

Date: Wednesday 12 March 2003
Venue: Committee Rooms 3 & 4, National Assembly for Wales
Title: Draft Regulations and Minimum Standards for domiciliary care agencies in Wales

Purpose

1. This paper provides a first opportunity for the Committee to consider the proposals for regulations and national minimum standards for domiciliary care agencies in Wales

Background

2. Reform of the regulatory regime for social care and independent health care services under the Care Standards Act 2000 enables the Assembly to improve the quality of service and level of protection for vulnerable people using care services. The robust regulation of the domiciliary care sector that employs around 14,000 people in Wales is widely supported and is consistent with the broader objectives to ensure older people can remain independent in their own homes for as long as feasible. Registration and Inspection of this sector will be undertaken by the Care Standards Inspectorate for Wales, as the single regulator of the provision of social care in Wales.

3. For the first time personal domiciliary care services will be regulated. This reflects the increasing dependency of some of those who rely on this service. It is also an essential step forward given the large number of vulnerable people receiving home care (circa 30,000 in Wales) and the increasing quantity of care likely to be required in future years. There is currently a substantial variation in the quality of domiciliary care services and the absence of any registration and inspection is a contributory factor. The proposed arrangements will be compulsory on all providers of domiciliary care in both public and private sectors but not where the provider is a sole individual working alone. The reason for this exception is so as not to intervene unnecessarily in personal, informal or low-key personal care arrangements between neighbours, friends or relatives. Local authorities own provision will need to meet the required regulations (taking into account the standards) as well as any voluntary or private providers contracted by them or NHS Trusts. Organisations which act as employment agencies or supplying care staff to be employed by people who need care will also have to register and be regulated but will be exempt from meeting the requirements of certain standards and regulations. Care provided by the sector is often a mix of personal care and practical support. The regulations can only cover the provision of personal (ie hands on) care and therefore practical care (eg shopping, cleaning, meals on wheels) on its own will not be regulated.

This will have implications for the some organisations about the way in which domiciliary care is managed and organised.

Progress to Date

4. The Assembly Government published draft regulations and national minimum standards for domiciliary care agencies (Annex A) on 18 November for a consultation period that completes on 28 February 2003. A consultation document and a draft regulatory impact assessment were also included in the consultation pack. There has been strong interest in these proposals with over 500 consultation packs have issued. In addition, the Assembly Government held a conference recently, attended by over 200 providers/managers of domiciliary care, to inform the consultation process.

5. Early indications are that the principles of the new arrangements are welcome as they will bring about clearer lines of accountability within provider organisations, more consistency of service and better services for users. They would also raise the profile of the sector and help to stimulate a better career structure for the workforce. However, the new regime will also present significant challenges to the sector at a difficult time and the cost and management/administrative implications will need to be considered.

6. A Task and Finish Group has been established with wide sector representation (see Annex B) to help develop the regulations and standards and to consider the implications for the sector. The Group has already met on 5 occasions since August and has a series of further meetings planned to consider the outcome of consultation and advise me on the final shape and content of the regulations and standards. The Group have already suggested a range of issues to be addressed to ensure a smooth transition to the new arrangements. These include:

Communications – is considered by the Group to be a matter of high priority given the impact on providers new to regulation. A range of media will be needed to be used reach all those affected and a sub group has been established to provide advice on developing an effective communications strategy for the new regime.

Training – the need for strong training and development to support the implementation of the new arrangements. The impact of the qualification framework to be established by the Care Council for Wales is also a matter for priority attention. A sub group has been formed to consider and advise on the training implications of the proposed changes.

Fees - The main costs associated with compliance with the new arrangements are the fees payable to the CSIW. There will be an initial registration fee (£1100) for new applicants, a Managers fee (£300) and an annual fee thereafter (£750). It has been suggested that a sliding scale of fees should be considered to reduce the effects of these costs for small providers and voluntary organisations

Guidance - In the light of responses to consultation and discussion in a consultative conference on 7th February, it is clear draft National Standards attached with this paper are in need of some re-drafting and shortening, but the Task and Finish Group believe that they are on the right lines and, taken together with the regulations, will provide the basis for raising and maintaining quality services in the future. Particular issues requiring further consideration and clarification in the guidance include the definition of a branch of an agency, how the regulations will affect people receiving Direct Payments and the appropriate level of the registered manager in larger organisations.

Implementation

7. Extra care is needed when a sector is being regulated for the first time and especially where the sector is already under a range of pressures including workforce competition and retention and recruitment problems. Small providers may experience particular difficulties in adapting to the new requirements. I have therefore asked the Task and Finish Group to consider the impact of the proposals on small providers (including a workable definition of small provider) and to advise on measures to support small providers to understand and prepare for the new regulatory regime. This might include for example working with providers to test out the new regulatory framework. . The Group will also be advising on a more general Implementation Support Programme to ensure that these changes can be introduced smoothly and effectively across all parts of the sector.

8. Additionally, I have asked the Task Group to consider how the regulatory regime needs to be tailored in its final form to protect and meet the needs of individuals – mainly with a learning disability – who receive accommodation and domiciliary care through supported housing organisations. This should help to address issues about protection and risk that have emerged over the last 12 months as owners of supported housing have de-registered their small care homes in significant numbers. It will be important that the new arrangements meet the often higher care needs of clients in this type of accommodation.

Timetable

9. Following consideration of the consultation responses by the Task and Finish Group, I currently plan that the final drafts of the new regulations and the standards should be brought forward to Committee and for the National Assembly approval by the summer. Following approval of the regulations, domiciliary care providers will then have at least 3 months - until the Autumn - to submit applications for Registration. Given the range of issues to be considered and the importance of planning an effective implementation support programme, this timetable may need to be extended in the light of developments.

Action

10. The Committee is invited to:

- i. discuss this paper and the draft Regulations and National Standards that have been subject to consultation for 3 months;
- ii. note that a sector Task and Finish Group will consider the responses to consultation and advise on the new regulatory regime and its implementation;
- iii. note that a further opportunity will be available for the Committee to scrutinise the draft Regulations and Standards when they are submitted for approval.

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Domiciliary Care

A statement of national minimum standards applicable to domiciliary care agencies made by the Minister for Health and Social Services of the Welsh Assembly Government under the powers conferred by section 23(1) of the Care Standards Act 2000

This statement is applicable to domiciliary care agencies as defined by section 4 of the Care Standards Act 2000 from [*1st July 2003*].

This statement is accompanied for explanatory purposes only by an introduction to the statement.

**NATIONAL MINIMUM STANDARDS FOR
DOMICILIARY CARE AGENCIES IN WALES**

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NATIONAL MINIMUM STANDARDS FOR DOMICILIARY CARE AGENCIES

This document sets out National Minimum Standards applicable to domiciliary care agencies (“agencies”) in Wales, it is issued by the Welsh Assembly Government under section 23 of the Care Standards Act 2000 (“CSA”). The standards will be kept under review by the Welsh Assembly Government, and amended if it thinks appropriate.

INTRODUCTION

Whilst broad in scope, these standards acknowledge the unique and complex needs of individuals, and the additional specific knowledge and skills required in order to deliver a service that is tailored to the needs of each person. These standards will be applied to agencies providing personal care to the wide range of people who need care and support whilst living in their own home, including:-

- older people
- people with physical disabilities
- people with sensory loss including dual sensory impairment
- people with mental health problems
- people with learning disabilities
- children and their families
- personal or family carers

Care and support workers may be directly providing the care themselves but they are more likely to be providing the care jointly with the person needing assistance, encouraging them to do as much as possible for themselves in order to maintain their independence and physical ability. Support workers will be providing support and assistance to people with a range of disabilities, helping them to maximise their own potential and independence. It is important that agencies and care workers who are providing personal domiciliary care for children and their families take note of the content of *Working Together to Safeguard Children* – a guide to inter-agency working to safeguard and promote the welfare of children.

With the emphasis on caring for people with complex health and personal care needs living in their own home instead of in residential or nursing homes

or long stay hospitals, the provision of personal domiciliary care services is evolving rapidly and reflects changes at the interface between health and social care.

WHO WILL BE REGULATED?

“Domiciliary care agency” is defined in s.4(3) of the CSA. It means an undertaking (including the exercise of functions of a public authority, such as a local authority or NHS Trust) which consists of or includes arranging the provision of personal care in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance. The provision of care within supported housing or living schemes may also fall within the definition, unless the scheme is registered as a care home under the CSA. There is one further exception made to this definition by the Domiciliary Care Agencies (Wales) Regulations 2003. The exception removes from the definition an undertaking carried on solely by an individual who does not employ anyone else for the purposes of the undertaking and who is not him or herself employed by an organisation to carry on the undertaking. The purpose of this exception is to remove very small scale arrangements for the provision of personal care to persons in their own homes from the obligation to register under the CSA.

Persons carrying on or managing an agency will need to register with CSIW because not being registered constitutes an offence under s.11 of the CSA. If separate persons are responsible for, on the one hand, carrying on (providing) an agency and, on the other, managing it, then both are required to be registered in respect of the agency. The Regulations (which are discussed further in the next section of this introduction) apply to persons who are registered in respect of an agency and, amongst other things, require the registered persons to be ‘fit’ to perform their duties.

Where an agency operates from more than one branch each branch is treated as a separate agency for the purposes of the CSA. This means each person carrying on or managing a branch will have to register, and each branch will be inspected.

DEFINITION OF PERSONAL CARE

An essential element of the definition is the provision of personal care. ‘Personal care’ is not defined in the CSA, but the type of activities that are likely to fall within it include: -

- Assistance with bodily functions such as feeding, bathing and toileting
- Care which falls just short of assistance with bodily functions, but still involving physical and intimate touching, including activities such as helping a person get out of a bath and helping them to get dressed

THE REGULATORY CONTEXT

The standards will be used by the Assembly's Care Standards Inspectorate for Wales ("CSIW") when determining whether agencies are making adequate arrangements for the provision of personal care, meeting the needs of service users and otherwise being conducted in accordance with the requirements of, and under, the CSA ("the regulatory requirements").

The main regulatory requirements are set out in the Domiciliary Care Agencies (Wales) Regulations 2003 ("the Regulations"). Registration decisions of CSIW (in relation to applications for registration and enforcement action against registered persons) must be justified by reference to the regulatory requirements; and when making such decisions CSIW must take these standards into account. Breach of certain of the regulations also constitutes a criminal offence. Other agencies involved in the regulatory scheme, such as the relevant Tribunal and the courts, must also take the standards into account when making decisions under the CSA.

An example of the relationship between the Regulations and these Standards is as follows. Regulation 14(4)(c) says "The registered person shall, for the purpose of providing personal care to service users, so far as is practicable...encourage and enable them to make decisions with respect to such personal care.", when considering whether or not this requirement is met CSIW will take into account standard 9.3 which says "Care and support workers carry out tasks *with* the service user, not *for* them, minimising the intervention and supporting service users to take risks, as set out in the service user plan and not endangering health and safety."

For explanatory purposes only, the standards identify the regulation or regulations to which they particularly relate.

The CSIW will consider the degree to which an agency complies with relevant standards when determining, for the purposes of its registration and enforcement functions, if a provision of the Regulations has been breached. Any decision made by CSIW in the exercise of its registration functions may, in accordance with the CSA, be appealed to an independent Tribunal.

STRUCTURE

The standards are grouped under five key topics and the outcome for service users identified in relation to each theme.

The topics are:-

- **User focussed services (Standards 1-6)**
- **Personal care (Standards 7 – 10)**
- **Protection (Standards 11 – 16)**
- **Managers and staff (Standards 17 – 21)**
- **Organisation and running of the business (Standards 22 – 27)**

The standards have been designed to achieve the outcomes and to be enforceable through the relevant regulations. While the standards are qualitative – they provide a tool for judging the quality of care and support provided for service users – they are also measurable. Regulators will look for evidence that the requirements are being met and a good quality of life enjoyed by service users through:-

- discussions with service users, families and friends, care and support staff, managers, and others
- observation of daily life in the home of the person receiving care and in the office of the organisation providing the service
- scrutiny of written policies, procedures, and records

The involvement of lay assessors in inspections will help ensure a focus on outcomes for and quality of life of service users.

The following cross-cutting themes underpin the drafting of the National Minimum Standards for the provision of personal domiciliary care services:-

- **Focus on service users.** ‘Building for the Future’ (1998) called for standards that focus on the key areas that most affect the quality of life experienced by service users. The process for developing the standards, and recent research, confirm the importance of this emphasis on results for service users. In applying the Standards, regulators will look for evidence that the personal care and support is provided in such a way that it achieves positive outcomes for and the active participation of service users.
- **Fitness for purpose.** The regulatory powers provided by the Care Standards Act are designed to ensure that organisations providing personal domiciliary care and the managers and care staff it employs are “fit for their purpose”. In applying the standards, regulators will look for evidence that the organisation is successful in achieving its stated aims and objectives.

- **Comprehensiveness.** The provision of domiciliary care to any one service user is made up of a range of separate but often related activities and services which will vary from person to person according to their needs. In applying the Standards, regulators will consider how the total care package provided contributes to the overall personal and health care needs and preferences of service users, and how the organisation collaborates with other services / professionals to maximise independence and ensure the individual's inclusion in the community.
- **Meeting assessed needs.** In applying the standards, inspectors will look for evidence that the care provided meets the assessed needs of service users and that individuals' changing needs continue to be met. There should be a reassessment of need on an annual basis or more frequently if necessary. Inspectors will also wish to see evidence that care and support staff are able to be flexible to meet the changing needs and requirements of service users on a short term or temporary basis.
- **Quality services.** The Welsh Assembly Government's modernising agenda, including the new regulatory framework, aims to ensure "greater assurance of quality services...rather than having to live with second best". In applying the standards, regulators will seek evidence of a commitment to continuous improvement, quality services and support, which assure a good quality of life and health for service users and which contributes to maintaining their independence.
- **Quality workforce.** Competent, well-trained managers and staff are fundamental to achieving good quality care for service users. The Training Organisation for Personal Social Services, is developing National Occupational Standards for care and support staff, including induction competencies and foundation programmes. In applying the standards, regulators will look for evidence that registered managers and staff achieve the NTO requirements.

CONTEXT AND PURPOSE

These standards, and the regulatory framework within which they operate, should be viewed in the context of the Welsh Assembly Government's overall policy objectives for supporting people in their own home. These objectives emphasise the need to maintain and promote independence wherever possible, through rehabilitation and community support. A variety of specialist provision will be required to help achieve these objectives. The provision of high quality personal care to people living in their own homes will be the foundation of much of the specialist provision.

