

Draft Order laid before the National Assembly for Wales on 15 November 2011 under section 10(5)(b) of the Carers Strategies (Wales) Measure 2010, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2011 No. (W.)

**NATIONAL HEALTH
SERVICE, WALES**

SOCIAL CARE, WALES

**The Carers Strategies (Wales)
Regulations 2011**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Carers Strategies (Wales) Measure 2010.

They apply to Local Health Boards and local authorities and in part to the Velindre NHS Trust and to the Welsh Ambulance Services NHS Trust. These are referred to as “designated authorities”. The regulations require each Local Health Board in Wales and the local authorities which fall within their area to work together in preparing and publishing a strategy setting out how they will work together to assist and include carers in the arrangements made for those they care for.

Regulation 3 provides that Local Health Boards in Wales are the “lead authority” in the preparation and publication of the joint strategy which they must prepare with local authorities. Local authorities must participate in the preparation of the strategy and both Local Health Boards and local authorities must implement the strategy. NHS Trusts must prepare and publish a strategy and they can discharge the duty by

participating in the preparation of the Local Health Boards' strategies.

Regulation 4 makes requirements on those preparing strategies to consult with voluntary organisations.

Regulation 5 makes specific requirements about matters to be contained in a strategy.

Regulation 6 prescribes particular sorts of information as "appropriate information and advice" to be provided to carers.

Regulation 7 makes further provision about the coverage which a strategy needs to give to issues in relation to consultation both with carers and those they care for.

Regulation 8 provides that strategies must be submitted in draft for approval by the Welsh Ministers. If approval is not given then designated authorities must comply with any directions about the content of the strategy or the timing of its re-submission.

Regulation 9 provides that strategies are to be prepared to cover a 3 year period and must be reviewed after 18 months and prior to preparation of the next strategy. Designated authorities must provide an annual report on how they are implementing and monitoring the strategy along with the local authorities. Where the authorities wish to make substantial amendments to the strategy, it must be re-submitted for approval. A strategy must be published in English and in Welsh unless it is not reasonably practicable to do so.

Regulation 10 specifies, in the case of strategies prepared jointly by a Local Health Board and local authorities, that the responsibility for certain duties arising under regulation 9 falls on the Local Health Board.

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

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**NATIONAL HEALTH
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Made 2011

Coming into force 1 January 2012

The Welsh Ministers, in exercise of the powers conferred upon them by sections 2(1), 3(2), 4, 5(1) and (2), 6(4) and 10(2) of the Carers Strategies (Wales) Measure 2010⁽¹⁾ make the following regulations.

Title, commencement and application

- 1.—(1) The title of these Regulations is The Carers Strategies (Wales) Regulations 2011.
- (2) These Regulations come into force on 1 January 2012.
- (3) These Regulations apply in relation to Wales.

Interpretation

- 2.—(1) In these Regulations—
“the Measure” (“*y Mesur*”) means the Carers Strategies (Wales) Measure 2010;

(1) 2010 nawm 5.

“local authority” (“*awdurdod lleol*”) means a county council or a county borough council in Wales;

“the NHS Trusts” (“*Ymddiriedolaethau'r GIG*”) means Velindre National Health Service Trust and the Welsh Ambulance Services National Health Service Trust;

“partner authorities” (“*awdurdodau partner*”) means each of the local authorities which participate, and any NHS Trust which participates, in the preparation of a strategy with a Local Health Board;

“designated authority” (“*awdurdod dynodedig*”) means a public body which is designated under regulation 3(1) as one which is under duty to prepare and publish a strategy;

“strategy” (“*strategaeth*”) means a carers strategy required to be prepared and published under section 2(1) of the Measure.

Production of Strategy

3.—(1) Each Local Health Board, each local authority and the NHS Trusts must, prepare and publish a strategy.

(2) A local authority must discharge its duty to prepare a strategy by participating in the preparation of a single joint strategy with the Local Health Board in whose area its local authority area lies, as shown in the Schedule.

(3) For the purposes of section 6(1) of the Measure (*submission of draft strategy to Welsh Ministers*), the Local Health Board is the lead authority for the strategy which it prepares with a local authority.

