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WELSH STATUTORY
INSTRUMENTS

2023 Rhif 281 (Cy. 42)

2023 No. 281 (W. 42)

**Y GWASANAETH IECHYD
GWLADOL, CYMRU**

**NATIONAL HEALTH
SERVICE, WALES**

Rheoliadau'r Gwasanaeth Iechyd
Gwladol (Trefniadau Pryderon,
Cwynion ac Iawn) (Cymru)
(Diwygio) 2023

The National Health Service
(Concerns, Complaints and Redress
Arrangements) (Wales)
(Amendment) Regulations 2023

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau'r Gwasanaeth Iechyd Gwladol (Trefniadau Pryderon, Cwynion ac Iawn) (Cymru) 2011 ("y Prif Reoliadau").

Mae rheoliad 2(2) yn diwygio rheoliad 2 o'r Prif Reoliadau (dehongli) drwy—

- ddiffinio "Awdurdod Iechyd Arbennig" a mewnosod "Awdurdod Iechyd Arbennig" yn y diffiniad o "corff GIG Cymru", fel y bydd y Prif Reoliadau yn gymwys i Awdurdodau Iechyd Arbennig yng Nghymru ond fel na fyddant yn gymwys i Awdurdodau Iechyd Arbennig trawsffiniol;
- mewnosod diffiniad o "cynrychiolydd".

Mae rheoliad 2(3) yn diwygio rheoliad 3 o'r Prif Reoliadau (egwyddorion cyffredinol ar gyfer trin ac ymchwilio i bryderon) i'w gwneud yn glir na chaiff cyrff cyfrifol ddarparu data personol i berson nad yw'n destun y data (oni bai bod y person hwnnw yn gynrychiolydd i destun y data).

Mae rheoliad 2(4) yn gwneud diwygiadau technegol i reoliad 12 o'r Prif Reoliadau (personau y caniateir iddynt hysbysu pryderon) i egluro bod rheoliad 12(1)(a) yn gyfeiriad at glaf a bod cyfeiriadau at glaf yn cynnwys cynrychiolydd i'r claf hwnnw.

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.

Mae rheoliad 2(5) yn gwneud diwygiadau i reoliad 14 o'r Prif Reoliadau (materion a phryderon a eithrir rhag eu hystyried o dan y trefniadau)—

- fel y caiff y corff GIG Cymru, pan fo Ombwdsmon Gwasanaethau Cyhoeddus Cymru wedi argymhell bod y corff GIG Cymru yn cynnig ffurf o iawn o dan Ran 6 o'r Prif Reoliadau, ymgymryd ag ymchwiliad pellach i'r pryder o dan y Prif Reoliadau dim ond at ddiben penderfynu a oes atebolrwydd cymwys yn bodoli neu a all fodoli ac i gynnig ffurf o iawn yn unol ag argymhellion Ombwdsmon Gwasanaethau Cyhoeddus Cymru;
- fel bod unrhyw bryder a ddatrysir, erbyn diwedd y diwrnod gwaith nesaf ar ôl y diwrnod y'i hysbyswyd, er boddhad i'r person a'i hysbysodd wedi ei eithrio o weddill y Prif Reoliadau (cyn y diwygiad hwn, nid oedd hyn ond yn gymwys i bryderon a hysbyswyd ar lafar);
- fel bod y cyfeiriad at "achos sifil" yn is-baragraff (ff) yn cynnwys yn benodol y cyfnod cyn gweithredu ar gyfer yr achos hwnnw;
- fel bod cymhwysiad y Prif Reoliadau i Addysg a Gwella Iechyd Cymru ("AaGIC") wedi ei gyfyngu i ddarparu gofal iechyd gan AaGIC.

Mae rheoliad 2(6) yn gwneud diwygiad technegol i reoliad 25 o'r Prif Reoliadau (dyletswydd i ystyried iawn). Mae'r diwygiad yn ei gwneud yn glir na chaniateir gwneud cynnig o iawn ariannol o dan reoliad 25 o'r Prif Reoliadau pan fydd y corff GIG Cymru yn ystyried bod gwerth yr atebolrwydd cymwys yn fwy na £25,000.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ ac mae wedi ei gyhoeddi ar www.llyw.cymru.

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 subparagraph (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.

