
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 (“the Principal Regulations”).

Regulation 2(2) amends regulation 2 of the Principal Regulations (interpretation) by—

- defining “Special Health Authority” and inserting “Special Health Authority” into the definition of “Welsh NHS body”, so that the Principal Regulations will apply to Special Health Authorities in Wales but will not apply to cross-border Special Health Authorities;
- inserting a definition of “representative”.

Regulation 2(3) amends regulation 3 of the Principal Regulations (general principles for the handling and investigation of concerns) to make clear that responsible bodies must not provide personal data to a person who is not the data subject (unless that person is a representative of the data subject).

Regulation 2(4) makes technical amendments to regulation 12 of the Principal Regulations (persons who may notify concerns), clarifying that regulation 12(1)(a) is a reference to a patient and that references to a patient include a representative of that patient.

Regulation 2(5) makes amendments to regulation 14 of the Principal Regulations (matters and concerns excluded from consideration under the arrangements) so that—

- where the Public Services Ombudsman for Wales has recommended that the Welsh NHS body offers a form of redress under Part 6 of the Principal Regulations, the Welsh NHS body may undertake a further investigation of the concern under the Principal Regulations only for the purpose of determining whether a qualifying liability exists or may exist and to offer a form of redress in accordance with the recommendations of the Public Services Ombudsman for Wales;
- any concern resolved to the satisfaction of the person who notified it by the end of the next working day after the day on which it was notified is excluded from the remainder of the Principal Regulations (prior to this amendment, this only applied to concerns notified verbally);
- the reference to “civil proceedings” in sub-paragraph (i) explicitly includes the pre-action stage of those proceedings;
- the application of the Principal Regulations to Health Education and Improvement Wales (“HEIW”) is limited to the provision of health care by HEIW.

Regulation 2(6) makes a technical amendment to regulation 25 of the Principal Regulations (duty to consider redress). The amendment makes clear that an offer of financial redress under regulation 25 of the Principal Regulations may not be made when the Welsh NHS body considers that the value of the qualifying liability exceeds £25,000.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.wales.