

**NATIONAL ASSEMBLY FOR WALES**

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**S T A T U T O R Y   I N S T R U M E N T S**

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**2006 No. (W. )**

**SOCIAL CARE, WALES**

**CHILDREN AND YOUNG  
PERSONS, WALES**

**The Care Standards Act 2000 and  
the Children Act 1989 (Regulatory  
Reform and Complaints) (Wales)  
Regulations 2006**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend various regulations made under the Children Act 1989 (“the 1989 Act”) and the Care Standards Act 2000 (“the 2000 Act”). Provision is inserted which requires registered persons to establish and maintain systems for monitoring, reviewing and improving the quality of care provided by the service at least once a year. Provision is made for the registered person to ascertain the views of service users and their representatives, purchasing authorities and staff of the service. Reports of this review must be prepared by the registered person. At the request of the National Assembly for Wales (the National Assembly) the registered person must undertake an assessment of the service provided. The National Assembly can require the registered person to take such action as the National Assembly considers is necessary in order to meet statutory provision and the registered person must advise the National Assembly when this action has been completed. Amendment is also made to the requirements in relation to the handling of complaints by registered persons. A failure to meet any of these requirements will be an offence.

Regulation 2 amends the Care Homes (Wales) Regulations 2002. The amendment in regulation 2(a) is to correct a drafting error; Regulation 3 amends the Children’s Homes (Wales) Regulations 2002; Regulation 4 amends the Child Minding and Day Care (Wales) Regulations 2002; Regulation 5 amends the

Fostering Services (Wales) Regulations 2003;  
Regulation 6 amends the Residential Family Centres  
(Wales) Regulations 2003; Regulation 7 amends the  
Nurses Agencies (Wales) Regulations 2003;  
Regulation 8 amends the Adult Placement Schemes  
(Wales) Regulations 2004; Regulation 9 amends the  
Domiciliary Care Agencies (Wales) Regulations 2004;  
Regulation 10 amends the Adoption Support Agencies  
(Wales) Regulations 2005; and Regulation 11 amends  
an error in the Registration of Social Care and  
Independent Health Care (Wales) Regulations 2002.

STATUTORY INSTRUMENTS  
2006 No. (W. )

**SOCIAL CARE, WALES**

**CHILDREN AND YOUNG  
PERSONS, WALES**

The Care Standards Act 2000 and  
the Children Act 1989 (Regulatory  
Reform and Complaints) (Wales)  
Regulations 2006

*Made* 2006

*Coming into force* 1 January 2007

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred upon it by sections 23(2)(a) and (9), 59(2), 79C and 104(4) of and paragraph 12 of Schedule 2 to the Children Act 1989<sup>(1)</sup>; sections 14(1)(d), 16, 22, 25, 33, 42(1), 48(1), 50 and 118(1) and (5) to (7) of the Care Standards Act 2000<sup>(2)</sup>; and sections 2(6)(b), 9(1) and (3), 10 and 140(1) of the Adoption and Children Act 2002<sup>(3)</sup>:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Care Standards Act 2000 and the Children Act 1989 (Regulatory Reform and Complaints) (Wales) Regulations 2006 and will come into force on 1 January 2007.

(2) These Regulations apply in relation to Wales.

**Amendment of the Care Homes (Wales) Regulations 2002**

2. The Care Homes (Wales) Regulations 2002<sup>(4)</sup> are amended as follows —

- (a) In regulation 3(3) substitute “paragraph (1)(d)” with “paragraph (1)(f)”
- (b) Substitute regulation 25 (Review of Quality of Care) with —

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<sup>(1)</sup> 1989 c.41: section 79C was inserted by section 79 of the Care Standards Act 2000 (c.14).

<sup>(2)</sup> 2000 c.14.

<sup>(3)</sup> 2002 c.38.

<sup>(4)</sup> S.I. 2002/324 (W.37).

### **“Review of Quality of Care**

**25.**—(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to service users.

(2) The system established under paragraph (1) must make provision for —

- (a) the quality of care to be reviewed at least annually; and
- (b) the registered person to obtain the views of —
  - (i) service users;
  - (ii) representatives of service users;
  - (iii) any local authority which has arranged for the accommodation of a service user at the care home; and
  - (iv) staff employed at the care home on the quality of care provided, as part of any review undertaken.

(3) Following a review of the quality of care, the registered person must within 28 days prepare a report of that review and make a copy of the available report in an appropriate format when requested by —

- (a) service users;
- (b) representatives of service users;
- (c) any local authority which has arranged for the accommodation of a service user at the care home;
- (d) staff employed at the care home;
- (e) the National Assembly.

### **Assessment of Service**

**25A.**—(1) The National Assembly can at any time request the registered person to undertake an assessment of the service provided to service users at the care home.

(2) Within 28 days of receiving a request under paragraph (1) the registered person must supply to the appropriate office of the National Assembly the assessment in the form required by the National Assembly.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

## **Compliance Notification**

**25B.**—(1) The National Assembly can at any time notify the registered person of the action that in the National Assembly’s view the registered person must take to ensure compliance with the Act and any regulations made under it.

(2) The National Assembly can specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must advise the appropriate office of the National Assembly of the completion of any action required under paragraph (1).”.

(c) Substitute regulation 23 (Complaints) with —

### **“Complaints**

**23.**—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the registered person by a service user or person acting on the service user’s behalf.

(2) The complaints procedure must be appropriate to the needs of service users.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of the complaints procedure and must take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to —

- (a) service users;
- (b) representatives of service users; and
- (c) any authority which has arranged for the accommodation of a service user at the care home.

(5) The registered person must ensure that the staff employed at the care home are informed about, given a copy of and appropriately trained in the operation of the complaints procedure.