2023 Rhif 281 (Cy. 42)

**Y GWASANAETH IECHYD
GWLADOL, CYMRU**

**Rheoliadau'r Gwasanaeth Iechyd
Gwladol (Trefniadau Pryderon,
Cwynion ac Iawn) (Cymru)
(Diwygio) 2023**

Gwnaed 7 Mawrth 2023
Gosodwyd gerbron *Senedd*
Cymru 9 Mawrth 2023
Yn dod i rym 1 Ebrill 2023

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir gan adrannau 113(2) a (3), a 115 o Ddeddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003(1), ac adrannau 1, 11(2) a (3), a 12(1) o Fesur Gwneud Iawn am Gamweddau'r GIG (Cymru) 2008(2).

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Trefniadau Pryderon, Cwynion ac Iawn) (Cymru) (Diwygio) 2023.

(2) Daw'r Rheoliadau hyn i rym ar 1 Ebrill 2023.

2023 No. 281 (W. 42)

**NATIONAL HEALTH
SERVICE, WALES**

**The National Health Service
(Concerns, Complaints and Redress
Arrangements) (Wales)
(Amendment) Regulations 2023**

Made 7 March 2023
Laid before Senedd Cymru 9 March 2023
Coming into force 1 April 2023

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 113(2) and (3), and 115 of the Health and Social Care (Community Health and Standards) Act 2003(1), and sections 1, 11(2) and (3), and 12(1) of the NHS Redress (Wales) Measure 2008(2).

Title and commencement

1.—(1) The title of these Regulations is the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) (Amendment) Regulations 2023.

(2) These Regulations come into force on 1 April 2023.

(1) 2003 p. 43. Mewnosodwyd adran 113(2)(d) gan adran 10 o Fesur Gwneud Iawn am Gamweddau'r GIG (Cymru) 2008 (mccc 1). Diddymwyd adran 113(3)(b) gan adran 95 o Ddeddf Iechyd a Gofal Cymdeithasol 2008 (p. 14) a pharagraff 45 o Atodlen 5 iddi, a chan adran 166 o'r Ddeddf honno ac Atodlen 15 iddi. Mae diwygiadau eraill, ond nid yw'r un ohonynt yn berthnasol i'r Rheoliadau hyn. Mae swyddogaethau Cynulliad Cenedlaethol Cymru yn arferadwy bellach gan Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraff 30 o Atodlen 11 iddi.
(2) 2008 mccc 1.

(1) 2003 c. 43. Section 113(2)(d) was inserted by section 10 of the NHS Redress (Wales) Measure 2008 (nawm 1). Section 113(3)(b) was repealed by section 95 of, and paragraph 45 of Schedule 5 to, and section 166 of, and Schedule 15 to, the Health and Social Care Act 2008 (c. 14). There are other amendments, but none is relevant to these Regulations. The functions of the National Assembly for Wales are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
(2) 2008 nawm 1.

Diwygiadau i Reoliadau'r Gwasanaeth Iechyd Gwladol (Trefniadau Pryderon, Cwynion ac Iawn) (Cymru) 2011

2.—(1) Mae Rheoliadau'r Gwasanaeth Iechyd Gwladol (Trefniadau Pryderon, Cwynion ac Iawn) (Cymru) 2011(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2(1)—

- (a) yn y diffiniad o “corff GIG Cymru”—
 - (i) hepgorer y “neu” ar ôl is-baragraff (a);
 - (ii) ar ôl is-baragraff (b) mewnosoder—
“neu
 - (c) Awdurdod Iechyd Arbennig;”;

(b) yn y lleoedd priodol mewnosoder—

“ystyr “Awdurdod Iechyd Arbennig” (“*Special Health Authority*”) yw corff a sefydlwyd gan orchymyn a wnaed o dan adran 22 o Ddeddf 2006; ond nid yw'n cynnwys unrhyw Awdurdod Iechyd Arbennig trawsffiniol (o fewn yr ystyr a roddir i “cross-border Special Health Authority” yn adran 8A(5) o Ddeddf 2006);

mae i “cynrychiolydd” (“*representative*”) yr ystyr a roddir iddo yn rheoliad 12(2);”.

(3) Yn rheoliad 3—

- (a) daw'r ddarpariaeth bresennol yn baragraff (1);
- (b) ar ôl y paragraff hwnnw mewnosoder—

“(2) Wrth gydymffurfio â'i rwymedigaethau o dan y Rheoliadau hyn, ni chaiff corff cyfrifol ddatgelu data personol i berson nad yw'n destun y data, oni bai bod y person hwnnw yn gynrychiolydd i destun y data.

(3) Ym mharagraff (2), mae i “testun y data” a “data personol” yr un ystyr â “data subject” a “personal data” yn Neddf Diogelu Data 2018 (gweler adran 3 o'r Ddeddf honno).”