These standards have been prepared in response to extensive consultation and are realistic, proportionate, fair and transparent. They aim to ensure the protection of service users and safeguard and promote the health, welfare and quality of life of people living in their own home.

USER FOCUSSED SERVICES

Introduction to Standards 1 – 6 (See user focussed services section of the bibliography)

The needs of the service user lie at the heart of the provision of personal care. Service users need to be kept informed and enabled to make choices concerning their care, and participate in the process, thereby maintaining their independence. The service should be managed and provided at all times in a way which, meets the individual needs of the person receiving care, as specified in their care plan, and respects the rights, privacy and dignity of the individual.

Where the provision of personal domiciliary care is commissioned by the local authority, a three way working relationship should be developed with the local authority and the agency providing personal care working in partnership to most effectively meet the needs of the person requiring care.

In order to ensure that service users and/or their relatives or representatives are able to make informed choices concerning their care, they should be provided with a range of information that is up to date and is available in an appropriate language or format. A number of documents are required. Each has its own particular purpose.

Each agency providing personal domiciliary care should produce a guide for service users with a statement of purpose, setting out its aims and objectives, the range of services it offers and outlines the terms and conditions on which it does so. In this way service users, their relatives and representatives can make a fully informed choice about whether or not the organisation is suitable and able to meet the individual's particular needs. A copy of the most recent inspection report should also be made available. The statement of purpose will enable inspectors to assess how far the organisation's claims are being fulfilled.

Providing user focussed services also means ensuring that care workers have the flexibility to vary the care provided to meet changing needs on a day to day basis. For example if the need is to assist the service user get up, washed and dressed and give them breakfast, the care worker must be able to respond flexibly and appropriately if on one occasion they find that they feel unwell and want to remain in bed.

Research into the views of service users about their personal care has identified that the continuity of care and support worker is extremely important. Service users and their relatives need to feel comfortable, relaxed and secure with the care workers they are inviting into their home. They want to have care workers they can get to know and who are reliable, dependable and arrive and depart at the time expected. Service users and their relatives also want to know in advance if there is to be any change in their care or support worker so they can be prepared.

INFORMATION

OUTCOME

Current and potential service users and their relatives are provided with and have access to comprehensive information, so that they can make informed decisions on whether the agency is able to meet their specific care needs.

STANDARD 1 (See regulation 4 (statement of purpose) and 5 (service user's guide))

- 1.1 The registered person produces a Guide for current and prospective service users and their relatives. The Guide contains up to date information on the organisation setting out the aims, objectives, philosophy of care and parameters of the service provided, including terms and conditions. Also, the certificate of registration is prominently displayed at all times in the agency premises so as to be easily seen in accordance with the Section 28(l) of the Care Standards Act.**
- 1.2 The Service Users' Guide is written in plain language and is available in appropriate formats eg large print, braille, and, wherever possible, in the preferred language of service users. The Service Users' Guide includes:-
- The address and contact number for the principal office of the agency and the local branch (if more than one office)
 - the geographical area covered
 - range and level of care services provided, including specialist services
 - people for whom the service is provided
 - relevant qualifications and experience of the registered persons and staff
 - an overview of the process for the delivery of care and support from initial referral, through needs and risk assessment and development of the service user plan to review of the care and reassessment of need
 - key contract terms and conditions
 - the complaints procedure
 - the Quality Assurance process
 - specific information on key policies and procedures
 - how to contact the local office of the Care Standards Inspectorate for Wales (CSIW), social services and NHS bodies.

- hours of operation
- details of insurance cover

1.3 The Service Users' Guide provides information on where to obtain further information including:

- A copy of the most recent inspection report.
- detailed information on policies and procedures
- the outcome of surveys of the views of service users and their families of the agency and the service it provides

1.4 The registered person ensures that the service users guide and other information is dated, reviewed at least annually and updated as necessary.

SERVICE DELIVERY ASSESSMENT

OUTCOME

The service delivery requirements of service users and their personal or family carers when appropriate, are individually assessed before they are offered a personal domiciliary care service

STANDARD 2 (See regulation 14 (arrangements for the provision of personal care))

2.1 A service delivery assessment regarding new service users is undertaken, prior to the provision of a domiciliary care service (or within 2 working days in exceptional circumstances), by people who are trained to do so, using appropriate methods of communication so that the service user and their representatives, are totally involved.

2.2 The manager ensures that a service delivery assessment is undertaken and obtains a summary of the needs assessment. Where a relevant assessment has been undertaken by a local authority or NHS body, it is, with the service user's consent, obtained.

2.3 For individuals who are self-funding a service delivery assessment is undertaken (appropriate to the level of support requested) in the individuals own home, by a person competent and trained for the task, covering the delivery of the services agreed. Issues that may arise include:

- personal care and physical well-being
- family involvement and other personal and social contacts
- sight, hearing and communication

- continence
 - mobility, dexterity and the need for disability equipment
 - mental health and cognition
 - medication requirements
 - personal safety and risk
 - specific condition-related needs and specialist input
 - dietary requirements and preferences (if appropriate)
 - social interests, religious and cultural needs (if appropriate)
 - preferred method of communication
 - method of payment
- 2.4 Information from the service delivery assessment is provided in writing to care and support workers so that they are aware of any special needs, the activities they are required to undertake and the outcomes to be achieved.
- 2.5 When a service is provided at short notice or in a crisis, and service delivery assessment has not been undertaken, the person providing the service is trained and able to undertake an initial contact assessment if required.**
- 2.6 Procedures are in place to enable care and support staff to report changes to the care needs and circumstances of service users and their carers so that a service reassessment can be undertaken if necessary.

MEETING NEEDS

OUTCOME

Service users their relatives and representatives know that the agency providing the personal care service has the skills and competence required to meet their care needs

STANDARD 3 (See regulations 13 (conduct of agency), 14 (arrangements for the provision of personal care), 15 (fitness of workers) and 16 (staffing))

- 3.1 **The registered person is able to demonstrate the capacity of the agency to meet the needs (including specialist needs) of individuals accepted by the agency.**
- 3.2 Staff individually and collectively have the skills and experience to deliver the services and care which the agency states in its Statement

of Purpose and Service Users' Guide (see Standard 1.2) that it can provide. The skills and experience of Care Staff are matched to the care needs of each service user and they are able to communicate effectively with the service user using the individual's preferred method of communication.

- 3.3 All specialised services offered (and identified in the Statement of Purpose and Service Users' Guide) are demonstrably based on current good practice and reflect relevant specialist and clinical guidance. This includes specialist services for people with dementia, mental health problems, sensory impairment, physical disabilities, learning disabilities, substance misuse problems, intermediate or respite care.
- 3.4 When services are provided for specific minority ethnic communities, social/cultural or religious groups their particular requirements and preferences are identified, understood and entered into the Service User Plan. (see Standard 7).

CONTRACT

OUTCOME

Each service user has a written individual service contract or statement of terms and conditions for the provision of care with the agency

STANDARD 4 (See regulation 18 (provision of information to service users))

- 4.1 **Each service user is issued with a written contract (if self-funding) or a statement of terms and conditions under which the care is provided by the agency within seven days of commencement of the service.**
- 4.2 The contract or statement of terms and conditions between the service user and the service provider specifies the:
- name, address and telephone number of agency
 - contact number for out of hours and details of how to access the service.
 - contact number for the office of regular care workers and their manager
 - areas of activity home care or support workers will and will not undertake and the degree of flexibility in the provision of personal care.

- circumstances in which the service may be cancelled or withdrawn including temporary cancellation by the service user
- fees payable for the service, and by whom (if self-funding)
- rights and responsibilities of both parties (including insurance) and liability if there is a breach of contract or any damage occurring in the home
- arrangements for monitoring and review of needs and for updating the service delivery assessment (see Standard 2) and the individual service user care plan (see Standard 7)
- process for assuring the quality of the service, monitoring and supervision of staff
- supplies and/or equipment to be made available by the service user and by the agency
- respective responsibilities of the service user and of the agency in relation to health and safety matters
- arrangements to cover holidays, sickness
- keyholding and other arrangements agreed for entering or leaving the home (see Standard 15)

4.3 The service user and/or their relatives or representative and the agency each has a copy of the contract or terms and conditions which is signed by the service user (or their named representative on their behalf) and the registered manager.

CONFIDENTIALITY

OUTCOME

Service users and their relatives or representatives know that their personal information is handled appropriately and that their personal confidences are respected

STANDARD 5 (See regulation 20 (records))

5.1 Care and support staff respect information about service users or their representatives that is confidential and handle such information in accordance with the Data Protection Act 1998 and the agency's written policies and procedures and in the best interests of the service user.

- 5.2 Service users have summaries of the agency's policies and procedures on confidentiality which specifies the circumstances under which confidentiality may be breached and includes the process for dealing with inappropriate breaches of confidentiality.
- 5.3 Care or support workers know when information given them in confidence must be shared with their manager and other social/health care agencies.
- 5.4 The principles of confidentiality are observed in discussion with colleagues and line manager, particularly when undertaking training or group supervision sessions.
- 5.5 Suitable provision is made for the safe and confidential storage of service user records and information including the provision of lockable filing cabinets and the shielding of computer screens from general view when displaying personal data.

RESPONSIVE SERVICES

<i>OUTCOME</i>

<i>Service users receive a flexible, consistent and reliable personal care service</i>
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STANDARD 6 (See regulations 14 (arrangements for the provision of personal care) and 16 (staffing))

- 6.1 **Staff are reliable and dependable, are able to respond flexibly to the needs and preferences of service users which arise on a day to day basis and services are provided in a way that meets the outcomes identified in the care plan.**
- 6.2 Staff arrive at the home within the time band specified and work for the full amount of time allocated.
- 6.3 Upon arrival in the home, care or support staff ask the service user if there are any particular personal care needs or requirements they have on that visit.
- 6.4 The manager ensures that there is continuity in relation to the care or support worker(s) who provide the service to each service user.
- 6.5 Care or support workers are only changed for legitimate reasons for example:
 - the care or support worker is sick, on holiday, undertaking training or has left the organisation
 - if the service requirements change and the care worker does not have the necessary skills, physical capacity or specialist training

- the care or support worker is unavailable for additional hours or changed times
- if the service user requests a change of care or support worker for legitimate reasons
- if a non-professional relationship has developed between the service user and the Care or support worker.
- to provide relief for care or support staff working in stressful situations
- to protect care or support staff from abuse or discrimination

6.6 Service users and their relatives or representatives are consulted in advance whenever possible, and involved in the decision about the change of care or support worker. New care or support workers are introduced to the service user by the manager.

6.7 Service users, their relatives and/or representatives are kept fully informed on issues relating to their care, at all times.

PERSONAL CARE

Introduction to Standards 7- 10 (See personal care section of bibliography)

The principles on which the philosophy of care of the provider organisation is based must be ones which ensure that all service users, their relatives and representatives are treated with respect, their dignity is preserved at all times and their right to privacy is always observed. The test of whether these principles are put into practice or not will be a matter for each person's own judgement: care and support workers should put themselves in the place of people receiving care and ask themselves:-

- how am I treated by home care staff when they are bathing me and helping me dress?
- how do they speak to me?
- am I consulted in matters to do with my own care and am I able to make choices?
- are my wishes respected?
- are my views taken into account?

Fundamentally care and support workers should 'treat others as you would wish to be treated yourself'.

The purpose of the provision of personal care to people who are living in their own home is to sustain and whenever possible improve their independence. As well as ensuring their involvement in all decisions relating to their care this also means involving them and supporting them to assist in the care activities themselves rather than increasing dependence by taking over and doing everything for them.

The provision of personal care for people who live in their own homes is changing. The interface between health and personal care is becoming very blurred. Meeting the Welsh Assembly Government agenda on intermediate care, maintaining independence and partnership working will further contribute to a confusion of role between health care professionals and personal social care. As the health and care needs of people living in their own home become more complex, so home care and support staff come under pressure to undertake increasingly complex health related activities. This should never happen 'by default' but only with the written agreement of all parties and when the home care or support worker has received the appropriate and necessary training. Clarity in the roles, if any, in relation to medication and other health related activities is therefore essential.

SERVICE USER PLAN

OUTCOME

The care needs, wishes, preferences and personal goals for each individual service user are recorded in their personal service user plan

STANDARD 7 (See regulation 14 (arrangements for the provision of personal care))

- 7.1 A personal plan for the provision of the care is developed and agreed with each service user, which provides the basis for the care to be delivered and is generated from the service delivery assessment, (Standard 2) any other care plan (Standard 2), risk and manual handling risk assessment (Standard 12) and the service contract or statement of terms and conditions. (Standard 4)**
- 7.2 The plan sets out in detail the action that will be taken by care and support workers to meet the assessed needs, including specialist needs and communication requirements, and identifies areas of flexibility to enable the service user to maximise their potential and maintain their independence. (see Standards 6 & 9)
- 7.3 The plan is drawn up with the involvement of the service user, whenever possible, or their representative on their behalf, their relatives and friends and any other professional as appropriate and takes into account the service users wishes and preferences in relation to the way in which the care is provided and their own chosen lifestyle – as long as it conforms to legal requirements and does not compromise obligations under the Regulations or the CSA.
- 7.4 The plan establishes individualised procedures for service users in relation to the taking of risks in daily living and for those service users who are likely to be aggressive, abusive or cause harm or self-harm, focussing on positive behaviour. (See Standards 9.8,12 and 14.6)
- 7.5 The information and detail provided in the plan is appropriate for the complexity of the service to be provided.
- 7.6 The plan is reviewed as changes in circumstances require but at least annually with the service user, their relatives, friends and significant professionals or at the request of the service user or their representative or if there has been a change in their care needs and/or circumstances of the service user or their carer. The plan is updated, agreed changes are recorded and actioned.
- 7.8 The plan is signed by the service user or their representative on their behalf and is available in a language and format that the service user can understand. The plan is held by the service user unless there are clear and recorded reasons not to do so.