- (6) The complaints procedure must include —
- (a) the name, address and telephone number of the appropriate office of the National Assembly; and
  - (b) the procedure, if any, that has been notified to the registered person by the National Assembly for the making of complaints to the National Assembly.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the National Assembly.

(9) The approval of the National Assembly under (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the management of the home.

### **Handling Complaints**

**23A.**—(1) The complaints procedure prepared under regulation 23 must be operated in accordance with the principle that the welfare of the service user is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of the service user.

(2) When a complaint is made, the registered person must advise the complainant of their right to at any time complain to the National Assembly or, where relevant, to the authority which has arranged for the accommodation of the service user at the care home.

(3) The registered person must inform the complainant of the availability of any advocacy services which the registered person believes may be of assistance to the complainant. Where relevant and the complainant is a child, the registered person must advise the complainant that a local authority receiving a complaint must provide information and assistance for complainants, and must in particular offer help in obtaining an advocate.

(4) The registered person can in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding

twelve months and the action taken in response to each complaint.

### **Local Resolution**

**23B.**—(1) Complaints that are dealt with locally must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the National Assembly or any authority who has arranged for the accommodation of a service user at the care home, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

### **Formal Consideration**

**23C.**—(1) Complaints that are dealt with by way of formal consideration must be resolved as soon as reasonably practicable and in any event within 35 days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the conclusions and the action to be taken as a result.

(3) The registered person must send a copy of the written response to a complaint to the appropriate office of the National Assembly and any authority which has arranged for the accommodation of the service user at the care home.

(4) .

(4) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the National Assembly of the complaint and the reasons for the delay in resolution.

(5) The time limit in paragraph (1) may be extended with the agreement of the complainant.

(6) Where the complainant is a child the registered person must appoint an independent

person who shall take part in any consideration of the complaint by the registered person.

**Complaints subject to concurrent consideration**

**23D.**-(1) Where a complaint relates to any matter-

(a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or

(b) about which the registered person is taking or is proposing to take disciplinary proceedings, or

(c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or

(d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or

(e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000,

the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints shall be referred to for the purposes of this regulation as "complaints subject to concurrent consideration".

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the registered person that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.”.



## **Amendment of the Children’s Homes (Wales) Regulations 2002**

**3.** The Children’s Homes (Wales) Regulations 2002(1) are amended as follows —

- (a) Substitute regulation 33 (Review of quality of care) with—

### **“Review of Quality of Care**

**33**–(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to children.

(2) The system established under paragraph (1) must make provision for —

- (a) the quality of care to be reviewed at least annually;
- (b) the matters set out in Schedule 6 to be monitored and reviewed; and
- (c) the registered person to obtain the views of —
  - (i) children accommodated at the children’s home;
  - (ii) subject to paragraph (3) the parent of any child accommodated in the children’s home;
  - (iii) the placing authority of any child accommodated in the children’s home; and
  - (iv) staff employed at the care home

on the quality of care provided, as part of any review undertaken.

(3) The registered person must not comply with paragraph (2)(c)(ii) or (4)(b) in relation to a child if there is a court order that restricts or limits contact between the child and his or her parents and it is necessary to restrict communication for the purpose of safeguarding or promoting the welfare of the child.

(4) Following a review of the quality of care, the registered person must within 28 days prepare a report of that review and make a copy of the available report in an appropriate format when requested by —

- (a) service users;
- (b) subject to paragraph (3) the parent of any child accommodated in the children’s home;

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(1) S.I. 2002 No.327 (W.40).

- (c) the placing authority of any child accommodated in the children’s home;
- (d) staff employed at the children’s home;
- (e) the National Assembly.

### **Assessment of Service**

**33A.**—(1) The National Assembly can at any time request the registered person to undertake an assessment of the service provided to children accommodated in the children’s home.

(2) Within 28 days of receiving a request under paragraph (1) the registered person must supply to the appropriate office of the National Assembly the assessment in the form required by the National Assembly.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

### **Compliance Notification**

**33B.**—(1) The National Assembly can at any time notify the registered person of the action that in the view of the National Assembly the registered person must take to ensure compliance with the Act and any regulations made under it.

(2) The National Assembly can specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must notify the appropriate office of the National Assembly of the completion of any action required under paragraph (1).”.

- (b) Substitute regulation 24 (Representations and Complaints) with —

### **“Complaints**

**24.**—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the registered person by or on behalf of children accommodated in the children’s home.

(2) The complaints procedure must be appropriate to the needs of children accommodated in the home.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of

the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to—

- (a) children accommodated in the home;
- (b) their parents; and
- (c) the placing authority of any child accommodated in the children's home;

(5) The registered person must ensure that the staff employed at the children's home are informed about, given a copy of and appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include —

- (a) the name, address and telephone number of the appropriate office of the National Assembly; and
- (a) the procedure, if any, that has been notified to the registered person by the National Assembly for the making of complaints to the National Assembly.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the National Assembly.

(9) The approval of the National Assembly under (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the management of the home.

### **Handling Complaints**

**24A.**—(1) The complaints procedure prepared under regulation 24 must be operated in accordance with the principle that the welfare of the child is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of the child.

(2) When a complaint is made, the registered person must advise the complainant of their right to at any time complain to the National Assembly or, where relevant, to the placing authority.

(3) The registered person must inform the complainant of the availability of any advocacy services which the registered person believes

may be of assistance to the complainant. Where relevant and the complainant is a child, the registered person must advise the complainant that a local authority receiving a complaint must provide information and assistance for complainants, and must in particular offer help in obtaining an advocate.

(4) The registered person can in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

### **Local Resolution**

**24B.**—(1) Complaints that are dealt with locally must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the National Assembly or any authority who has arranged for the accommodation of a child at the children's home, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

### **Formal Consideration**

**24C.**—(1) Complaints that are dealt with by way of formal consideration must be resolved as soon as reasonably practicable and in any event within 35 days of the request for formal consideration.

