
WELSH STATUTORY INSTRUMENTS

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

Legal advice and instruction of medical experts

47.—(1) Where a Welsh NHS body has determined that a qualifying liability exists, or may exist, in accordance with regulation 40 and this Part, the Welsh NHS body must ensure—

- (a) that legal advice is available to a person seeking redress under this Part in accordance with the following provisions of this regulation; and
- (b) if a medical expert or experts need to be instructed that such instruction is carried out jointly by the Welsh NHS body and the person who notified the concern.

(2) Legal advice must only be sought from firms of solicitors who have a recognised expertise in the field of clinical negligence. Firms will be recognised as having the necessary expertise if they have at least one partner or employee who is a member of the Law Society Clinical Negligence Panel (1) or the Action Against Medical Accidents Clinical Negligence Panel (2).

(3) A Welsh NHS body must ensure that legal advice without charge is available to the person who notified the concern in relation to the following matters—

- (a) the joint instruction of medical experts, including the seeking of clarification from such experts of issues arising from their reports;
- (b) any offer that is made in accordance with this Part;
- (c) any refusal to make such an offer; and
- (d) any settlement agreement that is proposed.

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- (1) The Law Society runs an accreditation scheme for solicitors and Fellows of the Institute of Legal Executives (FILEX) who specialise in clinical negligence cases. Solicitors and FILEX who are able to demonstrate, in accordance with the Law Society's published procedure, that they are sufficiently expert in clinical negligence matters are eligible to be listed as a member of the Law Society Clinical Negligence Panel.
- (2) Action Against Medical Accidents (AVMA) is a charity established to promote patient safety. It runs an accreditation scheme for solicitors and Fellows of the Institute of Legal Executives (FILEX). Solicitors and FILEX who can demonstrate that they meet AVMA's published criteria for demonstrating expertise in the field of clinical negligence can become members of AVMA's Clinical Negligence Panel.

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](#)

(4) Subject to any rights that a Welsh NHS body has to recover such expenditure from an English NHS body, the cost of such legal advice and costs arising from the instruction of such medical experts must be borne in their entirety by the Welsh NHS body.

Commencement Information

11 Reg. 47 in force at 1.10.2011, see [reg. 1\(2\)](#)

Status:

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Changes and effects yet to be applied to :

- reg. 47 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)