



## Welsh Government Consultation Document

# Mandatory Registration of Adult Care Home Workers

Implementation of the Regulation and Inspection of Social Care (Wales) Act 2016 –

- to mandate the registration of workers in care home services wholly or mainly for adults and residential family centre services from 1 October 2022 and placing a requirement on service providers to only employ and/or engage under a contract for services individuals who are registered with Social Care Wales (SCW).

Date of issue: 20 December 2021

Action required: Responses by 28 February 2022

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

**Overview** This consultation seeks your views on registering the social care workforce, specifically the mandatory registration of workers employed or engaged under a contract for services in regulated care home services provided wholly or mainly for adults (i.e. adult residential care workers) and residential family centres from 1 October 2022.

**How to respond** You can respond to this consultation by completing and returning, by midnight on the closing date, the consultation response form at the back of this document. The response should be sent to:

Workforce Policy Branch  
Social Services and Improvement Directorate  
Welsh Government  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ

Alternatively, you can return your completed form to us, by midnight on the closing date, via e-mail to:  
[RISCAct2016@gov.wales](mailto:RISCAct2016@gov.wales) or [RISCAct2016@llyw.cymru](mailto:RISCAct2016@llyw.cymru).

**Further information and related documents**

**Large print, Braille and alternative language versions of this document are available on request.**

The Regulation and Inspection of Social Care (Wales) Act 2016  
<https://www.legislation.gov.uk/anaw/2016/2/contents>

Phase 2 implementation of the Regulation and Inspection of Social Care (Wales) Act 2016 – workforce aspects  
<https://gov.wales/sites/default/files/consultations/2018-02/170612consultation-documenten.pdf>

Phase 2 implementation of the Regulation and Inspection of Social Care (Wales) Act 2016 – workforce aspects – summary of responses  
<https://gov.wales/phase-2-implementation-regulation-and-inspection-social-care-wales-act-2016-workforce-aspects>

Transforming care in the 21st century – SCW consultation on registration  
<https://socialcare.wales/consultations/transforming-care-in-the-21st-century>

The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations 2016  
<https://www.legislation.gov.uk/wsi/2016/1235/contents/made>

The Regulated Services (Registered Persons and Responsible Individuals)(Wales) Regulations 2017  
<https://www.legislation.gov.uk/wsi/2017/1264/contents/made>

The Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2018  
<https://www.legislation.gov.uk/wsi/2018/192/contents/made>

The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations 2020  
<https://www.legislation.gov.uk/wsi/2020/286/contents/made>

**Contact details**

For further information:

Address: See above

Email: [RISCAct2016@gov.wales](mailto:RISCAct2016@gov.wales)  
[RISCAct2016@llyw.cymru](mailto:RISCAct2016@llyw.cymru)

Telephone: 03000 253228

**This document is also available in Welsh**

<https://gov.wales/implementation-regulation-and-inspection-social-care-wales-act-2016-0>

## General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data, which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues, which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ

e-mail:  
[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

The contact details for the Information Commissioner's Office are:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545 745 or  
0303 123 1113  
Website: <https://ico.org.uk/>

## **Consultation on implementation of the Regulation and Inspection of Social Care (Wales) Act 2016 – Registering the Social Care Workforce**

### **1. Background**

#### **The Regulation and Inspection of Social Care (Wales) Act 2016**

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) was passed by the National Assembly for Wales on 24 November 2015 and received Royal Assent on 18 January 2016. It provides the statutory framework for the regulation and inspection of social care services and the social care workforce, including the establishment of the workforce regulator, Social Care Wales (SCW).

The implementation of the 2016 Act was introduced over three phases:

- **Phase 1 (2016/17)** included regulations relating to the new system of workforce regulation required and these came into force on 3 April 2017. Alongside these, SCW developed the rules and procedures to govern the process of workforce registration and regulation, which it has operated since 3 April 2017.
- **Phase 2 (2017/18)** included regulations and statutory guidance relating to the requirements and standards expected of service providers and Responsible Individuals in domiciliary and adult residential care services, children’s residential care settings, children’s secure accommodation and Residential Family Centre Services. It also included workforce-related regulations around the delineation of travel and care time, extension of the register to domiciliary care workers and the limitation of zero hours contracts. These came into force in April 2018.
- **Phase 3 (2018/19)** included regulations and statutory guidance relating to the requirements and standards expected of service providers and Responsible Individuals within Voluntary Adoption Agencies & Adoption Support Agencies; Fostering Services; Adult Placement (Shared Lives) Services; and Advocacy Services. These came into force in April 2019.