(4) Yn rheoliad 12—

- (a) ym mharagraff (1)(a) yn lle “person sy'n cael, neu sydd wedi cael, gwasanaethau gan gorff cyfrifol” rhodder “claf”;
- (b) ym mharagraff (9), ar ôl “iawn” mewnosoder “, neu at glaf;”.

(5) Yn rheoliad 14(1)—

- (a) yn is-baragraff (c), ar ôl “Cymru” mewnosoder “, oni bai bod Ombwdsmon Gwasanaethau Cyhoeddus Cymru wedi argymhell bod y corff GIG Cymru yn cynnig ffurf o iawn o dan Ran 6 o'r Rheoliadau hyn, ac yn yr achos hwnnw, dim ond at ddiben penderfynu a oes atebolrwydd cymwys yn

Amendments to the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011

2.—(1) The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011(1) are amended as follows.

(2) In regulation 2(1)—

- (a) in the definition of “Welsh NHS body”—
 - (i) omit the “or” after sub-paragraph (a);
 - (ii) after sub-paragraph (b) insert—
“or
 - (c) a Special Health Authority;”;

(b) at the appropriate places insert—

““representative” (“*cynrychiolydd*”) has the meaning given in regulation 12(2);

“Special Health Authority” (“*Awdurdod Iechyd Arbennig*”) means a body established by an order made under section 22 of the 2006 Act; but does not include any cross-border Special Health Authority (within the meaning of section 8A(5) of the 2006 Act);”.

(3) In regulation 3—

- (a) the existing provision becomes paragraph (1);
- (b) after that paragraph insert—

“(2) In complying with its obligations under these Regulations, a responsible body must not disclose personal data to a person who is not the data subject, unless that person is a representative of the data subject.

(3) In paragraph (2), “data subject” and “personal data” have the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

(4) In regulation 12—

- (a) in paragraph (1)(a) for “a person who is receiving or has received services from a responsible body” substitute “a patient”;
- (b) in paragraph (9), after “redress” insert “, or a patient;”.

(5) In regulation 14(1)—

- (a) in sub-paragraph (c), after “Wales” insert “, unless the Public Services Ombudsman for Wales has recommended that the Welsh NHS body offers a form of redress under Part 6 of these Regulations, in which case the Welsh NHS body may undertake a further investigation of the concern under these

bodoli neu a all fodoli, ac i gynnig ffurf o iawn yn unol ag argymhellion Ombwdsmon Gwasanaethau Cyhoeddus Cymru, y caiff y corff GIG Cymru ymgymryd ag ymchwiliad pellach i'r pryder o dan y Rheoliadau hyn;”;

- (b) yn is-baragraff (dd) hepgorer y geiriau o'r cyfeiriad cyntaf at “a” hyd at “ac”;
- (c) yn is-baragraff (ff), ar ôl “sifil” mewnosoder “(gan gynnwys y cyfnod cyn gweithredu ar gyfer yr achos hwnnw)”;
- (d) hepgorer y “neu” ar ôl is-baragraff (ff);
- (e) ar ôl is-baragraff (g) mewnosoder—
“; neu
(ng) pan mai Addysg a Gwella Iechyd Cymru yw'r corff cyfrifol, pryder nad yw'n ymwneud â darparu gofal iechyd gan y corff hwnnw.”

(6) Yn rheoliad 25(2), ar y dechrau mewnosoder “Yn ddarostyngedig i reoliad 29(2),”.

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;”;

- (b) in sub-paragraph (f) omit the words from the first reference to “is” to “and”;
- (c) in sub-paragraph (i), after “proceedings” insert “(including the pre-action stage of those proceedings)”;
- (d) omit the “or” after sub-paragraph (i);
- (e) after sub-paragraph (j) insert—
“; or
(k) where the responsible body is Health Education and Improvement Wales, a concern which does not relate to the provision of health care by that body.”

(6) In regulation 25(2), at the beginning insert “Subject to regulation 29(2),”.

Eluned Morgan

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru
7 Mawrth 2023

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Argraffwyd a chyhoeddwyd yn y DU gan Y Llyfrfa Cyf dan awdurdod a goruchwyliaeth Jeff James, Rheolwr Llyfrfa Ei Fawrhydi ac Argraffydd Deddfau Senedd y Brenin.

Minister for Health and Social Services, one of the
Welsh Ministers
7 March 2023

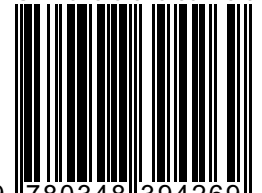
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