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WELSH STATUTORY INSTRUMENTS

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**2002 No. 327 (W.40)**

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

**The Children's 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 1(4), 22(1), (2)(a) to (d), (f) to (j), (5)(a) and (c), (7)(a) to (h), (j), (8)(c), 25(1), 33, 34(1), 35, 118(5) to (7) of the Care Standards Act 2000<sup>(1)</sup> and having consulted such persons as it considers appropriate<sup>(2)</sup>, hereby makes the following Regulations:

**PART 1  
GENERAL**

**Citation, commencement and application**

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

(2) These Regulations apply in relation to children's homes in Wales.

**Interpretation**

2.—(1) In these Regulations—

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

“the 1989 Act” (“*Deddf 1989*”) means the Children Act 1989<sup>(3)</sup>;

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

(a) if an office has been specified under regulation 42 for the area in which the children's home is situated, that office;

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

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

(3) 1989 c. 41.

- (b) in any other case, any office of the National Assembly;
- “child protection enquiry” (“*ymchwiliad amddiffyn plant*”) means any enquiry carried out by a local authority in the exercise of any of its functions conferred by or under the 1989 Act relating to the protection of children;
- “children’s guide” (“*arweiniad plant*”) means the guide referred to in regulation 4;
- “foster parent” (“*rhiant maeth*”) shall be construed in accordance with section 1(7) of the Act;
- “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(4),
  - (b) performs personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997(5); 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;
- “National Assembly” (“*Cynulliad Cenedlaethol*”) means the National Assembly for Wales;
- “organisation” (“*corff*”), other than in regulation 17(6) where the term shall be construed in accordance with the purpose of the provision in which it is used, means a body corporate;
- “placement plan” (“*cynllun lleoliad*”) means the plan referred to in regulation 12;
- “placing authority” (“*awdurdod lleoli*”) in relation to a child accommodated in a children’s home means—
- (a) in the case of a child who is looked after by a local authority, that local authority;
  - (b) in the case of a child who is not looked after by a local authority—
    - (i) if he is being provided with accommodation by a voluntary organisation(6), that voluntary organisation;
    - (ii) if he is accommodated in a qualifying school under arrangements made by a local education authority or a local authority, that local education authority or local authority as the case may be;
    - (iii) in any other case, the child’s parent;
- “qualifying school” (“*ysgol gymwys*”) means a school which is a children’s home within the meaning of section 1(6) of the Act;
- “registered dental practitioner” (“*ymarferydd deintyddol cofrestredig*”) means a person registered in the dentists register kept under the Dentists Act 1984(7);
- “registered manager” (“*rheolwr cofrestredig*”), in relation to a children’s home, means the person who is registered under Part II of the Act as the manager of that home;
- “registered person” (“*person cofrestredig*”), in relation to a children’s home, means any person who is the registered provider or the registered manager of the home;
- “registered provider” (“*darparnydd cofrestredig*”), in relation to a children’s home, means a person who is registered under Part II of the Act as the person carrying on that home(8);
- “responsible individual” (“*unigolyn cyfrifol*”) has the meaning given to it in regulation 6; and

(4) 1977 c. 49.

(5) 1997 c. 46.

(6) Section 59 of the 1989 Act governs the provision of accommodation for children by voluntary organisations.

(7) 1984 c. 24.

(8) See section 121(6) to (8) for provision about the persons who are taken to carry on and manage a community home which is provided by a voluntary organisation.

“statement of purpose” (“*datganiad o ddiben*”) means the statement referred to in regulation 4.

(2) In these Regulations, 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 children’s home shall be taken to include a reference to a person working for the purposes of a children’s home.

### **Establishments which are not children’s homes**

**3.—**(1) For the purposes of the Act, any establishment falling within any of the following descriptions is excepted from being a children’s home—

- (a) an institution within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992<sup>(9)</sup>;
- (b) subject to paragraph (2), an establishment used to accommodate children only for the purposes of any one or more of the following—
  - (i) a holiday;
  - (ii) a leisure, recreational, sporting, cultural or educational activity;so long as no one child is accommodated there for more than 28 days in any twelve month period;
- (c) subject to paragraph (2), premises at which a person provides day care within the meaning of section 79A(6) of the 1989 Act, unless paragraph (3) applies;
- (d) subject to paragraph (2), an establishment used to accommodate children aged 16 and over only for the purposes of any one or more of the following—
  - (i) to enable the children to undergo training or an apprenticeship;
  - (ii) a holiday;
  - (iii) a leisure, recreational, sporting, cultural or educational activity;
- (e) any approved bail hostel or approved probation hostel<sup>(10)</sup>;
- (f) any institution provided for young offenders under or by virtue of section 43(1) of the Prison Act 1952<sup>(11)</sup>.

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<sup>(9)</sup> 1992 c. 13.

<sup>(10)</sup> See section 9(2) of the Criminal Justice and Court Services Act 2000 (c. 43).

<sup>(11)</sup> 1952 c. 52. Amended by section 170(1) of and paragraphs 11 and 12 of Schedule 15, and Schedule 16, to the Criminal Justice Act 1988 (c. 33); sections 5(2), 18(3) and 168(3) of and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33); section 119 of, and paragraph 6 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37); and section 165(1) of, and paragraph 5 of Schedule 9 to, the Powers of the Criminal Courts (Sentencing) Act 2000 (c. 6). Subsection 1(a) of the

(2) The exceptions in paragraph (1)(b), (c) and (d) do not apply to any establishment whose provision of accommodation is wholly or mainly for children of a description falling within section 3(2) of the Act(12).

(3) This paragraph applies to premises described in paragraph 1(c) if in any 12 month period there are 28 or more periods of 24 hours during which more than 15 hours of day care are provided in relation to any one child (whether or not that child is aged under eight), and for the purposes of this paragraph no day care shall be taken to be provided when a child is in the care of his or her parent, relative or foster parent.

### **Statement of purpose and children's guide**

4.—(1) The registered person shall compile in relation to the children's home a statement written on paper which shall consist of a statement as to the matters listed in Schedule 1 ("the statement of purpose").

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

- (a) any person who works at the children's home;
- (b) any child accommodated in the children's home;
- (c) subject to paragraph (3), the parent of any child accommodated in the children's home;
- (d) the placing authority of any child accommodated in the home; and
- (e) in the case of a qualifying school, Her Majesty's Chief Inspector of Education and Training in Wales, and any person exercising a function of the National Assembly under the education legislation in relation to the school;

and in this paragraph references to a child who is accommodated in the children's home includes a child in respect of whom accommodation in the children's home is being considered.

(3) The registered person shall not comply with paragraph 2(c) in relation to a child if there is a court order that restricts or limits contact between the child and his or her parent and it is necessary to restrict the availability of the statement, or any part of it, for the purpose of safeguarding or promoting the welfare of the child.

