



Llywodraeth Cymru
Welsh Government

Number: WG48118

Welsh Government
Consultation – summary of responses

Regulating Special School Residential Services

This consultation included:

- Proposals to amend the Regulations which place requirements on service providers & responsible individuals;
- Draft Regulations which prescribe service contact details to be added to the register of service providers; and
- Updates to the statutory guidance for care home services, domiciliary support service, secure accommodation services and residential family centre services.

October 2023

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

This document provides a summary of responses to the Welsh Government's consultation, between 15 May and 6 August 2023, on:

- draft Regulations to prescribe Special School Residential Services as a regulated service under the Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') and to place requirements on providers and responsible individuals of these services;
- draft statutory guidance for Special School Residential Services under section 29 of the 2016 Act;
- proposals to amend the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, as amended ("the Service Provider Regulations"), to address two issues within the regulatory framework;
- draft Regulations under Section 38 of the 2016 Act to add contact details to the register of service providers; and
- proposed minor amendments to the statutory guidance for Service Providers and Responsible Individuals on meeting Service Standard Regulations for care home services, domiciliary support services, secure accommodation services and residential family centre services (version 2, published April 2019)¹.

Action Required

This document is for information only.

Further information and related documents

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

Contact details

For further information:

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¹ <https://www.gov.wales/sites/default/files/publications/2019-04/guidance-for-providers-and-responsible-individuals.pdf>

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Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: [Consultation document: Regulating Special School Residential Services \[HTML\] | GOV.WALES](#)

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Section 1

1.1 Introduction

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) provides a statutory framework for the regulation and inspection of social care services and the regulation of the social care workforce in Wales.

The consultation sought views on four distinct proposals relating to the way in which care and support services are regulated. These areas have been grouped into four categories within this report, as follows:

- defining and regulating Special School Residential Services;
- proposals to amend The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, as amended, to address two issues within the regulatory framework;
- mandating service contact details on the register of service providers; and
- updates to the Statutory Guidance for care home services, domiciliary support services, secure accommodation services and residential family centre services.

1.2 The context and rationale

Full details of the context and rationale for this consultation can be found within the main consultation document, available [here](#). Below is a summary of the key points:

Defining and regulating Special School Residential Services

In March 2022 the Independent Inquiry into Child Sexual Abuse published its report [‘The Residential Schools Investigation Phase 1: Music Schools, Residential Special Schools Phase 2: Safeguarding Day and Boarding Schools’](#).

The Inquiry examined questions concerning sexual abuse of children in residential special schools in England and Wales. The recommendations of the Inquiry included requiring all residential special schools to be inspected against the quality standards used to regulate care homes in Wales.

In response to this recommendation, the Welsh Ministers made a commitment to bring residential special schools into the scope of regulation under the 2016 Act. We therefore sought to define and regulate residential special schools as a new regulated service in its own right – Special School Residential Services.

The proposal to bring Special School Residential Services into the scope of regulation under the 2016 Act and establish the regulatory framework included new stand-alone regulations, amendments to existing regulations and bespoke statutory guidance.

Proposals to address two issues within the regulatory framework

The consultation highlighted two issues in relation to the operation of the regulatory framework. These were:

- the registration of four-bedroom care home services (with the advantage of avoiding the additional premises requirements in Part 13 of the Service Provider Regulations, such as having en-suite facilities) which are later reconfigured to add additional bedrooms; and
- the emergence of intermediate care services provided by local authorities which fall within the legal definition of a care home service, but which are more akin to a short term supported living service.

The consultation proposed to resolve these issues by amending the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, as amended (“the Service Provider Regulations”).

Mandating service contact details on the register of service providers

Section 38 of the 2016 Act requires Welsh Ministers to maintain a register of service providers. This register informs Care Inspectorate Wales (CIW)’s online public facing directory which provides key information about regulated services in Wales to the public.

We identified a gap in the information included on the register and public facing directory as it does not include both a telephone number and email address for each service. Currently, only the service telephone number is published on CIW’s public facing directory, with the provider’s permission. Not all providers have consented for this information to be published, leading to inconsistencies in the information provided.

We consulted on draft Regulations to make it a mandatory requirement for providers to provide a service email address and telephone number to CIW, which CIW must publish on the register of service providers, and for service providers to notify CIW if this information changes.

Updates to the statutory guidance for care home services, domiciliary support services, secure accommodation services and residential family centre services

The statutory guidance for care home services, domiciliary support services, secure accommodation services and residential family centre services sets out how service providers and responsible individuals may comply with the requirements imposed by the Service Provider Regulations. The guidance was first published in April 2017 with minor amendments made in April 2019.

We considered it timely to review the document to ensure it is up to date and fit for purpose. Full details of the proposed changes can be read within the main consultation report [here](#).

1.3. This consultation

A 12-week consultation was undertaken between 15 May and 6 August 2023. We invited respondents to submit their views via the online form, by email or post. An easy read version of the consultation document was also created. Notification of the consultation was sent via email to a range of stakeholders with an interest in the proposals. They were, as follows:

- Local Authority Lead Members for Social Care
- Local Authority Chief Executives
- Directors of Social Services
- Directors of Education
- Heads of Children's Services
- Heads of Adults' Services
- Welsh Local Government Association (WLGA)
- Association of Directors of Social Services Cymru (ADSSC)
- Care Inspectorate Wales (CIW)
- Social Care Wales (SCW)
- Residential special school providers
- Care Forum Wales
- National Provider Forum
- Regional Partnership Board Chairs and Vice Chairs
- Regional Safeguarding Boards
- NHS Chairs
- NHS Chief Executives
- NHS Board Secretaries
- Welsh NHS Confederation
- Healthcare Inspectorate Wales (HIW)
- Llais (Citizen Voice Body)
- Children's Commissioner for Wales
- Older People's Commissioner for Wales
- Welsh Language Commissioner for Wales
- Future Generations Commissioner for Wales
- Information Commissioner's Office (ICO)
- Equality and Human Rights Commission
- Public Service Ombudsman for Wales
- Audit Wales
- Welsh Council for Voluntary Action (WCVA)
- Children in Wales
- V for Life organisation
- Chairs of Disability Rights Taskforce Working Groups
- Ministerial Advisory Forum on Ageing
- Child Protection Coordinators
- Adult Protection Coordinators

- Police Liaison Officers
- Police and Crime Commissioners
- Chief Constables
- NHS Safeguarding Network
- Safer Communities Network

The consultation was highlighted through social media during the consultation period.

A stakeholder group was also established to consider the regulation of residential special schools. The stakeholder group included representatives from each of the residential special schools in Wales and from the relevant local authority departments including education and children's services. The group met four times before the consultation and once during the consultation period to discuss the proposals and how individuals using the service and their parents might be supported to contribute to the consultation.