(4) A strategy prepared by a Local Health Board, and in whose preparation one or more local authorities participate, must set out how each of those bodies will work together to achieve the aims set out in section 2(1)(a), (b) and (c) of the Measure.

(5) Each of the NHS Trusts may discharge its duty to prepare and publish a strategy by participating in the preparation of the strategies of the Local Health Boards.

Consultation in the course of preparing a strategy

4.—(1) In the course of preparing a strategy, each Local Health Board and its partner authorities must consult with those voluntary organisations which are in its area and with which it considers it appropriate to do so.

(2) Where an NHS Trust is not a “partner authority” it must nevertheless consult with voluntary organisations

as it considers appropriate in the course of preparing a strategy.

Content of strategies

5.—(1) When preparing a single joint strategy, a Local Health Board and its partner authorities must include provision about —

- (a) how they will engage general medical practitioners in the implementation of the strategy;
- (b) training for staff ;
- (c) the means by which, and the languages in which information for carers will be made available.

(2) This regulation does not apply in relation to the Welsh Ambulance Services National Health Service Trust.

(3) In this regulation “general medical practitioner” (“*ymarferydd meddygol cyffredinol*”) means —

- (a) a person with whom a Local Health Board has entered into a general medical services contract under section 42 of the National Health Service (Wales) Act 2006 ; or
- (b) a registered medical practitioner⁽¹⁾ employed by Local Health Board for the purposes of section 41 of that Act ; or
- (c) a person with whom a Local Health Board has made arrangements under section 50 of that Act.

Appropriate information and advice

6.—(1) Only the following parts of this regulation apply in relation to a strategy prepared by Welsh Ambulance Services National Health Service Trust—

- (a) subparagraphs (2)(a) to (c);
- (b) subparagraphs (2)(h) and (2)(k).

(2) For the purposes of section 2(1)(a) of the Measure, the following are prescribed as appropriate information and advice⁽²⁾—

- (a) information about carers’ rights which includes reference to carers of those whose needs relate to their mental health;

(1) “registered medical practitioner” is defined in Schedule 1 to the Interpretation Act 1978.

(2) section 3(2) of the Measure gives the Welsh Ministers power to make further provision about what constitutes “appropriate information and advice” to be contained in a strategy. The phrase “appropriate information and advice” is defined in section 3(1) of the Measure.

- (b) information about medication and its potential side effects;
- (c) information on the medical condition and course of treatment of persons cared for;
- (d) information to assist children and young people who have a caring role;
- (e) information on the availability, entitlement to and sources of local and national support including—
 - (i) short breaks and respite care,
 - (ii) carer’s needs assessment,
 - (iii) the Court of Protection,
 - (iv) direct payments,
 - (v) housing support,
 - (vi) independent advocacy,
 - (vii) counselling including bereavement support,
 - (viii) guardianship,
 - (ix) age appropriate support groups,
 - (x) culturally appropriate support groups,
 - (xi) financial advice and support including advice on welfare benefits,
 - (xii) managing the financial and administrative affairs of persons who are cared for;
- (f) information and advice on employment provisions, including flexible working;
- (g) information on the duties of local authorities to assess the needs of those who may be eligible for community care services and to assess the needs of carers, and, in both cases, provide services (1) ;
- (h) information about the availability of concessionary transport schemes and other patient transport arrangements to enable carers to attend NHS appointments with the person cared for;
- (i) information and advice on physical aids, and housing adaptations;
- (j) information on the regulation and inspection of health and care services by the Healthcare Inspectorate Wales and the Care and Social Services Inspectorate Wales;
- (k) information on local carer support agencies and appropriate national organisations supporting patients, users and carers;

(1) “community care services” are defined in s.46(3) of the National Health Service and Community Care Act 1990 c.19.