(4) In this regulation 'education legislation' means the Education Acts (as defined by section 578 of the Education Act 1996(13)).

(5) The registered person shall produce a guide to the children's home in a form appropriate to the age, understanding and communication needs of the children to be accommodated in the home ("the children's guide") which shall include—

- (a) a summary of the home's statement of purpose;
- (b) a summary of the complaints procedure established under regulation 24;
- (c) the address and telephone number of the appropriate office of the National Assembly and of an office of the Children's Commissioner for Wales.

(6) The registered person shall—

- (a) provide a copy of the first children's guide to the appropriate office of the National Assembly;

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1952 Act is to be repealed by sections 59 and 75 of, and Schedule 8 to, the Criminal Justice and Court Services Act 2000 (c. 43) on a date to be appointed.

(12) 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.

(13) 1996 c. 56.

- (b) provide a copy of the current version of the children’s guide to each child and to the child’s placing authority when the child is first accommodated in the home; and
  - (c) subsequent to the provision described in sub-paragraph (b) provide further copies at the request of the child or the placing authority.
- (7) Subject to paragraph (8) the registered person shall ensure that the children’s home is at all times conducted in a manner which is consistent with its statement of purpose.
- (8) Nothing in paragraph (7) or in regulation 30(1) shall require or authorise the registered person to contravene or not 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.

### **Review of the statement of purpose and children’s guide**

- 5.—(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 children’s guide; and
  - (b) if the children’s guide is revised, supply a revised copy to each child accommodated in the home.
- (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**

- 6.—(1) A person shall not carry on a children’s home unless fit to do so.
- (2) A person is not fit to carry on a children’s 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”) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the children’s 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 children’s 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 children’s 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<sup>(14)</sup> has not been brought into force.

- (5) A person is not fit to carry on a children's 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 creditors and has not been discharged in respect of it.

### **Appointment of manager**

7.—(1) The registered provider shall appoint an individual to manage the children's home if—

- (a) there is no registered manager in respect of the children's home; and
- (b) the registered provider—
  - (i) is an organisation;
  - (ii) is not a fit person to manage a children's home; or
  - (iii) is not, or does not intend to be, in full-time day to day charge of the children's home.

(2) Where the registered provider appoints a person to manage the children's 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 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 manager**

8.—(1) A person shall not manage a children's home unless he or she is fit to do so.

(2) A person is not fit to manage a children's home unless—

- (a) he or she is of suitable integrity and good character to manage the children's home;
- (b) having regard to the size of the children's home, its statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there—
  - (i) he or she has the qualifications, skills and experience necessary to manage the children's home; and
  - (ii) he or she is physically and mentally fit to manage the children's 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;

<sup>(14)</sup> 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 of the matters specified in paragraphs 1 and 3 to 7 of Schedule 2.

(3) This paragraph applies where any certificate or information on any matters referred to in paragraph 2 of Schedule 2 is not available to an individual because any provision of the Police Act 1997<sup>(15)</sup> has not been brought into force.

### **Registered person — general requirements**

9.—(1) The registered provider and the registered manager shall, having regard to—

- (a) the size of the children’s home;
- (b) the statement of purpose of the children’s home;
- (c) the number and needs (including any needs arising from any disability) of the children accommodated there,

carry on or manage the 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 children’s home.

(3) Any individual managing the home 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 children’s home.

### **Notification of offences**

10.—(1) 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 on him or her in respect of the offence.

(2) Where the registered person is charged with any offence in respect of which an order may be made under Part II of the Criminal Justice and Court Services Act 2000 (Protection of Children)<sup>(16)</sup> he or she shall forthwith give notice in writing to the appropriate office of the National Assembly of the offence charged and the date and place of charge.

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<sup>(15)</sup> See the footnote to regulation 6(4).

<sup>(16)</sup> 2000 c. 50.

**PART III**  
**CONDUCT OF CHILDREN'S HOMES**  
**CHAPTER 1**  
**WELFARE OF CHILDREN**

**Promotion of welfare**

- 11.**—(1) The registered person shall ensure that the children’s home is conducted so as to—
- (a) promote and make proper provision for the welfare of children accommodated there; and
  - (b) make proper provision for the care, education, supervision and, where appropriate, treatment, of children accommodated there.
- (2) The registered person shall make suitable arrangements to ensure that the home is conducted—
- (a) in a manner which respects the privacy and dignity of children accommodated there;
  - (b) with due regard to the sex, religious persuasion, racial origin, and cultural and linguistic background and any disability of children accommodated there.

**Child’s placement plan**

- 12.**—(1) The registered person shall, before providing accommodation for a child in a children’s home, or if that is not reasonably practicable, as soon as possible thereafter, prepare in consultation with the child’s placing authority a written plan (“the placement plan”) for the child setting out, in particular—
- (a) how, on a day to day basis, he or she will be cared for, and his or her welfare safeguarded and promoted by the home;
  - (b) the arrangements for his or her health care and education; and
  - (c) the arrangements made for contact with his or her parents, relatives and friends.
- (2) The registered person shall keep under review and revise the placement plan as necessary.
- (3) In preparing or reviewing the placement plan the registered person shall, so far as practicable and having regard to the child’s age and understanding, seek and take account of his or her views.
- (4) The registered person shall—
- (a) ensure that the placement plan is consistent with any plan for the care of the child prepared by his or her placing authority; and
  - (b) comply with reasonable requests made by the child’s placing authority to—
    - (i) provide it with information relating to the child; and
    - (ii) provide a suitable representative to attend any meetings it may hold concerning the child.

**Food provided for children**

- 13.**—(1) The registered person shall ensure that children accommodated in a children’s home are provided with—
- (a) food which—
    - (i) is served in adequate quantities and at appropriate intervals;
    - (ii) is properly prepared, wholesome and nutritious;

- (iii) is suitable for their needs and meets their reasonable preferences; and
- (iv) is sufficiently varied; and
- (b) access to fresh drinking water at all times.

(2) The registered person shall ensure that any special dietary need of a child accommodated in the home, which is due to his health, religious persuasion, racial origin or cultural background, is met.

#### **Provision of clothing, pocket money and personal necessities**

**14.**—(1) The registered person shall ensure that the needs and reasonable preferences of each child accommodated in the home for clothing, including footwear, and personal necessities are met.

(2) The registered person shall provide children accommodated in the home with such sums of money in respect of their occasional personal expenses as is appropriate to their age and understanding.

#### **Contact and access to communications**

**15.**—(1) The registered person shall—

- (a) subject to paragraphs (6) and (8), promote the contact of each child with his or her parents, relatives and friends in accordance with the arrangements set out in his or her placement plan; and
- (b) subject to paragraph (3), ensure that suitable facilities are provided within the children’s home for any child accommodated there to meet privately at any reasonable time with his or her parents, friends, relatives, and the persons listed in paragraph (2).

