
WELSH STATUTORY INSTRUMENTS

2011 No. 704

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

PART 6

REDRESS

Redress — communication of a decision

33. Where a Welsh NHS body decides to make an offer of redress by way of financial compensation or entry into a contract to provide care or treatment or both or determines that it will not make an offer of redress on the basis that there is no qualifying liability, it must—

- (a) send the offer, or the notification of the decision not to make an offer, to the person who notified the concern within twelve months of the date on which the concern was notified to the Welsh NHS body. If exceptional circumstances mean that the twelve month period cannot be adhered to, the Welsh NHS body must advise the person who notified the concern, or his or her, legal representative, of the reasons for the delay and when a decision in respect of the application for redress will be made;
- (b) advise that person or his or her legal representative that he or she must respond to the offer of settlement or a decision not to make an offer of settlement within six months of the date that it is notified;
- (c) subject to paragraph (d), advise that if, as a result of exceptional circumstances, it will not be possible to respond to the offer of settlement, or the decision not to make an offer of settlement, within six months of the date of the offer or decision not to make an offer, the Welsh NHS body must be advised by the person who notified the concern or his or her legal representative of the reasons for the delay in responding and when a response will be submitted;
- (d) advise a person or his or her legal representative that if an extension of time is sought to respond to an offer of settlement or a decision not to make an offer of settlement, a response is required within nine calendar months of the date of the offer or decision as that is the time when, in accordance with regulation 30(3) and (5), limitation starts to run;
- (e) advise, if an offer is made, that the settlement proposed by the offer will be by way of a formal agreement which must include a waiver of any right to bring civil proceedings in respect of the qualifying liability to which the settlement relates;
- (f) advise that, in appropriate circumstances, the settlement agreement proposed will be subject to approval by a court in cases such as those where the person to whom the qualifying liability relates—
 - (i) is a child; or
 - (ii) lacks capacity within the meaning of the Mental Capacity Act 2005(1); and

- (g) advise that where court approval of a settlement is required, that the Welsh NHS body must pay the reasonable legal costs associated with obtaining such approval.