1.4 Consultation response

The Welsh Government received 25 complete responses, two complete responses containing no text or information and 23 incomplete responses with little text or information to the consultation. The analysis of the responses is based on the 25 complete responses. Three were from individuals, 14 were on behalf of organisations and eight did not say whether they were responding as an individual or on behalf of an organisation. The organisations that responded (and did not specify they wished to remain anonymous) are listed below:

- Gwent Regional Partnership Team
- Learning Disability Wales
- Education Work Council
- Estyn
- Swansea Council
- Ceredigion County Council
- Conwy County Borough Council
- Torfaen County Borough Council
- Hywel Dda University Health Board
- Community Housing Cymru
- Public Service Ombudsman for Wales
- Older People's Commissioner for Wales
- Children's Commissioner for Wales

Section 2

2.1 Summary of responses received and Welsh Government response

2.1.1 – Chapter 1: Proposal to bring forward regulations to prescribe Special School Residential Services as a regulated service under the 2016 Act and to place requirements on providers and responsible individuals of these services.

These Regulations are *The Regulated Services (Special School Residential Services) (Wales) Regulations 2023* and *The Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2023*, respectively.

Question 1: Are Special School Residential Services as defined, clear and appropriate?

Summary of responses

13 respondents agreed or tended to agree that the proposed definition of ‘Special School Residential Service’ was clear and appropriate. 12 did not respond to this question.

One respondent raised a concern that the definition might inadvertently capture mainstream independent boarding schools providing some additional learning provision. Another expressed the view that the terminology “Special School” was not appropriate, suggesting “Specialist Education Residential Services” or “Additional Needs Educational Residential Services” would be better. One response stated that providers may benefit from greater detail and examples of what constitutes a residential special school.

Welsh Government response

It is not our intention to capture mainstream independent boarding schools providing additional learning provision within the definition of a Special School Residential Service and the scope of regulation. Having considered further we agree that there is scope to amend the definition to provide greater clarity and legal certainty. We intend to amend the definition of a ‘special school’ to mean schools where all or most of the educational provision is specially organised to make additional learning provision for persons with additional learning needs.

We have considered the suggested change in terminology but feel the term 'Special School Residential Service' provides greater clarity so do not propose to amend the terminology.

CIW’s [Guide to Registration](#) provides further support for providers about what activities constitute a regulated service and how they can register. The guide will be updated to include the new Special School Residential Service before the Regulations come into force.

We also propose to make two further amendments relating to the wording of the definitions included in Part 1. One is to reflect the fact that Special School Residential Services may provide a service to individuals up to the age of 19 who will not fall within the existing definition of a “child”. The second is to remove the wording “or NHS body” from the definition of “service commissioner” because NHS bodies will not be commissioning these services and therefore the wording is superfluous.

Question 2: Are the requirements in part 2 of the draft Special School Residential Services (*Service Providers and Responsible Individuals*) (Wales) Regulations 2023 (“the draft Regulations”) right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements?

Part 2 covers general requirements on the service provider as to the way the service is provided, including requirements in relation to the statement of purpose, the arrangements for monitoring and improvement, the support to be provided to the responsible individual, the steps to be taken to ensure the financial sustainability of the service and the policies and procedures which must be in place.

Summary of responses:

12 respondents agreed or tended to agree with requirements in Part 2 of the draft Regulations. 13 did not respond to this question.

One respondent raised a concern about the registration process and suggested that the new requirements on service providers may reduce capacity and deter new entrants from the market.

One respondent highlighted the need for the policies and procedures of the Special School Residential Service to be consistent with the policies of the main school, noting that staff may work across both provision. Discussions with the stakeholder group indicated the need for clarity about the relationship and links between the residential service and the school.

One respondent emphasised the importance of children having access to a visiting, independent advocate who can meet the broad communication needs of individuals.

Welsh Government response

The stakeholder group included representatives from each of the existing residential special schools and discussed the proposals in detail. We intend to include transition periods to allow sufficient time for service provider registration and the registration of managers and staff. The local authorities with residential special schools are all registered as service providers with CIW so it will be a matter of varying their registration to include the Special School Residential Service. The requirements on service providers and responsible individuals are appropriate, proportionate, and consistent with other regulated services.

We have considered the feedback about the need for clarity about the links between the residential service and the school. We propose to address it by updating [Schedule 2](#) of the Regulated Services (Registration) (Wales) Regulations 2017 (“The

Registration Regulations”) via the Regulated Services (Registration) (Wales) (Special School Residential Services Amendment) Regulations 2023. Schedule 2 lists the information to be contained in a statement of purpose.

This amendment will ensure that the statement of purpose includes a description of the working arrangements between the education setting and the residential service. CIW’s guidance document - ‘A guide for compiling a Statement of Purpose’ - will provide examples of relevant areas to be included in the statement of purpose which describe the joint working relationship between the education setting and the residential service, such as shared policies and procedures, staff, premises, facilities and equipment, and records. We also intend to add additional clarity in the statutory guidance relating to regulation 3 (Requirements in relation to the statement of purpose).

The statutory guidance requires service providers to ensure individuals are informed of their right to relevant independent professional advocacy services and are supported to access it.

Question 3: Are the requirements in Part 3 of the draft Regulations right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 3 covers the requirements as to the steps to be taken before the service provider agrees to provide care and support to an individual. A service provider must not agree to provide care and support unless they have first determined that the service is suitable to meet the individual’s needs. It sets out the steps that must be taken and the matters which must be taken into account when making this determination. Where there is no local authority care and support plan in place, the steps to be taken include carrying out an assessment of the individual’s needs.

Summary of responses

11 respondents agreed or tended to agree with the requirements in Part 3 of the draft Regulations. Two tended to disagree and 12 did not respond to this question.

One respondent suggested that the plans and assessments considered as part of the determination of the suitability of the service should include education plans.

One respondent who tended to disagree stated that as pupils would already be known to staff (having worked with the individuals in the school), such an in-depth admission process may not be suitable for all services.

Welsh Government response

We agree that education plans should be considered as part of the determination and intend to amend the wording of regulation 10 (Suitability of the service) accordingly.

The regulations place requirements on the service provider. The steps to be taken before agreeing to provide the care and support service are appropriate and proportionate. An individual’s care and support needs may vary between the

education setting and the residential service and the same staff may not always be employed in both settings. We do not propose to amend the draft Regulations or the statutory guidance.

Question 4: Are the requirements in Part 4 of the draft Regulations right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 4 covers the requirements as to the steps to be taken once the service provider has agreed to provide care and support to an individual. Before the commencement of such provision, the provider must prepare an initial personal plan which, among other things, sets out how on a day-to-day basis the individual's need will be met.

Within 7 days of the commencement of the provision, the service provider must carry out a detailed assessment of how the individual's care and support needs can best be met, and this assessment then prompts a review of the initial personal plan, which will usually lead to a more comprehensive plan being prepared. Part 4 also makes provision for the review of personal plans and the keeping and sharing of records of the personal plan.