(2) The persons are—

- (a) any solicitor or other adviser or advocate whom the child has instructed or wishes to instruct;
- (b) any officer of the Children and Family Court Advisory and Support Service appointed for the child<sup>(17)</sup>;
- (c) any social worker for the time being assigned to the child by his placing authority;
- (d) any person appointed in respect of any requirement of the procedure specified in the Representations Procedure (Children) Regulations 1991<sup>(18)</sup>;
- (e) any person holding an appointment as a visitor for the child under paragraph 17 of Schedule 2 to the 1989 Act;
- (f) any person authorised by the National Assembly under section 31 of the Act to inspect undertakings regulated under Part II of the Act;
- (g) any person authorised by the local authority for the area in which the home is situated;
- (h) any person authorised in accordance with section 80(2) of the 1989 Act by the National Assembly to conduct an inspection of the children’s home and the children there.

(3) In the case of a home in respect of which a certificate under section 51 of the 1989 Act is in force, the facilities may be at an address different to that of the home.

(4) Subject to paragraphs (6) and (8), the registered person shall ensure that children accommodated in the home are provided at all reasonable times with access to the following, which they may use without reference to persons working in the home—

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<sup>(17)</sup> The Children and Family Court Advisory and Support Service is established by Chapter II of Part I of the Criminal Justice and Court Services Act 2000 c. 43. Officers of CAFCASS are appointed for children in specified proceedings (section 41).

<sup>(18)</sup> S.I.1991/894 as amended by S.I.1991/2033 and S.I. 1993/3069.

- (a) a telephone on which to make and receive telephone calls in private; and
  - (b) facilities to send and receive post and, if the necessary facilities are provided for the use of children accommodated in the home, electronic mail, in private.
- (5) The registered person shall ensure that any disabled child accommodated in the home is provided with access to such aids and equipment which he or she may require as a result of his or her disability in order to facilitate his or her communication with others.
- (6) The registered person may (subject to paragraphs (7) and (8)) impose restrictions, prohibitions or conditions upon a child's contact with any person under paragraph (1)(a), or upon a child's meeting privately in the home with those persons, or upon a child's access to communications under paragraph (4), if he or she is of the reasonable opinion that the imposition is necessary for the purpose of safeguarding or promoting the welfare of the child in question.
- (7) No measure may be imposed by the registered person in accordance with paragraph (6) unless—
- (i) the child's placing authority consents to the imposition of the measure; or
  - (ii) the measure is imposed in an emergency and full details are given to the placing authority within 24 hours of its imposition.
- (8) This regulation is subject to the provisions of any court order relating to contact between the child and any person.
- (9) It is declared (for the avoidance of doubt) that any rule of law relating to duress or necessity may, as well as paragraphs (6) and (8), be relied upon if it is alleged that this regulation has not been complied with.

### **Arrangements for the protection of children**

- 16.—**(1) The registered person shall prepare and implement a written policy which—
- (a) is intended to safeguard children accommodated in the home from abuse or neglect; and
  - (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect.
- (2) The procedure under paragraph (1)(b) shall in particular provide for—
- (a) liaison and co-operation with any local authority which is, or may be, making child protection enquiries in relation to any child accommodated in the children's home;
  - (b) the prompt referral to the local authority in whose area the home is situated, of any allegations of abuse or neglect affecting any child accommodated in the children's home;
  - (c) notification (in accordance with regulation 29) of the instigation and subsequent outcome of any child protection enquiries involving any child accommodated in the children's home to the appropriate office of the National Assembly and to the child's placing authority;
  - (d) written records to be maintained (in accordance with regulation 28(1)) of any allegation of abuse or neglect, and of the action taken in response;
  - (e) consideration to be given to the measures which may be necessary to protect children in the children's home following an allegation of abuse or neglect;
  - (f) a requirement (in accordance with regulation 27) for persons working at the home to report any concerns about the welfare or safety of a child accommodated there to one of the following—
    - (i) the registered person;
    - (ii) a constable;
    - (iii) a person exercising functions of the National Assembly under Part II of the Act;
    - (iv) an officer of the local authority in whose area the home is situated, or

- (v) an officer of the National Society for the Prevention of Cruelty to Children;
  - (g) arrangements to be made so that persons working at the home and children accommodated there have access, at all times and in an appropriate form, to information which would enable them to contact the local authority in whose area the home is situated, or the appropriate office of the National Assembly concerning the welfare or safety of children accommodated in the home.
- (3) The registered person shall prepare and implement—
- (a) a written policy for the prevention of bullying in the children’s home, which shall include a procedure for dealing with an allegation of bullying; and
  - (b) a procedure to be followed when any child accommodated in a children’s home is absent without permission.

**Behaviour management, discipline and restraint**

17.—(1) Without prejudice to paragraph (5), no measure of control, restraint or discipline which is excessive, or unreasonable shall be used at any time on children accommodated in a children’s home.

(2) The registered person shall prepare and follow a written policy (in this regulation referred to as “the behaviour management policy”) which shall set out—

- (a) the measures of control, restraint and discipline which may be used in the children’s home; and
- (b) the means whereby appropriate behaviour is to be promoted in the home.

(3) The registered person shall—

- (a) keep under review and where appropriate revise the behaviour management policy; and
- (b) notify the appropriate office of the National Assembly of any such revision within 28 days.

(4) The registered person shall ensure that within 24 hours of the use of any measure of control, restraint or discipline in a children’s home a written record is made in a volume kept for the purpose which shall include—

- (a) the name of the child concerned;
- (b) details of the child’s behaviour leading to the use of the measure;
- (c) a description of the measure used;
- (d) the date, time and location of the use of the measure (including in the case of any form of restraint, the duration of the restraint);
- (e) the name of the person using the measure, and of any other person present;
- (f) the effectiveness and any consequences of the use of the measure; and
- (g) the signature of a person authorised by the registered provider to make the record.