(2) The registered person must appoint an independent person who shall take part in any

consideration of the complaint by the registered person.

(3) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the conclusions and the action to be taken as a result.

(4) The registered person must send a copy of the written response to a complaint to the appropriate office of the National Assembly and any placing authority of any child accommodated in the children's home.

(5) The time limit in paragraph (1) may be extended with the agreement of the complainant.

(6) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the National Assembly of the complaint and the reasons for the delay in resolution.

#### **Complaints subject to concurrent consideration**

**24D.**-(1) Where a complaint relates to any matter-

(a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or

(b) about which the registered person is taking or is proposing to take disciplinary proceedings, or

(c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or

(d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or

(e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000,

the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints shall be referred to for the purposes of this regulation as "complaints subject to concurrent consideration".

(2) The consideration of complaints subject to

concurrent consideration may be discontinued if at any time it appears to the registered person that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.”.

#### **Amendment of the Child Minding and Day Care (Wales) Regulations 2002**

**4.** The Child Minding and Day Care (Wales) Regulations 2002<sup>(1)</sup> are amended as follows —

(a) After regulation 3 (Statement of Purpose) insert —

##### **“Review of Quality of Care**

**3A.**—(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to children.

(2) The system established under paragraph (1) must make provision for —

- (a) the quality of care to be reviewed at least annually; and
- (b) the registered person to obtain the views of —
  - (i) relevant children;
  - (ii) the parents of relevant children;
  - (iii) a local authority arranging for child minding or day care for a relevant child; and
  - (iv) persons employed to look after relevant children,

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<sup>(1)</sup> S.I. 2002 No.812 (W.92).

on the quality of care provided, as part of any review undertaken.

(3) Following a review of the quality of care, the registered person must within 28 days prepare a report of that review and make a copy of the available report in an appropriate format when requested by —

- (a) the parents of relevant children;
- (b) a local authority arranging for child minding or day care for a relevant child; and
- (c) persons employed to look after relevant children; and
- (d) the National Assembly.

### **Assessment of Service**

**3B.**—(1) The National Assembly can at any time request the registered person to undertake an assessment of the service provided to relevant children.

(2) Within 28 days of receiving a request under paragraph (1) the registered person must supply to the appropriate office of the National Assembly the assessment in the form required by the National Assembly.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

### **Compliance Notification**

**3C.**—(1) The National Assembly can at any time notify the registered person of the action that in the National Assembly’s view the registered person must take to ensure compliance with the Act and any regulations made under it.

(2) The National Assembly can specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must advise the appropriate office of the National Assembly of the completion of any action required under paragraph (1).”.

- (b) Substitute regulation 14 (Complaints) with —

### **“Complaints**

**14.**—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to

the registered person by or on behalf of relevant children.

(2) The complaints procedure must be appropriate to the needs of children.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to —

- (a) relevant children;
- (b) their parents; and
- (c) a local authority arranging for child minding or day care for a relevant child.

(5) The registered person must ensure that the staff employed to look after relevant children are informed about, given a copy of and appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include —

- (a) the name, address and telephone number of the appropriate office of the National Assembly; and
- (b) the procedure, if any, that has been notified to the registered person by the National Assembly for the making of complaints to the National Assembly.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the National Assembly.

(9) The approval of the National Assembly under (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the provision of care to relevant children.

### **Handling Complaints**

**14A.**—(1) The complaints procedure prepared under regulation 14 must be operated in accordance with the principle that the welfare of



the child is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of the child.

(2) When a complaint is made, the registered person must advise the complainant of their right to at any time complain to the National Assembly or, where relevant, to the local authority which has arranged for the provision of child minding or day care for a relevant child.

(3) The registered person must inform the complainant of the availability of any advocacy services which the registered person believes may be of assistance to the complainant. Where relevant and the complainant is a child, the registered person must advise the complainant that a local authority receiving a complaint must provide information and assistance for complainants, and must in particular offer help in obtaining an advocate.

(4) The registered person can in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

### **Local Resolution**

**14B.**—(1) Complaints that are dealt with locally must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the National Assembly or any local authority which has arranged for the provision of child minding or day care for a relevant child, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

## **Formal Consideration**

**14C.**—(1) Complaints that are dealt with by way of formal consideration must be resolved as soon as reasonably practicable and in any event within 35 working days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the conclusions and the action to be taken as a result.

(3) The registered person must send a copy of a written response to a complaint to the appropriate office of the National Assembly and any local authority which has arranged for the provision of child minding or day care for a relevant child.

(4) The time limit in paragraph (1) may be extended with the agreement of the complainant

(5) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the National Assembly of the complaint and reasons for the delay in resolution.

## **Complaints subject to Concurrent Consideration**

**14D.**—(1) Where a complaint relates to any matter-

(a) about which the complainant has stated in writing that he or she intends to take

proceedings in any court or tribunal, or

(b) about which the registered person is taking or is proposing to take disciplinary proceedings, or

(c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or

(d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or

(e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000,

the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be

handled. Such complaints shall be referred to for the purposes of this regulation as "complaints subject to concurrent consideration".

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the registered person that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.”.

### **Amendment of the Fostering Services (Wales) Regulations 2003**

5. The Fostering Services (Wales) Regulations 2003<sup>(1)</sup> are amended as follows —

- (a) Substitute regulation 42(Review of quality of care) with—

#### **“Review of Quality of Care**

**42.**—(1) The fostering service provider must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to children placed by the fostering agency.

(2) The system established under paragraph (1) must make provision for —

- (a) the quality of care to be reviewed at least annually;
- (b) the matters set out in Schedule 7 to be monitored at appropriate intervals; and
- (c) the fostering service provider to obtain the views of —
- (i) children placed by it;

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<sup>(1)</sup> S.I. 2003 No.237 (W.35).

