
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

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

Redress — communication of a decision

48. 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 made;
- (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, the Welsh NHS body must be advised 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 as that is the time when, in accordance with regulation 45(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—

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- (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.

Commencement Information

II Reg. 48 in force at 1.10.2011, see [reg. 1\(2\)](#)

⁽¹⁾ 2005 c. 9.

Status:

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Changes to legislation:

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Changes and effects yet to be applied to :

- reg. 48 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)