Summary of responses

11 respondents agreed or tended to agree with the requirements in Part 4 of the draft Regulations. One individual tended to disagree and 13 did not respond to this question.

Two respondents requested more emphasis on co-producing personal plans with individuals at the service, as well as clearly defining the term "co-production". One respondent asked for more detail in the statutory guidance about how personal plans should be provided to the individual and in what format.

Welsh Government response

There are already a number of references to co-production throughout the statutory guidance including in relation to the provider assessment and when developing and reviewing the personal plan. The statutory guidance also states that a copy of the personal plan is provided to the individual receiving the service in a language and format appropriate to their needs, age and level of understanding. We do not propose to provide a definition. We consider the level of detail in the draft Regulations and statutory guidance to be sufficient and consistent with requirements for other regulated services.

The Children's Commissioner for Wales has developed a resource on capturing the views of children with multiple learning disabilities, entitled [*The Right Way - A Children's Rights Approach to Additional Learning Needs*](#) which service providers may find helpful in co-producing personal plans. We propose to include a link to the Children's Commissioner's website in the useful links section of the statutory guidance.

Question 5: Are the requirements in Part 5 of the draft Regulations right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 5 deals with the requirements as to the information to be provided to individuals on the commencement of the provision of care and support. It includes a requirement for a written guide and sets out detailed requirements about the guide, including its contents and format. Regulation 16 requires service providers to provide a copy of the service agreement to the person with whom it has contracted.

Summary of responses

11 respondents agreed or tended to agree with the requirements in Part 5. One respondent tended to disagree and 13 chose not to answer this question.

Several comments highlighted the importance of the written guide being accessible to the individuals and parents. Two respondents remarked that a suggested template and good practice examples would also be helpful.

One respondent commented that there was too much information required in the guide which could make it a “tick-box” exercise. They stated that the volume of information could be overwhelming for both parents and children.

Welsh Government response

We consider the level of detail in the draft Regulations and statutory guidance on the written guide to be appropriate and consistent with the requirements for other regulated services.

Draft regulation 15 already states that the guide must be in an appropriate language, style, presentation and format, having regard to the statement of purpose for the service. The service provider must ensure that all individuals receive such support as is necessary to enable them to understand the information contained in the guide.

Separately to the consultation, we propose to amend the wording of draft regulation 16 (Service agreement) to make it clear that a copy of the service agreement is to be provided to individuals and their parents.

Question 6: Are the requirements in Part 6 of the draft Regulations right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 6 contains requirements as to the standard of care and support to be provided and access to health services. These include overarching requirements as well as more detailed requirements relating to continuity of care, the provision of information, meeting individual’s language and communication needs, treating individuals with respect and sensitivity, and supporting individuals to access health care services.

Summary of responses

10 respondents agreed or tended to agree with requirements in Part 6. One respondent tended to disagree and one disagreed, and 13 chose not to answer this question.

The Children's Commissioner for Wales ticked "disagree" for this section. They stated that, whilst they welcomed the inclusion of the United Nations Convention on the Rights of the Child (UNCRC) and the Convention on the Rights of Persons with Disabilities within the statutory guidance for Special School Residential Services, more emphasis should be placed on children's rights and the rights of disabled people throughout the document. In addition, the statutory guidance should link to practical resources which can promote rights and support the understanding of the conventions and their practical application.

Another respondent stated that draft regulation 17 (Standards of care and support – overarching requirements) should be more explicit about the requirement to have regard to the United Nations Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities.

One respondent suggested that health services should be made aware of their responsibilities in relation to the draft Regulations, so children receive the healthcare they need whilst at the service.

Two respondents remarked on the clarity of the requirements in draft regulation 20 (Language and communication). One respondent stated that the statutory guidance could be further strengthened by referring to specialists within the education setting who may have already created valuable communication plans to support pupils. The other suggested the importance of inclusive and empowering practice should be a theme running through the guidance and it should include links to resources specifically aimed at promoting children's participation.

The stakeholder group highlighted that the requirement in draft regulation 22 (Access to health and other services) for service providers to designate a link worker for each child was less relevant for a Special School Residential Service. In practice schools determine their own link worker arrangements.

Welsh Government response

Children's rights are enshrined in Welsh law under Rights of Children and Young Persons (Wales) Measure 2011. The measure places a duty on the Welsh Ministers to have due regard to the UNCRC when developing or reviewing legislation and policy. All requirements within the draft Regulations and statutory guidance have been developed with the rights of children and disabled people in mind. We have carried out a full Children's Rights Impact Assessment and Equality Assessment as part of the development of the draft Regulations and statutory guidance. A summary of the report will be published on the Welsh Government's website.

We have taken advice on the inclusion of the United Nations Convention on the Rights of Persons with Disabilities in the statutory guidance. The UK is a signatory of the Convention. The Convention sets out declaratory rights which are different from

laws which confer rights which can be enforced as part of a legal system. Some of the Convention's rights and protections are contained in the Equality Act 2010. The statutory guidance is intended to clarify and simplify the requirements set out in regulations. We propose to remove the reference.

The statutory guidance does not repeat or include links to other specific guidance, practical resources, or legislation as they will become out of date. Service providers and responsible individuals are expected to be aware of relevant legislation and good practice guidance to support them in the running of their service.

The draft Regulations do not place requirements on health bodies or other services.

We will consider whether the statutory guidance against draft regulation 20 (Language and communication) or elsewhere can be strengthened by including a reference to communication plans prepared by the education setting.

We propose to amend draft regulation 22(2) to remove the requirement for service providers to designate a member of staff as a link worker for each individual. The intention is for providers to be able to use their discretion to decide what is best for the service and the individuals staying at the service. Individuals staying at the service will be pupils at the school and will not reside full-time at the service.

Question 7: Are the requirements in Part 7 of the draft Regulations right for providers of Special School Residential Services and the persons accessing the service? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 7 contains specific requirements in relation to ensuring individuals are safe and protected from abuse, neglect and improper treatment. As well as requiring policies and procedures to be in place in relation to safeguarding and the appropriate use of control and restraint, the regulations in this Part place specific requirements as to the action to be taken in the event of an allegation or evidence of abuse.

Summary of responses

12 respondents agreed or tended to agree with the requirements in Part 7. One respondent disagreed, one respondent commented but did not tick any box and 11 chose not to respond to this question.

There were a number of detailed and helpful responses. The main themes related to the appropriate use of control, restraint and restrictive practices, seclusion, notifications to parents, terminology and language, positive behaviour management, the Wales Safeguarding Procedures, the Reducing Restrictive Practices Framework, Deprivation of Liberty Safeguards, links to the Office of the Children's Commissioner website, suggestions about detailed record-keeping requirements, and independent advocacy.