(5) Subject to paragraph (6) of this regulation, the following measures shall not be used against children accommodated in a children’s home—

- (a) any form of corporal punishment;
- (b) any punishment relating to the consumption or deprivation of food or drink;
- (c) any restriction, other than one imposed in accordance with regulation 15, on—
  - (i) a child’s contact with his or her parents, relatives or friends;
  - (ii) visits to the child by his or her parents, relatives or friends;
  - (iii) a child’s communications with any of the persons listed in regulation 15(2); or

- (iv) his or her access to any telephone helpline providing counselling or advice for children;
- (d) any requirement that a child wear distinctive or inappropriate clothes;
- (e) the use or withholding of medication or medical or dental treatment as a disciplinary measure;
- (f) the intentional deprivation of sleep;
- (g) the imposition of any financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;
- (h) any intimate physical examination of a child;
- (i) the withholding of any aids or equipment needed by a disabled child;
- (j) any measure which involves—
  - (i) a child in the imposition of any measure against any other child; or
  - (ii) the punishment of a group of children for the behaviour of an individual child.
- (6) Nothing in this regulation shall prohibit—
  - (a) the taking of any action by, or in accordance with the instructions of, a registered medical or dental practitioner which is necessary to protect the health of a child;
  - (b) the imposition of a requirement that a child wear distinctive clothing for sporting purposes, or for purposes connected with his education or with any organisation whose members customarily wear uniform in connection with its activities.
- (7) It is declared (for the avoidance of doubt) that any rule of law relating to duress or necessity may be relied upon, as well as paragraph (6), if it is alleged that this regulation has not been complied with.

### **Education, employment and leisure activity**

- 18.**—(1) The registered person shall promote the educational attainment of children accommodated in a children’s home, which shall include ensuring that—
- (a) the children make use of educational facilities appropriate to their age, aptitude, needs, interests and potential;
  - (b) the routine of the home is organised so as to further children’s participation in education including private study; and
  - (c) effective links are maintained with any schools attended by children accommodated in the home.
- (2) The registered person shall ensure that children accommodated in the home are—
- (a) encouraged to develop and pursue appropriate leisure interests; and
  - (b) provided with appropriate leisure facilities and activities.
- (3) Where any child in a children’s home has attained the age where he or she is no longer required to receive compulsory full-time education, the registered person shall assist with the making of, and giving effect to, the arrangements made for him or her in respect of his education, training and employment.

### **Religious observance**

- 19.** The registered person shall ensure that each child accommodated in a children’s home is enabled, so far as practicable—
- (a) to attend the services of;

- (b) to receive instruction in; and
  - (c) to observe any requirement (whether as to dress, diet or otherwise) of,
- the religious persuasion to which he or she belongs.

### **Health needs of children**

**20.**—(1) The registered person shall promote and protect the health of the children accommodated in a children's home.

- (2) In particular the registered person shall ensure that—
  - (a) each child is registered with a general practitioner;
  - (b) each child has access to such medical, dental, nursing, psychological and psychiatric advice, treatment and services as he or she may require;
  - (c) each child is provided with such individual support, aids and equipment as he or she may require in the light of any particular health needs or disability he or she may have;
  - (d) each child is provided with guidance, support and advice on health and personal care issues appropriate to his or her needs and wishes;
  - (e) at all times, at least one person on duty at the home has a suitable first aid qualification;
  - (f) any person appointed to the position of nurse at the children's home is a registered nurse.

### **Medicines**

**21.**—(1) The registered person shall make suitable arrangements for the recording, handling, safekeeping, safe administration and disposal of any medicines received into the children's home.

- (2) In particular the registered person shall ensure, subject to paragraph (3), that—
  - (a) any medicine which is kept in a children's home is stored in a secure place so as to prevent any child accommodated there having unsupervised access to it;
  - (b) any medicine which is prescribed for a child is administered as prescribed, to the child for whom it is prescribed, and to no other child; and
  - (c) a written record is kept of the administration of any medicine to any child.
- (3) Paragraph (1) does not prevent a medicine being—
  - (a) stored by the child for whom it is provided;
  - (b) self-administered by the child for whom it is provided,if it is safe for the child and others for that to be done.
- (4) In this regulation, "prescribed" means—
  - (a) ordered for a patient for provision to them—
    - (i) under or by virtue of section 41 of the National Health Service Act 1977; or
    - (ii) as part of the performance of personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997; or
  - (b) in a case not falling within sub-paragraph (a), prescribed for a patient under section 58 of the Medicines Act 1968(19).

**Use of surveillance**

22. Subject to any requirements for monitoring imposed by a court under any enactment, the registered person shall ensure that a device for the surveillance of children is not used in a children's home, except for the purpose of safeguarding and promoting the welfare of the child concerned, or other children accommodated in the children's home, and where the following conditions are met—

- (a) the child's placing authority consents to the use of the surveillance in question;
- (b) it is provided for in the child's placement plan;
- (c) so far as practicable in the light of his or her age and understanding, the child in question is informed in advance of the intention to use the measure; and
- (d) the measure is no more restrictive than necessary, having regard to the child's need for privacy.

**Hazards and safety**

23. The registered person shall ensure that—

- (a) all parts of the home to which children have access are so far as reasonably practicable free from hazards to their safety;
- (b) any activities in which children participate are so far as reasonably practicable free from avoidable risks;
- (c) unnecessary risks to the health or safety of children accommodated in the home are identified and so far as possible eliminated; and
- (d) suitable arrangements are made for persons working in the home to be trained in first aid.

**Representations and complaints**

24.—(1) The registered person shall prepare and follow a written procedure for considering representations and complaints made by or on behalf of children accommodated in the home.

(2) The procedure shall, in particular, provide—

- (a) for an opportunity for informal resolution of the representation or complaint at an early stage;
- (b) that no person who is the subject of a complaint is involved in any part of its consideration other than, if in the reasonable opinion of the registered person it is appropriate, at the informal resolution stage only;
- (c) for dealing with complaints about the registered person;
- (d) for representations and complaints to be made, and for the other aspects of the procedure to be performed, by a person acting on behalf of a child;
- (e) for arrangements for the procedure to be made known to—
  - (i) children accommodated in the home;
  - (ii) their parents;
  - (iii) placing authorities; and
  - (iv) persons working in the home.

(3) A copy of the procedure shall be supplied on request to any of the persons mentioned in paragraph (2)(e).

(4) The copy of the procedure supplied under paragraph (3) shall include—

- (a) the name, address and telephone number of the appropriate office of the National Assembly; and

- (b) details of the procedure (if any) which has been notified to the registered person by the National Assembly for the making of complaints to it relating to children's homes.
- (5) The registered person shall ensure that a written record is made of any complaint, the action taken in response, and the outcome of the investigation.
- (6) The registered person shall ensure that—
  - (a) children accommodated in the home are enabled to make a complaint or representation; and
  - (b) no child is subject to any detriment for making a complaint or representation.
- (7) The registered person shall supply to the appropriate office of the National Assembly at its request a statement containing a summary of any complaints made during the preceding twelve months and the action taken in response.
- (8) This regulation (apart from paragraph (6)) does not apply to any representation to which the Representations Procedure (Children) Regulations 1991(20) applies.

## CHAPTER 2

### STAFFING

#### Staffing of children's homes

- 25.**—(1) The registered person shall ensure that there is at all times, having regard to—
- (a) the size of the children's home, its statement of purpose, and the number and needs (including any needs arising from any disability) of the children accommodated there; and
  - (b) the need to safeguard and promote the health and welfare of the children accommodated in the home;

a sufficient number of suitably qualified, skilled and experienced persons working at the children's home.