PRIVACY AND DIGNITY

OUTCOME

Service users feel that they are treated with respect and valued as people and their right to privacy is upheld

STANDARD 8 (See regulations 14 (arrangements for the provision of personal care) and 16 (staffing))

8.1 Personal care and support is provided in a way which maintains and respects the privacy, dignity and lifestyle of the person receiving care at all times with particular regard to assisting with:

- **dressing and undressing**
- **bathing, washing, shaving, oral hygiene**
- **toilet and continence requirements**
- **medication requirements and other health related activities**
- **manual handling**
- **eating and meals**
- **handling personal possessions and documents**
- **entering the home, room, bathroom or toilet**

8.2 Care and support is provided in the least intrusive way at all times.

8.3 Service users, their relatives and their representative are treated with courtesy at all times.

8.4 Service users are addressed by the name they prefer at all times.

8.5 Care and support workers are sensitive and responsive to the race, culture, language, religion, age, disability, gender and sexuality of the people receiving care, their relatives and representatives.

AUTONOMY AND INDEPENDENCE

OUTCOME

Service users are assisted to make their own decisions and control their own lives and are supported in maintaining their independence

STANDARD 9 (See regulations 14 (arrangements for the provision of personal care) and 16 (staffing))

- 9.1 **Managers and care and support workers enable service users to make decisions in relation to their own lives, providing information, assistance, and support where needed.**
- 9.2 Service users are encouraged, enabled and empowered to control their personal finances unless prevented from doing so by severe mental incapacity or disability. (see Standard 13.5)
- 9.3 Care and support workers carry out tasks *with* the service user, not *for* them, minimising the intervention and supporting service users to take risks, as set out in the service user plan and not endangering health and safety. (see Standards 7 & 12)
- 9.4 When caring for children, opportunity is taken to enable them to participate in the activity and to develop through learning and playing, and to protect them from abuse or harm.
- 9.5 Service users, and their relatives and representatives are kept fully informed about the service they receive and are provided with information in an appropriate format.
- 9.6 Care and support workers communicate with service users in their first or, where agreed, their preferred language.
- 9.7 Service users or their relatives or representatives (with permission of the Service user) are able to see their personal files kept in the premises of the agency, in accordance with the Data Protection Act 1998 and are informed in writing that these files may be reviewed as part of the inspection and process. (see Standard 24)
- 9.8 Limitations on a service user's chosen lifestyle or human rights to prevent self-harm or self-neglect, or abuse or harm to others, are made only in the service user's best interest, consistent with the agency's responsibilities in law. The limitations are recorded in full within the risk assessment and the plan for managing the risks (see Standard 12) and entered into the service user plan. (see Standard 7)
- 9.9 Service users and their relatives or other representatives are informed about independent advocacy services who will act on their behalf and about self-advocacy schemes.

MEDICATION AND HEALTH RELATED ACTIVITIES

OUTCOME

The agency's policies and procedures on medication and health related activities protect service users and assist them to maintain responsibility for their own medication and to remain in their own home even if they are unable to administer their medication themselves.

STANDARD 10 (See regulation 14 (arrangements for the provision of personal care))

- 10.1 The registered person ensures there is a clear, written policy and procedure which is adhered to by staff and which identifies parameters and circumstances for assisting with medication and health related tasks and identifies the limits to assistance and tasks which may not be undertaken without specialist training.**
- 10.2 The policy should include procedures if required for obtaining prescriptions and dispensed medicines and for recording the information.
- 10.3 Staff only provide assistance with taking medication or administer medication or undertake other health related tasks, when it is within their competence; they have received any necessary specialist training and it is:-
- **with the informed consent of the service user** or a relative or representative who may give consent on the user's behalf
 - clearly requested on the care plan by a named assessor
 - with agreement of the care or support workers' line manager, and
 - not contrary to the agency's policy.
- 10.4 Assistance with medication and other health related activities is identified in the Care Plan (Standard 2), forms part of the risk assessment (Standard 12) and is detailed within the Service User Plan (Standard 7).
- 10.5 Care and support staff leave medication at all times in a safe place which is known and accessible to the service user or, if not appropriate for the service user to have access, where it is only accessible to relatives and other personal carers, health personnel and domiciliary care staff
- 10.6 Care and support workers follow the agency's procedures for reporting concerns, responding to incidents and seeking guidance.
- 10.7 Care and support workers record, [with the user's permission], observation of the service user taking medication and any assistance given, including dosage and time of medication and undertaking any other health related tasks, on the record of the care visit kept in the home and/or the Home Care Medication record and the personal file of the service user held in the agency. Any advice to the service user to see or call in their General Practitioner or other health care professional is also recorded. The record is signed and dated by the care worker and the service user or their representative.

- 10.8 Where delivery of the care package involves multiple agencies, including health care, a policy on medication and health related tasks is agreed and followed. A key worker, generally a health care professional from one agency who visits on a regular basis is identified as responsible for taking the lead on medication. Care and support workers retain responsibility for their own actions in accordance with the policy.
- 10.9 Where necessary in the interest of service user safety, the policy and procedures are assessed by a suitably experienced pharmacist.
- 10.10 The functions undertaken by staff under the agency's medicines policy are covered by the employers insurance policy.

PROTECTION

Introduction to Standards 11 – 15 (See protective section of bibliography)

Health and Safety

The health and safety of both service users and home care and support workers is a major issue of concern in the provision of personal domiciliary care. Despite the requirements of legislation, accidents occur all too frequently. Failure to observe health and safety requirements is a major cause of long term illness among home care staff. Training on all aspects of health and safety is essential to ensure that home care and support staff are able to respond appropriately and work in a safe manner.

Before commencing the provision of care in a new home, to comply with the requirements of legislation a detailed risk assessment must be made by the organisation providing the service, of the risks associated with the delivery of the service. This assessment must be undertaken by someone who is trained for the purpose. This may be the manager or it may be an experienced home care or support worker. The risk assessment must be comprehensive and include, where appropriate, the risks associated with assisting with medication as well as any risks associated with travelling to and from the home of the service user, particularly late at night.

A separate assessment must be undertaken of the risks associated with manual handling. It is important that care strategies are devised in relation to assisting people with disabilities move, which are acceptable to the person concerned and are also safe for the care and support workers involved. Guidance on manual handling from the Health and Safety Executive has been revised and updated in 2002.

The service user also retains responsibilities in relation to the health and safety of the environment in which they live and not placing people visiting the home at risk. All the risks identified must therefore be discussed in full with the service user, their relatives or representative, the home care or support worker and their line manager, and a CSIW Inspector if necessary. A plan to manage the identified risks must be compiled and agreed by all parties. The plan should include review and reassessment of the risks.

Protection of the person from abuse or exploitation

The general public is aware of the effects of child abuse; far less publicity is given to adult and elder abuse and many people, even those employed in providing care to adults, are still relatively unaware of the existence of abuse and its effects. Home care and support workers need to be aware that abuse does not have to be extreme or obvious. It can be unintentional, insidious and the cumulative result of on-going bad practice. No organisation that is concerned with maintaining standards in the provision of professional care services can afford to ignore any form of abuse which affects the well being of the people for whom they are responsible.

The role that home care and support workers play in the lives of people they care for, is extremely important. It is the home care workers and support workers who have a key role in recognising and protecting people from abuse. They have a responsibility to the people for whom they provide the care service, to minimise both the likelihood of abusive situations occurring and the effects that it can have, and to contribute to monitoring anyone who may be considered to be 'at risk.'

It is essential that care is taken in all financial transactions undertaken on behalf of the service user and a full written record kept to safeguard both the service user and the home care or support worker and to ensure no misunderstandings occur. For similar reasons home care or support workers must never seek to profit from the care they provide to service users by the acceptance of significant gifts or bequests.

The safety of service users is very important and for this reason care must be taken when entering or leaving the premises of people receiving care. This includes the need to carry and show proper identification at all times.

SAFE WORKING PRACTICES

OUTCOME

The health, safety and welfare of service users and care and support staff is promoted and protected

STANDARD 11 (See regulations 13 (conduct of agency) and 14 (arrangements for the provision of personal care))

11.1 The registered person ensures that the agency has systems and procedures in place to comply with the requirements of the Health and Safety legislation Including:-

- **Management of Health and Safety at Work Regulations 1999 (Management Regulations)**
- **Manual Handling Operations Regulations 1992**
- **Control of Substances Hazardous to Health Regulations (COSHH).**
- **Reporting of Injuries, Diseases and dangerous Occurrences Regulations 1995 (RIDDOR)**
- **Lifting Operations and Lifting Equipment Regulations 1998 (LOLER)**
- **Provision and use of Work Equipment Regulations 1998 (PUWER)**
- **Health and Safety at Work Act 1974**

- **Food Safety Act 1990**

11.2 The agency has a comprehensive health and safety policy, and written procedures for health and safety management defining:-

- individual and organisational responsibilities for health & safety matters
- responsibilities and arrangements for risk assessment under the requirements of the Management of Health and Safety at Work Regulations 1999 (Management regulations)
- arrangements to implement safe systems of work to safeguard the welfare of service users, staff and others involved in the provision of domiciliary care, taking into account the findings of the risk assessments
- procedures to be followed when safe systems of work identified as necessary to safeguard the service users, staff and others involved in the provision of domiciliary care, cannot be implemented
- responsibility and procedure for reporting and investigating accidents and dangerous occurrences including those specified under RIDDOR for both service users and staff
- reporting procedure to follow when either a service user or a member of staff has a known transmittable disease or infection
- the provision and wearing of protective clothing
- procedures for managing threats or violence to staff
- content of training on health and safety to be given to care and support workers (see Standard 19 and appendix D)

11.3 The registered person appoints one or more competent persons to assist the agency in complying with their health and safety duties and responsibilities including:

- identifying hazards and assessing risks
- preparing health and safety policy statements
- introducing risk control measures
- providing adequate training and refresher training

11.4 All organisational records relating to health and safety matters are accurate and kept up to date. (see Standard 24)

RISK ASSESSMENT

OUTCOME

The risk of accidents and harm happening to Service Users and staff in the provision of the personal care, is minimised

STANDARD 12 (See regulation 13 (conduct of agency))

- 12.1 The registered person ensures that an assessment is undertaken, by an appropriately trained and qualified person, of the potential risks to service users and staff associated with delivering the service user's package of care, (including, where appropriate, the risks associated with assisting with medication and other health related activities) before the care or support worker commences work and is updated annually or more frequently if necessary.**
- 12.2 The risk assessment includes an assessment of the risks for service users in maintaining their independence and daily living within the home. (See Standard 7)
- 12.3 The manner in which the risk assessment is undertaken is appropriate to the needs of the individual service user and the views of the service user and their relatives are taken into account.
- 12.4 The registered person ensures that a separate moving and handling risk assessment is undertaken by a member of staff who is trained for the purpose, whenever staff are required to help a user with any manual handling task, as required under the Manual Handling Operations Regulations 1992.
- 12.5 A comprehensive plan to manage the risks to workers, including manual handling, and the risks to service users, is drawn up in consultation with the service user, their relatives or representatives, included in the service user plan and kept in the home of the service user for staff to refer to. A copy is also placed on the personal file kept in the agency. The risk management plan is implemented and reviewed annually or more frequently if necessary.
- 12.6 A procedure is in place for reporting new risks which arise including defective appliances, equipment, fixtures or security of the premises.
- 12.7 Where pressure of time does not allow a risk assessment to be undertaken prior to provision of the care or support, only staff who are both trained to undertake risk assessments and competent to provide the care likely to be required are assigned to emergency situations.

- 12.8 Two people fully trained in current safe handling techniques, and the equipment to be used, are always involved in the provision of care when the need concerned is identified from the manual handling risk assessment.
- 12.9 The name and contact number of the organisation responsible for providing and maintaining any equipment under the Manual Handling Regulations and Lifting Operations and Lifting Equipment Regulations is recorded on the risk assessment.
- 12.10 The registered person ensures that the manual handling equipment is in a safe condition to use, that inspections by the manufacturers have taken place on time and if necessary reminds the organisation providing the equipment that a maintenance check is due.
- 12.11 The registered person produces and ensures compliance with safety policies and procedures to protect staff travelling to and from the homes of service users including advice on :-
- not carrying large sums of money or medicines late at night
 - working in pairs
 - use of beeps/pagers
 - use of mobile telephones
 - car insurance for business use
- 12.12 A responsible and competent person is on call and contactable at all times when care and support staff are on duty.

FINANCIAL PROTECTION

OUTCOME

The money and property of service users is protected at all times whilst providing the care service

STANDARD 13 (See regulations 13 (conduct of agency), 14 (arrangements for the provision of personal care) and 27 (register of interests))

- 13.1 **The registered person ensures that there is a policy and procedures are in place for staff on the safe handling of service users' money and property covering:**
- **payment for the service/ service users contribution (if appropriate)**
 - **payment of bills**

- **shopping**
- **collection of pensions**
- **safeguarding the property of service users whilst undertaking the care tasks**
- **reporting the loss or damage to property whilst providing the care**

and guidance on NOT:

- **accepting gifts or cash**
- **using loyalty cards except those belonging to the service user**
- **making personal use of the service users property eg telephone**
- **involving the service user in gambling syndicates (national lottery, football pools)**
- **borrowing or lending money**
- **selling or disposing of goods belonging to the service user and their family**
- **selling goods or services to the service user**
- **incurring a liability on behalf of the service user**
- **taking responsibility for looking after any valuable on behalf of the service user**
- **taking any unauthorised person (including children and pets) into the service user's home without permission of the service user, their relatives or representative and the manager of the service**

- 13.2 The agency's policies and practices regarding service users wills and bequests preclude the involvement of any staff or members of their family, in the making of or benefiting from service users wills or soliciting any other form of bequest or legacy or acting as witness or executor or being involved in any way with any other legal document.
- 13.3 The registered person ensures there is a policy and procedure for the investigation of allegations of financial irregularities and the involvement of police, social services and professional bodies.
- 13.4 The amount and purpose of all financial transactions undertaken on behalf of the service user, including shopping and the collection of pensions is recorded appropriately on the visit record held in the service users home (see Standard 16) and signed and dated by the care and support worker and by the service user, if able to do so, or their relatives or representatives on their behalf.
- 13.5 Where service users are unable to take responsibility for the management of their own finances, this is recorded on the risk assessment and action taken to minimise the risk. (See Standard 12.2)

- 13.6 The registered person will keep a register that is open to inspection by a service user, or a service user's representative. The registered persons will declare in writing in the register any material interest or involvement they have, or a relative of theirs has, with any separate organisation providing care or support services, or with a CSIW Inspector;

PROTECTION OF THE PERSON

OUTCOME

Service users are protected from abuse, neglect and self-harm

STANDARD 14 (See regulations 13 (conduct of agency), 14 (arrangements for the provision of personal care) and 16 (staffing))

- 14.1 **Service users are safeguarded, in accordance with written policies and procedures, from any form of abuse or exploitation including physical, financial, psychological, sexual abuse, neglect, discriminatory abuse or self-harm or inhuman or degrading treatment through deliberate intent, negligence or ignorance.**
- 14.2 The Registered Person ensures that the agency has robust procedures for responding to suspicion or evidence of abuse or neglect (including whistle blowing) to ensure the safety and protection of service users. The procedures reflect local multi-agency policies and procedures including the involvement of the Police and the passing on concerns to the CSIW in accordance with the Public Interest Disclosure Act 1998.
- 14.3 All allegations and incidents of abuse are followed up promptly and the details and action taken recorded in a special record/file kept for the purpose and on the personal file of the service user.
- 14.4 The Registered Person ensures that there is a detailed policy, procedure and a management and reporting plan for child protection.
- 14.5 The Registered Person ensures that care and support staff working with children and their families have copies of the local authority child protection procedures and are fully conversant with the agency's policy and procedure.
- 14.6 Physical and verbal aggression by a service user, their relatives or friends is responded to appropriately. Physical intervention is only used as a last resort, in accordance with Welsh Assembly Government guidance, protects the rights and best interests of the service user, including people with special needs and is the minimum necessary consistent with safety. (see Standards 7.4 and 12)

- 14.7 Training on prevention of abuse is given to all staff within 6 months of employment and is updated every two years.
- 14.8 Staff who have acted in a way which may lead to their inclusion in the Protection of Children Act 1999 list or the protection of vulnerable adults list are referred, in accordance with, respectively, the Protection of Children Act 1999 or the Care Standards Act 2000 to the Secretary for consideration as to their inclusion on those lists.