- (ii) their parents;
- (iii) any foster parent or prospective foster parent of the fostering service
- (iv) the local authority of any child placed by it; and
- (v) persons working for the purposes of the independent fostering agency

on the quality of foster care provided, as part of any review undertaken.

(3) Following a review of the quality of foster care, the fostering service provider must within 28 days prepare a report of that review and make a copy of the available report in an appropriate format when requested by —

- (a) children placed by it;
- (b) their parents;
- (c) any foster parent or prospective foster parent of the fostering service;
- (d) the local authority of any child placed by it;
- (e) persons working for the purposes of the independent fostering agency; and
- (f) the National Assembly.

### **Assessment of Service**

**42A.**—(1) The National Assembly can at any time request the fostering service provider to undertake an assessment of the service provided to children placed by it.

(2) Within 28 days of receiving a request under paragraph (1) the fostering service provider must supply to the appropriate office of the National Assembly the assessment in the form required by the National Assembly.

(3) The fostering service provider must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

### **Compliance Notification**

**42B.**—(1) The National Assembly can at any time notify the fostering service provider of the action that in the National Assembly's view the fostering service provider must take to ensure compliance with the 1989 Act and the 2000 Act and any regulations made under them..

(2) The National Assembly can specify the timescale within which the fostering service

provider must take the action required under paragraph (1).

(3) The fostering service provider must notify the appropriate office of the National Assembly of the completion of any action required under paragraph (1).”.

- (b) Substitute regulation 18 (Independent fostering agencies - complaints and representations) with —

### **“Complaints**

**18.—**(1) The fostering service provider must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the fostering service provider by or on behalf of children placed by it or foster parents.

(2) The complaints procedure must be appropriate to the needs of children placed by the fostering service provider.

(3) The complaints procedure must include provision for the consideration of complaints made about the fostering service provider.

(4) The fostering service provider must ensure that the following persons are aware of the existence of the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to —

- (a) children placed by it;
- (b) their parents;
- (c) foster parents; and
- (d) the local authority of any child placed by it.

(5) The fostering service provider must ensure that the persons working for the purposes of the independent fostering agency are informed about, given a copy of and appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include —

- (a) the name, address and telephone number of the appropriate office of the National Assembly; and
- (b) the procedure, if any, that has been notified to the fostering service provider by the National Assembly for the making of complaints to the National Assembly.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the National Assembly.

(9) The approval of the National Assembly under (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the management of the independent fostering agency.

### **Handling Complaints**

**18A.**—(1) The complaints procedure prepared under to regulation 18 must be operated in accordance with the principle that the welfare of the child is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of t the child.

(2) When a complaint is made, the fostering service provider must advise the complainant of their right to at any time complain to the National Assembly or, where relevant, to the local authority of any child placed by it.

(3) The fostering service provider must inform the complainant of the availability of any advocacy services which the fostering service provider believes may be of assistance to the complainant. Where relevant and the complainant is a child, the fostering service provider must advise the complainant that a local authority receiving a complaint must provide information and assistance for complainants, and must in particular offer help in obtaining an advocate.

(4) The fostering service provider can in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The fostering service provider must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The fostering service provider must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

### **Local Resolution**

**18B.**—(1) Complaints that are dealt with locally must be resolved by the fostering service provider as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The fostering service provider must, at the request of the National Assembly or the local authority of any child placed by it, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

### **Formal Consideration**

**18C.**—(1) Complaints that are dealt with by way of formal consideration must be resolved as soon as reasonably practicable and in any event within 35 days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the fostering service provider to the complainant and must summarise the nature and substance of the complaint, the conclusions and the action to be taken as a result.

(3) The fostering service provider must send a copy of a written response to a complaint to the appropriate office of the National Assembly and the local authority of any child placed by it.

(4) The time limit in paragraph (1) may be extended with the agreement of the complainant.

(5) If the complaint has not been resolved within 35 days of the request for formal consideration, the fostering service provider must notify the appropriate office of the National Assembly of the complaint and reasons for the delay in resolution.

(6) Where the complainant is a child the fostering service provider must appoint an independent person who shall take part in any consideration of the complaint by the registered person.”.

### **Complaints subject to concurrent consideration**

**18D.**-(1) Where a complaint relates to any matter-

(a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or

(b) about which the fostering service provider is taking or is proposing to take disciplinary proceedings,

or

(c) about which the fostering service provider has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or

(d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or

(e) about which the fostering service provider has been

notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000,

the fostering service provider must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints shall be referred to for the purposes of this regulation as "complaints subject to concurrent consideration".

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the fostering service provider that to continue would compromise or prejudice the other consideration.

(3) Where the fostering service provider decides to discontinue the consideration of a complaint under paragraph (2) the fostering service provider must give notice of that decision to the complainant.

(4) Where the fostering service provider discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the fostering service provider must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The fostering service provider must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.”.



## **Amendment of the Residential Family Centres (Wales) Regulations 2003**

6. The Residential Family Centres (Wales) Regulations 2003<sup>(1)</sup> are amended as follows —

- (a) Substitute regulation 23 (Review of quality of care) with —

### **“Review of Quality of Care**

**23.**—(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to residents.

(2) The system established under paragraph (1) must make provision for —

- (a) the quality of care to be reviewed at least annually; and
- (b) the registered person to obtain the views of —
  - (i) residents;
  - (ii) representatives of residents;
  - (iii) any local authority who has arranged for the accommodation of a resident at the residential family centre; and
  - (iv) staff employed at the residential family centre

on the quality of care provided, as part of any review undertaken.

(3) Following a review of the quality of care, the registered person must within 28 days prepare a report of that review and make a copy of the available report in an appropriate format when requested by —

- (a) residents;
- (b) representatives of residents;
- (c) any local authority who has arranged for the accommodation of a resident at the residential family centre;
- (d) staff employed at the residential family centre; and
- (e) the National Assembly.