- (2) The registered person shall ensure that the employment of any persons on a temporary basis at the children's home will not prevent children accommodated in the children's home from receiving such continuity of care as is reasonable to meet their needs.

#### Fitness of workers

- 26.**—(1) The registered person shall not—
- (a) employ a person under a contract of employment to work at the children's home unless that person is fit to do so;
  - (b) allow a volunteer to work at the children's home unless that person is fit to do so;
  - (c) allow any other person to work at the children's home in a position in which he or she may in the course of his or her duties have regular contact with children accommodated there unless that person is fit to do so.
- (2) For the purposes of paragraph (1), a person is not fit to work at a children's home unless—
- (a) he or she is of suitable integrity and good character to work at a children's home;
  - (b) he or she has the qualifications, skills 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; and

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(20) See the footnote to regulation 15(2)(d).

- (d) full and satisfactory information or documentation (as the case may be) is available in relation to him or her in respect of the following matters—
  - (i) except where paragraph (3) applies, in respect of each matter specified in paragraphs 1 to 6 of Schedule 2;
  - (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<sup>(21)</sup> 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 children’s home until such time as paragraph (2)(d) has been complied with in relation to him or her.
- (5) Where the following conditions apply, the registered person may permit a person to start work at a children’s home notwithstanding paragraph (4)(b)—
  - (a) the registered person has taken all reasonable steps to obtain full information in respect of each of the matters listed in Schedule 2 in respect of that 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 in relation to that person has been obtained in respect of—
    - (i) the matter specified in paragraph 1 of Schedule 2; and
    - (ii) except where paragraph (3) applies, the matter specified in paragraph 2 of that Schedule; or
    - (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, the registered person ensures that the person is appropriately supervised while carrying out his or her duties.
- (6) The registered person shall ensure that any person working at the children’s home who does not fall within paragraph (1) is appropriately supervised at all times.

### **Employment of staff**

- 27.—(1) The registered person shall—
  - (a) ensure that all permanent appointments are subject to the satisfactory completion of a period of probation; and
  - (b) provide all employees with a job description outlining their responsibilities.
- (2) The registered person shall operate a disciplinary procedure which, in particular—
  - (a) provides for 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 children accommodated in the home; and

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(21) 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.

(b) provides that a failure on the part of an employee to report an incident of abuse, or suspected abuse of a child accommodated in the home to an appropriate person is a ground on which disciplinary proceedings may be instituted.

(3) For the purposes of paragraph (2)(b), an appropriate person is the registered person, an officer of either the National Assembly responsible for exercising any of its function under Part II of the Act, the local authority for the area in which the home is situated, or the National Society for the Prevention of Cruelty to Children, or a constable.

(4) The registered person shall ensure that all persons employed by him or her—

(a) receive appropriate training, supervision and appraisal; and

(b) are enabled from time to time to obtain further qualifications appropriate to the work they perform.

## CHAPTER 3

### RECORDS

#### Records

**28.**—(1) The registered person shall, on behalf of a child’s placing authority, maintain in respect of each child who is accommodated in the children’s home a record in the form of a report which—

(a) includes the information, documents and records specified in Schedule 3 relating to that child;

(b) is kept up to date; and

(c) is signed and dated by the author of each written entry.

(2) The record mentioned in paragraph (1) shall not be disclosed to any person except in accordance with—

(a) any enactment under which access to such records is authorised; or

(b) any court order authorising access to such records.

(3) The record mentioned in paragraph (1) shall be—

(a) kept securely in the children’s home so long as the child to whom it relates is accommodated there; and

(b) thereafter delivered to the child’s placing authority<sup>(22)</sup>.

(4) The registered person shall maintain in the children’s home the record specified in Schedule 4, or if the home closes keep the record elsewhere and make it available for inspection by the National Assembly at its request.

(5) A record referred to in paragraph (4) shall be kept up to date and retained for at least fifteen years from the date of the last entry, except for records of menus, which need be kept for one year.

(6) This regulation and regulation 29 are without prejudice to any enactment (including a provision of subordinate legislation) or other rule of law about records or information.

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(22) Under the Arrangements for Placement of Children (General) Regulations 1991 (S.I. 1991/890), the responsible authority in relation to a child placed in a children’s home must retain their case records (which includes any report in their possession concerning the welfare of the child) for seventy five years after the death of the child or, if the child dies before reaching eighteen, fifteen years from the date of death.

**Notifiable events**

**29.**—(1) If, in relation to a children's home, any of the events listed in column 1 of the table in Schedule 5 takes place, the registered person shall without delay notify the persons indicated in respect of the event in column 2 of the table.

(2) A notification under paragraph (1) shall include a child's name only if that is necessary.

(3) The registered person shall without delay notify the parent of any child accommodated in the home of any significant incident affecting the child's welfare unless to do so is not reasonably practicable or would place the child's welfare at risk.

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

## PART IV PREMISES

**Fitness of premises**

**30.**—(1) Subject to regulation 4(8), the registered person shall not use premises for the purposes of a children's home unless they are in a location, and of a physical design and layout, suitable for the purpose of achieving the aims and objectives set out in the home's statement of purpose.

(2) The registered person shall ensure that all parts of the home used by children are—

- (a) adequately lit, heated and ventilated;
- (b) secure from unauthorised access;
- (c) suitably furnished and equipped;
- (d) of sound construction and kept in good structural repair externally and internally;
- (e) kept clean, reasonably decorated and maintained; and
- (f) equipped with what is reasonably necessary, and adapted as necessary, in order to meet the needs arising from his or her disability of any disabled child accommodated in the home.

(3) The registered person shall ensure that the children's home is kept free from offensive odours and shall make suitable arrangements for the disposal of general and clinical waste.

(4) The registered person shall ensure that there are within the children's home, for use by children accommodated there, in conditions of appropriate privacy—

- (a) a sufficient number of wash basins and baths or showers supplied with hot and cold running water; and
- (b) a sufficient number of lavatories,

for the number and sex of children accommodated.

(5) The registered person shall provide for the number and needs of children accommodated in the children's home—

- (a) suitable and sufficient kitchen equipment, crockery and cutlery and utensils;
- (b) adequate facilities for the preparation and storage of food; and
- (c) so far as is practicable, adequate facilities for children to prepare their own food if they so wish and are of an age and ability to do so.

(6) The registered person shall ensure that there are within a children's home adequate facilities for laundering linen and clothing, and, for children wishing to do so, to wash, dry and iron their own clothes.

