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## WELSH STATUTORY INSTRUMENTS

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# 2011 No. 704

## The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011

### PART 1

#### GENERAL

#### Interpretation

2.—(1) In these Regulations—

“the 2006 Act” (“*Deddf 2006*”) means the National Health Service (Wales) Act 2006(1);

“alternative dispute resolution” (“*dull amgen o ddatrys anghydfod*”) means mediation, conciliation or facilitation;

“child” (“*plentyn*”) means a person who has not attained the age of eighteen years;

“complaint” (“*chwyn*”) means any expression of dissatisfaction;

“concern” (“*pryder*”) means any complaint; notification of an incident concerning patient safety or, save in respect of concerns notified in respect of primary care providers or independent providers, a claim for compensation;

“disciplinary proceedings” (“*achos disgyblu*”) means any procedure for disciplining employees adopted by a responsible body for disciplining employees;

“executive director” (“*cyfarwyddwr gweithredol*”) means a member of the Board of a National Health Service Trust who is an employee of that body;

“general dental services contractor” (“*contractwr gwasanaethau deintyddol cyffredinol*”) means a person who has entered into a contract to provide general dental services with a Local Health Board in accordance with section 57 of the 2006 Act;

“general medical services contractor” (“*contractwr gwasanaethau meddygol cyffredinol*”) means a person who has entered into a contract to provide general medical services with a Local Health Board in accordance with section 42 of the 2006 Act;

“health care professional” (“*proffesiynolyn gofal iechyd*”) means a member of a profession (whether or not regulated by, or by virtue of, any enactment) which is concerned (wholly or partly) with the physical or mental health of individuals;

“incident concerning patient safety” (“*digwyddiad sy'n ymwneud â diogelwch claf*”) means any unexpected or unintended incident which did lead to or could have led to harm for a patient;

“independent provider” (“*darparwr annibynnol*”) means a person or body who—

- (a) provides health care in Wales under arrangements made with a Welsh NHS body; and
- (b) is not an NHS body or a primary care provider;

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“individual patient treatment request” (“*cais am driniaeth i glaf unigol*”) means a request to a Local Health Board to fund health care for an individual patient that falls outside the range of services and treatments that the Local Health Board provides including those specialist services secured through the Welsh Health Specialist Services Committee;

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Local Health Board established in accordance with section 11(2) of the 2006 Act;

“moderate or severe harm” (“*niwed cymedrol neu ddifrifol*”) means moderate or severe harm determined in accordance with guidance issued for the purpose of these Regulations by the Welsh Ministers;

“non-executive director” (“*cyfarwyddwr anweithredol*”) means a member of the Board of a National Health Service Trust who is not an employee of that body;

“non-officer member” (“*aelod nad yw'n swyddog*”) means a member of the Board of a Local Health Board who is not an employee of that body;

“officer member” (“*aelod sy'n swyddog*”) means a member of the Board of a Local Health Board who is an employee of that body;

“patient” (“*claf*”) means the person who receives or has received services from a responsible body;

“primary care provider” (“*darparwr gofal sylfaenol*”) means a person or body who—

- (a) is a general medical services contractor;
- (b) provides primary medical services in accordance with arrangements made under sections 41(2)(b) and 50 of the 2006 Act;
- (c) is a general dental services contractor;
- (d) provides primary dental services in accordance with arrangements under section 64 of the 2006 Act;
- (e) provides general ophthalmic services in accordance with arrangements under section 71 of the 2006 Act;
- (f) provides pharmaceutical services in accordance with arrangements under section 80 of the 2006 Act;
- (g) provides local pharmaceutical services under pilot schemes pursuant to section 92 of the 2006 Act; or
- (h) provides local pharmaceutical services pursuant to paragraph 1 of Schedule 7 to the 2006 Act;

“qualifying liability” (“*atebolrwydd cymwys*”) means a liability in tort owed in respect of, or consequent upon, personal injury or loss arising out of or in connection with breach of a duty of care owed to any person in connection with the diagnosis of illness, or in the care or treatment of any patient—

- (a) in consequence of any act or omission by a health care professional; and
- (b) which arises in connection with the provision of qualifying services;

“relevant complaints procedure” (“*gweithdrefn gwynion berthnasol*”) means—

- (a) any arrangements for the handling and consideration of complaints that are required or have been required to be established and operated respectively by any of the following directions—
  - (i) Directions to NHS Trusts and Local Health Boards on Hospital Complaints Procedures signed on 27 March 2003;