### **Assessment of Service**

**23A.**—(1) The National Assembly can at any time request the registered person to undertake an assessment of the service provided to residents at the residential family centre.

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<sup>(1)</sup> S.I. 2003 No. 781 (W.92).

(2) Within 28 days of receiving a request under paragraph (1) the registered person must supply to the appropriate office of the National Assembly the assessment in the form required by the National Assembly.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

### **Compliance Notification**

**23B.**—(1) The National Assembly can at any time notify the registered person of the action that in the National Assembly’s view the registered person must take to ensure compliance with the Act and any regulations made under it.

(2) The National Assembly can specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must notify the appropriate office of the National Assembly of the completion of any action required under paragraph (1).”.

(b) Substitute regulation 20 (Complaints) with —

### **“Complaints**

**20.**—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the registered person by a resident or person acting on the resident’s behalf.

(2) The complaints procedure must be appropriate to the needs of residents.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to —

- (a) residents;
- (b) representatives of residents; and
- (c) any authority which has arranged for the accommodation of a resident at the residential family centre.

(5) The registered person must ensure that the staff employed at the residential family centre are informed about, given a copy of and

appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include —

- (a) the name, address and telephone number of the appropriate office of the National Assembly; and
- (b) the procedure, if any, that has been notified to the registered person by the National Assembly for the making of complaints to the National Assembly.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the National Assembly.

(9) The approval of the National Assembly under (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the management of the residential family centre.

### **Handling Complaints**

**20A.**—(1) The complaints procedure prepared under regulation 20 must be operated in accordance with the principle that the welfare of the resident is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of the resident.

(2) When a complaint is made, the registered person must advise the complainant of their right to at any time complain to the National Assembly or, where relevant, to the authority which has arranged for the accommodation of the resident at the residential family centre.

(3) The registered person must inform the complainant of the availability of any advocacy services which the registered person believes may be of assistance to the complainant. Where relevant and the complainant is a child, the registered person must advise the complainant that a local authority receiving a complaint must provide information and assistance for complainants, and must in particular offer help in obtaining an advocate.

(4) The registered person can in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or

other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

### **Local Resolution**

**20B.**—(1) Complaints that are dealt with locally must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the National Assembly or any authority which has arranged for the accommodation of a resident at the residential family centre, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

### **Formal Consideration**

**20C.**—(1) Complaints that are dealt with by way of formal consideration must be resolved as soon as reasonably practicable and in any event within 35 days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the investigation undertaken, the conclusions and the action to be taken as a result.

(3) The registered person must send a copy of the written response to a complaint to the appropriate office of the National Assembly and any authority which has arranged for the accommodation of a resident at the residential family centre.

(4) The time limit in paragraph (1) may be extended with the agreement of the complainant.

(5) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the National Assembly of the complaint and the reasons for the delay in resolution.

(6) If the complainant is a child the registered person must appoint an independent person who shall take part in any consideration of the representations by the registered person.

### **Complaints subject to concurrent consideration**

**20D.**-(1) Where a complaint relates to any matter-

(a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or

(b) about which the registered person is taking or is proposing to take disciplinary proceedings, or

(c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or

(d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or

(e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000,

the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints shall be referred to for the purposes of this regulation as "complaints subject to concurrent consideration".

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the registered person that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.”.

### **Amendment of the Nurses Agencies (Wales) Regulations 2003**

7. The Nurses Agencies (Wales) Regulations 2003(1) are amended as follows —

- (a) Substitute regulation 19 (Review of quality of service provision) with—

#### **“Review of Quality of Care**

**19.**—(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to service users.

(2) The system established under paragraph (1) must make provision for —

- (a) the quality of care to be reviewed at least annually; and
- (b) the registered person to obtain the views of —
- (i) service users;
  - (ii) representatives of service users;
  - (iii) any local authority or health body which has arranged for the provision of service to a service user; and
  - (iv) staff employed by the agency,

on the quality of care provided, as part of any review undertaken.

(3) Following a review of the quality of care, the registered person must within 28 days prepare a report of that review and make a copy of the available report in an appropriate format when requested by —

- (a) service users;

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(1) S.I. 2003 No. 2527 (W.242).

- (b) representatives of service users;
- (c) any local authority or health body which has arranged for the provision of service to a service user;
- (d) staff employed by agency; and
- (e) the National Assembly.

### **Assessment of Service**

**19A.**—(1) The National Assembly can at any time request the registered person to undertake an assessment of the service provided to service users by the agency.

(2) Within 28 days of receiving a request under paragraph (1) the registered person must supply to the appropriate office of the National Assembly the assessment in the form required by the National Assembly.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

### **Compliance Notification**

**19B.**—(1) The National Assembly can at any time notify the registered person of the action that in the National Assembly’s view the registered person must take to ensure compliance with the Act and any regulations made under it.

(2) The National Assembly can specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must notify the appropriate office of the National Assembly of the completion of any action required under paragraph (1).”.

- (b) Substitute regulation 18 (Complaints) with—

### **“Complaints**

**18.**—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the registered person by a service user or person acting on the service user’s behalf.

(2) The complaints procedure must be appropriate to the needs of service users.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to —

- (a) service users;
- (b) representatives of service users; and
- (c) any authority or health body which has arranged for the provision of service to a service user.

(5) The registered person must ensure that the staff employed by the agency are informed about, given a copy of and appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include —

- (a) the name, address and telephone number of the appropriate office of the National Assembly; and
- (b) the procedure, if any, that has been notified to the registered person by the National Assembly for the making of complaints to the National Assembly.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the National Assembly.

(9) The approval of the National Assembly under (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the management of the agency.

### **Handling Complaints**

**18A.**—(1) The complaints procedure prepared under regulation 18 must be operated in accordance with the principle that the welfare of the service user is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of the service user.