SECURITY OF THE SERVICE USER'S HOME

OUTCOME

Service users are protected and are safe and secure in their home

STANDARD 15 (See regulations 13 (conduct of agency) and 14 (arrangements for the provision of personal care))

- 15.1 **Care and support workers ensure the security and safety of the home and the service user at all times when providing personal care.**
- 15.2 Clear protocols are in place in relation to entering the homes of service users which cover:-
- knocking/ringing bell and speaking out before entry
 - written and signed agreements on keyholding
 - safe handling and storage of keys outside the home
 - confidentiality of entry codes
 - alternative arrangements for entering the home
 - action to take in case of loss or theft of keys
 - action to take when unable to gain entry
 - securing doors and windows
 - discovery of an accident to the service user
 - other emergency situations
- (See Standard 4.2)
- 15.3 Identity cards are provided for all care and support staff entering the home of service users. The cards should display:
- a photograph of the member of staff
 - the name of the person and employing organisation in large print

- the contact number of the organisation
- date of issue and an expiry date which should not exceed 36 months from the date of issue.

The cards should be:

- available in large print for people with visual disabilities
 - laminated or otherwise tamper proof
 - renewed and replaced within at least 36 months from the date of issue.
 - returned to the organisation when employment ceases
- 15.4 For people with special communication requirements, there are clear and agreed ways of identifying care and support staff from the agency.

RECORDS KEPT IN THE SERVICE USER'S HOME

OUTCOME

The health, rights and best interests of service users are safeguarded by maintaining a record of key events and activities undertaken in the home in relation to the provision of personal care

STANDARD 16

16.1 With the user's consent, care or support workers record on records kept in the home of service users, the time and date of every visit to the home, the service provided and any significant occurrence. Where employed by the agency, live-in care and support workers complete the record on a daily basis. Records include (where appropriate):

- assistance with medication including time and dosage on a special medication chart. (See Standard 10)
- other requests for assistance with medication and action taken (see Standard 10)
- financial transactions undertaken on behalf of the service user (See Standard 13)
- details of any changes in the users or carers circumstances, health, physical condition, care needs
- any accident, however minor, to the service user and/or care or support worker
- any other untoward incidents
- any other information which would assist the next health or social care worker to ensure consistency in the provision of care

16.2 Service users and/or their relatives or representatives are informed (if duly authorised), about what is written on the record and have access to it.

- 16.3 All written records are legible, factual, signed and dated and kept in a safe place in the home, as agreed with the service user their relatives or representative.
- 16.4 Records are kept in the home for one month, or, if a shorter period, until the service is concluded, after which time they are transferred, with the permission of the service user, to the agency premises or other suitable body (eg local authority or health trust, or other purchaser of the service), for safe keeping.
- 16.5 Any service user, or a relative or representative on his or her behalf, refusing to have records kept in the service user's home, is requested to sign and date a statement confirming the refusal and this is kept on the user's personal file in the agency.

MANAGERS AND STAFF

Introduction to standards 17 – 21 (See Managers and staff section of bibliography)

The expectations that service users and their families have of home care and support staff is very high. The work places considerable responsibility on all home carers who work, predominantly on their own, in other people's own homes and in unsupervised settings. The quality of the care provided to service users will directly reflect the calibre of staff employed and their level of competence. It is therefore essential that the people who are recruited to undertake the work are suitable for task. It is also essential that they are able to demonstrate their competence for the work they are employed to undertake. This means ensuring staff at all levels have opportunities to develop and receive the training necessary. To do otherwise would mean providing people living in their own home and requiring personal care with a 'second-rate' service.

As the care needs of people living at home become increasingly complex and as more people are discharged early from hospital, so there is a commensurate increase in the need for specialist training to meet the particular care needs of people with certain conditions. Training must also consider the needs of family and other carers.

The quality of care provided is strongly influenced by the calibre of the managers of the service. It is therefore important that they are also able to demonstrate their management competence and their ability to perform their responsibilities effectively. One of these responsibilities is the regular supervision and appraisal of staff. This is particularly essential for home care staff who work daily in stressful, but totally unsupervised work settings. Unfortunately things do go wrong from time to time, and to deal with these situations it is necessary to have an effective disciplinary and grievance procedure. A Staff Handbook issued to all staff, helps to ensure that they know what is expected of them and what they should do in certain critical situations. It is also important that it is realised that the application of the standards applies equally to the engagement of temporary or agency staff.

RECRUITMENT AND SELECTION

OUTCOME

The well-being, health and security of service users is protected by the agency's policies and procedures on recruitment and selection of staff

STANDARD 17 (See regulations 15 (fitness of workers) and 16 (staffing))

- 17.1 **There is a rigorous recruitment and selection procedure which meets the requirements of legislation, equal opportunities and anti discriminatory practice and ensures the protection of service users and their relatives .**
- 17.2 Face to face selection interviews are undertaken on premises which are secure and private, for all staff (including volunteers) who are short listed and may be engaged.
- 17.3 Two written references are obtained before making an appointment, one of whom should normally be the immediate past employer and are followed up by a telephone call prior to confirmation of employment. Any gaps in the employment record are explored.
- 17.4 New staff and volunteers are confirmed in post only following completion of satisfactory checks. These checks include:-
- verification of identity
 - criminal record check (or, wherever possible, police check in country of origin if newly arrived in UK)
 - POVA and POCA lists
 - work permit (if appropriate)
 - driving licence (if appropriate)
 - certificates of training and qualifications claimed
 - declaration of medical fitness
 - confirmation service check by UKCC (if holding a nursing, midwifery or health visitor qualification)
 -
 - Registers of the Care Council for Wales (as and when established)
- 17.5 Checks on the suitability of temporary staff may be undertaken by an employment or recruitment agency on behalf of the provider agency, provided that the checks comply with the requirements of these standards.

- 17.6 New staff, including temporary workers and volunteers, are provided with a written contract specifying the terms and conditions under which they are engaged, including the need to comply with the agencies Staff Handbook and the agency's policies and procedures. (See Standard 18)

REQUIREMENTS OF THE JOB

<i>OUTCOME</i>

<i>Service users benefit from clarity of staff roles and responsibilities</i>

STANDARD 18 (See regulation 16 (staffing))

- 18.1 **All managers and staff are provided with a written job description person and work specification, identifying their responsibilities and accountabilities and with copies of the organisations' Staff Handbook and grievance and disciplinary procedure.**
- 18.2 The person specification includes the personal qualities required to undertake the work and the appropriate attitudes to be adopted.
- 18.3 Activities which should not be undertaken by care and support staff are also identified.
- 18.4 Person and work specifications are developed with reference to the relevant National Occupational Standards.
- 18.5 All staff (including temporary workers) are issued with the agency's Staff Handbook for staff, (which shall incorporate the Agency's Code of Conduct for staff (see appendix B) and any code of conduct and practice expected of social care workers issued by the Care Council for Wales under s.62 of the CSA).
- 18.6 Staff are required to notify their employer of any new criminal convictions which may raise doubt as to whether the personal care to be provided by the staff member would be in accordance with the registered person's obligations concerning the nature of the personal care arranged by the agency.
- 18.7 An immediate investigation is undertaken on any allegations or incidents of misconduct and appropriate disciplinary action taken as necessary.
- 18.8 A record is kept of all disciplinary incidents and details entered in the personal file of the member of staff concerned.

DEVELOPMENT AND TRAINING

OUTCOME

Service users know that staff are appropriately trained to meet their personal care needs

STANDARD 19 (See regulation 16 (staffing))

- 19.1 The registered person ensures that there is a staff development and training programme within the agency, reviewed and updated annually, which meets the Training Organisation for Personal Social Services workforce training targets, ensures staff are able to fulfil the aims of the agency and meets the changing needs of service users, their relatives and representatives.**
- 19.2 There is a structured induction process, which is completed by new care and support staff, which encompasses the Training Organisation for Personal Social Services induction standards.
- 19.3 The induction process includes a minimum 3 days orientation programme at the start of employment which covers the topics in appendix C and includes shadowing an experienced care or support worker prior to taking responsibility themselves for the provision of personal care services and working alone in the homes of service users.
- 19.4 Each new member of staff undertakes a training needs analysis on completion of induction or probationary period. This is incorporated into the agency's staff training and development plan.
- 19.5 All staff are provided with the required training on health and safety including manual handling. Topics to be covered may be found in appendix D. (See Standard 11)
- 19.6 Specialist advice, training and information is provided for care or support workers working with specific client groups and/or medical conditions by someone who is professionally qualified to do so. A list of areas of specialist training need appears in appendix E.
- 19.7 Within the whole staff group there is the range of skills and competence required to work with and meet the needs of individual service users served by the agency. (See Standard 3)
- 19.8 Managers or supervisors of care or support workers providing specialist care services have knowledge and understanding of the specialisms for which they are responsible.
- 19.9 The agency has financial resources allocated, plans, and operational procedures, to achieve and monitor the requirements for workforce training and qualification.

19.10 The need for refresher and updating training is identified at least annually during staff appraisal (see Standard 21) and incorporated into the agency's staff development and training programme.

QUALIFICATIONS

OUTCOMES

The personal care of service users is provided by qualified and competent staff

STANDARD 20 (See regulation 16 (staffing))

- 20.1 **All staff in the organisation are competent and trained to undertake the activities for which they are employed and responsible.**
- 20.2 Newly appointed care or support workers delivering personal care who do not already hold a NVQ in Care Level 2 or 3 (or equivalent) are required to demonstrate their competence, enroll for a course leading to such a NVQ within the first six months of beginning to work for the purposes of the agency and complete the full award within three years (whether or not they work for the agency throughout that period).
- 20.3 Unqualified staff employed for less than 2 years at the commencement of the application of the standards are required to enroll on a course leading to a NVQ mentioned in 20.2 within 2 years of the commencement of the application of these standards and complete the award within 3 years.
- 20.4 50% of all care arranged by the agency is to be delivered by workers holding a NVQ mentioned in 20.2, or equivalent, by 1st July 2007.
- 20.5 A Manager who is employed at the commencement of the application of these standards should hold a nationally recognised management qualification equivalent to NVQ level 4 in management by 3 years from the date of the commencement of application of these standards. A Manager employed after the commencement of these standards should obtain such a qualification within three years of commencing employment.
- 20.6 Records of training and development undertaken and the outcome, are kept on a central development file and on individual personnel files.
- 20.7 The Manager shall undertake periodic management training to update knowledge, skills and competence to manage the agency.**

SUPERVISION

OUTCOME

Service users know and benefit from having staff who are supervised and whose performance is appraised regularly

STANDARD 21 (See regulation 16 (staffing))

- 21.1 All care and support staff receive regular supervision and have their standard of practice appraised annually.
- 21.2 All staff meet formally on a one to one basis with their line manager at least once every three months to discuss their work and written records shall be kept on the content and outcome of each meeting. (See Standard 27.3)
- 21.3 With the consent of the service user, at least one of these meetings should incorporate direct observation of the care worker providing care to a service user with whom they regularly work.**
- 21.4 Regular meetings are also held at least quarterly with peers and/or other team members.
- 21.5 All staff have an annual appraisal of their overall standard of performance and identification of training and development needs and a copy of the appraisal is placed on the personnel file of each care or support worker. The appraisal should normally be undertaken by the line manager or their manager, except in exceptional circumstances.
- 21.6 Managers and supervisors receive training in supervision skills and undertaking performance appraisal.

ORGANISATION & RUNNING OF THE BUSINESS

Introduction to Standards 22 – 27 (See organisation section of bibliography)

It is essential that the providers of domiciliary care agencies operate from a sound business basis in order to ensure that they are able to meet the needs of service users efficiently and effectively, able to provide the user focus identified in Standards 1 - 16 and able to meet the requirements of the Regulations in light of these standards.

This means that the infrastructure of the business must be sound, operating from premises that are suitable and equipped for the purpose. A business or operational plan is required to ensure that there is strategic planning for the on-going operation and stability of the business. The management structure of the organisation must be appropriate for the effective management of a dispersed workforce, working in stressful and responsible situations, primarily on their own in other people's own home. The ratio of managers to staff must reflect this and the complexity of the care needs of service users ie the more complex the level of need the lower the ratio should be of managers to staff. All staff must also be engaged on a contractual basis with clarity about their areas of responsibility.

Complaints and Quality Assurance

The delivery of effective personal care services to people living in their own home requires a clear infrastructure which identifies each stage of the process of service delivery and provides policies and procedures which support practice.

The delivery of the service and meeting the nationally required standards must be supported by continuous monitoring and evaluation. Each organisation will be required to have a robust mechanism in place for ensuring the quality of the services it is providing and taking the action necessary if the service falls below the standards identified.