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- (ii) Directions to Local Health Boards on Dealing with Complaints about Family Health Services Practitioners, Providers of Personal Medical Services and Providers of Personal Dental Services other than Personal Dental Services Provided by NHS Trusts signed on 27 March 2003;
- (iii) Miscellaneous Directions to Local Health Boards for Dealing with Complaints signed on 27 March 2003(2);
- (b) any arrangements for the handling and consideration of complaints that may at any time be or have been required by paragraph 28 of Schedule 2 to the National Health Service (Pharmaceutical Services) Regulations 1992(3);
- (c) any arrangements for the handling and consideration of complaints that may at any time be or have been required to be established and operated respectively by any of the following provisions—
  - (i) paragraph 39 of Schedule 2 to the National Health Service (Pharmaceutical Services) Regulations 1992;
  - (ii) paragraph 22 of Schedule 2A to the National Health Service (Pharmaceutical Services) Regulations 1992;
  - (iii) paragraph 90 of Schedule 6 to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004(4);
  - (iv) paragraph 8A of Schedule 1 to the National Health Service (General Ophthalmic Services) Regulations 1986(5);
  - (v) paragraph 47 of Schedule 3 to the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006(6);
  - (vi) paragraph 47 of Schedule 3 to the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006(7);

“responsible body” (*“corff cyfrifol”*) means—

- (a) a Welsh NHS body;
- (b) a primary care provider; or
- (c) an independent provider;

“staff” (*“staff”*) means any person who is employed by or engaged to provide health care services for a responsible body;

“Welsh NHS body” (*“corff GIG Cymru”*) means—

- (a) a Local Health Board; or
- (b) a National Health Service Trust managing a hospital or other establishment or facility wholly or mainly in Wales;

“working day” (*“diwrnod gwaith”*) means a day except Saturday or Sunday, Christmas Day, Boxing Day, Good Friday, or a day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971(8).

(2) For the purposes of Part 7, “qualifying services” (*“gwasanaethau cymwys”*) means services provided in the United Kingdom as part of the health service in Wales (this does not include services

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(2) Copies of the Directions referred to in the definition of “relevant complaints procedure” may be obtained from the library at the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

(3) S.I.1992/662.

(4) S.I. 2004/478 (W.48).

(5) S.I. 1986/975.

(6) S.I. 2006/490 (W.59).

(7) S.I. 2006/489 (W.58).

(8) 1971 c. 80.

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provided in Wales commissioned as part of the health service in England, Scotland or Northern Ireland).

(3) For the purposes of regulation 3 and Parts 5 and 6, “qualifying services” (“*gwasanaethau cymwys*”) means services provided in Wales as part of the health service in Wales (this does not include services provided in Wales commissioned as part of the health service in England, Scotland or Northern Ireland).

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**Commencement Information**

**II** Reg. 2 in force at 1.4.2011, see [reg. 1\(2\)](#)

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**Changes and effects yet to be applied to :**

- reg. 2(1) word omitted by S.I. 2023/281 reg. 2(2)(a)(i)
- reg. 2(1) words inserted by S.I. 2023/1053 Sch. 6 para. 5(4)
- reg. 2(1) words inserted by S.I. 2023/274 reg. 14(2)
- reg. 2(1) words inserted by S.I. 2023/281 reg. 2(2)(a)(ii)
- reg. 2(1) words inserted by S.I. 2023/281 reg. 2(2)(b)
- reg. 2(1) words substituted by S.I. 2023/1053 Sch. 6 para. 5(2)
- reg. 2(1) words substituted by S.I. 2023/1053 Sch. 6 para. 5(3)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 3(1) reg. 3 renumbered as reg. 3(1) by S.I. 2023/281 reg. 2(3)(a)
- reg. 3(2)(3) inserted by S.I. 2023/281 reg. 2(3)(b)
- reg. 14(1)(k) and word inserted by S.I. 2023/281 reg. 2(5)(e)
- reg. 22(7) inserted by S.I. 2023/274 reg. 14(5)(c)
- reg. 34(1)(ca)-(cc) inserted by S.I. 2013/235 Sch. 2 para. 162(1)(b)
- reg. 34(1)(ca)-(cc) inserted by S.I. 2013/235 Sch. 2 para. 162(2)(b)
- reg. 34(1)(ca) substituted by S.I. 2022/634 reg. 52(2)
- reg. 34(1)(ca) substituted by S.I. 2022/634 reg. 53(2) (Amendment to Welsh text)
- reg. 34(1)(cb) words substituted by S.I. 2023/1071 reg. 48(2) (Amendment to English text only)
- reg. 34(1)(cb) words substituted by S.I. 2023/1071 reg. 49(2) (Amendment to Welsh text only)