(2) When a complaint is made, the registered person must advise the complainant of their right to at any time complain to the National Assembly or, where relevant, to the local authority or health body which has arranged for



the provision of services to the service user by the agency.

(3) The registered person must inform the complainant of the availability of any advocacy services which the registered person believes may be of assistance to the complainant.

(4) The registered person can in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

### **Local Resolution**

**18B.**—(1) Complaints that are dealt with locally must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the National Assembly or any local authority or health body which has arranged for the provision of services to the service user by the agency, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

### **Formal Consideration**

**18C.**—(1) Complaints that are dealt with by way of formal consideration must be resolved as soon as reasonably practicable and in any event within 35 days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the

conclusions and the action to be taken as a result.

(3) The registered person must send a copy of a written response to a complaint to the appropriate office of the National Assembly and any local authority or health body which has arranged for the provision of services to the service user by the agency.

(4) The time limit in paragraph (1) may be extended with the agreement of the complainant

(5) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the National Assembly of the complaint and reasons for the delay in resolution.

(6) Where the complainant is a child, the registered person must appoint an independent person who shall take part in any consideration of the complaint by the registered person.

#### **Complaints subject to concurrent consideration**

**18D.**-(1) Where a complaint relates to any matter-

(a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or

(b) about which the registered person is taking or is proposing to take disciplinary proceedings, or

(c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or

(d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or

(e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000,

the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints shall be referred to for the purposes of this regulation as "complaints subject to concurrent consideration".

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the registered person

that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.”.

#### **Amendment of the Adult Placement Schemes (Wales) Regulations 2004**

8. The Adult Placement Schemes (Wales) Regulations 2004<sup>(1)</sup> are amended as follows —

- (a) Substitute regulation 22 (Review of quality of scheme’s operation) with—

##### **“Review of Quality of Care**

**22.**—(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to each adult placed under the adult placement scheme.

(2) The system established under paragraph (1) must make provision for —

- (a) the quality of care to be reviewed at least annually; and
- (b) the registered person to obtain the views of —
- (i) relevant adults;
  - (ii) representatives of relevant adults;
  - (iii) any local authority which has arranged for the placement of an adult with an adult placement carer;
  - (iv) adult placement carers; and

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<sup>(1)</sup> S.I. 2004 No. 1756 (W.188).

(v) staff employed by the scheme,

on the quality of care provided, as part of any review undertaken.

(3) Following a review of the quality of care, the registered person must within 28 days prepare a report of that review and make a copy of the available report in an appropriate format when requested by —

- (a) relevant adults;
- (b) representatives of relevant adults;
- (c) any local authority which has arranged for the placement of an adult with an adult placement carer;
- (d) adult placement carers;
- (e) staff employed by the scheme; and
- (f) the National Assembly.

### **Assessment of Service**

**22A.**—(1) The National Assembly can at any time request the registered person to undertake an assessment of the quality of the operation of the scheme including the quality of the accommodation and care provided to relevant adults by the scheme.

(2) Within 28 days of receiving a request under paragraph (1) the registered person must supply to the appropriate office of the National Assembly the assessment in the form required by the National Assembly.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

### **Compliance Notification**

**22B.**—(1) The National Assembly can at any time notify the registered person of the action that in the National Assembly's view the registered person must take to ensure compliance with the Act and any regulations made under it.

(2) The National Assembly can specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must notify the appropriate office of the National Assembly of the completion of any action required under paragraph (1).”.

- (b) Substitute regulation 21 (Complaints) with—

## **“Complaints**

**21.**—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the registered person by a relevant adult or person acting on the relevant adult’s behalf or an adult placement carer.

(2) The complaints procedure must be appropriate to the needs of relevant adults.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to —

- (a) relevant adults;
- (b) representatives of relevant adults; and
- (c) any local authority which has arranged for the placement of an adult with an adult placement carer.

(5) The registered person must ensure that the adult placement carers and the staff employed by the agency are informed about, given a copy of and appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include —

- (a) the name, address and telephone number of the appropriate office of the National Assembly; and
- (b) the procedure, if any, that has been notified to the registered person by the National Assembly for the making of complaints to the National Assembly.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the National Assembly.

(9) The approval of the National Assembly under (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the management of the scheme.

## **Handling Complaints**

**21A.**—(1) The complaints procedure prepared under regulation 21 must be operated in accordance with the principle that the welfare of the relevant adult is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of the relevant adult.

(2) When a complaint is made, the registered person must advise the complainant of their right to at any time complain to the National Assembly or, where relevant, to the local authority which has arranged for the placement of an adult with an adult placement carer.

(3) The registered person must inform the complainant of the availability of any advocacy services which the registered person believes may be of assistance to the complainant.

(4) The registered person can in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

## **Local Resolution**

**21B.**—(1) Complaints that are dealt with locally must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the National Assembly or any local authority who has arranged for the placement of an adult with an adult placement carer, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

### **Formal Consideration**

**21C.**—(1) Complaints that are dealt with by way of formal consideration must be resolved as soon as reasonably practicable and in any event within 35 days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the investigation undertaken, the conclusions and the action to be taken as a result.

(3) The registered person must send a copy of a written response to a complaint to the appropriate office of the National Assembly and any local authority which has arranged for the placement of an adult with an adult placement carer.

(4) The time limit in paragraph (1) may be extended with the agreement of the complainant.

(5) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the National Assembly of the complaint and reasons for the delay in resolution.

### **Complaints subject to concurrent consideration**

**21D.**—(1) Where a complaint relates to any matter-

(a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or

(b) about which the registered person is taking or is proposing to take disciplinary proceedings, or

(c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or

(d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or

(e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section

59 of the Care Standards Act 2000, the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints shall be referred to for the purposes of this regulation as "complaints subject to concurrent consideration".