#### **Registering the Social Care Workforce**

The registration of the social care workforce began with the Care Standards Act 2000 (the 2000 Act), which required the mandatory professional registration of social workers, managers of adult residential care homes and managers of children’s residential care homes with the then workforce regulator, Care Council for Wales. In 2013, the Welsh Government also legislated for the mandatory registration of managers of domiciliary support services.

During the passage of the Regulation and Inspection of Social Care (Wales) Bill through the National Assembly for Wales in 2015, consideration was given to the registration of other groups within the social care workforce. In light of these discussions, Welsh

Government Ministers have made several statements<sup>1</sup> regarding its plans for the registration of domiciliary care workers and workers in regulated care home services provided wholly or mainly for adults.

In April 2018, regulations came into effect allowing SCW to open the workforce register on a voluntary basis to domiciliary care workers ahead of mandatory registration in 2020. This provided a two-year period for the sector to prepare for registration. As part of these preparations, SCW held a series of workshops with employers and employees across Wales to facilitate the take up of registration and by April 2020 22,000 domiciliary care workers had registered with SCW.

In April 2020 a further set of regulations was implemented to open the workforce register, on a voluntary basis, to social care workers in regulated care home services provided mainly or wholly for adults and in residential family centres. This would open the register to a further estimated 20,000 social care workers in this area, across the public, private and third sectors. As part of this exercise, SCW would also deploy a similar programme of engagement and assistance for social care workers in adult care homes and residential family centres from April 2020.

However, since April 2020 the pandemic has impacted on the sector's capacity to prepare for mandatory registration for this group of workers. Therefore, the Welsh Government has extended the deadline for mandatory registration by six months, to October 2022<sup>2</sup>.

## **2. The benefits of registration**

The Welsh Government remains committed to raising the profile of social care work as a profession and to working with the sector to continue to raise standards of practice and conduct.

Registration can help to build public trust and confidence in the workforce. People can be confident that registered social care workers are expected to follow an agreed Code of Conduct and Professional Practice. It helps social care workers to demonstrate that they have the skills and knowledge to be a social care worker and it gives workers greater access to the range of training and development tools through SCW. More information on the benefits of registration is available on the Social Care Wales website.

## **3. This consultation**

The Welsh Government is responsible setting out the policy proposals to regulate more of the social care workforce. We have consulted with the sector on our proposals for increasing the register for a number of years, including during the passage of the Regulation and Inspection of Social Care (Wales) Bill and during the preparation of subsequent secondary legislation. There was overwhelming support for the inclusion of domiciliary care workers, adult care home workers, and residential family centre

---

<sup>1</sup> <http://www.senedd.assembly.wales/documents/s45151/15%20October%202015.pdf> - lines 125 and 126.  
<http://www.assembly.wales/en/bus-home/pages/rop.aspx?meetingid=3488&assembly=4&c=Record%20of%20Proceedings#C259695>

<sup>2</sup> <https://socialcare.wales/news-stories/adult-care-home-worker-registration-due-by-october-2022>

workers, to improve safeguarding. The Welsh Government remains committed to considering whether other parts of the social care workforce should also be required to register and the evidence for further extensions of the register will be reviewed periodically.

This consultation does not seek your views on whether social care workers in adult care homes and residential family centres should be required to register. We believe that this argument has been made and that the policy direction has been agreed. However, it is seeking views on whether the associated draft regulations are clear and concise to deliver our proposals.

We are not consulting on the details of the process that workers will need to follow in order to register, or on the registration fees. These are matters for the workforce regulator to determine through consultation with the social care sector.

SCW has replicated the format of the registration of domiciliary care workers for this exercise in order to deliver a further smooth and successful exercise. The details of this process can be found at <https://socialcare.wales/registration/adult-care-home-worker-registration>. SCW has attended a number of events at the request of employers and, because of the impact of the pandemic, created a “digital surgery” to support employers and employees through the registration process. New materials, including case studies and infographic videos explaining the process, a digital and paper welcome pack, will be available by the end of November.