- (7) The registered person shall ensure that there is provided within a children’s home—
  - (a) adequate communal space for sitting, recreation and dining;
  - (b) such facilities for private study as are appropriate to the age and educational needs of the children accommodated.
- (8) The registered person shall ensure that each child is provided with sleeping accommodation which is—
  - (a) suitable to his or her needs including the need for privacy; and
  - (b) equipped with furniture, storage facilities, lighting, bedding and other furnishings including window and floor coverings suitable to his needs.
- (9) The registered person shall ensure that no child shares a bedroom with an adult, nor (except in the case of siblings) a child who is of the opposite sex or of a significantly different age to him or her.
- (10) The registered person shall provide for persons working at the children’s home—
  - (a) suitable facilities and accommodation, other than sleeping accommodation, including—
    - (i) facilities for the purpose of changing;
    - (ii) storage facilities;
  - (b) sleeping accommodation where that is needed in connection with their work at the home.

**Fire precautions**

- 31.**—(1) The registered person shall—
- (a) take adequate precautions against the risk of fire, including the provision of 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 evacuation in the event of fire,
    - (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 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 home and, so far as practicable, children accommodated there, are aware of the procedure to be followed in case of fire; and
  - (f) consult with the fire authority about the matters described in sub-paragraphs (a) to (e).
- (2) In this regulation “fire authority” means the authority discharging in the area in which a children’s home is situated, the function of fire authority under the Fire Services Act 1947(23).

## PART V

### MANAGEMENT OF HOMES

#### **Visits by registered provider**

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

(2) Where the registered provider is an organisation, the 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 home who is suitable to visit the home.

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

(4) The person carrying out the visit shall—

- (a) interview, with their consent and in private, such of the children accommodated there, their parents, relatives and persons working at the home as appears necessary in order to form an opinion of the standard of care provided in the home;
- (b) inspect the premises of the children's home, its daily log of events and records of any complaints; and
- (c) prepare a written report on the conduct of the 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 of the children's home who shall keep the report at the 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.

#### **Review of quality of care**

**33.**—(1) The registered person shall establish and maintain a system for—

- (a) monitoring, and reviewing at appropriate intervals, the matters set out in Schedule 6; and
- (b) improving the quality of care provided in the children's home.

(2) The registered person shall provide to the appropriate office of the National Assembly a report in respect of each review conducted for the purposes of paragraph (1), and make a copy of the report available on request to children accommodated in the home, their parents and placing authorities.

(3) Subject to paragraph (4), the system referred to in paragraph (1) shall provide for consultation with children accommodated in the home, their parents and placing authorities.

(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.

### **Regulations and national minimum standards**

**34.** The registered person shall ensure that a copy of these Regulations (and of any amendments to them), and the national minimum standards<sup>(24)</sup> (and of any amendments to them) applicable to children's homes published by the National Assembly under section 23(1) of the Act, are kept in the home and made available on request to—

- (a) any person working in the home;
- (b) any child accommodated in the home; and
- (c) the parent of any child accommodated in the home.

### **Financial position**

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

(2) The registered person shall—

- (a) ensure that adequate accounts are maintained and kept up to date in respect of a children's home; and
- (b) supply a copy of the accounts to the National Assembly at its request.

(3) The registered person shall provide the appropriate office of the National Assembly with such information as the National Assembly may require in order to consider the financial viability of the children's home, including—

- (a) the annual accounts of the 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 home;
- (d) where the registered provider is a company, information as to any of its associated companies; and
- (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 home in respect of death, injury, public liability, damage or other loss.

(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.

## **PART VI**

### **MISCELLANEOUS**

#### **Notice of absence**

**36.**—(1) Where—

- (a) a registered provider who manages the children's home; or
- (b) a registered manager,

is to be absent from the 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 absence.

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<sup>(24)</sup> Under section 23 of the Act the National Assembly may prepare and publish statements of national minimum standards applicable to children's homes, which must be taken into account in certain decisions and proceedings under Part II of the Act.

(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 running the home;
- (d) the name, address and qualifications of the person who will be responsible for the 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 children's 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 office specifying the matters mentioned in sub-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**

**37.** 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 a registered person carries on or manages, or proposes to carry on or manage, the children's home;
- (b) a person ceases, or proposes to cease, to carry on or manage the home;
- (c) where a registered provider is an individual, he changes, or proposes to change, his or her name;
- (d) where a 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;
  - (iii) there is, or is proposed to be, any change in the identity of the responsible individual;
- (e) where a registered provider is an individual, a trustee in bankruptcy is, or is likely to be, appointed, or a composition or arrangement is, or is to be, made with creditors;
- (f) where a registered provider is a company, a receiver, liquidator or provisional liquidator is, or is likely to be, appointed;
- (g) 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

- (h) 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.

### **Appointment of liquidators etc**

- 38.**—(1) Any person to whom paragraph (2) applies shall—
- (a) forthwith notify the appropriate office of the National Assembly for each children’s 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 children’s 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 children’s home to which the appointment relates.
- (2) This paragraph applies to any person appointed as—
- (a) the receiver of the property of a company which is a registered provider of a children’s home;
  - (b) a liquidator or provisional liquidator of, a company which is a registered provider of a children’s home;
  - (c) the receiver or manager of the property of a partnership whose business includes carrying on a children’s home; or
  - (d) the trustee in bankruptcy of a registered provider of a children’s home.

### **Death of registered person**

- 39.**—(1) If more than one person is registered in respect of a children’s 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 children’s home, and he or she dies, his or her personal representatives must notify the National Assembly 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 a deceased registered provider may carry on the 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 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**

- 40.**—(1) A contravention or failure to comply with the provisions of regulations 4 to 37 shall be an offence.

(2) Without prejudice to the powers of the Assembly under section 29 of the Act<sup>(25)</sup> to bring proceedings against persons who once were, but are no longer, registered in respect of a children's home, the National Assembly 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 28(5) after he or she ceased to be a registered person.

### **Compliance with regulations**

**41.** Where there is more than one registered person in respect of a children's 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.

### **Specification of appropriate offices**

**42.** The Assembly may specify an office controlled by it as the appropriate office in relation to children's homes situated in a particular area of Wales.

### **Revocation**

**43.** The following Regulations are revoked in so far as they apply to Wales—

- (a) the Children's Homes Regulations 1991<sup>(26)</sup>;
- (b) regulation 2 of the Children (Homes, Arrangements for Placement, Review and Representations) (Miscellaneous Amendments) Regulations 1993<sup>(27)</sup>;
- (c) the Children's Homes Amendment Regulations 1994<sup>(28)</sup>
- (d) regulation 4 of the Children (Protection from Offenders) (Miscellaneous Amendments) Regulations 1997<sup>(29)</sup>; and
- (e) the Children's Homes Amendment (Wales) Regulations 2001<sup>(30)</sup>.

