

# Phase 2 implementation of the Regulation and Inspection of Social Care (Wales) Act 2016

Part 2: Exceptions Q1. Are the proposed exceptions which have been identified in relation to regulated services appropriate? If you think there is anything missing or unnecessary, please explain within the box below.

Tend to agree

**Please explain:**

There is some concern regarding Personal Assistants (PA), not regulated under the Act. A PA is a paid carer employed directly by the person needing care and support and can be a family member. The PA falls within the domiciliary care services exceptions under section 3(1). It is possible that some domiciliary careworkers may choose to become PAs, crossing to the non-regulated sector, to escape registration, Social Care Wales's mandatory HSCIF and further qualification. As well as exacerbating the already challenging issue of recruitment and retention, Wales may well see a rise in non-regulated services which may lead to adverse effects on service users, for example, in terms of safeguarding. It is likely this will also have an effect on the domiciliary care market. Without the costs incurred through registration and training requirements, PA agencies and PAs will be able to offer cut-price care to individuals. A likely market for this cheaper care may be those who cannot afford care themselves but who also do not qualify for state-funded care – a market which is increasing in size as the number of older people rise, but those who receive care via their local authority decline. A potential solution, then, would be to introduce a form of registration for PA agencies and PAs.

Part 3: General requirements Q2. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Tend to agree

**Regulations - please explain:**

\*Requirements in relation to the statement of purpose\* As will be referred to later, we ask for clarity over the term "place" when referring to domiciliary support services. It seems that the regulations refers the office from which careworkers are sent to people's home to deliver care and support, although this is not clear enough. \*Requirements in relation to the responsible individual\* There are concerns that this, and the other requirements of the Responsible Individual, will make the position untenable and difficult to recruit for, given the level of responsibility and requirements.

Part 4: Requirements on service providers as to the steps to be taken before agreeing to provide care & support Q3. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Tend to agree

Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below. Guidance - please explain:

**\*Suitability of the service\***

The ability of a service to meet demand and ensure continuity of contracts is not only within the purview of the provider. It is also the responsibility of commissioners and procurement to ensure quality outcomes-based and person-centred care.

Part 5: requirements on service providers as to the steps to be taken on commencement of the provision of care and support Q4. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Tend to agree

**Regulations - please explain:**

There is evidence to suggest that assessments under the Social Services and Well-being (Wales) Act 2014 became simply 'tick-box exercises' and that they 'placed too much onus on the individual'. It was found that the individual was not able to communicate their wishes clearly or did not know of services available for them; they did not have the tools to make the best decisions for themselves.[1] It will be important, therefore, to ensure that lessons are learned from this, with assessments created that produce the best results for the service user. We are encouraged to see an outcomes-based approach being utilised here, however, we believe there needs to be a whole-system change that intrinsically involves commissioning and procurement services. [1] <http://www.lukeclements.co.uk/wp-content/uploads/2017/06/Wales-SS-Well-being-Act-22.pdf>

Part 6: Requirements on service providers as to the information to be provided to individuals on commencement of the provision of care and support Q5. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain in the box below.

Tend to agree

Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below. Guidance - please explain:

**\*Service agreement\***

One of our members pointed out that they would not have the information for costs of services for local authority contracts, although it is available for self-funded care. Perhaps this will need to be clarified or noted in the guidance when considering domiciliary support services.

Part 7: Requirements on service providers as to the standard of care and support to be provided Q6. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Agree

Part 8: Requirements on service providers - safeguarding Q7. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Agree

Part 9: Requirements on service providers which only apply where accommodation is provided Q8. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Agree

Part 10: Requirements on service providers as to staffing Q9. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Tend to agree

**Regulations - please explain:**

\*DBS\* There is a concern here with the “at least annual” update of the DBS. There is currently no legislation in the UK that states a DBS should be updated at specific times, although it is considered good practice in the care sector that updates be made every three years. Given that DBS checks are not free, this will be an extra cost to careworkers (on top of registration fees) and another barrier for entry into a sector already struggling with recruitment and retention. Also, there will be an additional administrative burden for providers to ensure all their careworkers have up-to-date DBS checks. Therefore, we recommend that Welsh Government looks again at this element of the regulation. We also ask that while Welsh Government consider this, they bear in mind that for much of domiciliary care provision in Wales, providers do not work in isolation. When supplying state-funded care, providers rely on adult social care services, with their commissioning and procurement teams, to accept a fair price for quality domiciliary care. Such additional requirements will increase the cost of care. We ask Welsh Government to ensure that such teams are actively involved in the forthcoming changes under this Act and that their influence on the care market is given as much scrutiny as providers.