SCW has renewed its communications strategy and support package to assist employers and their employees through the registration process. Given the reach and availability of digital technology, this could encourage greater engagement, as this avoids the need for gathering in large groups or for travel to specific locations. If some face-to-face sessions are requested, these will need to be mindful of the current pandemic advice and the need for appropriate social distancing measures.

Your consultation responses will help inform our consideration of the final regulations and any accompanying guidance. Our intention is to analyse your responses over the winter and consider any changes that may be required before making and laying the regulations by mid/late May 2022 so that they come into force from October 2022.

As part of the consultation exercise, the Welsh Government proposes to host a virtual seminar on 12 January 2022 to engage with stakeholders and afford them an opportunity to discuss the proposals and ask questions of officials.

The detailed proposals are outlined below:

#### **4. The proposals**

**We intend to make regulations, which will require service providers to only employ individuals or engage individuals under a contract for services as adult care home workers, or residential family centre workers who are registered with SCW from 2022. The Regulations allow for a six-month grace period, for each employee or worker to be registered with SCW, beginning from the date that they**

**are employed or first engaged under a contract for services. [Annex A]**

**The changes made by these Regulations relate to care home services provided wholly or mainly for adults, and residential family centre services only.**

The draft legislation will:

- place a requirement on providers of these services to ensure that employees who provide care and support to any person within the service are registered with SCW within six-months of commencing their employment; and
- place a requirement on providers of these services to ensure that any individuals engaged under a contract for services who provide care and support to any person within the service are registered with SCW within six-months of the date that they are first engaged under a contract for services.

In exceptional circumstances the six-month grace period may be extended by Care Inspectorate Wales (CIW) – this will also apply for all groups required to register with SCW – as was seen during the COVID-19 pandemic and seen in the announcements below: <https://careinspectorate.wales/sites/default/files/2020-09/200910-COVID-19-additional-Frequently-Asked-Questions-en.pdf>.

Where services are not meeting the requirements of these new regulations, CIW will act in accordance with its ‘Securing Improvement and Enforcement policy,’ which includes a graduated approach to assure progress. Any action taken will be proportionate to the circumstances, the outcomes for and risk to individuals accessing the service and the capacity and capability of the provider to respond. Providers who persistently fail to comply with regulations will face escalated enforcement action. Where the failings are because of poor standards shown by the workforce, CIW will work with SCW to identify these issues and hand them to SCW to investigate through its “Fitness to Practice” process.

These Regulations will amend the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 (‘the 2017 Regulations’), in order to require providers of care home services wholly or mainly for adults and residential family centre services to employ and/or engage under a contract for services individuals who are registered with SCW from 1 October 2022. This mirrors provisions already in place for the employment of adult care home managers; domiciliary care managers; children’s care home managers and workers; and more recently, domiciliary care workers.

These regulations will not extend this requirement to register to include volunteers; or those who provide care and support on an individual basis without the involvement of any employment agency or employment business (i.e. Personal Assistants). While volunteering might be the first step into a career, particularly in care homes or domiciliary care, the requirement to register and work towards a qualification in order to volunteer and gain experience could also act as an unnecessary barrier to this career path. In respect of Personal Assistants, we are aware that not all Personal Assistant roles involve delivering care, as defined by the 2016 Act, but that they can deliver a range of support that meet a variety of needs and outcomes for the individual who



employs them. Therefore further work would need to be done to ensure that any such registration requirement would not have any unintended impacts individuals that employ or work as Personal Assistants. Therefore, this is not the subject of this consultation.

As with the previous registration regulations, we intend to avoid the dual registration of any professionals such as nurses or occupational therapists who are employed by care home services wholly or mainly for adults and residential family centre services in the capacity of their regulated profession. These professionals are already registered with and held accountable for their conduct by other workforce regulators – e.g. the Nursing and Midwifery Council and the Health and Care Professionals Council.

However, the exception to this rule remains where individuals, including professionals, are employed as managers of these services. They will be required to register with SCW in this managerial role and hold the appropriate management qualification.