Each organisation is also required to have a robust system in place to enable service users and/or their advocates or family carers, to make a formal complaint about the service and for the complaint to be investigated promptly and any necessary action taken. It should be remembered that the majority of people who receive care in their own home are extremely reluctant to complain, even when they have very valid reasons to do so, for fear that the service may be taken away from them. For this reason it is important that the process for making a complaint is accessible, transparent and straightforward. The process should include the giving of compliments as well as making complaints so that the whole process is seen and experienced by service users as positive and constructive and not negative and punitive.

BUSINESS PREMISES, MANAGEMENT AND PLANNING

<i>OUTCOME</i>

<i>Service users receive a consistent, well managed and planned service</i>

STANDARD 22 (See regulations 16 (staffing), 25 (fitness of premises) and 26 (financial position))

- 22.1 **The business operates from permanent premises and there is a management structure in place, including clear lines of accountability, which enables the agency to deliver services effectively on a day to day basis, in accordance with the agency's business plan.**
- 22.2 The service is managed and provided from sound and permanent premises which are suitable and designated for the purpose, provide a safe working environment for staff and include the provision of private space for confidential meetings.
- 22.3 The premises are located appropriately for the management and provision of domiciliary care to the people it serves.
- 22.4 The premises contain the equipment and resources necessary for the efficient and effective management of the service. This may include:
- sufficient number of desks and chairs in relation to the size of the business and the number of people based in or making use of the premises.
 - lockable filing cabinets
 - telephones, answering machine, fax machine
 - mobile phone or paging system
 - computer hard and software or an alternative system for producing management information, recording data, timesheets etc
 - systems (computerised or manual) to effectively manage and run the business
- 22.5 The management structure reflects the size of the agency and the volume and complexity of the care provided.
- 22.6 The registered provider is able to demonstrate there is an adequate covering the operation of the agency.

FINANCIAL PROCEDURES

OUTCOME

The continuity of the service provided to service users is safeguarded by the accounting and financial procedures of the agency

STANDARD 23 (See regulation 26 (financial position))

- 23.1 **The registered person ensures sound accounting and other financial procedures are adopted to ensure the effective and efficient running of the business and its continued financial viability.**
- 23.2 Systems are in place to accurately calculate charges for the service, to submit invoices regularly and to identify and follow-up any late payment.
- 23.3 Where audited accounts are not available, annual accounts are completed by a qualified accountant for the purpose of regulation and inspection.
- 23.4 Insurance cover is sufficient to protect the agency's assets and liabilities. Including the agency's legal liabilities to any and all employees and third party persons to a limit of indemnity commensurate with the level and extent of activities undertaken.
- 23.5 Assets insurance cover is in place against any loss or damage, including business interruption costs and for replacement as new of buildings, fixtures, fittings and equipment.

RECORD KEEPING

OUTCOME

The rights and best interests of service users are safeguarded by the agency keeping accurate and up-to-date records

STANDARD 24 (See regulation 20 (records))

- 24.1 **The agency maintains all the records required for the protection of service users and the efficient running of the business for the length of time required by the Regulations, including:**
- financial records detailing all transactions
 - personal file on each service user

- personnel files on each member of staff
- Interviews of applicants for posts who are subsequently employed
- accident report record (see Standard 11.4)
- record of incidents of abuse or suspected abuse (including use of restraint) and action taken (see Standards 14 and 18.9)
- Record of complaints and compliments and action taken (see Standard 26)
- records of disciplinary and grievance procedures (see Standard 18)
- records kept in the home of service users (see Standard 16)

24.2 All records are secure, up to date and in good order and are constructed, maintained and used in accordance with the Data Protection Act 1998, and other statutory requirements and are kept for the requisite length of time.

24.3 Consistent and standard personal data is kept on all service users being cared for by the agency. (See appendix F)

24.4 Service users or their representatives have access, in accordance to the Data Protection Act 1998 and other legal requirements, to their records and information about them held by the agency and are facilitated in obtaining access when necessary. (See Standard 9)

POLICIES AND PROCEDURES

OUTCOME

The service user's rights, health, and best interests are safeguarded by robust policies and procedures which are consistently implemented and constantly monitored by the agency

STANDARD 25 (See regulations 4 (statement of purpose), 16 (staffing), 17 (staff handbook and code of conduct) and 23 (review of quality of service provision))

25.1 The agency implements a clear set of policies and procedures to support practice and meet the requirements of legislation, which are dated, and monitored, as part of the quality assurance process. The policies and procedures are reviewed and amended annually or more frequently if necessary. (See appendix G).

- 25.2 Staff understand and have access to up-to-date copies of all policies, procedures and codes of practice and service users have access to relevant information on the policies and procedures and other documents in appropriate formats.

COMPLAINTS AND COMPLIMENTS

OUTCOME

Service users and their relatives or representatives are confident that their complaints will be listened to, taken seriously and acted upon

STANDARD 26 (See regulations 14 (arrangements for the provision of personal care) and 23 (review of quality of service provision))

- 26.1 **The registered person ensures that there is an easily understood, well publicised and accessible procedure to enable service users, their relatives or representative make a complaint or compliment and for complaints to be investigated.**
- 26.2 The procedure includes the stages and timescales for the process.
- 26.3 Positive action is taken to encourage, enable and empower service users to use the complaints and compliments procedure including access to appropriate interpretation and methods of communication.
- 26.4 All complaints are acknowledged in an appropriate form and the investigation commenced within the period specified in the information given to users.
- 26.5 Service users are kept informed at each and every stage of the investigatory process and are given information on the procedure for considering complaints and for referring a complaint, to the regional office of the Care Standards Inspectorate for Wales, at any stage if they so wish.
- 26.6 A record is kept of all complaints and compliments including details of the investigation and action taken; this record is also kept on the personal file of the service user kept in the agency and on the home care or support workers personnel record.
- 26.7 There is a system in place to analyse and identify any pattern of complaints.

QUALITY ASSURANCE

OUTCOME

The service is run in the best interests of its service users

STANDARD 27 (See regulations 16 (staffing) and 23 (review of quality of service provision))

- 27.1 **There is an effective system for Quality Assurance (QA) based on the outcomes for service users, in which standards and indicators to be achieved are clearly defined and monitored on a continuous basis by care and support staff and their line managers.**
- 27.2 The Regulations, these standards and other relevant service standards and indicators eg National Occupational Standards and indicators for the Performance Assessment Framework, are incorporated into the QA system.
- 27.3 There is a process and a procedure for consulting with service users and their carers about the care service on a regular basis and assuring quality and monitoring performance including:-
- An annual visit to all service users undertaken by a supervisor or manager and combined, where appropriate, with a review of the service user plan (Standard 7) or monitoring the performance of the care or support worker (Standard 21)
 - regular supervision meetings between the line manager and care and support workers (See standard 21)
 - annual survey of service users, their relatives or representative where appropriate to obtain their views and opinions of the service
 - checks on records, timesheets etc
- 27.4 Care and support workers know the standard of service they are required to provide and monitor and meet the standard on a continuous basis.
- 27.5 The outcome from the QA process is published annually and circulated to service users, their family or representatives and all stakeholders in the agency and made available to the CSIW.
- 27.6 Standards and the QA process are reviewed and revised as necessary, on an annual basis.

APPENDICES

A GLOSSARY OF TERMS

Abuse

Single or repeated act or lack of appropriate action occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person [Action on Elder Abuse] including physical, emotional, verbal, financial, sexual, racial abuse, neglect and abuse through the misapplication of drugs.

Care Assessment

Collection and interpretation of data to determine an individual's need for health, personal and social care and support services, undertaken with the individual, his/her supporter, and relevant professionals.

Care Management

A system for organising the management and delivery of care services to vulnerable adults by local authority social services departments, and by CPNs, psychiatrists and other NHS personnel under CPA for people with mental health problems, involving assessing needs, care planning, organisation of care packages, monitoring and review, and close involvement with users and carers.

Care Manager

The person responsible for undertaking the assessment of need, developing and co-ordinating the service user's plan, for monitoring its progress and for staying in regular contact with the service user and everyone involved.

Care Plan

A written statement, regularly updated, and agreed by all parties, setting out the health and social care and support that a service user requires in order to achieve specific outcomes and meet the particular needs of each service user.

Care Programme Approach (CPA)

The formal process (integrated with Care Management) of assessing needs for services for people with mental health problems prior to and after discharge from hospital.

Care Worker

A person who works on either a paid or a voluntary basis for an organisation which provides personal domiciliary care services to people who live in their own homes

Contract

Written agreement between the service user who is paying privately for their care and the domiciliary care provider, setting out the terms and conditions, and rights and responsibilities, of both parties, and including the Individual Plan of Care.

CSA

The Care Standards Act 2000

CSIW

Care Standards Inspectorate for Wales

Independent advocate

An individual who is independent of any of the statutory agencies involved in purchasing or provision of care in, or the provision or regulation of the domiciliary care service, who acts on behalf of and in the interests of a service user [who feels unable to represent him / herself when dealing with professionals.] Self-advocates are trained and supported to represent their own views.

Intermediate care

A short period (normally no longer than six weeks) of intensive rehabilitation and treatment to enable service users to return home following (or to avoid) hospitalisation, or to prevent admission to long term residential care.

The Manager

Where there is no registered provider is also the manager, this term means that person. In other cases it means the registered manager.

Outcome

The end result of the service provided by a care provider to a service user, which can be used to measure the effectiveness of the service.

Personal care

Includes assistance with bodily functions where required.

Physical intervention

A method of responding to violence or aggressive behaviour which involves a degree of direct physical force to limit or restrict movement or mobility.

Policy

An operational statement of intent which helps staff make sound decisions and take actions which are legal, consistent with the aims of the service, and in the best interests of service users.

Procedure

The steps taken to fulfil a policy.

Registered Person

Either the registered provider or, if a different person, the registered manager.

The Regulations

The Domiciliary Care Agencies (Wales) Regulations 2003

Representative

A person acting on behalf of a service user, who may be a relative or friend.

Service user

Person who is receiving the care service.

Service User Plan

A detailed plan that is developed between the service user and the representative of the agency providing the care which identifies the way in which the care is to be provided and the activities to be undertaken. The Service User Plan arises from the needs assessment, the care plan and the risk and manual handling risk assessment.

Standard

A measure by which quality is judged.

Support worker

A care worker who enables people, generally adults with learning disabilities, physical disabilities, sensory impairment or mental health problems, to maximise their own abilities and independence.

Volunteer

People working without pay, or for expenses only,

B CONTENT OF THE STAFF CODE OF CONDUCT

The Code covers:-

- compliance with the philosophy of care (privacy, dignity, maintaining independence)
- confidentiality of information
- limits of responsibility
- provision of non-discriminatory practice
- receiving sexual or racial harassment
- health and safety
- moving and handling
- prevention of any form of abuse
- dealing with accidents & emergencies
- handling and administering medicines
- handling money and financial matters on behalf of a service user
- acceptance of gifts and legacies
- dress code,
- use of protective clothing
- protocols and procedures for entering and leaving the service user's home
- personal safety and out of hours working
- not smoking, drinking alcohol or taking illegal substances whilst on duty
- ways in which staff and managers may raise concerns about the management and provision of the service including disclosure of bad practice
- maintaining accurate records
- other relevant policies and procedures

C CONTENT OF THE INDUCTION PROGRAMME

Induction may be undertaken in a number of different ways:-

- a formal course or programme of learning
- shadowing or working alongside an experienced colleague
- completion of a workbook, checklists and other forms of open learning
- a combination of all three

Content should include the following:-

- the nature of personal care and the basic skills required
- core values, including providing a 'needs-led' service
- code of personal conduct (see appendix 2)
- terms and conditions of employment including disciplinary and grievance procedures
- the requirements of legislation

- policies and working practices of the organisation
- health and safety training including an introduction to manual handling, infection control and fire procedures (see appendix 4)
- general health of service users and the role of care and support staff in monitoring their health on an on-going basis.
- communication skills
- prevention of any form of abuse or exploitation of the person receiving care or support and 'whistle-blowing
- anti-discriminatory practice including cultural awareness
- standards to which they should work (including the requirements of the Regulations and these standards)
- confidentiality
- gifts and bequests
- principal activities which must not be undertaken
- contextual knowledge about the organisation for which they are working
- Quality assurance and monitoring

For Managers the Induction process should include an introduction to:-

- Recruitment and selection
- Supervision and performance appraisal
- Health and safety for managers
- Risk and manual handling risk assessment
- Monitoring practice and quality assurance

D CONTENT OF HEALTH AND SAFETY TRAINING

Health and safety issues are covered in the induction programme including:-

- clear statement and parameters of responsibility of care staff and employer
- guidance on appropriate clothing & footwear
- procedure for reporting and recording accidents to service users and care staff
- dealing with violent incidents (or potential incidents) and challenging behaviour
- personal safety and violence prevention towards staff
- dealing with sexual and/or racial harassment
- control of substances hazardous to health
- moving and handling
- first aid (as appropriate to the agency's service users)
- basic hygiene and infection control including dealing with bodily fluids and incontinence management
- food preparation, storage and hygiene
- policy and parameters of responsibility in relation to administering of medication
- notification of transmittable diseases and implications for confidentiality, protection etc

- wearing and use of protective clothing
- risk assessment including common hazards in the home
- maintaining privacy & respect when using equipment eg hoists
- health and safety implications for people with special needs
- dealing with pets , pests and infestation
- reporting of concerns or faulty equipment
- the rights of users to take risks
- action to take in an emergency situation (as appropriate to the agency's service users)

E TOPICS REQUIRING SPECIALIST TRAINING AND ADVICE

Specialist training would normally be expected for working with:-

- people from ethnic minority communities and/or religious groups
- children and their families
- people with communication needs
- people with sensory loss
- people with dual sensory impairment
- older people with complex health and care needs
- people with a terminal illness
- people who have had a stroke
- people who have learning disabilities
- people with mental health problems including people subject to Guardianship and Supervision Orders under the Mental Health Act
- people with infectious or contagious diseases
- people with dementia
- people with challenging behaviours

F DATA KEPT ON ALL SERVICE USERS

- ◆ name, address, date of birth, telephone no.
- ◆ preferred form of address
- ◆ name, address, telephone no. of next of kin and main carer or person closest to user
- ◆ name, address, telephone no. of GP
- ◆ name, address, telephone no. of person & organisation providing care
- ◆ name, address, telephone no. of care manager or other person responsible for arranging the provision of care (if applicable)
- ◆ date of commencement of the service
- ◆ date of termination of service – if known
- ◆ record of original assessment of need
- ◆ date of review/reassessment of service