Signed on behalf of the National Assembly under section 66(1) of the Government of Wales Act 1998<sup>(31)</sup>.

12th February 2002

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

(25) Under section 29 of the Act the National Assembly may, within the time limits there specified, bring proceedings for offences under regulations made under Part II of the Act.

(26) S.I. 1991/1506.

(27) S.I. 1993/3069.

(28) S.I. 1994/1511.

(29) S.I. 1997/2308.

(30) S.I. 2001/140.

(31) 1998 c. 38.

## SCHEDULE 1

Regulation 4(1)

### MATTERS TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. A statement of the overall aims of the home, and the objectives to be attained with regard to children accommodated in the home.
2. A statement of the facilities and services to be provided, within and outside the home, for the children accommodated in the home.
3. The name and business address of every registered person.
4. The relevant qualifications and experience of every registered person.
5. The numbers, relevant qualifications and experience of persons working at the home, and if the workers are all of one sex, a description of the means whereby the home will promote appropriate role models of both sexes.
6. The arrangements for the supervision, training and development of employees.
7. The organisational structure of the home.
8. 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.
9. The criteria used for admission to the home, including the home's policy and procedures for emergency admissions (if the home provides for emergency admissions).
10. If the home provides or is intended to provide accommodation for more than six children, a description of the positive outcomes intended for children in a home of such a size, and a description of the home's strategy for counteracting any adverse effects arising from its size for the children accommodated in the home.
11. A description of the home's ethos and philosophy and the theoretical or therapeutic basis for the care provided.
12. The arrangements made to protect and promote the health of the children accommodated in the home.
13. The arrangements for the promotion of the education of the children accommodated in the home, including the facilities for private study.
14. The arrangements to promote the participation of children in hobbies and recreational, sporting and cultural activities.
15. The arrangements made for consultation with the children accommodated in the home about its operation.
16. Details of—
  - (a) the home's policy on behaviour management and the use of restraint;
  - (b) the methods of control and discipline that may be used in the home and the circumstances in which, and by whom, they may be used.
17. The arrangements for child protection and to counter bullying.

*Status: This is the original version (as it was originally made).*

18. The procedure for dealing with any unauthorised absence of a child from the home.
19. Details of any means of surveillance of children which may be used in the home.
20. The fire precautions and associated emergency procedures in the home.
21. The arrangements made for the children's religious instruction and observance.
22. The arrangements made for contact between any child accommodated in the home and his or her parents, relatives and friends.
23. The arrangements for dealing with complaints of the children accommodated there.
24. The arrangements for dealing with reviews of placement plans.
25. 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.
26. Details of any specific therapeutic techniques used in the home and arrangements for their supervision.
27. Details of the home's policy on anti-discriminatory practice as respects children and children's rights.

## SCHEDULE 2

Regulations 6, 8, 26

### INFORMATION REQUIRED IN RESPECT OF PERSONS SEEKING TO CARRY ON, MANAGE OR WORK AT A CHILDREN'S HOME

1. Proof of identity including a recent photograph.
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)(**32**), or the position falls within section 115(3) or (4) of the Police Act 1997, 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(**33**).
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.

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(32) 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.

(33) 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.

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<sup>(34)</sup> 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)<sup>(35)</sup>; 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 28(1)

#### INFORMATION TO BE INCLUDED IN THE CASE RECORDS OF CHILDREN ACCOMMODATED IN CHILDREN'S HOMES

1. The child's name and any name by which the child has previously been known other than a name used by the child prior to adoption.
2. The child's date of birth and sex.
3. The child's religious persuasion, if any.
4. A description of the child's racial origin and cultural and linguistic background.
5. The child's address immediately prior to entering the home.
6. The name, address and telephone number of the child's placing authority.
7. The statutory provision (if any) under which he or she is provided with accommodation.
8. The name, address, telephone number and the religious persuasion, if any, of the child's parents;
9. The name, address and telephone number of any social worker for the time being assigned to the child by the placing authority.
10. Any record required to be kept under regulation 16(2)(d) (allegation of abuse or neglect in relation to the child).
11. The date and circumstances of all absences of the child from the home, including whether the absence was authorised and any information relating to the child's whereabouts during the period of absence.
12. The date of, and reason for, any visit to the child whilst in the home.
13. A copy of any statement of special educational needs maintained in relation to the child under section 324 of the Education Act 1996<sup>(36)</sup>, with details of any such needs.
14. The date and circumstances of any measures of control, restraint or discipline used on the child.
15. Any special dietary or health needs of the child.

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<sup>(34)</sup> 1974 c. 53.

<sup>(35)</sup> 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.

<sup>(36)</sup> 1996 c. 56. Section 324 is amended by section 140(1) of, and paragraph 77 of Schedule 30 to, the School Standards and Framework Act 1998 (c. 31), and section 9 of the Special Educational Needs and Disability Act 2001 (c. 10).

*Status: This is the original version (as it was originally made).*

16. The name, address and telephone number of any school or college attended by the child, and of any employer of the child.
17. Every school report received by the child while accommodated in the home.
18. Arrangements for, including any restriction, prohibition or condition as to, contact between the child, his parents, and any other person.
19. A copy of any plan for the care of the child prepared by his placing authority, and of the placement plan.
20. The date and result of any review of the placing authority's plan for the care of the child, or of the child's placement plan.
21. The name and address of the general practitioner with whom the child is registered, and of the child's registered dental practitioner.
22. Details of any accident or serious illness involving the child while accommodated in the home.
23. Details of any immunisation, allergy, or medical examination of the child and of any medical or dental need or treatment of the child.
24. Details of any health examination or developmental test conducted with respect to the child at or in connection with his or her school.
25. Details of any medicines kept for the child in the home, including any medicines which the child is permitted to administer to himself, and details of the administration of any medicine to the child.
26. The date on which any money or valuables are deposited by or on behalf of a child for safekeeping, and the dates on which any money is withdrawn, and any valuables are returned.
27. The address, and type of establishment or accommodation, to which the child goes when he or she ceases to be accommodated in the home.