The Children's Commissioner for Wales recommended that a link to their office be added to the statutory guidance to ensure practitioners are aware of the confidential Investigation and Advice service and powers to support whistle-blowers.

Welsh Government response

We have considered the thoughtful and comprehensive feedback and suggestions from respondents.

We propose to amend the draft Regulations to ensure that the person with parental responsibility/representative of the individual is notified about the date and circumstances of any measures of control, restraint or discipline used on an individual (including if the individual is over 18). We will also consider whether further clarity is required in the draft Regulations about other matters to be notified to parents and representatives.

We will review the language used in the statutory guidance to ensure it is clear and will consider whether it can be strengthened in terms of a person-centred approach to positive behaviour support.

Providers must act in accordance with the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards as well as the Code of Practice to the Mental Capacity Act 2005 and supplementary Code of Practice for Deprivation of Liberty Safeguards at all times. The draft Regulations also require that individuals are not deprived of their liberty for the purpose of receiving care and support without lawful authority. We do not therefore propose to include an additional requirement to inform children and young people of the nature of the Deprivation of Liberty Order. The individual's personal plan will include details of any steps to identify risks to the individual's well-being and how this will be managed.

We will include a link to the Children's Commissioner's website under 'Useful Links' in the statutory guidance for Special School Residential Services and the statutory guidance for care home services, domiciliary support services, secure accommodation services and residential family centre services. The statutory guidance already includes a link to the Wales Safeguarding Procedures website in the useful links section.

We do not propose to include a link to the Reducing Restrictive Practices Framework in the statutory guidance as it is not statutory and service providers have the flexibility to determine how they might best comply with the requirements in regulations. More broadly the overall approach is not to include links to specific guidance or legislation within the document, as these can become out of date.

We do not propose to include more detailed requirements in terms of the requirement to record the date and incident of any measures of control or restraint used on an individual. This is an operational matter for the service provider and should form part of their policy on the use of control or restraint.

The statutory guidance requires service providers to ensure individuals are informed of their right to independent professional advocacy services and are supported to access it.

Question 8: Are the requirements in Part 8 of the draft Regulations right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 8 contains requirements as to staffing, which include general requirements as to the deployment of sufficient numbers of staff and requirements as to the fitness of staff, support and development and disciplinary procedures.

Summary of responses

12 respondents agreed or tended to agree with the requirements in Part 8. 13 chose not to respond to this question.

One respondent commented on draft regulation 31(10)(b) which exempts workers employed by the service (other than as a manager) from having to register with Social Care Wales if they are already a “registered professional.” The comment appeared to assume that someone registered with the Education Workforce Council would not need to register with Social Care Wales.

The Education Workforce Council requested specific reference to the regulatory role of the Council in relation to the education workforce in the statutory guidance and that service providers notify them if an employee registered with both the Council and Social Care Wales, is deemed no longer fit to work at the service.

The stakeholder group raised concerns about the potential impact of the registration requirements on staff employed by the special school to undertake occasional shifts at the residential service. They expressed concern that these workers may no longer wish to undertake occasional shifts if required to register with Social Care Wales and may consider the qualification and continuing professional development requirements to be too onerous. Residential special school providers emphasised their reliance on school staff who they consider to be preferable to agency staff in undertaking occasional shifts, as they are already known to the individuals staying at the service.

Welsh Government response

We believe the respondent has misinterpreted the exemption in regulation 31(10)(b). The exemption for “registered professionals” only relates to healthcare professionals registered with the Health and Care Professions Council. Anyone employed by the Special School Residential Service (whether as an employee or worker) or engaged under a contract for services, other than as a manager, who is providing care and support to individuals at the service, must register with Social Care Wales. This applies even if they are registered with the Education Workforce Council.

Service providers are responsible for making referrals to the relevant regulatory and professional bodies including Social Care Wales if the fitness to practise of any person working at the service is brought into question. Responsibility for informing the Education Workforce Council about a relevant issue with a member of staff also

lies with the employer. This is set out in Part 7 of the [Education Workforce Council \(Main Functions\) Wales Regulations 2015](#). Further guidance is available at [Procedures for reporting misconduct and incompetence in the education workforce | GOV.WALES](#). We consider this matter is addressed in regulations and do not propose to amend the statutory guidance.

Section 181 of the 2016 Act deals with sharing information and co-operation between regulatory bodies and relevant authorities. The Education Workforce Council is a relevant authority (section 177 of the 2016 Act).

The draft statutory guidance already requires service providers to have a process in place to check that staff have appropriate and current registration with a professional regulator where required. We do not propose to amend the statutory guidance to refer specifically to the Education Workforce Council as it is not the intention to create an exhaustive list.

We have engaged with Social Care Wales to discuss the registration and qualification requirements for occasional workers. Social Care Wales has extended the period of registration for a social care worker to obtain a qualification from three to six years. All workers can register via the employer assessment route and have up to six years to achieve a qualification. The Continuing Professional Development (CPD) requirements of 15 hours a year are broad and are likely to be fulfilled by training undertaken as part of an occasional worker's role at the school. We consider this to be a proportionate approach which will provide parity with social care workers in other regulated services. We do not propose to amend the draft Regulations to make occasional workers exempt from these requirements.

The draft Regulations require that the person employed to manage the service is registered as a social care manager with Social Care Wales. The draft Regulations for public consultation did not specify a timeframe for registration, but we intend to include a transition period to give managers of existing services until 31 March 2025 to register with Social Care Wales. This will allow a reasonable period for the managers of the four existing services to complete the registration requirements and avoid the unintended consequence of service providers becoming non-compliant after the Regulations come into force.

Similarly, the draft Regulations require that persons employed or contracted by the service provider to provide care and support to individuals are registered as a social care worker with Social Care Wales. The period allowed for registration within the draft Regulations was 6 months from the date on which the person commenced their employment. Having engaged with Social Care Wales we propose to allow an extended period of up to 18 months after the manager registration deadline (in effect until 30 September 2026) for the employees or workers of existing providers to be registered. The extended period is because managers are often involved in the registration process for staff.

Question 9: Are the requirements in Part 9 of the draft Regulations right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 9 covers requirements as to premises, facilities and equipment.

Summary of responses

10 respondents agreed or tended to agree with the requirements in Part 9. Two tended to disagree and 13 did not respond to this question.

One respondent expressed concerns that limiting shared rooms to a maximum of two pupils would have a detrimental effect on existing services due to the small number of rooms and high demand for the service. The stakeholder group, which included this respondent, expressed similar concerns. In contrast, Learning Disability Wales welcomed single occupancy rooms as standard, highlighting the importance of independence, personal freedom and privacy.

One respondent noted the absence of references to ligature risk assessments within the statutory guidance and draft Regulations.