Part 11: Requirements on service providers as to premises, facilities and equipment Q10. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Agree

Part 12: Additional requirements on service providers in respect of premises – new accommodation Q11. Are the requirements in this part right for all service types and age groups? Is anything missing or unnecessary? We would welcome particular consideration as to: the level of flexibility which would be desirable around en-suite facilities, and whether they should be required for all rooms or just a percentage of rooms whether there should be a more prescriptive approach to en-suite facilities in currently registered and occupied stock, and, if so, how this might be phased in over time whether the proposed minimum room sizes are sufficient whether the other requirements in Part 12 should apply to all accommodation-based regulated services, including currently registered and occupied stock and, if so, how this might be phased in over time.

Agree

Part 13: Requirements on service providers as to supplies, hygiene, health and safety and medicines Q12. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Agree

Part 14: Other requirements on service providers Q13. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Agree

Part 15: Requirements on responsible individuals Q14. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Tend to agree

**Regulations - please explain:**

As noted previously, there are concerns that this, and the other requirements of the Responsible Individual, will make the position untenable and difficult to recruit for, given the level of responsibility and requirements. Some of our members provide services across the UK, including in Wales. They have questioned how it will be possible for the Responsible Individual to follow the regulations which do not allow much flexibility or opportunities for delegation. \*Visits\* There needs to be further clarity on the term "place" in Reg 69 s(2). Perhaps it should be included in Part 1, or at least provide a reference to how it relates to the "specified location", "specified office" or "specified area". Understanding what is being referred to as a "place" in domiciliary care will determine the extent of what is being required of the Responsible Individual.

Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part? If you think there is anything missing or unnecessary, please explain within the box below. Guidance - please explain:

\*Visits\*

We ask for further clarification on what "premises" refers to for domiciliary support services.

Part 16: Requirements on responsible individuals Q15. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Tend to agree

**Regulations - please explain:**

Please see our response to Q14.

Part 17: Requirements on responsible individuals for ensuring the compliance of the service Q16. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Tend to agree

**Regulations - please explain:**

Please see our response to Q14.

Part 18: Requirements on responsible individuals for monitoring, reviewing and improving the quality of the regulated service Q17. Are the requirements in this part right for all service types and age groups? If you think there is anything missing or unnecessary, please explain within the box below.

Tend to agree

**Regulations - please explain:**

Please see our response to Q14.

Part 19: Other requirements on responsible individuals Q18. Are the requirements in this part right for all service types and age groups? Is anything missing or unnecessary?

Tend to agree

**Regulations - please explain:**

Please see our response to Q14.

Part 20: Offences Q19. Is the approach taken in relation to offences sufficient and proportionate? If not, please explain below.

Agree

Part 21 Service providers who are liquidated etc or who have died Q20. Are the requirements placed on appointed persons and personal representatives reasonable? If not, please explain below.

Agree

Part 22: Regulations under section 21(5) – designation of responsible individual by Welsh ministers Q21. Are the circumstances in which responsible individuals may be designated by the Welsh Ministers, rather than the service provider, sufficient and appropriate? If not, please explain below.

Agree

The Regulated Services (Penalty Notices) Regulations 2017 Q22. Is the approach in relation to penalty notices sufficient and proportionate? Are the levels of penalty set out in the draft regulations appropriate? If not, please explain below.

Agree

Q27. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to tell us about them.

UKHCA is the professional association of homecare providers from the independent, voluntary, not-for-profit and statutory sectors. UKHCA helps organisations that provide social care (also known as domiciliary care or homecare), which may include nursing services, to people in their own homes, promoting high standards of care. The Association represents the homecare sector with national and regional policy-makers and regulators. The Association represents over two thousand members across the United Kingdom.

## Page 2: Submit your response

You are about to submit your response. Please ensure you are satisfied with the answers you have provided before sending.

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