#### SCHEDULE 4

Regulation 28(4)

#### OTHER RECORDS

1. A record in the form of a register showing in respect of each child accommodated in the children's home—
  - (a) the date of his or her admission to the home;
  - (b) the date on which he or she ceased to be accommodated there;
  - (c) his or her address prior to being accommodated in the home;
  - (d) his or her address on leaving the home;
  - (e) his or her placing authority;
  - (f) the statutory provision, if any, under which he or she is accommodated in the home.
2. A record of all persons working at the children's home, which shall include in respect of a person falling within regulation 26(1) the following matters—
  - (a) full name;
  - (b) sex;
  - (c) date of birth;

- (d) home address;
  - (e) qualifications relevant to, and experience of, work involving children;
  - (f) whether he or she works at the home full-time or part-time, (whether paid or not) and if part-time the average number of hours worked per week; and
  - (g) whether he or she resides at the home.
3. A record of any person who resides or works at any time at the children’s home, who is not mentioned in the records kept in accordance with paragraph 1 or 2.
  4. A record of all accidents occurring in the children’s home or to children whilst accommodated by the home.
  5. A record of the receipt, disposal and administration of any medicine to any child.
  6. A record of every fire drill or fire alarm test conducted, with details of any deficiency in either the procedure or the equipment concerned, together with details of the steps taken to remedy that deficiency.
  7. A record of all money deposited by a child for safekeeping, together with the date on which that money was withdrawn, or the date of its return.
  8. A record of all valuables deposited by a child and the date of their return.
  9. Records of all accounts kept in the children’s home.
  10. A record of menus served.
  11. A record, in accordance with regulation 17(4), of every disciplinary measure imposed on a child.
  12. Records of all staff duty rosters, and a record of the actual rosters worked.
  13. A daily log of events occurring in the home.
  14. A record of all visitors to the home and to children accommodated in the home, including the names of visitors and the reasons for the visit.

SCHEDULE 5

Regulation 29(1)

EVENTS AND NOTIFICATIONS

<b>Column 1</b>	<b>Column 2</b>				
<i>Event:</i>	<i>To be notified to:</i>				
	<b>Appropriate office of the National Assembly</b>	<b>Placing authority</b>	<b>Local authority in whose area the home is situated</b>	<b>Appro private police officer</b>	<b>Health authority in whose area the home is situated</b>
Death of a child accommodated in the home	yes	yes	yes		yes
Referral to the Secretary of State pursuant	yes	yes			

*Status: This is the original version (as it was originally made).*

<b>Column 1</b> <i>Event:</i>	<b>Column 2</b> <i>To be notified to:</i>				
	<b>Appropriate office of the National Assembly</b>	<b>Placing authority</b>	<b>Local authority in whose area the home is situated</b>	<b>Appro private police officer</b>	<b>Health authority in whose area the home is situated</b>
to section 2(1) (a) of the Protection of Children Act 1999(37) of an individual working at the home					
Serious illness or serious accident sustained by a child accommodated in the home	yes	yes			
Occurrence of infectious disease which in the opinion of a registered medical practitioner attending at the home is sufficiently serious to be so notified	yes	yes			yes
Allegation that a child accommodated at the home has committed a serious offence	yes		yes		
Involvement or suspected involvement of a child accommodated at the home in prostitution	yes	yes	yes	yes	

(37) 999 c.14.

<b>Column 1</b> <i>Event:</i>	<b>Column 2</b> <i>To be notified to:</i>				
	<b>Appropriate office of the National Assembly</b>	<b>Placing authority</b>	<b>Local authority in whose area the home is situated</b>	<b>Appro private police officer</b>	<b>Health authority in whose area the home is situated</b>
Serious incident necessitating calling the police to the home	yes	yes			
Absconding by a child accommodated at the home		yes			
Any serious complaint about the home or persons working there	yes	yes			
Instigation and subsequent outcome of any child protection enquiry involving a child accommodated at the home	yes	yes			

SCHEDULE 6

Regulation 33(1)

MATTERS TO BE MONITORED AND REVIEWED BY THE REGISTERED PERSON

1. In respect of each child accommodated in the children’s home, compliance with the placing authority’s plan for the care of the child (where applicable) and the placement plan.
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 home or by children accommodated there.
5. Any illnesses of children accommodated in the home.
6. Complaints in relation to children accommodated in the home and their outcomes.

*Status: This is the original version (as it was originally made).*

7. Any allegations or suspicions of abuse in respect of children accommodated in the home and the outcome of any investigation.
  8. Staff recruitment records and conduct of required checks for new workers in the home.
  9. Visitors to the home and to children in the home.
  10. Notifications of the events listed in Schedule 5.
  11. Any unauthorised absence from the home of a child accommodated there.
  12. The use of measures of control, restraint and discipline in respect of children accommodated in the home.
  13. Risk assessments for health and safety purposes and subsequent action taken.
  14. Medicines, medical treatment and first aid administered to any child accommodated in the home.
  15. In the case of a qualifying school, the standards of educational provision.
  16. Duty rosters of persons working at the home, and the rosters actually worked.
  17. The home's daily log of events.
  18. Fire drills and tests of alarms and of fire equipment.
  19. Records of appraisals of employees.
  20. Minutes of staff meetings.
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## **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 children's homes in Wales. Parts I and II of the Act provide for the National Assembly for Wales, in relation to Wales, to register and inspect establishments and agencies. The Act also provides for the Assembly to make regulations governing the conduct of establishments and agencies in relation to Wales. 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 statutory system in relation to children's homes provided for by the Children Act 1989, and these Regulations supersede the Children's Homes Regulations 1991 (as amended) in so far as they apply to Wales.

Regulation 3 excludes certain establishments from the definition of a children's home under section 1 of the Act. These include establishments providing short-term overnight care, holidays, or other activities for less than 28 days a year in relation to any one child, and a wide range of establishments providing accommodation for those aged 16 or over unless, in either case, the establishment mainly accommodates children who are disabled or otherwise fall within the descriptions in section 3(2) of the Act. Further education colleges and establishments for young offenders are also excluded.

Under regulation 4, each home must have a statement of purpose consisting of the matters set out in Schedule 1, and a children's guide to the home. The home must be carried on in a manner which is consistent with the statement of purpose.

Regulations 6 to 10 make provision about the persons carrying on or managing the home, and require satisfactory information to be available in relation to the matters prescribed in Schedule 2. Where the provider is an organisation, it must nominate a responsible individual in respect of whom this information must be available (regulation 6). Regulation 7 prescribes the circumstances where a manager must be appointed for the home, and regulation 9 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 children's homes, in particular as to child protection, welfare, health, education and religious observance, arrangements for contact and visitors, the management of behaviour, and the use of surveillance devices. Provision is also made about the staffing of homes, and the fitness of workers, and about complaints, record keeping and notification of the events listed in Schedule 5.

Part IV makes provision about the suitability of premises, and the fire precautions to be taken. Part V deals with the management of children's homes. Regulation 33 requires the registered provider to visit the home as prescribed, and regulation 34 requires the registered person to review and monitor the matters set out in Schedule 6 relating to the quality of care provided by the home. Regulation 36 imposes requirements relating to the home's financial position.

Part VI deals with miscellaneous matters including the giving of notices to the National Assembly. Regulation 41 provides for offences. A breach of the regulations specified in regulation 41 may found an offence on the part of the registered person. Regulation 42 allows the Assembly to specify offices in parts of Wales for the giving of notices to it under the regulations.