- ◆ outcomes to be achieved for the service user by providing the care.
 - ◆ detail of the care activities and service to be provided
 - ◆ detail of the risk assessment including manual handling and any particular requirements arising from it
 - ◆ any particular or special needs
 - ◆ medication plan (if appropriate)
 - ◆ other health care issues if known
 - ◆ involvement of service user or carer in the provision and direction of their care
- ◆ The length of time records should be kept

G POLICIES AND PROCEDURES OF THE AGENCY

The policies and procedures encompass the following areas:-

- statement of purpose and aims and objectives of the organisation
- conditions of engagement including travel expenses, insurance etc
- form of staff contracts & job descriptions
- range of activities undertaken – and limits of responsibility
- personal safety whilst at work
- standards for quality assurance
- confidentiality of information
- provision of non-discriminatory practice
- equal opportunities, sexual or racial harassment
- health and safety
- moving and handling
- dealing with accidents & emergencies
- disclosure of abuse and bad practice
- data protection and subject access to information
- assisting with medication
- handling money and financial matters on behalf of a service user
- maintaining the records in the home
- acceptance of gifts and legacies
- dealing with violence & aggression
- entering & leaving a service users home
- safe keeping of keys
- complaints & compliments
- discipline and grievance
- training and staff development

NATIONAL MINIMUM STANDARDS FOR DOMICILIARY CARE AGENCIES

BIBLIOGRAPHY AND GOOD PRACTICE GUIDES

General

- CareFully – A Handbook for Home Care Assistants 2nd Edition Lesley Bell, Age Concern Wales 1999 ISBN 0 86242 285 X
- Managing CareFully – A Guide for Home Care Managers, Lesley Bell, Age Concern Wales 1996 ISBN 0 86242 185 3

SCA Practice guides:-

- Code of Practice for Social Care
- The Social Care Task – Improving the Quality of Life
- The UKHCA Code of Practice, United Kingdom Home Care Association

User Focussed Services

- Culture, Religion and Patient Care in a Multi-ethnic society, Alix Henley and Judith Schott, Age Concern 1999 ISBN 0862422310
- Caring for Ethnic Minority Elders: a guide, Yasmin Alibhai-Brown, Age Concern 1998 ISBN 0862421888

BADCO Good Practice Guidelines:-

- Charter of Rights for Home Care Users
- Professional/Personal Boundaries

SCA Practice guide:-

- Contracts and Agreements in Social Care

UKHCA Document:-

- Choosing Care in Your Own Home (leaflet)

Personal Care

- Pharmacist support for home carers (formerly known as home helps), Pharmacy Community Care Liaison Group, The Pharmaceutical Journal, Volume 260, pp 879-882, June 13 1998.

BADCO Good Practice Guidelines:-

- Professional/Personal Boundaries
- Medication
- Working in Home Care with Dementia

SCA Practice guides:-

- Positively Valuing People in Social Care
- Enabling, Participation and Empowerment
- Action Check List for Anti-Racist Practice in Social Care
- Keyworking in Social Care

UKHCA Document:-

- The Home Care Workers Handbook

Protection

- No Secrets, Department of Health 2000
- Elder Abuse: Critical issues in policy and practice, Age Concern
ISBN 0862422485

ACTION ON ELDER ABUSE

- The Home Front, video training package for Z1 occupational standard in care *Code No. 1500-283*
- Where's the Harm: Elder abuse or not? Video training package *Code No. 1500-282*
- **Papers and leaflets:-**
 - The abuse of older people at home
 - Speaking out on elder abuse
 - Bags of money
 - The great taboo
- Working with Care – Health and Safety in Home Care, Joint Advisory Group of Domiciliary Care Associations 1996
- Working Safely, Suzy Lamplugh Trust

BADCO Good Practice Guidelines:-

- Personal Safety for Home Care Staff
- Safe Hygiene Practice
- Handling Service Users Finances and valuable

SCA Practice Guides:-

- Dealing with Violence in Care Settings
- Recording and Reporting in Social Care

UKHCA Documents:-

- UKHCA Policy on Administration of Medicines
- Managing Finance : UKHCA Guidelines
- UKHCA Health & Safety Factsheet
- UKHCA Factsheets on MRSA, HIV & Aids, Pressures sores etc.

Managers and Staff**BADCO Good Practice Guidelines:-**

- Code of Practice for the Management of Domiciliary Care
- Professional/Personal Boundaries BADCO Leaflet
- Managing Absence
- Staff Support and Supervision
- Caring for Staff

SCA Practice Guides:-

- Selecting Staff for Social Care
- Induction Training for Social Care
- Supervision in Social Care

UKHCA Documents:-

- Training & Matching Care Staff to Perform Specific Tasks – UKHCA Guidelines

Organisation and running of the Business

- Home Care, The Business of Caring, Lesley Bell & Linda How, Age Concern Wales 1996 ISBN 0 86242 212 4
- A Framework for the Development of Standards for the Provision of Domiciliary Care – Quality Assurance in domiciliary Care, Joint Advisory Group of Domiciliary Care Associations

SCA Practice Guides:-

- Recording and Reporting in Social Care
- Complaints in Social Care
- Harassment, Discrimination and Bullying
- Suspending Staff from their Duties

UKHCA Documents:-

- UKHCA Complaints Procedure and Complaints Procedure for the use of clients.

Action on Elder Abuse Publications are available from:-

AEA, Astral House, 1268 London Road, London SW16 4ER

Tel: 0208 764 7648 Fax: 0208 679 4074 email: aea@ace.org.uk

Age Concern Publications are available from:-

Age Concern Books, PO Box 232, Newton Abbot, Devon TQ12 4XQ

Tel: 0870 44 22 044 Fax: 01626 364463 email: books@ace.org.uk

BADCO Leaflets are available from:-

Norcroft Farm, Seighford, Staffs ST18 9PQ. Tel: 0118 977 2878

JAG Booklets are available from:-

SCA – see address below

Pharmaceutical Journal reference available from:-

Karen Turnham, Policy Support Unit, Royal Pharmaceutical Society of Great Britain, 1 Lambeth High St, London SE1 7JN

Tel: 0207 572 2218 Fax: 0207 793 1923 email: kturnham@rpsgb.org.uk

SCA Publications are available from:-

Thornton House, Hook Road, Surbiton, Surrey KT6 5AR

Tel: 0208 397 1411 Fax: 0208 397 1436 email: sca@scaed.demon.co.uk

UKHCA Publications are available from:-

42b Banstead Road, Carshalton Beeches, Surrey SM5 3NW

Tel: 0208 288 1551 Fax: 0208 288 1550

2003 No. (W)

SOCIAL CARE, WALES

The Domiciliary Care Agencies (Wales) Regulations 2003

Made - - - - - *2003*

Coming into force - - - *[1st July 2003]*

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SCHEDULES

1. Information to be included in the statement of purpose
2. Information required in respect of registered providers and managers of an agency and persons nominated to deputise for a registered person.
3. Information required in respect of domiciliary care workers
4. Records to be maintained for inspection.

The National Assembly for Wales, in exercise of the powers conferred on it by sections 4(6), 22(1), (2)(a) to (d), and (f) to (j), (5)(a) and (7)(a) to (h) and (j), 25, 34(1) and 118(5) to (7) of the Care Standards Act 2000⁽¹⁾, having consulted such persons as it considers appropriate⁽²⁾, hereby makes the following Regulations:—

PART I GENERAL

Citation, commencement and application

1. —(1) These Regulations may be cited as the Domiciliary Care Agencies (Wales) Regulations 2003 and shall come into force on [1st July 2003].

(2) These Regulations apply in relation to Wales.

Interpretation

2. —(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Care Standards Act 2000;

“agency” means a domiciliary care agency;

“agency premises” means the premises from which the activities of an agency are carried on;

“appropriate office” means in relation to an agency—

(a) if an office of the National Assembly has been specified under regulation 34 for the area in which the agency premises are situated, that office; or

(b) in any other case, any office of the National Assembly;

“employment agency” has the same meaning as in the Employment Agencies Act 1973⁽³⁾;

“employment business” has the same meaning as in the Employment Agencies Act 1973;

“National Assembly” means the National Assembly for Wales;

“organisation” means a body corporate;

“domiciliary care worker” means a person who, whether or not employed by the registered person, works for the purposes of an agency in a position which is concerned with the provision of personal care in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance;

⁽¹⁾ 2000 c.14. The powers are exercisable by the appropriate Minister, who is defined in section 121(1), in relation to Wales, as the Assembly, and in relation to England, Scotland and Northern Ireland, as the Secretary of State. “Prescribed” and “regulations” are defined in section 121(1) of the Act; “the Assembly” is defined in section 5(b) of the Act.

⁽²⁾ See section 22(9) of the Care Standards Act 2000 for the requirement to consult.

⁽³⁾ 1973 c.35.

“Part II services” has the same meaning as in the Act;

“registered manager”, in relation to an agency, means a person who is registered under Part II of the Act as the manager of the agency;

“registered person”, in relation to an agency, means any person who is the registered provider or the registered manager of the agency;

“registered provider”, in relation to an agency, means a person who is registered under Part II of the Act as the person carrying on the agency;

“relative”, in relation to any person, means—

(a) the person’s spouse;

(b) any lineal ancestor, lineal descendant, brother, sister, uncle, aunt, nephew or niece of his or his spouse;

(c) the spouse of any relative within sub-paragraph (b) of this definition,

and for the purpose of determining any such relationship a person’s step-child shall be treated as his child, and references to “spouse” include a former spouse and a person who is living with the person as if he or she were the person’s husband or (as the case may be) wife;

“representative” means, in relation to a service user, a person, other than the registered person or a person employed for the purposes of the agency, who with the service user’s express or implied consent takes an interest in the service user’s health and welfare;

“responsible individual” shall be construed in accordance with regulation 8(2);

“service user” means any person for whom an agency arranges the provision of personal care in the person’s own home;

“service user’s guide” means the written information prepared in accordance with regulation 5(1);

"staff" means persons employed by the registered person for the purposes of the agency;

“statement of purpose” means the written statement compiled in accordance with regulation 4(1).

(2) In these Regulations, a reference—

- (a) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph, is to the paragraph in that regulation or Schedule bearing that number;
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

(3) In these Regulations, unless the context otherwise requires, references to employing a person include—

- (a) employing a person whether or not for payment and whether under a contract of service, a contract for services or otherwise than under a contract; and
- (b) allowing a person to work as a volunteer;

and references to an employee or to a person being employed shall be construed accordingly.

Excepted undertakings

3. For the purposes of the Act, an undertaking is excepted from the definition of “domiciliary care agency” in section 4(3) of the Act—

- (a) if it is carried on by an individual who—
 - (i) carries it on otherwise than in partnership with others;
 - (ii) is not employed by an organisation or unincorporated association to carry it on; and
 - (iii) does not employ any other person for the purposes of the undertaking;
- (b) in so far as it arranges for the provision of personal care for persons accommodated in a care home in respect of which a person is registered under Part II of the Act.

Statement of purpose

4. —(1) The registered person shall compile in relation to the agency a statement written on paper (in these Regulations referred to as “the statement of purpose”) which shall consist of —

- (a) a statement of the aims and objectives of the agency;
- (b) a statement specifying the personal care services which the agency arranges to be provided to service users; and
- (c) a statement as to the matters listed in Schedule 1.
 - (2) The registered person shall make the statement of purpose available at the agency premises for inspection by every service user and any person employed for the purposes of the agency.
 - (3) Nothing in regulation 16(1) or 25(1) or (2) shall require or authorise the registered person to contravene, or not to comply with—
 - (a) any other provision of these Regulations; or
 - (b) the conditions for the time being in force in relation to the registration of the registered person under Part II of the Act.

Service user’s guide

5. —(1) The registered person shall produce a written guide to the agency (in these Regulations referred to as “the service user’s guide”) which shall contain—

- (a) a summary of the statement of purpose;
- (b) the geographical area in respect of which the agency arranges for services to be provided;
- (c) the terms and conditions in respect of personal care to be provided for service users, including those as to the amount and method of payment of fees;
- (d) a description of the staff structure of the agency.
 - (2) The registered person shall—
 - (a) provide a copy of the first service user’s guide to the appropriate office of the National Assembly;
 - (b) provide a copy of the current version of the service user’s guide to each service user or the service user’s representative when the agency first arranges for the provision of personal care for the service user; and
 - (c) subsequent to the provision described in (b), provide on request further copies of the service user’s guide to the service user or the service user’s representative.
 - (3) Where a local authority has made arrangements with the agency for the provision of personal care by the agency to the service user, the registered person shall supply to the service user a copy of the agreement specifying the arrangements made.

Review of statement of purpose and service user’s guide

- 6.** —(1) The registered person shall—
- (a) keep under review and, subject to compliance with paragraph (2), where appropriate, revise the statement of purpose and the content of the service user’s guide; and
 - (b) notify service users of any such revision.
- (2) Unless it is not reasonably practicable to do so, the registered person shall notify the appropriate office of the National Assembly of any revision to be made to the statement of purpose at least 28 days before the revision is to take effect.

Agency documents

7. The registered person shall ensure that registration in respect of the agency under Part II of the Act is noted in all correspondence and other documents prepared in connection with the agency’s business.

PART II REGISTERED PERSONS

Fitness of registered provider

- 8.** —(1) A person shall not carry on an agency unless fit to do so.
- (2) A person is not fit to carry on an agency unless the person—
- (a) is an individual who satisfies the requirements set out in paragraph (3); or
 - (b) is an organisation and—
 - (i) it has given notice to the appropriate office of the National Assembly of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual”) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the agency; and
 - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that—
- (a) the person is of suitable integrity and good character to carry on or (as the case may be) be responsible for supervising the management of the agency;
 - (b) the person is physically and mentally fit to carry on or (as the case may be) be responsible for supervising the management of the agency; and
 - (c) full and satisfactory information or (as the case may be) documentation in respect of each of the matters listed in Schedule 2 is available in relation to the person.
- (4) A person is not fit to carry on an agency if—
- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded; or
 - (b) he has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it.

Appointment of manager

- 9.** —(1) The registered provider shall appoint an individual to manage the agency if—
- (a) there is no registered manager in respect of the agency; and
 - (b) the registered provider—
 - (i) is an organisation;

- (ii) is not a fit person to manage an agency; or
- (iii) is not, or does not intend to be, in full time day to day charge of the agency.

(2) Where—

- (a) the registered provider, or
 - (b) if an appointment has been made under paragraph (1), the registered manager,
- proposes to be, is likely to be, or has been, absent from the agency for a continuous period of 28 days or more, the registered provider shall appoint an individual to manage the agency during the provider's or (as the case may be) the registered manager's absence.