## Consultation Response Form

Your name:	
Organisation (if applicable):	
Email / Telephone number:	
Your address:	

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please place a tick in the box:

**A regulation requiring service providers to employ adult care home workers, or residential family centre workers registered with Social Care Wales [Annex A]**

**Q.1. Are the draft regulations sufficiently clear and comprehensive to effectively inform individuals that they are required to register with Social Care Wales as adult care home workers, or residential family centre workers?**

Agree

Tend to agree

Tend to disagree

Disagree

Please explain:

--

**A regulation requiring service providers to employ adult care home workers, or residential family centre workers registered with Social Care Wales [Annex A]**

**Q.2. Are the attached draft regulations sufficiently clear and comprehensive to implement the mandatory registration of adult residential care workers and residential family centre workers?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
-----------------------------------	---	--	--------------------------------------

Please explain:

--

**A regulation requiring service providers to employ adult care home workers, or residential family centre workers registered with Social Care Wales [Annex A]**

**Q.3. Should any guidance be provided to support adult residential care providers and residential family centre services in complying with this regulation? If so, what guidance do you think would be required?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
-----------------------------------	---	--	--------------------------------------

Please explain:

--

--

**A regulation requiring service providers to employ adult care home workers, or residential family centre workers registered with Social Care Wales [Annex A]**

**Q.4. Is the statutory guidance<sup>3</sup> for service providers and responsible individuals clear and concise to help employers in complying with this regulation? If not, what changes to the guidance are required?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
-----------------------------------	---	--	--------------------------------------

Please explain:

<sup>3</sup> <https://gov.wales/sites/default/files/publications/2019-04/guidance-for-providers-and-responsible-individuals.pdf>



**ii. Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?**

**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.**

## Annex A

### **Draft wording of the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2022**

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 27 and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”)<sup>(4)</sup> and having consulted such persons as they think appropriate, as required by section 27(4)(a) of the Act and published a statement about the consultation as required by section 27(4)(b) of that Act, have laid a copy of the statement before Senedd Cymru as required by section 27(5) of that Act.

A draft of these Regulations was laid before Senedd Cymru under section 187(2)(f) of that Act and has been approved by a resolution of Senedd Cymru.

#### **Title and commencement**

**1.**—(1) The title of these Regulations is the Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2022.

(2) These Regulations come into force on \*\* October 2022.

#### **Amendments to the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017**

**2.** The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017<sup>(5)</sup> are amended as follows.

#### **Amendment to requirement about fitness of staff**

**3.** In regulation 35—

(a) for paragraph 2(f) substitute—

“(f) subject to paragraph (11) of this regulation, where the person is employed by the service provider (whether as an employee or worker) other than as a manager in order to provide care and support to any person in connection with—

(i) a care home service,

(ii) a secure accommodation service,

(iii) a domiciliary support service in order to provide care and support to a person referred to in paragraph 8(1) of Schedule 1 to the Act, or

(iv) a residential family centre service,

the person is registered as a social care worker with Social Care Wales no later than the relevant date (see paragraph (8) for the meaning of “the relevant date”);”.

(b) for paragraph 2(g) substitute—

---

<sup>(4)</sup> 2016 anaw 2.

<sup>(5)</sup> S.I. 2017/1264 (W. 295) as amended by S.I. 2019/757 (W. 142) and S.I. 2020/389 (W. 87); there is another amending instrument which is not relevant.

“(g) subject to paragraph (11) of this regulation, where the person is engaged under a contract for services, other than as a manager, to provide care and support to any person in connection with—

(i) a care home service,

(ii) a secure accommodation service,

(iii) a domiciliary support service in order to provide care and support to a person referred to in paragraph 8(1) of Schedule 1 to the Act, or

(iv) a residential family centre service,

the person is registered as a social care worker with Social Care Wales no later than the relevant date (see paragraph (8A) for meaning of “the relevant date”).”

(c) in paragraph (8A)—

(i) in sub-paragraph (a)(i) omit “provided wholly or mainly to children”;

(ii) in sub-paragraph (a)(iii) omit “or”

(iii) after sub-paragraph (a)(iii) insert—

“(iv) a residential family centre service, or”.