
WELSH STATUTORY INSTRUMENTS

2024 No. 388

The Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024

PART 8

Requirements on service providers as to staffing

Fitness of staff

31.—(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 that person may in the course of that person's 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 that person 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 that person is employed or engaged;
- (d) 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) where the person is employed by the service provider to manage the service, the person is registered as a social care manager with the workforce regulator no later than the relevant date (see paragraph (8) for the meaning of “the relevant date”);
- (f) subject to paragraph (11), 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, the person is registered as a social care worker with the workforce regulator no later than the relevant date (see paragraph (9) for the meaning of “the relevant date”);
- (g) subject to paragraph (11), 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 the service, the person is registered as a social care worker with the workforce regulator no later than the relevant date (see paragraph (10) for meaning of “the relevant date”).

(3) 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 DBS up-date service.

(4) Where a person being considered for a post referred to in paragraph (1) is registered with the DBS up-date 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 up-date 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 up-date 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)(e), “the relevant date” is 31 March 2025.

(9) In paragraph (2)(f), “the relevant date” is the later date of either—

- (a) 30 September 2026,
- (b) six months from the date on which the person commenced their employment, or
- (c) such later date as the service regulator may in exceptional circumstances agree.

(10) In paragraph (2)(g), “the relevant date” is the later date of either—

- (a) 30 September 2026,
- (b) six months from the date on which the person was first engaged under a contract for services to provide care and support, or
- (c) such later date as the service regulator may in exceptional circumstances agree.

(11) The requirement that a person is registered as a social care worker with the workforce regulator 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) a registered professional.

(12) In this regulation—

“nurse” (“*nyrs*”) means a qualified nurse or qualified midwife registered with the Nursing and Midwifery Council in accordance with article 5 of the Nursing and Midwifery Order 2001(1);
“registered professional” (“*proffesiynolyn cofrestredig*”) has the meaning given in paragraph 1 of Schedule 3 to the Health Professions Order 2001(2).

(1) S.I. 2002/253.
(2) S.I. 2002/254.