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the registered person that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.”.

#### **Amendment of the Domiciliary Care Agencies (Wales) Regulations 2004**

**9.** The Domiciliary Care Agencies (Wales) Regulations 2004<sup>(1)</sup> are amended as follows —

- (a) Substitute regulation 23 (Review of quality of service provision) with —

##### **“Review of Quality of Care**

**23.**—(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of care given to service users.

(2) The system established under paragraph (1) must make provision for —

- (a) the quality of care to be reviewed at least annually; and  
(b) the registered person to obtain the views of —

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<sup>(1)</sup> S.I.2004 No. 219 (W.23).



- (i) service users;
- (ii) representatives of service users;
- (iii) any local authority which has arranged for the provision of care to a service user; and
- (iv) staff employed by the agency,

on the quality of care provided, as part of any review undertaken.

(3) Following a review of the quality of care, the registered person must within 28 days prepare a report of that review and make a copy of the available report in an appropriate format when requested by —

- (a) service users;
- (b) representatives of service users;
- (c) any local authority which has arranged for the provision of care to a service user;
- (d) staff employed by agency; and
- (e) the National Assembly.

### **Assessment of Service**

**23A.**—(1) The National Assembly can at any time request the registered person to undertake an assessment of the service provided to service users by the agency.

(2) Within 28 days of receiving a request under paragraph (1) the registered person must supply to the appropriate office of the National Assembly the assessment in the form required by the National Assembly.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

### **Compliance Notification**

**23B.**—(1) The National Assembly can at any time notify the registered person of the action that in the National Assembly's view the registered person must take to ensure compliance with the Act and any regulations made under it.

(2) The National Assembly can specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must notify the appropriate office of the National Assembly of the completion of any action required under paragraph (1).”.

(b) Substitute regulation 21(Complaints) with —

**“Complaints**

**21.**—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the registered person by a service user or person acting on the service user’s behalf.

(2) The complaints procedure must be appropriate to the needs of service users.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to—

- (a) service users;
- (b) representatives of service users; and
- (c) any authority which has arranged for the provision of care to a service user.

(5) The registered person must ensure that the staff employed by the agency are informed about, given a copy of and appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include —

- (a) the name, address and telephone number of the appropriate office of the National Assembly; and
- (b) the procedure, if any, that has been notified to the registered person by the National Assembly for the making of complaints to the National Assembly.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the National Assembly.

(9) The approval of the National Assembly under (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the management of the agency.

## **Handling Complaints**

**21A.**—(1) The complaints procedure prepared under regulation 21 must be operated in accordance with the principle that the welfare of the service user is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of the service user.

(2) When a complaint is made, the registered person must advise the complainant of their right to at any time complain to the National Assembly or, where relevant, to the local authority or health body which has arranged for the provision of services to the service user by the agency.

(3) The registered person must inform the complainant of the availability of any advocacy services which the registered person believes may be of assistance to the complainant. Where relevant and the complainant is a child, the registered person must advise the complainant that a local authority receiving a complaint must provide information and assistance for complainants, and must in particular offer help in obtaining an advocate.

(4) The registered person can in any case where it is appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

## **Local Resolution**

**21B.**—(1) Complaints that are dealt with locally must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the National Assembly or any local authority

or health body which has arranged for the provision of services to the service user, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

### **Formal Consideration**

**21C.**—(1) Complaints that are dealt with by way of formal consideration must be resolved as soon as reasonably practicable and in any event within 35 days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the investigation undertaken, the conclusions and the action to be taken as a result.

(3) The registered person must send a copy of a written response to a complaint to the appropriate office of the National Assembly or any local authority or health body which has arranged for the provision of services to the service user by the agency.

(4) The time limit in paragraph (1) may be extended with the agreement of the complainant.

(5) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the National Assembly of the delay and reasons for the delay in resolution.

(6) If the complainant is a child the registered person must appoint an independent person who shall take part in any consideration of the representations by the registered person.

### **Complaints subject to concurrent consideration**

**21D.**—(1) Where a complaint relates to any matter-

(a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or

(b) about which the registered person is taking or is proposing to take disciplinary proceedings, or

(c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or

(d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or

(e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000,

the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints shall be referred to for the purposes of this regulation as "complaints subject to concurrent consideration".

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the registered person that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.”.

#### **Amendment of the Adoption Support Agencies (Wales) Regulations 2005**

**10.**—(1) The Adoption Support Agencies (Wales) Regulations 2005(1) are amended as follows —

- (a) After regulation 26 (Fitness of premises) insert —

#### **“Review of Quality of Service**

**26A.**—(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and

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(1) S.I. 2005 No.1514(W.118).

improving the quality of adoption support services provided by the agency.

(2) The system established under paragraph (1) must make provision for —

- (a) the quality of service to be reviewed at least annually; and
- (b) the registered person to obtain the views of —
  - (i) any person receiving adoption support services from the agency;
  - (ii) representatives of any person receiving adoption support services from the agency;
  - (iii) any local authority which has arranged for the provision of an adoption support service by the agency; and
  - (iv) staff employed by the agency

on the quality of service provided, as part of any review undertaken.

(3) Following a review of the quality of service, the registered person must within 28 days prepare a report of that review and make a copy of the available report in an appropriate format when requested by —

- (a) any person receiving adoption support services from the agency;
- (b) representatives of any person receiving adoption support services from the agency;
- (c) any local authority which has arranged for the provision of an adoption support service by the agency;
- (d) staff employed by agency; and
- (e) the National Assembly.

### **Assessment of Service**

**26B.**—(1) The National Assembly can at any time request the registered person to undertake an assessment of the service provided by the agency.

(2) Within 28 days of receiving a request under paragraph (1) the registered person must supply to the appropriate office of the National Assembly the assessment in the form required by the National Assembly.