(3) Where the registered provider appoints a person to manage the agency, he shall forthwith give notice to the appropriate office of the National Assembly of—

- (a) the name of the person so appointed; and
 - (b) subject to registration, the date on which the appointment is to take effect.
- (4) The registered person shall nominate a person to be in charge at all times when the agency is open for business and the registered person is absent from the premises.
- (5) A person may not be nominated for the purpose of paragraph (4) unless full and satisfactory information in respect of each of the matters listed in Schedule 2 is available in relation to him, except that the information required in paragraphs 10 and 11 of Schedule 3 must be available in substitution of the information required in paragraph 8 of Schedule 2.

Fitness of manager

10. —(1) A person shall not manage an agency unless fit to do so.

(2) A person is not fit to manage an agency unless—

- (a) the person is of suitable integrity and good character to manage the agency;
- (b) having regard to the nature of the agency and the number and needs of the service users—
 - (i) the person has the qualifications, skills and experience necessary to manage the agency; and
 - (ii) he is physically and mentally fit to manage the agency; and
- (c) full and satisfactory information or (as the case may be) documentation in respect of each of the matters listed in Schedule 2 is available in relation to the person.

Registered person – general requirements and training

11. —(1) The registered provider and the registered manager shall, having regard to the nature of the agency and the number and needs of the service users, carry on or (as the case may be) manage the agency with sufficient care, competence and skill.

(2) If the registered provider is—

- (a) an individual, that individual shall undertake; or
 - (b) an organisation, it shall ensure that the responsible individual undertakes,
- from time to time such training as is appropriate to ensure that the individual has the experience and skills necessary for carrying on or (as the case may be) be responsible for supervising the management of the agency.

(3) The registered manager shall undertake from time to time such training as is appropriate to ensure that he has the experience and skills necessary for managing the agency.

Notification of offences

12. Where the registered person or the responsible individual is convicted of any criminal offence, whether in Wales or elsewhere, he or she shall forthwith give notice in writing to the appropriate office of the National Assembly of—

- (a) the date and place of the conviction;
- (b) the offence; and
- (c) the penalty imposed in respect of the offence.

PART III

CONDUCT OF DOMICILIARY CARE AGENCIES

CHAPTER 1

QUALITY OF SERVICE PROVISION

Conduct of agency

13. The registered person shall make suitable arrangements to ensure that the agency is conducted, and the personal care arranged by the agency is provided—

- (a) so as to ensure the safety of service users;
- (b) so as to safeguard service users against abuse or neglect;
- (c) so as to promote the independence of service users;.
- (d) so as to ensure the safety and security of the service users' property, including their homes;
- (e) in a manner which respects the privacy, dignity and wishes of service users, and the confidentiality of information relating to them; and
- (f) with due regard to the sex, religious persuasion, racial origin, and cultural and linguistic background and any disability of service users, and to the way in which they conduct their lives.

Arrangements for the provision of personal care

14. —(1) The registered person shall, after consultation with the service user, prepare a written plan ("the care plan") which shall specify—

- (a) the service user's needs in respect of which personal care is to be provided;
- (b) how those needs are to be met by the provision of personal care.

(2) The registered person shall—

- (a) make the service user's care plan available to the service user;
- (b) keep the service user's care plan under review;
- (c) where appropriate, and after consultation with the service user, or if consultation with the service user is not practicable, after consultation with a person acting on behalf of the service user, revise the service user's care plan; and
- (d) notify the service user of any such revision.

(3) The registered person shall, so far as is practicable, ensure that the personal care which the agency arranges to be provided to any service user meets the service user's needs specified in the care plan.

- (4) The registered person shall, for the purpose of providing personal care to service users, so far as is practicable—
- (a) ascertain and take into account their wishes and feelings;
 - (b) provide them with comprehensive information and suitable choices as to the personal care that may be provided to them; and
 - (c) encourage and enable them to make decisions with respect to such personal care.
- (5) The registered person shall ensure that arrangements made for the provision of personal care to a service user—
- (a) specify the procedure to be followed after an allegation of abuse, neglect or other harm has been made;
 - (b) specify the circumstances in which a domiciliary care worker may administer or assist in the administration of the service user's medication, and the procedures to be adopted in such circumstances;
 - (c) include suitable arrangements to assist the service user with mobility in his home, where required; and
 - (d) specify the procedure to be followed where a domiciliary care worker acts as agent for, or receives money from, a service user.
- (6) The registered person shall make suitable arrangements for the recording, handling, safe keeping, safe administration and disposal of medicines used in the course of the provision of personal care to service users.
- (7) The registered person shall make suitable arrangements, including training of staff, to ensure that domiciliary care workers operate a safe system of working, including in relation to lifting and moving service users.
- (8) The registered person shall make suitable arrangements, by training staff or by other measures, to prevent service users being harmed or suffering abuse or being placed at risk of harm or abuse.
- (9) The registered person shall ensure that no service user is subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that or any other service user and there are exceptional circumstances.
- (10) On any occasion on which a service user is subject to physical restraint by a person who works as a domiciliary care worker for the purposes of the agency, the registered person shall record the circumstances, including the nature of the restraint.

Fitness of workers

15. —(1) The registered person shall ensure that no person works as a domiciliary care worker for the purposes of the agency unless —

- (a) the person is fit to work for the purposes of the agency;
- (b) there is available in respect of that person full and satisfactory information or (as the case may be) documentation in respect of each of the matters specified in Schedule 3; and
- (c) the registered person is satisfied on reasonable grounds as to the authenticity of the references referred to in paragraph 5 of Schedule 3 in respect of that person.

(2) A person is not fit to work for the purposes of the agency unless—

- (a) the person has the qualifications, experience and skills necessary for the work that he or she is to perform;
- (b) the person is physically and mentally fit for the purposes of the work he or she is to perform.

Staffing

16. —(1) The registered person shall, having regard to the nature of the agency, the statement of purpose and the number and needs of the service users, ensure that—

- (a) at all times an appropriate number of suitably qualified, skilled and experienced persons are employed for the purposes of the agency;
- (b) appropriate information and advice are provided to persons employed for the purposes of the agency, and further information and advice are made available to them at their reasonable request, in respect of—
 - (i) service users and their needs in respect of personal care, and
 - (ii) the provision of personal care to service users;
- (c) suitable assistance is provided to persons working for the purposes of the agency, and further assistance is made available to them at their reasonable request, in respect of the provision of personal care to service users;
- (d) suitably qualified and competent persons are available to be consulted during any period of the day in which a person working for the purposes of the agency; and
- (e) neither of the following circumstances, that is—
 - (i) the employment of any persons on a temporary basis for the purposes of the agency;
 - (ii) any arrangements made for persons to work as domiciliary care workers on a temporary basis for those purposes;

will prevent service users from receiving such continuity of care as is reasonable to meet their needs for personal care.

(2) The registered person shall ensure that each member of staff—

- (a) receives training and appraisal which are appropriate to the work he or she is to perform;
 - (b) receives suitable assistance, including time off, for the purpose of obtaining further qualifications appropriate to such work;
 - (c) is aware of his own responsibilities and those of the other members of staff;
 - (d) is required to notify the registered person if convicted of any criminal offence which may raise doubt as to whether the personal care to be provided by the staff member would be in accordance with the requirements of regulation 13.
- (3) The registered person shall take such steps as may be necessary to address any aspect of the performance of a member of staff which is found to be unsatisfactory.
- (4) The registered person shall ensure that the staff, and domiciliary care workers who are not members of staff, receive appropriate supervision.

Staff handbook and code of conduct

17. —(1) The registered person shall prepare a staff handbook and provide a copy of it to every member of staff and every domiciliary care worker who is not a member of staff.

(2) The handbook prepared in accordance with paragraph (1) shall include a statement as to—

- (a) the conduct expected of members of staff and domiciliary care workers, and disciplinary action which may be taken against them;
- (b) the role and responsibilities of members of staff and domiciliary care workers;
- (c) record keeping requirements;

- (d) recruitment procedures; and
- (e) training and development requirements and opportunities.

Provision of information to service users

18. —(1) The registered person shall ensure that a service user is provided with—

- (a) the name of the domiciliary care worker who is to attend on the service user for the purposes of the provision of personal care, and the means of contacting the domiciliary care worker; and
- (b) details of how he may contact the registered person, or a person nominated to act on his behalf, at all times during the period for which personal care is being provided;
- (c) the terms and conditions upon which personal care is arranged.

(2) The registered person shall ensure that the information specified in paragraph (1) is, where appropriate, also provided to the service user's relatives or carers.

Identification of workers

19. The registered person shall ensure that every domiciliary care worker who works for the purposes of the agency is instructed that while attending on a service user for the purposes of the provision of personal care he must wear identification showing his name, the name of the agency and a recent photograph.

Records

20. —(1) The registered person shall ensure that the records specified in Schedule 4 are maintained and that they are—

- (a) kept up to date, in good order, in a secure manner and in accordance with any rule of law applicable to the information contained within them;
- (b) at all times available for inspection at the agency premises by any person authorised by the Commission to enter and inspect the premises; and
- (c) retained for a period of not less than three years beginning on the date of the last entry.

(2) The registered person shall endeavour to ensure that, in addition to the records referred to in paragraph (1), a copy of the service user's care plan and a detailed record of the personal care provided to him are kept at the service user's home and that they are kept up to date, in good order and in a secure manner.

(3) If an agency shares premises with another undertaking, the registered person shall ensure that the records of each of them are kept separate.

Complaints

21. —(1) The registered person shall establish a procedure ("the complaints procedure") for considering complaints made to the registered person by a service user.

(2) The registered person shall supply a written copy of the complaints procedure to every service user and, on request, to any representative of a service user.

(3) The written copy of the complaints procedure shall include—

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

- (4) The registered person shall ensure that every complaint made under the complaints procedure is fully investigated.
- (5) The registered person shall, within 28 days after the date on which the complaint is made, or such shorter period as may be reasonable in the circumstances, inform the person who made the complaint of the action (if any) that is to be taken.
- (6) The registered person shall maintain a record of each complaint, including details of the investigations made, the outcome and any action taken in consequence and the requirements of regulation 20(1) and (3) shall apply to that record.
- (7) The registered person shall supply to the Commission at its request a statement containing a summary of the complaints made during the twelve months ending on the date of the request and the action taken in response.

Staff views as to conduct of agency

22. —(1) This regulation applies to any matter relating to the conduct of the agency so far as it may affect the health or welfare of, or the personal care provided to, service users.

- (2) The registered person shall make arrangements to enable staff to inform the registered person and the National Assembly of their views about any matter to which this regulation applies.

Review of quality of service provision

23. —(1) The registered person shall introduce and maintain a system for reviewing at appropriate intervals the quality of personal care which the agency arranges to be provided.

- (2) The registered person shall supply to the appropriate office of the National Assembly a report in respect of any review conducted by him for the purposes of paragraph (1) and shall make a copy of the report available to service users.
- (3) The system referred to in paragraph (1) shall provide for consultation with service users and their representatives.

Visits by registered provider

24. —(1) Where the registered provider is an individual who does not manage the agency—

- (a) subject to sub-paragraph (b), the individual shall visit the agency premises in accordance with this regulation;
- (b) where the registered provider is registered in respect of more than one agency, the agency premises shall be visited in accordance with this regulation by—
 - (i) the registered provider; or
 - (ii) an employee of the registered provider who is not directly concerned with the conduct of the agency and who is suitable to visit the agency premises.

(2) Where the registered provider is an organisation, the agency shall be visited in accordance with this regulation by—

- (a) the responsible individual;
- (b) another of the directors or other persons responsible for the management of the organisation;
or
- (c) an employee of the organisation who is not directly concerned with the conduct of the agency and who is suitable to visit the agency premises.

(3) Visits under paragraph (1) or (2) shall take place at least once a month and may be unannounced.

(4) The person carrying out the visit shall—

- (a) interview, with their consent and in private, such of the service users and their representatives and persons working at the agency as appears necessary in order to form an opinion of the standard of care provided under arrangements made by the agency;
- (b) inspect the agency premises, its record of events and records of any complaints; and
- (c) prepare a written report on the conduct of the agency.
 - (5) The registered provider shall supply a copy of the report required to be made under paragraph (4)(c) to—
 - (a) the registered manager who shall keep the copy at the agency premises; and
 - (b) in the case of a visit under paragraph (2), to each of the directors or other persons responsible for the management of the organisation.

CHAPTER 2 PREMISES

Fitness of premises

- 25.** —(1) The registered person shall ensure that—
- (a) subject to regulation 4(3), the agency premises are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose; and
 - (b) the location of the agency premises is appropriate to the needs of service users.
 - (2) The registered person shall having regard to the number and needs of service users ensure that—
 - (a) the physical design and layout of the agency premises—
 - (i) meet the needs of the service users; and
 - (ii) are appropriate for the management of the agency;
 - (b) the agency premises are of sound construction and kept in a good state of repair externally and internally;
 - (c) the agency premises are kept clean and reasonably decorated;
 - (d) the agency premises are safe for use by service users, staff and visitors;
 - (e) suitable facilities are provided for meetings to be held in private;
 - (f) suitable provision is made for storage for the purposes of the agency, including storage of records and personal files.
 - (3) If an agency shares premises with another undertaking, the registered person shall ensure that the agency's staff are allocated space which is separate from the space which is occupied by any other undertaking and that the operation of the agency is managed separately from that of any other undertaking.

CHAPTER 3 FINANCIAL MATTERS

Financial position

- 26.** —(1) The registered provider shall carry on the agency in such manner as is likely to ensure that the care home will be financially viable for the purpose of achieving the aims and objectives set out in the statement of purpose.
- (2) The registered person shall also provide to the National Assembly such other information as it may require in order to consider the financial viability of the agency, including—

- (a) the annual accounts of the agency, certified by an accountant;
- (b) a reference from a bank expressing an opinion as to the registered provider's financial standing;
- (c) information as to the financing and financial resources of the agency; and
- (d) where the registered provider is a company, information as to any of its associated companies;
- (e) a certificate of insurance for the registered provider in respect of liability which may be incurred by him in relation to the agency in respect of death, injury, public liability, damage or other loss.

(3) The registered person shall -

- (a) ensure that adequate accounts are maintained in respect of the agency and kept up to date;
- (b) ensure that the accounts give details of the running costs of the agency, including rent, payments under a mortgage and expenditure on salaries and wages of staff; and
- (c) supply a copy of the accounts to the Commission at its request.

