the registered person has contravened or is contravening any of the regulations, or has failed or is failing to comply with the requirements of any of the regulations;
- (b) what action, in the opinion of the Commission, the registered person should take so as to comply with any of those regulations, and

the period, not exceeding three months, within which the registered person should take action.

(4) The Commission may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulation 17 and for this purpose, references in paragraphs (2) and (3) to a registered person shall be taken to include such a person.

Compliance with regulations

44. 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

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

- (a) he 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 ordinarily resides;
 - (d) no more than three service users are accommodated in the care home;
 - (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;
 - (iii) the local authority or other body which manages a scheme (“adult placement scheme”) 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) 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

46.—(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, 24, 26 to 36 and 41 (statement of purpose; appointment of manager; staffing; fitness of workers; staff views as to conduct of care home; review of quality of care home; visits by registered provider; children; appointment of liquidators etc.) and Schedules 1 and 5 to 7 (information to be included in the statement of purpose; additional information to be included in the statement of purpose where children are accommodated; additional information and documents to be obtained in respect of persons working at a care home where children are accommodated; and 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 in paragraph (a) of that regulation the words “the statement of purpose and” 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 “after consultation with the environmental health authority” were omitted.

(6) Regulation 23 (fitness of premises) shall have effect 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 25 (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 (j) of paragraph 3 of that Schedule were omitted.

(9) Schedule 4 (other records to be kept in a care home) shall have effect as if paragraphs 1, 3, 5, 6, 7 and 12 to 16 of that Schedule were omitted.

Signed by authority of the Secretary of State for Health

11th December 2001

Jacqui Smith
Minister of State,
Department of Health