- (l) information on how to avoid hospital admission;
- (m) information on the availability of crisis support and how to access it;
- (n) information on the availability of re-ablement and intermediate care for the person cared for;
- (o) information that helps promote health and well-being (including information and training on stress management techniques, healthy diet and physical exercise);
- (p) information on the complaints procedures of the Local Health Board and the local authorities;
- (q) information on programmes to assist carers to carry out their caring role safely and effectively, to include but not limited to—
 - (i) safe lifting, moving and handling,
 - (ii) medicines management including the safe administration of medication to the carer or person cared for,
 - (iii) relevant nursing skills,
 - (iv) use of aids and adaptations,
 - (v) continence care,
 - (vi) stress management,
 - (vii) assistance with eating and drinking,
 - (viii) dealing with behavioural issues of the person cared for,
 - (ix) helping carers to look after themselves.

(3) In this regulation, references to “information” should be read to include information which is either provided directly or information which is available from another source, and to which access is provided.

Consultation with carers or persons who are cared for

7. A strategy must set out the steps which a designated authority will take to ensure that consultation with carers or persons cared for is carried out and in particular to ensure—

- (a) that consultation with carers about the arrangements for those they care for is carried out as far as possible before decisions are made;
- (b) that a carers knowledge of the person cared for is respected by staff providing services and will be used appropriately;

- (c) that carers are made aware of the extent of their rights to an assessment of their needs by a local authority and to provision of services;
- (d) that carers have assistance in understanding the decisions being made by those providing treatment or services to persons cared for and are encouraged to contribute to the decision making process;
- (e) that where decisions are taken in the absence of carers, that carers are provided with an explanation of the decision;
- (f) that consultation occurs at regular intervals and includes consideration of when carers need support at short notice;
- (g) that consideration is given to the way in which consultation with carers is carried out having regard to any disability which carers may have and having regard to the age, cultural background and language of carers;
- (h) that carers and those persons cared for are made aware of the assistance and support that may be available to them from voluntary organisations;
- (i) that training on effective consultation is provided to staff.

Submission of draft strategy to the Welsh Ministers

8.—(1) This regulation is subject to regulation 10.

(2) A designated authority must submit its first strategy in draft to the Welsh Ministers by 31 October 2012.

(3) Strategies must be submitted for approval by the Welsh Ministers both electronically and in hard copy.

(4) If the Welsh Ministers do not approve a strategy the designated authority must comply with any directions of the Welsh Ministers about the content of the strategy and the time by which it must be re-submitted.

Further provision about strategies

9.—(1) A strategy must cover a three year period.

(2) Designated authorities must review their strategy after 18 months and before preparing a new strategy.

(3) Designated authorities must prepare a new strategy for submission to the Welsh Ministers for approval no more than three years after the previous strategy was submitted for approval.

(4) Each subsequent strategy must be published.

- (5) Designated authorities must provide an annual report to the Welsh Ministers explaining how they are implementing and monitoring their strategy.
- (6) If a designated authority proposes to amend its strategy substantially, it must submit a draft amended version to the Welsh Ministers for approval.
- (7) The strategy must be published in both English and Welsh unless it is not reasonably practicable to do so.

Duties of Local Health Boards in relation to joint strategies

10. Where a Local Health Board and its partner authorities prepare a single joint strategy the Local Health Board has responsibility for—

- (a) submitting the strategy in draft to the Welsh Ministers;
- (b) publishing the strategy;
- (c) consulting with the partner authorities before providing an annual report to the Welsh Ministers on the implementation and monitoring of the strategy;
- (d) submitting a draft of any amended strategy to the Welsh Ministers.

Deputy Minister for Children and Social Services
under authority of the Minister for Health and Social
Services, one of the Welsh Ministers

Date

SCHEDULE

Local Authorities with which each Local Health Board must prepare strategy

<i>Local Health Board</i>	<i>Local Authorities</i>
Abertawe Bro Morgannwg University Health Board	Bridgend, Neath Port Talbot and Swansea
Aneurin Bevan Health Board	Blaenau Gwent, Caerphilly, Monmouthshire, Newport and Torfaen
Betsi Cadwaladr University Health Board	Anglesey, Conwy, Denbighshire, Flintshire, Gwynedd and Wrexham
Cardiff and Vale University Health Board	Cardiff and the Vale of Glamorgan
Cwm Taf Health Board	Merthyr Tydfil and Rhondda Cynon Taf
Hywel Dda Health Board	Carmarthenshire, Ceredigion and Pembrokeshire
Powys Teaching Health Board	Powys