One respondent remarked that the requirement for premises to be “fitted and adapted as necessary” and bedrooms to be “comfortable for the individual” is subjective. They recommended focussing more on consulting with the young person about what they feel would be comfortable and ensuring this is reviewed regularly as their needs change.

One respondent expressed detailed concerns about security arrangements suggesting that they could lead to harmful measures.

Welsh Government response

Our intention is to bring about improvement in the built estate and avoid dormitory-style accommodation without destabilising current services. Given the safeguards in place within the draft Regulations and the fact that it is not the individual’s home, we consider that there is scope for additional flexibility for existing providers. We propose to amend the draft Regulations to allow up to four individuals to share a bedroom providing the conditions in Regulation 38(2) are met. This is intended to ensure that existing services are maintained at their current level where there is a demand. There are four existing providers and only one uses 4 bedded rooms. The limit of up to 2 individuals per bedroom will still apply to new providers.

Draft regulation 37 (Premises) states that the premises must be free from hazards to the health and safety of individuals and any other persons who may be at risk, so far as is reasonably practicable. This would encompass a range of hazards and relevant risk assessments.

The statutory guidance states that service providers should consider individuals’ wishes and preferences in the way their rooms are furnished and decorated, and that

individuals' bedrooms suit their needs and lifestyles and promote their independence.

The statutory guidance requires service providers to have security arrangements in place to ensure the individuals are safe and secure without compromising their rights, privacy and dignity. The level of security must be appropriate to the individual and the service being provided. We do not consider an amendment necessary.

Question 10: Are the requirements in Part 10 of the draft Regulations right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 10 sets out additional requirements which apply if the premises used for the provision of the service fall into one of three categories of "new" premises. The additional requirements set out more specific environmental standards, including en-suite bathrooms, room sizes and the amount of communal space.

Summary of responses

10 respondents agreed or tended to agree with the requirements in Part 10. 15 chose not to respond to this question.

One respondent asked for further clarity within the statutory guidance on what constitutes acceptable outdoor space. They asked whether the outdoor space used by the school would be acceptable if space around the residential provision was limited.

One respondent felt there should be more emphasis on the appropriateness of indoor recreational facilities, such as sensory rooms.

One respondent commented that en-suite bathrooms may not be appropriate for all bedrooms and that specialist bathrooms with specialist equipment may be more beneficial for some children.

Welsh Government response

Service providers will need to exercise their own judgement in determining the outdoor space necessary for their service and this will depend on several factors. However, if the outdoor space of the main school is suitable and can be accessed by individuals staying at the residential service either independently and/or with support, we anticipate that this would meet the requirements within regulation 45 (Additional requirements - outdoor space).

The statutory guidance against draft regulation 17 (Standards of care and support – overarching requirements) states that service providers should consider the potential impact on individuals with sensory impairment when planning the environment. We will consider including a reference to sensory rooms in the statutory guidance.

The regulations require en-suite bathrooms to have an accessible wash hand basin, lavatory, and shower. The statutory guidance against draft regulation 37 (Premises) states that bathrooms, showers and toilets should have aids and equipment provided

to meet the needs of individuals accommodated, for example grab rails, sinks located at an accessible height and emergency call systems.

Regulation 43 deals with bedroom sizes of new premises and specifies the minimum usable floor space where the person living in the bedroom uses a wheelchair. We propose to amend draft Regulation 43(2) to remove the wording “because of the nature of their disability” to reflect the Social Model of Disability.

Question 11: Are the requirements in Part 11 of the draft Regulations right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 11 sets out requirements as to supplies, hygiene, health and safety and medicines.

Summary of responses

10 respondents agreed or tended to agree with the requirements in Part 11. One tended to disagree and 14 chose not to respond to this question.

The respondent who ticked “tended to disagree” pointed out that parents/guardians are responsible for reordering medication, not the service provider. The stakeholder group also raised this concern. One respondent requested further detail on medicines management within the statutory guidance.

One respondent noted that the requirement in draft regulation 48 (Hygiene and infection control) to put arrangements in place to ensure the appropriate disposal of clinical waste would not apply to their service, as the pupils do not require personal care.

Welsh Government response

We agree that responsibility for ordering and re-ordering medicines does not rest with the service provider and will amend the draft Regulations accordingly.

The statutory guidance states, “medication storage and administration adheres to statutory and non-statutory national guidance”. Service providers should therefore familiarise themselves with good practice around medicines management. We do consider more detail is appropriate for the statutory guidance.

The statutory guidance provides examples of how service providers can meet the requirement of draft regulation 49 (Health and safety), which includes the safe disposal of clinical waste. We acknowledge this will not apply to all services.

Question 12: Are the requirements in Part 12 of the draft Regulations right for providers of Special School Residential Services? Does the statutory guidance adequately support service providers in how they may comply with the requirements in this part?

Part 12 contains miscellaneous requirements on service providers, including the keeping of records and the making of notifications to the service regulator and other

bodies. Part 12 also contains requirements about a complaints policy and procedure and a whistleblowing policy.

Summary of responses

11 respondents agreed or tended to agree with the requirements in Part 12. 14 respondents chose not to comment on this Part.

One respondent highlighted the difference in the retention period of records for children and adults, stating that some individuals who stay at residential special schools may be over 18.

One respondent asked if there was a need for the Regulations to specify a timeframe responding to complaints.

The Public Service Ombudsman for Wales advised that its remit only covers care homes for adults and that they would not be able to investigate complaints about Special School Residential Services.

Welsh Government response

We intend there should be consistency regarding the retention of records relating to individuals attending the service, irrespective of age. We will therefore amend the draft Regulations to align the requirements with the record retention requirements placed on providers of care homes for children.

Draft regulation 64 (Complaints policy and procedure) requires that service providers “give an appropriate response to a person who makes a complaint, if it is reasonably practicable to contact that person”. We do not intend to prescribe a timescale for responding, as some complaints may take longer to investigate than others. However, this level of detail may be included in the complaints policy and procedure.

We will remove the reference to the Public Service Ombudsman for Wales in the statutory guidance for Special School Residential Services.

Question 13: Are the requirements in Part 13 of the draft Regulations right for responsible individuals of Special School Residential Services? Does the statutory guidance adequately support service providers and responsible individuals in how they may comply with the requirements in this part?

Part 13 sets out requirements on responsible individuals which relate to the effective management of the service. The responsible individual has a general duty to supervise the management of the service and specific duties to appoint a fit person to manage the service, to put arrangements in place for the management of the service when the manager is absent and to visit the places where the service is being provided.

Summary of responses

10 respondents agreed or tended to agree with requirements in Part 13. 15 respondents chose not to respond to this part of the consultation.

One respondent remarked that the governance requirements were appropriate and consistent with other residential services.

One respondent recommended that a manager's experience of working with people with additional learning needs should be considered when determining their fitness to become a manager.