(3) The registered person must take reasonable steps to ensure that the assessment is not misleading nor inaccurate.

## **Compliance Notification**

**26C.**—(1) The National Assembly can at any time notify the registered person of the action that in the National Assembly’s view the registered person must take to ensure compliance with the 2000 Act and the 2002 Act and any regulations made under them.

(2) The National Assembly can specify the timescale within which the registered person must take the action required under paragraph (1).

(3) The registered person must notify the appropriate office of the National Assembly of the completion of any action required under paragraph (1).”.

- (b) Substitute regulation 19(Complaints) with the following —

### **“Complaints**

**19.**—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the registered person by a person receiving adoption support services from the agency or by a person acting on their behalf.

(2) The complaints procedure must be appropriate to the needs of person receiving adoption support services from the agency.

(3) The complaints procedure must include provision for the consideration of complaints made about the registered person.

(4) The registered person must ensure that the following persons are aware of the existence of the complaints procedure and take all reasonable steps to give a copy of the complaints procedure in an appropriate format or such format as may be requested to—

- (a) persons receiving adoption support services from the agency;
- (b) representatives of person receiving adoption support services from the agency; and
- (c) any authority which has arranged for the provision of an adoption support service by the agency.

(5) The registered person must ensure that the staff employed by the agency are informed about, given a copy of and appropriately trained in the operation of the complaints procedure.

(6) The complaints procedure must include —

- (a) the name, address and telephone number of the appropriate office of the National Assembly; and
- (b) the procedure, if any, that has been notified to the registered person by the National Assembly for the making of complaints to the National Assembly.

(7) The complaints procedure must include provision for the local resolution of complaints at an early stage where appropriate.

(8) Where the complaints procedure includes provision for a formal consideration, this provision must be approved by the National Assembly.

(9) The approval of the National Assembly under paragraph (8) will only be given where the complaints procedure includes provision for the formal consideration to be undertaken by a person who is independent of the management of the agency.

- (c) Substitute regulation 20 (Complaints - further requirements) with the following —

#### **“Handling Complaints**

**20.**—(1) The complaints procedure prepared under regulation 19 must be operated in accordance with the principle that the welfare of the persons receiving adoption support services from the agency is safeguarded and promoted and account must be taken of the ascertainable wishes and feelings of such persons.

(2) When a complaint is made, the registered person must advise the complainant of their right to at any time complain to the National Assembly or, where relevant, to the local authority which has arranged for the provision of adoption support services by the agency.

(3) The registered person must inform the complainant of the availability of any advocacy services which the registered person believes may be of assistance to the complainant. Where relevant and the complainant is a child, the registered person must advise the complainant that a local authority receiving a complaint must provide information and assistance for complainants, and must in particular offer help in obtaining an advocate.

(4) The registered person can in any case where it is appropriate to do so, and with the agreement of the complainant, make



arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The registered person must keep a written record of any complaint, the outcome of the investigation and any action taken in response.

(6) The registered person must supply to the appropriate office of the National Assembly at its request a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response to each complaint.

### **Local Resolution**

**20A.**—(1) Complaints that are dealt with locally must be resolved by the registered person as soon as reasonably practicable and in any event within 14 days.

(2) Where the complaint is resolved under paragraph (1), the registered person must confirm in writing to the complainant the agreed resolution.

(3) The registered person must, at the request of the National Assembly or any local authority which has arranged for the provision of adoption support services by the agency, confirm the local resolution of a complaint.

(4) The time limit in paragraph (1) may be extended for up to a further 14 days with the agreement of the complainant.

### **Formal Consideration**

**20B.**—(1) Complaints that are dealt with by way of formal consideration must be resolved as soon as reasonably practicable and in any event within 35 days of the request for formal consideration.

(2) The outcome of a formal consideration must be confirmed in writing by the registered person to the complainant and must summarise the nature and substance of the complaint, the investigation undertaken, the conclusions and the action to be taken as a result.

(3) The registered person must send a copy of a written response to a complaint to the appropriate office of the National Assembly or any local authority which has arranged for the provision of adoption support services by the agency.

(4) The time limit in paragraph (1) may be extended with the agreement of the complainant.

(5) If the complaint has not been resolved within 35 days of the request for formal consideration, the registered person must notify the appropriate office of the National Assembly of the delay and reasons for the delay in resolution.

(6) If the complainant is a child the registered person must appoint an independent person who shall take part in any consideration of the representations by the registered person.

### **Complaints subject to concurrent consideration**

**20D.**-(1) Where a complaint relates to any matter-

(a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or

(b) about which the registered person is taking or is proposing to take disciplinary proceedings, or

(c) about which the registered person has been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or

(d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or

(e) about which the registered person has been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000, the registered person must consider, in consultation with the complainant and any other person or body which they consider appropriate to consult, how the complaint should be handled. Such complaints shall be referred to for the purposes of this regulation as "complaints subject to concurrent consideration".

(2) The consideration of complaints subject to concurrent consideration may be discontinued if at any time it appears to the registered person that to continue would compromise or prejudice the other consideration.

(3) Where the registered person decides to discontinue the consideration of a complaint under paragraph (2) the registered person must give notice of that decision to the complainant.

(4) Where the registered person discontinues the consideration of any complaint under paragraph (2), consideration can be resumed at any time.

(5) Where the consideration of a complaint has been discontinued under paragraph (2) the registered person must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The registered person must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.”.

**Amendment of the Registration of Social Care and Independent Health Care (Wales) Regulations 2002**

**11.** In paragraph 11 of Schedule 3 to the Registration of Social Care and Independent Health Care (Wales) Regulations 2002<sup>(1)</sup>, substitute “carry on” with “manage”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(2)</sup>.

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<sup>(1)</sup> S.I. 2002 No. 919 (W. 107)

<sup>(2)</sup> 1998 c. 28