
WELSH STATUTORY INSTRUMENTS

2017 No. 1264

The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

PART 10

Requirements on service providers as to staffing

Fitness of staff

35.—(1) The service provider must not—

- (a) employ a person under a contract of employment to work at the service unless that person is fit to do so;
- (b) allow a volunteer to work at the service unless that person is fit to do so;
- (c) allow any other person to work at the service in a position in which he or she may in the course of his or her duties have regular contact with individuals who are receiving care and support or with other persons who are vulnerable unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to work at the service unless—

- (a) the person is of suitable integrity and good character;
- (b) the person has the qualifications, skills, competence and experience necessary for the work he or she is to perform;
- (c) the person is able by reason of their health, after reasonable adjustments are made, of properly performing the tasks which are intrinsic to the work for which he or she is employed or engaged;
- (d) ^{F1}... the person has provided full and satisfactory information or documentation, as the case may be, in respect of each of the matters specified in Part 1 of Schedule 1 and this information or documentation is available at the service for inspection by the service regulator;
- (e) [^{F2}subject to paragraph (10) of this regulation] where the person is employed by the service provider to manage the service, the person is registered as a social care manager with Social Care Wales;
- ^{F3}(f) subject to paragraph (11) of this regulation, where the person is employed by the service provider (whether as an employee or worker) other than as a manager in order to provide care and support to any person in connection with—
 - (i) a care home service,
 - (ii) a secure accommodation service,
 - (iii) a domiciliary support service in order to provide care and support to a person referred to in paragraph 8(1) of Schedule 1 to the Act, or
 - (iv) a residential family centre service,

the person is registered as a social care worker with Social Care Wales no later than the relevant date (see paragraph (8) for the meaning of “the relevant date”);]

[^{F4}(g) subject to paragraph (11) of this regulation, where the person is engaged under a contract for services, other than as a manager, to provide care and support to any person in connection with—

- (i) a care home service,
- (ii) a secure accommodation service,
- (iii) a domiciliary support service in order to provide care and support to a person referred to in paragraph 8(1) of Schedule 1 to the Act, or
- (iv) a residential family centre service,

the person is registered as a social care worker with Social Care Wales no later than the relevant date (see paragraph (8A) for meaning of “the relevant date”).]

(3) The certificate referred to in paragraphs 2 and 3 of Schedule 1 (referred to in this regulation as a DBS certificate) must be applied for by, or on behalf of the service provider, for the purpose of assessing the suitability of a person for the post referred to in paragraph (1). But this requirement does not apply if the person working at the service is registered with the Disclosure and Barring Service update service (referred to in this regulation as the DBS update service).

(4) Where a person being considered for a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person's DBS certificate status for the purpose of assessing the suitability of that person for that post.

(5) Where a person appointed to a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person's DBS certificate status at least annually.

(6) Where a person appointed to a post referred to in paragraph (1) is not registered with the DBS update service, the service provider must apply for a new DBS certificate in respect of that person within three years of the issue of the certificate applied for in accordance with paragraph (3) and thereafter further such applications must be made at least every three years.

(7) If any person working at the service is no longer fit to work at the service as a result of one or more of the requirements in paragraph (2) not being met, the service provider must—

- (a) take necessary and proportionate action to ensure that the relevant requirements are complied with;
- (b) where appropriate, inform—
 - (i) the relevant regulatory or professional body;
 - (ii) the Disclosure and Barring Service.

(8) In paragraph (2)(f) of this regulation, “the relevant date” is either—

- (a) six months from the date on which the person commenced their employment, or
- (b) such later date as the service regulator may in exceptional circumstances agree.

[^{F5}(8A) In paragraph (2)(g) of this regulation, “the relevant date” is either—

(a) 6 months from the date a person is first engaged under a contract for services to provide care and support in connection with—

- (i) a care home service ^{F6}...,
- (ii) a secure accommodation service,
- (iii) a domiciliary support service in order to provide care and support to a person referred to in paragraph 8(1) of Schedule 1 to the Act, ^{F7}...

[a residential family centre service, or]

^{F8}(iv)

(b) such later date as the service regulator may in exceptional circumstances agree.]

(9) In this regulation, “the Disclosure and Barring Service” (“*y Gwasanaeth Datgelu a Gwahardd*”) and “DBS” (“*GDG*”) mean the body established by [^{F9}section 87(1) of the Protection of Freedoms Act 2012].

^{F10}(9A)

[^{F11}(10) Until 1 April 2020, the requirement under paragraph (2)(e) for a manager to be registered with Social Care Wales does not apply to a manager who is appointed to manage an undertaking—

- (a) in respect of which a person is registered, or has applied to register, as the provider of a domiciliary support service, and
- (b) in respect of which a person was registered as carrying on a nurses agency under Part 2 of the Care Standards Act 2000 immediately before 2 April 2018 but was not also registered as carrying on a domiciliary care agency.]

[^{F12}(11) The requirement that a person is registered as a social care worker with Social Care Wales in accordance with paragraph (2)(f) and (g), does not apply where the person is employed (whether as an employee or worker) or engaged under a contract for services to work as a—

- (a) nurse, or
- (b) registered professional.]

Textual Amendments

- F1** Words in reg. 35(2)(d) omitted (1.11.2022) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) and (Coronavirus) (Revocation) Regulations 2022 (S.I. 2022/1074), regs. 1(2), **6(a)**
- F2** Words in reg. 35(2)(e) inserted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **9(a)**
- F3** Reg. 35(2)(f) substituted (1.10.2022) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(a)**
- F4** Reg. 35(2)(g) substituted (1.10.2022) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(b)**
- F5** Reg. 35(8A) inserted (1.4.2020) by The Regulation and Inspection of Social Care (Wales) Act 2016 and Regulated Services (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/389), regs. 1(2), **12(c)**
- F6** Words in reg. 35(8A)(a)(i) omitted (1.10.2022) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(c)(i)**
- F7** Word in reg. 35(8A)(a) omitted (1.10.2022) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(c)(ii)**
- F8** Reg. 35(8A)(a)(iv) inserted (1.10.2022) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022 (S.I. 2022/832), regs. 1(2), **3(c)(iii)**
- F9** Words in reg. 35(9) substituted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **9(b)**
- F10** Reg. 35(9A) omitted (1.11.2022) by virtue of The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) and (Coronavirus) (Revocation) Regulations 2022 (S.I. 2022/1074), regs. 1(2), **6(b)**
- F11** Reg. 35(10) inserted (1.4.2019) by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019 (S.I. 2019/757), regs. 1(2), **9(c)**

Changes to legislation: *There are currently no known outstanding effects for the The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, Section 35. (See end of Document for details)*

F12 Reg. 35(11) inserted (1.4.2020) by The Regulation and Inspection of Social Care (Wales) Act 2016 and Regulated Services (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/389), regs. 1(2), **12(d)**

Changes to legislation:

There are currently no known outstanding effects for the The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, Section 35.