Welsh Government response

The statutory guidance against draft regulation 59 (Fitness requirements for appointment of manager) states that responsible individuals should ensure the manager is experienced in managing care services and in the provision of the type of care being provided. We do not consider that an amendment is necessary.

Question 14: Are the requirements in Part 14 of the draft Regulations right for responsible individuals of Special School Residential Services? Does the statutory guidance adequately support service providers and responsible individuals in how they may comply with the requirements in this part?

Part 14 contains requirements on responsible individuals for ensuring the effective oversight of the service. By placing these requirements on the responsible individual, the regulations in this Part ensure that a person of an appropriately senior level in the organisation is accountable for service quality and compliance. The responsible individual is required to make reports to the service provider on the adequacy of resources and on other matters. The responsible individual is required to make arrangements for engagement with individuals and others so that their views on the quality of care and support provided can be taken into account by the service provider.

Summary of responses

10 respondents agreed or tended to agree with requirements in part 14. 15 chose not to respond to this part of the consultation.

One respondent recommended that the statutory guidance against draft regulation 65 (Oversight of adequacy of resources) should reference Estyn's inspection reports.

Welsh Government response

We propose to include a reference to Estyn's inspection reports in the statutory guidance against draft regulation 65.

Question 15: Are the requirements in Part 15 of the draft Regulations right for responsible individuals of Special School Residential Services? Does the statutory guidance adequately support service providers and responsible individuals in how they may comply with the requirements in this part?

Part 15 sets out the requirements on the responsible individual for ensuring the compliance of the service with other requirements, including requirements to record incidents and complaints and the keeping of records. The responsible individual must also put arrangements in place for ensuring that the provider's policies and procedures are kept up to date.

Summary of responses

10 respondents agreed or tended to agree with requirements in this Part. 15 chose not to respond to this question.

One respondent recommended draft regulation 69 should include more detailed information about record keeping requirements.

One respondent suggested that staff have individual access codes to update records to show which member of staff had made the changes. This would be particularly helpful if staff from both the residential and the education aspects of the provision were updating the records.

Welsh Government response

Draft regulation 69 relates to the duty to ensure there are systems in place to keep records. Draft regulation 51 places a requirement on the service provider to keep and maintain the records specified in Schedule 2. We consider the list of records to be kept by the service provider to be proportionate, appropriate, and consistent with requirements for other regulated services.

Service providers have the discretion to put their own operational arrangements and systems in place when updating records for the service. We do not propose to mandate this through the draft Regulations.

Question 16: Are the requirements in Part 16 of the draft Regulations right for responsible individuals of Special School Residential Services? Does the statutory guidance adequately support providers and responsible individuals in how they may comply with the requirements in this part?

Part 16 sets out the requirements on the responsible individual in relation to monitoring, reviewing and improving the quality of care and support provided, including making a report to the service provider.

Summary of responses

10 respondents agreed that the requirements in Part 16 were right for responsible individuals of Special School Residential Services. 15 chose not to respond to this question.

One respondent recommended that the guidance against draft regulation 71 (Quality of care review) could be strengthened by including a reference to the responsible individual monitoring the outcome of Estyn inspection reports.

Welsh Government response

The statutory guidance already requires the responsible individual to have suitable arrangements in place to assess, monitor and improve the quality and safety of the service, including the outcome of any inspection reports from the service regulator. The statutory guidance cannot place a requirement on responsible individuals to monitor the outcome of Estyn inspection reports at the school but we agree that it

should be taken into account. We will consider an amendment to the statutory guidance.

Question 17: Are the requirements in Part 17 of the draft Regulations right for responsible individuals of Special School Residential Services? Does the statutory guidance adequately support providers and responsible individuals in how they may comply with the requirements in this part?

Part 17 sets out other requirements on the responsible individual, including requirements to make certain notifications to the service regulator, contained in Schedule 4.

Summary of responses

10 respondents agreed that the requirements in Part 17 were right for responsible individuals of Special School Residential Services. 15 chose not to respond to this question.

Two respondents commented that there were clear and appropriate expectations for the role of the responsible individual.

Welsh Government response

We welcome the positive comments on Part 17 of the draft Regulations and statutory guidance.

Question 18: Is the approach taken in relation to offences within the draft Regulations sufficient and proportionate? Part 18 deals with offences.

Summary of responses

11 respondents agreed or tended to agree with the requirements in Part 18. 14 people chose not to respond to this question.

Three respondents commented that the approach is sufficient and proportionate.

Welsh Government response

We welcome the positive comments on Part 18 of the draft Regulations and statutory guidance.

Question 19: Are the requirements placed on appointed persons and personal representatives reasonable?

Part 19 sets out specific requirements which apply when the service provider is insolvent or when a service provider who is an individual has died.

Summary of responses

Nine respondents agreed with the requirements in Part 19. 16 chose not to respond. Three respondents noted that this Part would not apply to current residential special schools which are provided by local authorities but welcomed the requirement for future entrants to the market.

Welsh Government response

We note the comments on Part 19 of the draft Regulations and statutory guidance.

Question 20: Are the circumstances in which responsible individuals may be designated by the Welsh Ministers, rather than the service provider, sufficient and appropriate?

Part 20 specifies the circumstances in which the Welsh Ministers (instead of a service provider) may designate an individual to be a responsible individual, despite the eligibility requirements of section 21(2) of the Act not being met in respect of the individual.

Summary of responses

Nine respondents agreed or tended to agree with the proposals in Part 20. One respondent tended to disagree and 15 did not respond to the question.

The respondent who tended to disagree stated that any replacement responsible individual would need to be someone employed by the school or local authority so that Welsh Government do not need to be involved.

Welsh Government response

Whilst the Regulations refer to the designation of a responsible individual by the Welsh Ministers, in practice this function is carried out by CIW. CIW already approves the designation of all responsible individuals as part of its registration process. The requirement in Part 20 allows CIW to approve the designation of a responsible individual despite the eligibility requirements of section 21(2) of the Act not being met in respect of the individual. This regulation only applies where the service provider is an individual (for example, a small business). As the existing residential special schools are run by local authorities this regulation would not apply to them.

Question 21: Is the proposed approach to amend the regulations relating to service registration, annual returns, and penalty notices to include Special School Residential Services sufficient and proportionate?

Summary of responses

10 respondents agreed the requirements in Part 21 were sufficient and proportionate. 15 respondents chose not to respond to this Part.

Welsh Government response

We will bring forward the Regulated Services (Registration) (Wales) (Amendment) Regulations 2023 which will update the regulations relating to registration of the service with CIW to include Special School Residential Services and the requirements in the statement of purpose. Subject to approval by the Senedd these Regulations will come into force from 31 December 2023.

Equalities

Question 22: Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics?

The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Summary of responses

11 respondents answered this question. 14 chose not to respond.

