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*Status: This version of this provision is prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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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 7

#### REQUIREMENT FOR NHS BODIES, OTHER THAN WELSH NHS BODIES, TO CONSIDER REDRESS AND PROCEDURE TO BE FOLLOWED BY A WELSH NHS BODY WHEN IT RECEIVES NOTIFICATION OF A CONCERN IN ACCORDANCE WITH THE PROVISIONS OF THIS PART

PROSPECTIVE

#### **Response to an investigation under regulation 39 where a Welsh NHS body is of the opinion that there is, or there may be, a qualifying liability**

**40.**—(1) Where following an investigation under regulation 39 a Welsh NHS body considers that there is or there may be a qualifying liability it must produce an interim report which—

- (a) summarises the nature and substance of the matter or matters notified in the concern;
- (b) describes the investigation undertaken in accordance with regulation 39;
- (c) describes why, in the opinion of the Welsh NHS body, there is or there may be a qualifying liability;
- (d) contains a copy of any relevant medical records;
- (e) explains the availability of access to legal advice without charge in accordance with the provisions of regulation 47;
- (f) explains the availability of advocacy and support services which may be of assistance;
- (g) explains the procedure which will be followed to determine whether or not a qualifying liability exists and the procedure for making an offer of redress if such a qualifying liability is found to exist;
- (h) confirms that, when prepared, a copy of the investigation report referred to in regulation 46 will be made available, in accordance with the provisions of that regulation, to the person who is seeking redress, or to his or her legal representative;
- (i) contains details of the right to notify the concern, in relation to the actions or omissions of the Welsh NHS body, to the Public Services Ombudsman for Wales;
- (j) offers the person who is seeking redress the opportunity to discuss the contents of the interim report with the responsible officer, designated in accordance with regulation 7, or a person acting on his or her behalf; and
- (k) is signed by the responsible officer or a person acting on his or her behalf.

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(2) Save where paragraph (3) applies, a Welsh NHS body must take all reasonable steps to send an interim report to the person who notified the concern within fifty working days beginning with the day on which it received notification of the concern.

(3) If a Welsh NHS body is not able to provide an interim report in accordance with paragraph (2), it must—

- (a) notify the person who notified the concern accordingly and explain the reason why; and
- (b) send the interim report as soon as reasonably practicable and within six months beginning with the day upon which it received notification of the concern.

(4) If exceptional circumstances mean that the six month period cannot be adhered to, the Welsh NHS body must advise the person who notified the concern of the reasons for the delay and when the interim report may be expected.

(5) The investigation report referred to in regulation 46 must be provided to the person who notified the concern, or his or her legal representative, as soon as reasonably practicable and not later than twelve months from the date that the Welsh NHS body received notification of the concern.

(6) 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 the investigation report may be expected.

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#### **Commencement Information**

**II** Reg. 40 in force at 1.10.2011, see [reg. 1\(2\)](#)

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

- reg. 40 coming into force by [S.I. 2011/704 reg. 1\(2\)](#)

**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)