(4) For the purposes of this regulation and regulation 27, one company is associated with another if one of them has control of the other, or both are under the control of the same person.

Register of interests

27.—(1) The registered person shall maintain a register in which the registered provider, registered manager shall each declare in writing—

- (a) any material financial interest which he or she has in the provision of any other Part II services (including another agency);
- (b) any other material connection which he or she has with such services; and
- (c) any connection which he or she has with a person engaged for the purposes of the functions of the National Assembly under Part II of the Act, other than a connection arising merely through the exercise of the National Assembly's functions under Part II of the Act in relation to the agency.

(2) Where the registered provider is a company, it shall also declare in the register any interest of the kind described in paragraph (1) which is held by the responsible individual, a relative of the responsible individual, or by an associated company.

(3) The registered manager and, where the registered provider is an individual, the registered provider, shall also declare any interest of the kind described in paragraph (1) which is held by a relative of his or hers.

(4) The registered person shall keep the register at the agency premises, and make it available on request for inspection at any reasonable time by a service user or a service user's representative.

CHAPTER 4

NOTICES TO BE GIVEN TO THE NATIONAL ASSEMBLY

Notification of incidents

28.—(1) The registered person shall notify the appropriate office of the Assembly if an incident described in paragraph (2) takes place and such notification shall be given within 24 hours of the registered person being informed, or otherwise becoming aware, that such an incident has taken place.

- (2) The incidents are—
- (a) any serious injury sustained by a service user in the agency premises or while a domiciliary care worker is attending on the service user for the purposes of the provision of personal care to him;
 - (b) any incident which—
 - (i) occurs in the agency premises or while a domiciliary care worker is attending on the service user for the purposes of the provision of personal care to him, and
 - (ii) is reported to, or investigated by, the police; and
 - (c) any allegation of misconduct by the registered person or any person who works for the purposes of the agency.
- (3) Any notification made in accordance with this regulation which is given orally shall be confirmed in writing.
- (4) The registered person shall ensure that the persons working for the purposes of the agency are required to inform the registered person forthwith of the occurrence of any of the incidents described in paragraph (2).

Notice of absence

29.—(1) Where—

- (a) a registered provider who manages the agency; or
- (b) a registered manager

is to be absent from the agency for a continuous period of 28 days or more, the registered person shall give notice in writing to the appropriate office of the National Assembly of the absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than one month before the absence commences, or within such shorter period as may be agreed with the National Assembly and the notice shall specify—

- (a) the length or expected length of the proposed absence;
- (b) the reason for that absence;
- (c) the arrangements which have been made for the running of the agency during that absence;
- (d) the name, address and qualifications of the person who will be responsible for the agency during that absence; and
- (e) the name, address and qualifications of any person appointed in accordance with regulation 9.

(3) Where an absence referred to in paragraph (1) is to arise as a result of an emergency, the registered person shall give notice of the absence within one week of the emergency's occurrence specifying the matters in sub-paragraphs (a) to (e) of paragraph (2).

(4) Where—

- (a) a registered provider who manages the agency; or
- (b) a registered manager;

has been absent from the agency for a continuous period of 28 days or more, and the appropriate office of the National Assembly has not been given notice of the absence, the registered person shall forthwith give notice in writing to that office specifying the matters in sub-paragraphs (a) to (e) of paragraph (2).

(5) The registered person shall notify the appropriate office of the National Assembly of the return to duty of the registered provider or (as the case may be) the registered manager no later than 7 days after the date of return.

Notice of changes

30. The registered person shall give notice in writing to the appropriate office of the National Assembly as soon as it is practicable to do so if —

- (a) a person other than the registered person carries on or manages, or proposes to carry on or manage, the agency;
- (b) a person ceases, or proposes to cease, to carry on or manage the agency;
- (c) where a registered person is an individual, that individual changes, or proposes to change, name;
- (d) where the registered provider is an organisation—
 - (i) the name or address of the organisation is, or is proposed to be, changed,
 - (ii) there is, or is proposed to be, any change of director, manager, secretary or other similar officer of the organisation,
 - (iii) there is, or is proposed to be, any change in the identity of the responsible individual,
 - (iv) there is, or is proposed to be, a change of ownership of the organisation; and
- (e) where a registered provider is an individual, a trustee in bankruptcy for the individual is, or is likely to be, appointed or a composition or arrangement with the individual's creditors is, or is to be, made;
- (f) where a registered provider is a company, a receiver, manager, liquidator or provisional liquidator is, or is likely to be, appointed
- (g) where a registered provider is in a partnership whose business includes carrying on an agency, a receiver or manager is, or is likely to be, appointed for the partnership;
- (h) the agency premises are, or are proposed to be, significantly altered or extended, or additional premises are, or are proposed to be, acquired.

Appointment of liquidators etc.

31. —(1) Any person to whom paragraph (2) applies must—

- (a) forthwith notify the appropriate office of the National Assembly for each agency to which the appointment relates of that appointment indicating the reasons for it;
- (b) appoint a manager to take full-time day to day charge of the agency in any case where there is no registered manager; and
- (c) within 28 days of appointment, notify the appropriate office of the National Assembly Commission of the intended future operation of each agency to which the appointment relates.

(2) This paragraph applies to any person appointed as—

- (a) the receiver or manager of the property of a company which is a registered provider of an agency;
- (b) liquidator or provisional liquidator of a company which is the registered provider of an agency;
- (c) the receiver or manager of the property of a partnership whose business includes carrying on an agency;
- (d) the trustee in bankruptcy of a registered provider of an agency.

Compliance with regulations

32. Where there is more than one registered person in respect of an agency, anything which is required under these Regulations to be done by the registered person shall, if done by one of the registered persons, not be required to be done by any of the other registered persons.

Offences

33.—(1) A contravention or failure to comply with regulations 13 (conduct of agency), 14 (arrangements for the provision of personal care), 16 (staffing), 20 (records), 24 (visits by registered provider), 25 (fitness of premises), 26 (financial position), 28 (notification of incidents), 29 (notice of absence), 30 (notice of changes), 31 (appointment of liquidators etc.) shall be an offence.

- (2) The National Assembly may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulation 20, and for this purpose, references in paragraphs (2) and (3) to a registered person shall be taken to include such a person.

Modification of regulations in respect of certain employment agencies and employment businesses

34.—(1) The provisions of these Regulations set out in paragraph (3) shall not apply in respect of a person who carries on or manages an agency to which paragraph (2) applies.

(2) This paragraph applies to—

- (a) an agency which is an employment agency and which merely provides services (whether by the provision of information or otherwise) for the purpose of finding domiciliary care workers employment with employers or of supplying employers with domiciliary care workers for employment by them;
- (b) an agency which is an employment business whose business is merely supplying domiciliary care workers in the employment of the persons carrying on the business, to act for, and under the control of, other persons in any capacity.

(3)

Specification of appropriate offices

35. The National Assembly may specify an office controlled by it as the appropriate office in relation to agency premises situated in a particular area of Wales.

36. Applications for registration

37. Registration fees

38. Transitional Provisions

Regulation 4(1)(c)

SCHEDULE 1

INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. Whether the agency is carried on by an individual, by persons in partnership, by persons in an unincorporated association or by an organisation.

2. The nature of the services which the agency provides.
3. The geographical area in which the agency provides services.
4. The range of qualifications of the personal care workers who are to attend at the homes of service users.
5. The circumstances in which the agency may cease to provide services to a service user.
6. Arrangements for cancellation of the supply of a nurse by the service user or the agency.
7. The agency's charges.
8. Arrangements which will apply during the sickness or other absence of personal care workers who are to attend at the homes of service users.
9. Requirements in relation to time sheets.
10. The complaints procedure established in accordance with regulation 21.
11. Procedures to safeguard service users and domiciliary care workers.
12. Procedures to safeguard service users' property.
13. Procedures for the administration, or assistance with the administration, of medication.
14. Requirements to protect the health and safety of domiciliary care workers.
15. Procedures to be followed in the event of an occurrence referred to in regulation 29.
16. Arrangements for service users to express their views about the service provided by the agency.

Regulation 8(3)(c) and 9(5) and 10(2)(c)

SCHEDULE 2

INFORMATION REQUIRED IN RESPECT OF REGISTERED PROVIDERS AND
MANAGERS OF AN AGENCY AND PERSONS NOMINATED TO DEPUTISE FOR A
REGISTERED PERSON

1. Name, address, date of birth and telephone number.
2. Proof of identity, including a recent photograph.
3. A criminal record certificate issued under section 113 of the Police Act 1997(4), including the matters specified in section 113(3A) and (3C)(a) and (b) of that Act, in respect of which less than three years have elapsed since it was issued.
4. Two written references, including a reference relating to the last period of employment of not less than three months duration.
5. Where a person has previously worked in a position which involved work with children or vulnerable adults, verification, so far as reasonably practicable, of the reason why he ceased to work in that position.
6. Documentary evidence of any relevant qualifications and training.
7. A full employment history, together with a satisfactory written explanation of any gaps in employment.
8. Where the person is an individual, a report by a general medical practitioner as to whether the person is physically and mentally fit to (as the case may be) carry on, manage or be in charge of an agency.
9. Details of registration with or membership of any professional body.
10. Details of any professional indemnity insurance.

Regulation 15(1)(b)

SCHEDULE 3

INFORMATION AND DOCUMENTATION TO BE AVAILABLE IN RESPECT OF DOMICILIARY CARE WORKERS

1. Name, address, date of birth and telephone number.
2. Name, address and telephone number of next of kin.
3. Proof of identity, including a recent photograph.
4. A criminal record certificate issued under section 113 of the Police Act 1997(5), including the matters specified in section 113(3A) and (3C)(a) and (b) of that Act, in respect of which less than three years have elapsed since it was issued.

(4) 1997 c.50.

(5) 1997 c.50.

5. Two written references including, where the person has previously worked for more than three months in a position which involved work with children or vulnerable adults, a reference relating to the last such position held.
6. Where the person has previously worked in a position which involved work with children or vulnerable adults, verification, so far as reasonably practicable, of the reason why she ceased to work in that position.
7. Evidence of satisfactory linguistic ability for the purposes of providing personal care to those service users for whom the worker is to provide personal care.
8. Documentary evidence of any relevant qualifications and training.
9. A full employment history, together with a satisfactory written explanation of any gaps in employment and details of any current employment other than for the purposes of the agency.
10. A statement by the person as to the state of his physical and mental health.
11. A statement by the registered provider, or the registered manager, as the case may be, that the person is physically and mentally fit for the purposes of the work which he is to perform;
12. Details of any professional indemnity insurance.

Regulation 20

SCHEDULE 4

RECORDS TO BE MAINTAINED FOR INSPECTION

Financial records

1. A record of all business transacted by the agency.
2. Counterfoils or copies of all receipts issued.
3. Details of the charges payable by each service user in respect of the provision of personal care.
4. Records of tax and national insurance contributions relating to each person who works for the purposes of the agency.

Other records

1. A record of all information provided to the Commission for the purposes of registration in relation to the agency.
2. Details of every allegation of abuse, neglect or other harm made against an employee of, or any domiciliary care worker who works for the purposes of,

the agency, including details of the investigations made, the outcome and any action taken in consequence.

3. Details of any physical restraint used on a service user.
4. Each service user's care plan devised for him and a detailed record of the personal care provided to him.
5. A personnel record relating to each person employed by, or working for the purposes of, the agency.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Care Standards Act 2000 ("the Act") and apply in relation to domiciliary care agencies ("agencies") in Wales. Parts I and II of the Act provide for the National Assembly for Wales, in relation to Wales, to register persons carrying on or managing agencies and to inspect agency premises. Part II also provides that a person who carries on or manages an agency without being registered in respect of it commits an offence. The Act also provides for the Assembly to make regulations governing the conduct of agencies in relation to Wales. Under section 13 of the Act the National Assembly must be satisfied the regulations are being and will continue to be complied with if it is to grant an application for registration.

Regulation 3 excludes certain undertakings from the definition of domiciliary care agency in section 4 of the Act. These are undertakings which are carried on solely by an individual who is not employed by an organisation to carry it on, and who does not employ anyone else for the purposes of the undertaking.

Regulations 4 to 6 are about the agency's statement of purpose and service users' guide. Each agency must have a statement of purpose and a service users' guide to the agency (regulations 4 and 5). The registered person must have regard to the statement of purpose in making staffing arrangements for the agency (regulation 16), and ensure that the agency premises are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose (regulation 25). The statement and the guide are to be kept under review and revised if necessary (regulation 6).

Regulation 7 requires the fact of an agency's registration to be noted on its correspondence.

Part II of the Regulations make provision about the fitness of persons carrying on or managing the agency, and requires satisfactory information as to the matters set out in schedule 2 to be available in relation to these persons. Where the person carrying on an agency is an organisation, it must nominate a responsible person in respect of whom this information must be available (regulation 8). Regulation 9 provides that a manager must be appointed for an agency in certain circumstances, and regulation 11 imposes general requirements in relation to the conduct of an agency, and the need for registered persons to undertake appropriate training.

Chapter 1 of Part III of the Regulations makes provision about the conduct of agencies, in particular as to the arrangements for the provision of personal care (regulation 14), the fitness of workers (regulation 15), staffing requirements (regulation 16), provision of a handbook and code of conduct to staff and information to service users (regulations 17 and 18), identification to be worn by workers (regulation 19), record keeping (regulation 20), complaints procedures of the agency (regulation 21), the seeking of staff views about the conduct of the agency (regulation 23), the review of the operations of an agency (regulation 23) and the visiting of an agency by its registered provider (regulation 24)

Chapter 2 of Part III makes provision about the fitness of agency premises (regulation 25).

Chapter 3 of Part III imposes requirements as to the financial position of agencies (regulation 26) and the keeping of a register of interests (regulation 27).

Chapter 4 of Part III requires notice to be given to the National Assembly of specified events relating to an agency.

Part IV of the Regulations deals with miscellaneous matters such as the discharge of obligations under the Regulations where an agency has more than one registered person (regulation 32), offences under the Regulations (regulation 33), the specification of appropriate offices of the National Assembly for the purposes of obligations under the Regulations to give notice (regulation 34), amendments to the Statutory Instruments about the making of applications for registration and the payment of registration fees to take account of the application of the Act to agencies (regulation 36), and also makes transitional provision (regulation 37).

Annex B
TASK & FINISH GROUP - DOMICILLIARY CARE REGULATION

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