Eight respondents asserted that the proposals would have a positive impact on children and young people with disabilities due to the strengthened governance and safeguarding arrangements, as well as the requirements in relation to equipment, resources and accommodation. One respondent remarked that the regulations were inclusive and person-centred. Two respondents did not think that would be a positive or negative effect on people with protected characteristics; one individual commented that residential special schools already follow the requirements within the draft Regulations.

Question 23: Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics?

Summary of responses

There were 10 responses to this question. 15 chose not to respond.

Of the 10 that responded, seven felt the proposal would not have any negative impacts on groups with protected characteristics. One respondent said that, because the Children's Rights Impact Assessment had not been published alongside the consultation, it was difficult to determine what the impacts would be. Two respondents mentioned that they did not think there would be any positive or negative impacts.

Welsh Government response to Questions 22 and 23

We welcome the feedback on how our proposals may impact people with protected characteristics. The comments have been considered as part of the Equality Impact Assessment and Children's Rights Impact Assessment for these proposals, which will be published on the Welsh Government's website.

Welsh language

Question 24: We would like to know your views on the effects that these proposals would have on the Welsh language.

Summary of responses

There were eight responses to this question. 17 chose not to respond to this question.

One respondent recommended that Part 2 of the Regulations should include a requirement for providers to demonstrate a commitment to the Welsh Government's Welsh Language Strategy, [Cymraeg 2050](#).

Another respondent remarked that providers needed to be creative about the way they promote and deliver the Welsh language within the service so individuals can receive the service in their chosen language.

One respondent didn't think the proposals would have any impact on the Welsh language.

Welsh Government response

The Welsh language is integral to Wales' culture, heritage and many people's daily lives, and we know how important it is for individuals to receive care and support in their preferred language.

These proposals have been developed within the context of the Welsh Government's Welsh Language Strategy, and the draft Regulations ensure providers take reasonable steps to meet the language needs of individuals, as set out in Regulation 20 (Language and communication). As stated in the statutory guidance, providers are expected to 'deliver or work towards actively offering a service in the Welsh language to individuals whose first language is Welsh.'

We do not repeat or include links to other specific guidance or legislation in the statutory guidance as these will become out of date. As such, we will not be adding a link to the Welsh Language strategy.

We welcome and encourage creativity from service providers in meeting the language needs of individuals. Providers may wish to be aware of Social Care Wales' resources to support staff to use Welsh at work: [Using Welsh at work | Social Care Wales](#)

Other section

This section provided an opportunity for people to raise any other issues that were not specifically addressed in the consultation.

Summary of responses

Four respondents commented on this section. 21 chose not to respond.

Comments included considering cross-border arrangements, how the regulation of independent schools complements the regulation of Special School Residential Services where they relate to the same provider, the interface between CIW and Estyn including which regulator would lead on enforcement, and staff qualifications and registration.

As the Deprivation of Liberty framework does not apply to children one respondent queried whether additional safeguards should be put in place for young people who may lack capacity to consent to receiving care and support in these services.

Welsh Government response

Cross-border arrangements are possible and are recognised in the draft Regulations as part of the definition of “placing authority”.

Currently all Special School Residential Services are local authority-maintained services however the regulations have been drafted to accommodate new entrants to the market.

The interface between CIW and Estyn is an operational matter for the two inspectorates who will each operate under the relevant legal framework. CIW and Estyn currently inspect residential special schools independently of one another. Joint inspections may take place if there are services of concern. CIW, as the service regulator, will lead on enforcement action made under the 2016 Act as far as it applies to the residential service.

The requirements relating to staff are addressed in Part 8 of the draft Regulations.

Whilst the Deprivation of Liberty Safeguards framework does not apply to individuals under 18 this does not mean that a child attending this service can be deprived of their liberty. Draft regulation 28 (Deprivation of liberty) clearly states that an individual must not be deprived of their liberty for the purpose of receiving care and support without lawful authority. We are not considering any further changes to the regulations.

2.1.2 – Chapter 2 - Proposed changes to The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017, as amended (“the Service Provider Regulations”)

The Service Provider Regulations place requirements on service providers and responsible individuals of care home services (including care homes for children), domiciliary support services, secure accommodation services (for children) and residential family centre services. These Regulations include requirements as to the standard of care and support to be provided.

Question 25: Do you agree with the proposal to amend the Service Provider Regulations to ensure that the requirements of Part 13 apply where additional bedrooms (including converted rooms) are added after the initial registration?

Summary of responses

16 respondents agreed or tended to agree with the proposal to close the loophole in the Service Provider Regulations to ensure that, should a provider vary their registration to add additional bedrooms over the 4-bedroom threshold, that the extended service - which encompasses the additional bedroom(s) and communal areas of the home - has suitable space and facilities to meet the needs of all individuals living at the service. Nine respondents chose not to respond to this part of the consultation.

One respondent commented that the regulation could impact on some smaller homes, preventing them from expanding if they were unable to physically meet the requirements, such as having en-suite facilities.

Welsh Government response

The Service Provider Regulations already contain an exemption for smaller care homes (those with 4 or fewer bedrooms) recognising the need to ensure that these additional requirements do not adversely impact the homely environment of smaller homes. However, should smaller services wish to expand above the 4-bedroom threshold, it is appropriate for them to meet the requirements of Part 13 of the Service Provider Regulations, consistent with the original policy intention. As such, we are not proposing any changes to the proposal. Subject to their approval by the Senedd, these Regulations to come into force on 31 March 2024.

We will also take the opportunity to make minor amendments to the Service Provider Regulations.

Question 26: Do you agree with the proposal to use the regulation-making power under section 2(3) to ensure that local authority Intermediate Care services are not treated as a care home service despite Schedule 1 of the 2016 Act?

This question relates to our proposal to continue to regulate local authority run intermediate care services, which are provided in extra care type accommodation, as domiciliary support services, rather than require them to register as care home services.

To qualify for this exemption, we propose that:

- the service must be provided by the local authority.
- the accommodation must be owned or leased by the local authority.
- the domiciliary support element of the service is provided by the local authority's registered domiciliary support service.
- the service is limited to four months per individual.

Summary of responses

13 respondents agreed or tended to agree with this proposal. Two tended to disagree, one disagreed and nine did not respond to this question.

One respondent, who ticked the "tend to disagree" box, expressed concern that the exemption would enable local authorities to run step up / down services in direct competition with the care home sector, which could lead to home closures.

The other respondent who tended to disagree commented that these services should still be regulated and monitored as vulnerable people could be placed there for up to 4 months.

The respondent that disagreed stated that there should be equity applied to the Regulations across all care settings - short, intermediate and longer term.

Another queried why the exemption applies only to local authorities and not to other non-profit providers, as this wider flexibility would support government aims for rebalancing the market and progressing the Further, Faster initiative.

It was suggested that an age range should be added to ensure children are not accommodated temporarily where the local authority is a corporate parent.

Welsh Government response

These services are more akin to extra care services and are already regulated as domiciliary support services. Our intention is to ensure that these services are regulated in an appropriate and proportionate way. They are provided by local authorities without charge for a specific purpose and a limited period in order bridge the gap between hospital discharge and returning home when appropriate community care is not available. We do not anticipate that there will be an impact on existing care home services.

Continuing to regulate these services as domiciliary support services will provide an appropriate degree of regulation and oversight.

Care home services providing respite care will continue to be regulated as a care home service.

These services are not intended for children and the draft Regulations will be amended to provide the necessary clarity.

2.1.3 – Chapter 3 - Draft regulations to require additional information to be published on the register of service providers

Register of Service Providers (Prescribed Information and Miscellaneous Amendments) (Wales) Regulations 2023

Question 27: Do you agree with the requirements in the draft Regulations to make it a mandatory requirement for Welsh Ministers (in practice, CIW) to publish a telephone number and email address for each service?

Summary of responses

15 respondents agreed or tended to agree with the draft Regulations. One tended to disagree and nine did not respond to the question.

The respondent that tended to disagree understood the need for ease of contact but had concerns about sharing personal contact details because of the potential for unacceptable behaviour from service users and their families. They were also concerned about circumstances where contact details should not be shared for safeguarding reasons.

Welsh Government response

The draft Regulations are clear that the requirement relates only to the service contact details and does not relate to the personal contact details of anyone living or working at the service. There is sufficient time before the Regulations come into force for services to change the contact details to something more generic. We do not propose to amend the draft regulations. A regulatory impact assessment has

been carried out alongside the development of these draft Regulations and will be published alongside the Regulations.

Due to the timing of the annual returns process, which will be the mechanism for existing providers to submit their contact details to CIW, we intend to allow a further 9 months from coming-into-force date of 31 December 2023 for CIW to publish the additional contact details on the register of service providers.

2.1.4 – Chapter 4 - Proposed amendments to the statutory guidance for service providers and responsible individuals on meeting service standard regulations for care home services, domiciliary support services, secure accommodation services and residential family centre services (version 2, April 2019).

Question 28: Do you agree with the amendments to the Statutory Guidance for Service Providers and Responsible Individuals on meeting Service Standard Regulations

Summary of responses

14 respondents agreed to the proposed changes to the statutory guidance. One respondent commented but did not tick any box, and ten chose not to respond to this part of the consultation.

The Older People's Commissioner for Wales gave detailed feedback, making several suggestions on a range of issues including:

- rights and entitlements;
- compliance with consumer law (particularly in relation to fees and circumstances where service agreements are terminated);
- supporting residents to challenge policies and procedures;
- staff training in conflict resolution; and
- communication with families when residents are receiving palliative care.

The Older People's Commissioner for Wales also raised concerns that this Part of the consultation was not given due prominence compared with Special School Residential Services.

One respondent remarked that they liked the emphasis on choice, voice and control as well as positive leadership cultures.

Welsh Government response

We appreciate the detailed consideration that has been given to the statutory guidance.

We have considered all comments thoroughly and propose to amend the statutory guidance to strengthen and clarify areas relating to:

- creating a positive and compassionate culture;
- supporting a rights-based approach;

- fees and contracts;
- supporting people to receive visitors and go out; and
- palliative care

We have taken advice on the inclusion of the United Nations Convention on the Rights of Persons with Disabilities in the statutory guidance. The UK is a signatory of the Convention. The Convention sets out declaratory rights which are different from laws which confer rights which can be enforced as part of a legal system. Some of the Convention's rights and protections are contained in the Equality Act 2010. The statutory guidance is intended to clarify and simplify the requirements set out in regulations. We propose to remove the reference.

Where changes have been made to the statutory guidance for Special School Residential Services, these have been reflected in the statutory guidance for care home services, domiciliary support services, secure accommodation services and residential family centre services, where appropriate.

We apologise that the heading on web page emphasised the Regulations for Special School Residential Services over the other aspects of the consultation. This was not intentional. We made all key stakeholders aware of the consultation by email. We also issued separate social media posts which focussed on the different aspects of the consultation. We have noted this feedback for future consultations.

Section 3

Next Steps

Special School Residential Services

We have amended the timetable for the Regulations and the publication of statutory guidance.

The Regulated Services (Special School Residential Services) (Wales) Regulations 2023 which define the new regulated service and The Regulated Services (Registration) (Wales) (Amendment) Regulations 2023 which amend the Registration Regulations will be laid before the Senedd on 7 November 2023. Subject to being agreed by the Senedd they will come into force on 31 December 2023.

The Special School Residential Services (Service Providers and Responsible Individuals) (Wales) Regulations 2024 will be laid before the Senedd no later than 16 January 2024 and, subject to being agreed by the Senedd, they will come into force on 29 February 2024. They will include any necessary miscellaneous amendments to complete the regulatory framework.

All of the draft documents will be available on the Senedd website: [Subordinate Legislation \(senedd.wales\)](#)

The statutory guidance for Special School Residential Services will be published on 29 February 2024.

The Regulations and statutory guidance will apply to Special School Residential Services once their application for registration has been determined by CIW. CIW will accept applications from 1 March 2024. Providers will have until 1 July 2024 to submit an application to register their services. CIW will determine applications from April 2024 onwards. CIW will contact existing providers.

Amending the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

The draft Regulations will be laid before the Senedd on 30 January 2024 and will come into force on 31 March 2024, subject to approval by the Senedd.

The updated statutory guidance for care home service, domiciliary support services, secure accommodation services and residential family centre services will be published on 31 March 2024.

Register of Service Providers (Prescribed Information and Miscellaneous Amendments) (Wales) Regulations 2023

The draft Regulations which prescribe additional information to be included on the register of service providers will be laid before the Senedd on 14 November 2023. Subject to approval by the Senedd they will come into force on 31 December 2023. The requirement for CIW to publish all service contact details will not apply until 30 September 2024.

Annex A – List of respondents

List of respondents who completed the form and were happy to share their details:

1. Rachel Von Borstel, member of public, Wrexham County Council
2. Gwent Regional Partnership Team
3. Susan Dinsdale, member of public, Aneurin Bevan University Health Board – Family & Therapies
4. Learning Disability Wales
5. Education Workforce Council
6. Estyn
7. Swansea Council – Adult Services, Social Services
8. Hywel Dda University Health Board – Community Children’s Nursing
9. Ceredigion County Council
10. Conwy County Borough Council
11. Community Housing Cymru
12. Neil Elliott, member of public, Rhondda Cynon Taf County Borough Council
13. Public Service Ombudsman for Wales
14. Older People’s Commissioner for Wales
15. Children’s Commissioner for Wales
16. Torfaen County Borough Council

Six respondents did not answer the question and three declined to give permission to share their details.